

AMNESTY INTERNATIONAL

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Myanmar: Amnesty International's Second Visit to Myanmar Official Statement

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Welcome to Amnesty International press conference following our second visit to Myanmar from 2 – 19 December 2003. The delegates for the mission were myself, Catherine Baber, Deputy Program Director for the Asia Pacific Region; and Donna Guest, Researcher on Myanmar and Thailand.

Background

As you know, it is Amnesty International's policy to seek visits to all countries around the world in order to investigate the human rights situation and talk directly with the authorities and other actors, with the aim of protecting and promoting human rights. Public reporting of our findings is also integral to our work, and I thank the Foreign Correspondent's Club of Thailand for arranging this timely opportunity for us to convey our concerns to the widest possible audience.

Since our first visit in February 2003, we have reported the grave deterioration of the human rights situation in Myanmar, most notably the violent attack on National League for Democracy (NLD) in Depayin on 30th May. At least four people were killed, and dozens of people were injured in an attack reportedly instigated by the pro-government organization the Union Solidarity and Development Association (USDA). At the time Amnesty International strongly urged the State Peace and Development Council (SPDC) to permit an independent, impartial, and effective investigation into the 30th May events, and to bring those found responsible to justice. Continued absence of such an investigation fuels the climate of impunity in Myanmar.

Following the events of 30th May, there has been an upsurge in detention of those peacefully exercising freedoms of expression and association. These prisoners continue to be held without charge, or have been prosecuted under repressive deeply flawed legislation in trials that do not meet international standards for fair trial. Amnesty International issued numerous public statements on these concerns and published a substantial report on the administration of justice in Myanmar "Justice on Trial" (30 July 2003, AI Index: ASA16/019/2003). We also issued urgent appeals for dozens of individuals among over 1350 political prisoners in Myanmar. Moreover we repeatedly reinforced our concerns in confidential letters to the authorities.

Objectives

The specific objectives of our second visit were to:

1. Update our knowledge about all aspects of political imprisonment.
2. Raise serious concerns about the human rights situation directly with the authorities.
3. Submit updated lists of individual cases of concern and obtain concrete responses on the status of those detained in the context of 30 May and since.
4. Engage in detailed follow up with authorities on our report "Justice on Trial".

Modalities of this visit

Amnesty International specified the duration and timing of the visit and chose to visit Yangon, Hpa