



Marching to the Same Tune? A Briefing Paper on Protests and Freedom of Assembly in Burma

by the Progressive Voice Policy Research Project, Burma Partnership

Background

Facilitated by the proliferation of social media as an agent for social and political change over the last five years, mass organized protests have simmered and erupted across the globe. From the 2011 “Arab Spring” in the Middle East and North Africa, to the Occupy Movement in Western cities, from the 2013 Maidan Square Revolution in Ukraine, to the recent Umbrella Revolution in Hong Kong, from stifled democracy movements in Iran, Russia and Cambodia, to austerity protests in southern Europe and the 2014 race protests in Ferguson, Missouri, United States, mass protests have been a defining feature of the decade thus far. Neither is Burma a stranger to mass public protests, especially given its history of the pro-democracy student uprising in 1988 and the monk-led Saffron Revolution in 2007. While it is still premature to claim that 2015 has been another key protest year in Burma, on a par with 1988 and 2007, protests have nevertheless dominated the headlines so far this year.

Introduction to “Shay Pyay Athan” Progressive Voice Policy Research Project

This Briefing Paper is the first in a series of briefing papers to be published under the Progressive Voice Policy Research Project (“Progressive Voice”). Progressive Voice – “Shay Pyay Athan” in Burmese – is a novel and innovative pilot project, initiated from the start of 2015 under the auspices of Burma Partnership. Burma Partnership is a network of organizations throughout the Asia-Pacific region, advocating for and mobilizing a movement for democracy and human rights in Burma. It draws its strength from the diversity of its partners, from the multi-ethnic leadership of political and civil society organizations both inside Burma and in exile, to its partners and broad-based solidarity organizations throughout the region.

Progressive Voice’s objective is to conduct rigorous research and to develop creative, solution-oriented and principled policy recommendations. It thereby hopes to engage, assist and inspire key decision- and policy-makers, the youth, grassroots communities and marginalized groups, including ethnic and religious minorities, to achieve real democratic, political and socio-economic change that will benefit all people in Burma.

This Briefing Paper is the first policy publication under Progressive Voice and focuses on the right to freedom of assembly in light of recent and ongoing protests in Burma.

On 4 March, student activists faced off against riot police at Letpadan, Pegu Region,¹ impeded from continuing their protest march to Rangoon as part of a nationwide campaign against the controversial

¹ Naw Noreen, “Students face off against police in Letpadan”, *Democratic Voice of Burma (“DVB”)*, 3 March 2015, <http://www.dvb.no/news/students-face-off-against-police-in-letpadan-burma-myanmar/48884>.

National Education Law (the “NEL”).² After city authorities, assisted by gangs of pro-government thugs,³ forcibly dispersed a crowd of protesting students in front of Rangoon’s City Hall on 5 March, opposition political parties denounced the crackdown,⁴ while more students came out in Rangoon and Mandalay in support of those subjected to the repression.⁵ Not only were some students arbitrarily detained, they also claimed to have been injured by police and a plain-clothes mob during this crackdown,⁶ before being threatened with prosecution under the notorious Section 18 of the Right to Peaceful Assembly and Peaceful Procession Act (the “Assembly Law”) – see below for more detail.⁷

Then, on 10 March, police launched a violent, premeditated and cold-blooded crackdown on the student protestors and their supporters in Letpadan,⁸ brutally assaulting students, monks, ambulance workers and journalists, and arresting scores more.⁹ The persecution of the students and their supporters shows no sign of abating, with 78 still locked up at the time of writing and others in hiding, as authorities continue to hunt them down. Meanwhile their supporters are being intimidated across Burma by the Special Branch intelligence unit, as well as by administration and immigration authorities.¹⁰ However, the detained students are receiving a huge amount of support from people and civil society groups across the country.¹¹

Meanwhile, the month of February saw sustained and widespread industrial action at garment factories in Rangoon’s industrial zones, with thousands of striking workers demanding better pay and working conditions.¹² A consistent demand among strikers was a pay increase of 30,000 kyat (USD30) per month, to try to secure a basic living wage.¹³

Perhaps most pervasively, land protests have become increasingly common since the current quasi-civilian government assumed power in 2011. Countless urban and rural communities across the country have protested against the illegal land grabs and forced evictions that have multiplied in lockstep with Burma’s

² —, “Letpadan tension sparks return to nationwide education protests”, *DVB*, 4 March 2015, <http://www.dvb.no/dvb-video/letpadan-tension-sparks-return-nationwide-education-protests/48943>.

³ Shwe Aung, “New generation of pro-government thugs”, *DVB*, 6 March 2015, <http://www.dvb.no/news/new-generation-pro-government-thugs/49002>.

⁴ Sanay Lin, “88 Generation Denounces Violent Dispersal of Rangoon Protest”, *The Irrawaddy*, 6 March 2015, <http://www.irrawaddy.org/burma/88-generation-denounces-violent-dispersal-of-rangoon-protest.html>.

⁵ —, “Rallies in Rangoon, Mandalay to Condemn Police Crackdown”, *The Irrawaddy*, 6 March 2015, <http://www.irrawaddy.org/multimedia-burma/rallies-in-rangoon-mandalay-to-condemn-police-crackdown.html>.

⁶ Nobel Zaw, “Students, Activists Allege Violence in Rangoon Protest Crackdown”, *The Irrawaddy*, 6 March 2015, <http://www.irrawaddy.org/burma/students-activists-allege-violence-in-rangoon-protest-crackdown.html>.

⁷ The Assembly Law, 2 December 2011, http://www.burmalibrary.org/docs15/2011-Peaceful_Assembly_and_Procession_Act-en.pdf.

⁸ Thuzar, “Rangoon Student Protest Quashed Within Minutes”, *The Irrawaddy*, 10 March 2015, <http://www.irrawaddy.org/burma/rangoon-student-protest-quashed-within-minutes.html>.

⁹ Burma Partnership, “Following Vicious Student Crackdowns, EU Must Stop Training Thugs”, 16 March 2015, <http://www.burmapartnership.org/2015/03/following-vicious-student-crackdowns-eu-must-stop-training-thugs/>.

¹⁰ Burma Partnership, “The Persecution Goes On With Nowhere To Seek Justice”, 23 March 2015, <http://www.burmapartnership.org/2015/03/the-persecution-goes-on-with-nowhere-to-seek-justice/>.

¹¹ The Detained Students, “Statement of Detained Students”, 9 April 2015, <http://www.burmapartnership.org/2015/04/statement-of-detained-students/>.

¹² Nyan Lynn Aung and Noe Noe Aung, “Protests highlights labour law shortcomings: activists”, *Myanmar Times*, 27 February 2015, <http://www.mmmtimes.com/index.php/national-news/13265-protests-highlight-labour-law-shortcomings.html>.

¹³ Burma Partnership, “Another Wave of Industrial Action Threatens to Drown Burma’s Garment Industry”, 2 March 2015, <http://www.burmapartnership.org/2015/03/another-wave-of-industrial-action-threatens-to-drown-burmas-garment-industry/>.

breakneck surge towards economic liberalization, while others have attempted to take advantage of a slight thawing in the political climate since 2011 to reclaim land stolen by Burma's pre-2010 military regime.¹⁴

International Law on Freedom of Assembly

To ascertain the degree to which Burmese domestic law reflects international standards regarding freedom of assembly, it is worth assessing the extent to which relevant international law protects this fundamental civil and political right, and whether it imposes any restrictions.

The right to freedom of assembly is enshrined in Article 20(1) of the Universal Declaration of Human Rights (the "UDHR"), which says that: "*Everyone has the right to freedom of peaceful assembly.*"¹⁵ The International Covenant on Civil and Political Rights (the "ICCPR") expands upon this prescription, stating in Article 21 that:

*"The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."*¹⁶

In other words, any restrictions must satisfy a three-part test. They must: (1) be in conformity with the law; (2) be necessary in a democratic society; and (3) correspond to specific objectives.

Domestic Law on Freedom of Assembly – the 2008 Constitution

Article 354 of the 2008 Constitution states that:

*"Every citizen shall be at liberty in the exercise of the following rights if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality: [...] (b) to assembly peacefully without arms and holding procession; [...]"*¹⁷

Most of these stated restrictions are roughly in line with international law regarding the right to freedom of assembly and appropriate restrictions (please see above under International Law on Freedom of Assembly). However, reference is made to "the laws" so it is necessary to analyze other domestic legislation that regulates the right to freedom of assembly in Burma.

Domestic Law on Freedom of Assembly – the Assembly Law

The most notable piece of relevant domestic legislation is the Assembly Law. A detailed legal analysis of the first enactment of the Assembly Law – of its sufficiency and suitability as legislation – is beyond the scope of this Briefing Paper, though many advocacy organizations have published such analyses, including ARTICLE 19.¹⁸ For the purposes of this Briefing Paper, however, suffice it to say that the first enactment of

¹⁴ Kyaw Zayar Win, "Michaungkan protestors evicted from City Hall ... again", *DVB*, 26 February 2015, <https://www.dvb.no/news/michaungkan-protestors-evicted-from-city-hall-again-burma-myanmar/48747>.

¹⁵ The UDHR, adopted by the UN General Assembly (the "UNGA") on 10 December 1948, <http://www.un.org/en/documents/udhr/>.

¹⁶ The ICCPR, adopted and opened for signature, ratification and accession by UNGA resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

¹⁷ The 2008 Constitution, September 2008, http://www.burmalibrary.org/docs5/Myanmar_Constitution-2008-en.pdf.

¹⁸ ARTICLE 19, "Myanmar: The Decree on the Right to Peaceful Assembly and Peaceful Procession", Legal Analysis, 2012, <http://www.article19.org/data/files/medialibrary/3440/12-09-19-LA-Myanmar.pdf>.

the Assembly Law was in no way in line with international law regarding the right to freedom of assembly, and was the object of widespread criticism as a result.

The main criticism was the requirement to obtain permission before holding any assembly – under the notorious and controversial Section 18 – a problem exacerbated by the unsatisfactory and opaque procedures for denying permission as well as the lack of recourse to a court of law to appeal a refusal of permission. In terms of prior communications, it might be reasonable to expect organizers of substantial protests to notify police or local authorities in advance, but only as a matter of courtesy and to ensure the public safety of both those participating and those affected. As it was, the requirement for permission represented a loophole so large that freedom of assembly disappeared altogether, and the Assembly Law became a legislative weapon in the hands of the Burma authorities, with enormous potential for abuse. Ultimately, the Assembly Law stifled rather than protected the right to freedom of assembly, in contravention of international law as well as the Constitution.

As a result of a vociferous campaign by both Burmese civil society and the international community, on 14 March 2014 a small but dedicated group of principled Burmese MPs proposed some sorely-needed amendments for review by the Burma Parliament. Crucially, they believed that the need for permission to protest would be removed when the amendments were passed – in favor of merely notifying the authorities in advance.¹⁹ However, when President Thein Sein signed the amendment on 24 June 2014, optimism turned to cynicism and resignation, as it emerged that, instead of being repealed, the permission requirement had merely been watered down with amendments that are, for the most part, just cosmetic.²⁰

First, those who wish to conduct a peaceful assembly or procession must now obtain “*consent*” from the authorities rather than “*permission*”, which makes no difference in practice and is still illegal under international law and norms on the right to freedom of assembly.²¹ Furthermore, the amended legislation leaves plenty of scope for the authorities to deny consent, especially as a result of the requirement that applicants must submit “*in accordance with the rules for consent*”.²² If the authorities had genuinely wanted to reduce the requirement to one of notification, they would have amended “*permission*” to “*notification*” rather than “*consent*”.²³ Second, Section 18 now imposes a maximum jail sentence of only six months rather than one year for conducting a peaceful assembly or procession without obtaining prior consent from the authorities.²⁴ Yet, this amendment is of little comfort to those whose rights – particularly the right to liberty – have been violated.²⁵ What it all means is that the amended Assembly Law is still in breach of international law and standards regarding the right to freedom of assembly.²⁶

¹⁹ Nyein Nyein, “Protestors Only Required to ‘Inform’ in Lower House Change to Section 18”, *The Irrawaddy*, 6 March 2014, <http://www.irrawaddy.org/burma/protestors-required-inform-lower-house-change-section-18.html>.

²⁰ Zarni Mann, “Burma’s Parliament Amends Protest Law”, *The Irrawaddy*, 25 June 2014, <http://www.irrawaddy.org/burma/burmas-parliament-amends-protest-law.html>.

²¹ Burma Partnership and the Assistance Association for Political Prisoners (“AAPP”), “A Briefing Paper on the Shrinking Space for Civil Society in Burma/Myanmar”, 1 October 2014, <http://www.burmapartnership.org/wp-content/uploads/2014/10/BP-AAPP-UNGA-A-Briefing-Paper-on-the-Shrinking-Space-for-Civil-Society-in-Burma-Myanmar.pdf>.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ ARTICLE 19, “Myanmar: Amended Right to Peaceful Assembly and Peaceful Procession Law”, Legal Analysis, August 2014, <http://www.article19.org/data/files/medialibrary/37666/14-08-01-LA-myanmar-assembly.pdf>.

Government Strategy

It is worth taking a moment to reflect on why a law which falls below international standards might pose a threat, both to the people and, ultimately, to the authorities. This kind of legislative analysis is not simply an academic exercise, for such laws can – and have – become weapons in the hands of repressive authorities. Although the Burma Government has moved on somewhat from the days of totalitarianism, when those voicing dissent, questioning the authorities, or even just expressing a political opinion, would be locked up without any due process whatsoever, it has not become a bastion of liberty since the reform period began. It has apparently learned from regional neighbors – particularly Cambodia – that the semblance or mirage of due process and the rule of law is vital to establishing and maintaining legitimacy and credibility, not to mention international aid, trade and investment. The Cambodian Government has been playing this game since the post-Cold War UN Transitional Authority in Cambodia period that culminated in the historic 1993 elections, and now the Burma Government seems to be following suit.

While the Burma Government could probably get away with ensuring that the Burma Parliament enacts laws that are consistent with international law, and then relying upon a corrupt and compliant judiciary to refuse to enforce them and to lock people up anyway (another tried and tested Cambodian tactic), such a process still reeks of crude authoritarianism. It is altogether more subtle and sophisticated to build the repression into the law and to allow due process to take its natural course. That way, a government can afford to send dissenters and protestors to court, without having to worry about the judiciary doing its dirty work for it. If a law says that it is illegal to hold a protest without obtaining prior permission, then the judiciary has no option but to sentence someone for breaching the law, no matter whether the law itself complies with international standards.

Indeed, the controversial Section 18 has been used extensively since the Assembly Law was enacted in order to silence political activists and peaceful protestors, in violation of international law and norms on the right to freedom of assembly.²⁷ Human Rights Watch has documented dozens of arrests for “unauthorized assemblies” since the June 2014 amendments alone.²⁸

One prominent case is that of Michaungkan community leader Sein Than, who has now been charged five times under Section 18 since the start of 2014 for staging several protests without obtaining prior permission, and each time sentenced to four months’ imprisonment with hard labor – a combined total of a-year-and-eight-months’ imprisonment.²⁹ His community alleges that the Burma Army confiscated their land in the 1990s, and that they have been protesting for its return since November 2013.³⁰

²⁷ AAPP, Political Prisoners List in Prison (last updated 4 April 2015), <http://aappb.org/wp-content/uploads/2015/02/172-political-prisoners-list-in-prison-last-updated-on-4-Apr-15-15.pdf>.

²⁸ Human Rights Watch, “Burma: ‘Peaceful Assembly Law’ Fails to End Repression”, 26 January 2015, <http://www.hrw.org/news/2015/01/26/burma-peaceful-assembly-law-fails-end-repression>.

²⁹ —, “Michaungkan Protest Leader Receives 4-Month Jail Term”, *Eleven Myanmar*, 11 September 2014, http://www.elevenmyanmar.com/index.php?option=com_content&view=article&id=7505:michaungkan-protest-leader-receives-4-month-jail-term&catid=32&Itemid=354.

³⁰ *Ibid.*

Furthermore, a farcical new development saw a lone protestor arrested for protesting in favor of national unity in the capital Naypyidaw.³¹ In no way can a lone protestor be described as an “assembly” or “procession”, which must by definition entail a group of people; even the Assembly Law itself defines both an “assembly” and a “procession” as involving “*more than one person*”.³² Another twisted and Kafkaesque irony has seen protestors arrested for protesting against Section 18 itself!³³

However, while the use of legislation is the Burma Government’s preferred tactic, over recent weeks and months it has reflex-defaulted to age-old tactics of physical violence, threats and intimidation. On 19 December 2014 police opened fire on protestors protesting against the controversial Chinese-backed copper mine at Letpadaung Village, Sagaing Region, killing female villager Khin Win.³⁴ This police murder in turn sparked more protests in Rangoon and Mandalay as the fuse was ignited, with several of these protestors arrested under Section 18.³⁵ Resistance from local villagers, activists and monks has been ongoing, and this is not the first time that police brutality has caused a national stir: in November 2012, police used phosphorus bombs to attack a protest camp, inflicting horrific burns on dozens, including monks.³⁶ Meanwhile, as mentioned in the Background section above, on 5 and 10 March student protests were violently repressed by police, military police and pro-government thugs in Rangoon³⁷ and Letpadan.³⁸

This recent trend of resorting to violence suggests that the Burmese authorities are panicking at the prevalence of mass protests, and no longer have confidence in the deterrent of Section 18 judicial harassment – in other words, arrests, charges, sentences and jail terms. Rather than suggesting that the Burma Government is turning the clock back to pre-2010, the evidence points towards the adoption of a diverse portfolio of repressive tactics, employed in the hope that the protestors will leave the streets and go back home. In other words, the recent violence may just be a blip in government strategy. The last thing that the Burma Government wants is a return to the bloody repression of 1988 and 2007, when protests were quelled with bloodshed on a massive scale, for that would frighten the investors and donors away.

However, regardless of the various tactics employed – whether new and sophisticated or tried and trusted – observers’ attention should not be diverted from the truth: namely that the Burmese authorities’ domestic strategy has not changed since the so-called reforms: they still want to stifle dissent, so that they

³¹ —, “Man Arrested for Calling for National Unity on International Peace Day”, *Eleven Myanmar*, 22 September 2014, http://elevenmyanmar.com/index.php?option=com_content&view=article&id=7637:man-arrested-for-calling-for-national-unity-on-international-peace-day&catid=44:national&Itemid=384.

³² Burma Partnership and AAPP, “A Briefing Paper on the Shrinking Space for Civil Society in Burma/Myanmar”.

³³ Khaw Thu and Yadanar Oo, “Myanmar Activists Held for Marching Against Protest Law”, *Radio Free Asia*, 27 August 2013, <http://www.rfa.org/english/news/myanmar/peaceful-assembly-08272013180544.html>.

³⁴ Min Min, “Police kill villager during Letpadaung copper mine protest”, *Mizzima*, 23 December 2014, <http://www.mizzima.com/mizzima-news/latpadaung/item/16179-police-kill-villager-during-letpadaung-copper-mine-protest/16179-police-kill-villager-during-letpadaung-copper-mine-protest>.

³⁵ —, “Police charge seven for Letpadaung protests”, *Myanmar Times*, 2 January 2015, <http://www.mmmtimes.com/index.php/national-news/12681-letpadaung-protestors-charged.html>.

³⁶ Burma Partnership, “Letpadaung Crisis Takes a Turn for the Worse”, 12 January 2015, <http://www.burmapartnership.org/2015/01/letpadaung-crisis-takes-a-turn-for-the-worse/>.

³⁷ —, “Students, activists beaten as police put down Rangoon protest”, *DVB*, 5 March 2015, <https://www.dvb.no/dvb-video/vdo-students-activists-beaten-police-put-rangoon-protest/48977>.

³⁸ Thuzar, “Rangoon Student Protest Quashed Within Minutes”, *The Irrawaddy*, 10 March 2015, <http://www.irrawaddy.org/burma/rangoon-student-protest-quashed-within-minutes.html>.

can retain their absolute hold on power and ensure that their own headlong accumulation of wealth – and that of their corporate and military cronies – continues unchecked. So far, this strategy of dressing domestic repression with the veil of democracy seems to be just about working, as aid, trade and investment continue to pour unchecked into the country.

Policy Recommendations

The objective of this Briefing Paper is not simply to adopt a reactive approach and highlight the litany of human rights abuses committed in violation of the right to freedom of assembly, but to adopt a more considered approach, to conduct a fair and measured analysis of the situation, and to propose some positive policy solutions to the current crisis. It is hoped that key decision- and policy-makers in Burma will take note and change tack, before events spirals out of control and the reform process is derailed for good.

First, the Burma authorities should try meaningful dialogue and substantive negotiation in good faith. People do not tend to engage in protests on the slightest pretext or provocation, or at the first sign of trouble; rather, protesting is very often a last resort, a cry of desperation when there seems to be no other option. If the Burma authorities were to offer protestors another option, if they were to be seen to be listening and showing genuine, positive political will, then people would show more trust, patience and understanding. They would give things time, and they would give the Burma Government a chance.

The student protests are a perfect example. The students have been vociferous in their calls for dialogue and negotiation: on 24 January, following the expiry of the 60-day deadline for negotiation with the authorities, the main student body, Action Committee for Democratic Education (“ACDE”), released a statement setting out their 11 priority points for negotiation regarding the NEL.³⁹ After encountering various obstacles and obstructions, student representatives met government officials in Naypyidaw on 28 January, and signed an agreement committing to quadripartite talks.⁴⁰ Talks regarding certain key preconditions for negotiating the 11 priority points were then held on 1 February in Rangoon.⁴¹ It is worth noting that when the Burma Government initially acceded to the students’ demands for negotiation, the students did temporarily cease their march, thus proving the point that when substantive dialogue does take place, protests tend to abate or halt altogether. However the Burma Government ultimately did not show any political will and refused to agree to these preconditions, including refraining from taking legal action against protesters and their supporters, despite having already agreed in writing not to do so.⁴²

Of most concern to the Burma Government must be the fact that, despite the repression, the student protests multiplied and spread, and received increasing support from the people. No longer merely confined to Rangoon, the movement saw students hailing from regions ranging from the Irrawaddy Delta to Tavoy in the southern Tenasserim Region join their fellow brothers and sisters in solidarity.⁴³ Another significant development is that the ranks of the protest movement began swelling with those, such as

³⁹ ACDE, “Statement regarding the Need for Creation of National Education Policies and Laws for Realization of Democratic Education System”, 24 January 2015, <http://www.burmapartnership.org/2015/01/statement-by-the-action-committee-for-democratic-education/>.

⁴⁰ Burma Partnership, “In the Face of Government Intransigence, Burma’s Students March On”, 2 February 2015, <http://www.burmapartnership.org/2015/02/in-the-face-of-government-intransigence-burmas-students-march-on/>.

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

monks, political activists and ordinary local residents from passing towns and villages, who wanted to declare their support for the students.⁴⁴ If the authorities had engaged in meaningful dialogue with the students and negotiated the ACDE's 11 priority demands in good faith, then the protests would naturally have abated without the need to quell them with violence and repression, without the need to resort to tactics that will – and have never – worked.⁴⁵

Second, rather than trying to attack the symptoms of the problem – whether through repressive legislation, a corrupt and compliant judiciary, or crude physical assaults by gangs of thugs – the Burma Government would do well to treat the underlying causes. Current and historic protests in Burma have been a sign of deeper, underlying negative issues, structural patterns and malaise, whether political, institutional, economic or social. Such issues and patterns include: military abuses and impunity; unfettered crony capitalism, nepotism and patronage; a lack of sustainable and trustworthy democratic institutions; rampant corruption; unchecked inflation; an absence of rule of law and respect for human rights; a lack of equality, inclusiveness and participatory democracy; unrestricted plunder of natural resources; and an absence of social and environmental impact assessments for development projects, particularly special economic zones, extractive industries and hydroelectric dams.

Third, it is vital that poor, marginalized, disenfranchized and vulnerable groups and communities feel included in the political life of the country. Democracy must be participatory rather than imposed; in other words, a “bottom-up” rather than “top-down” process. On the one hand, protests are a sign that things are not right; on the other, they are a sign of a healthy, functioning democracy – much as a cough is a sign of a healthy body cleansing itself of an illness.

Therefore, the prioritization of inclusivity, equality and participation works on two levels: first, such marginalized groups must be able to hold governments accountable, be able to raise their policy needs and concerns to relevant decision-makers, and know that they are part of their country's political process; second, if and when they decide to take to the street and exercise their right to peaceful assembly, governments would be wise to respect such actions as a vital and legitimate part of the democratic process. Democracy is not just about elections: it is about democratic institutions, respecting and protecting basic human rights and fundamental freedoms, establishing the rule of law – so that no one is above the law – and ensuring that all people are treated equally and included in the democratic process. Burma needs to escape its historic vicious cycle of violence and advance to a new level of political maturity: by listening to people's voices, needs, concerns, feedback and suggestions, in other words, by treating people as citizens rather than subjects.

Fourth, any government that hopes to engage with the international community must at least be seen to be respecting human rights. The Burma Government should honor its international obligations and should accede to the ICCPR and relevant optional protocols in order that its people have access to redress in the event of abuses of the right to freedom of assembly. It should also amend all domestic legislation – particularly the Assembly Law – so that it is consistent with these international laws and standards. Most

⁴⁴ *Ibid.*

⁴⁵ Burma Partnership, “Meaningful Dialogue on the National Education Law is the Burma Government's Obligation”, 9 February 2015, <http://www.burmapartnership.org/2015/02/meaningful-dialogue-on-the-national-education-law-is-the-burma-governments-obligation/>.

importantly, it should ensure that such legislation is properly enforced by the security forces – and that those security forces are properly trained to comply with international standards – as well as by an independent, competent and non-corrupt judiciary. Any restrictions imposed on the right to freedom of assembly should be no more repressive than anticipated and prescribed by international law.

Fifth, protests must not be confined to small spaces, where the effect of the protests can be minimized. Some degree of disruption is to be expected, since that is the point of protests and assemblies. In order for the political messages of protests to carry any weight, it is necessary that the general public and the relevant authorities see them, hear them and feel their presence. Nevertheless, while it is important to respect and protect the right to peaceful assembly, it is also important to establish a balance, to ensure that protests are managed properly to prioritize safety, to prevent any violence or damage to property, and to safeguard the needs, rights and safety of communities affected by protests and assemblies. The Burma Government should ensure that police are professionally trained in safety and security protection, including crowd control, and that there is full transparency regarding the role of military police in repressing protests – a civilian matter, that should be the domain of the police alone. Furthermore, the authorities should ensure that no one is allowed to inflame feelings at any protest or to provoke violence, and that offenders, whomever they swear allegiance to, are punished in line with the law, including law enforcement agencies such as the police. Finally, the Burma Government should not allow administration officials to take command of the police and should abolish civilian gangs of thugs.

Lastly, the Burma Government should realize that repression, whether by force or by legislation, just does not work: the 2007 Saffron Revolution was a direct result of the failure of the authorities to listen to the voices of the people in 1988. The Burma Government probably only has the remainder of the year until the national elections in November – at the most – to prove that it is genuine about political reforms; the current protests are a sign that patience and optimism are running out. Rather than trying to force the genie back into the bottle, the Burma Government would do well to recognize that repression will inevitably lead either to mass bloodshed or to a groundswell of protests across a variety of sectors – or even a nationwide uprising. All have happened before; all could happen again.

Even if protests are successfully stifled, no government should be so naïve as to conclude that silence is a sign of consent or of approval of a job well done. For decades, bar the notable exceptions mentioned above, the people of Burma stayed silent through fear, and no one in the international community was fooled. Moreover, stifling protests does not solve the problems; it merely sweeps them under the carpet, and sows the seeds for further dissent down the line.

Conclusion

The Burma Government must naturally be fearful of any protests, given the spectacular country-wide success of the historic 1988 student protests against the former military government of General Ne Win.⁴⁶ And therefore it should learn the lessons of history:⁴⁷ namely, the more it tries to repress students, the

⁴⁶ Burma Partnership, “Meaningful Dialogue on the National Education Law is the Burma Government’s Obligation”, 9 February 2015, <http://www.burmapartnership.org/2015/02/meaningful-dialogue-on-the-national-education-law-is-the-burma-governments-obligation/>.

⁴⁷ *Ibid.*

more the protests spread and the more support they garner.⁴⁸ There is a tragicomic inevitability and inexorability about the way that the actions of the Burma Government appear doomed to bring about precisely the outcome that they are trying so desperately to avoid.⁴⁹ In fact, if the Burma Government were serious about a genuine transition to democracy – and one could be forgiven for thinking otherwise – it would realize that democracy is not a one-way street.⁵⁰ Democratic governments govern on behalf of their people, and in response must accept its people’s criticisms and praise accordingly, depending on whether they are doing their jobs properly and representing people’s interests.⁵¹

Furthermore, if the Burma Government were serious about courting votes before what is supposed to be Burma’s first free and fair election since 1990 later this year, it would realize that it cannot afford to alienate so many of Burma’s youth – the future of democracy in this country.⁵² Rather than panicking in the face of criticism and resorting to ever more authoritarian measures to quell protests, it has an obligation to listen to its people, and try to win them over the democratic way – before history repeats itself and blood is shed, inflicting another deep wound in the hearts of the people of Burma and pushing national reconciliation ever further away.⁵³ Never has the Burma Government had a better opportunity to prove to the world that the leopard really has changed its spots.⁵⁴

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*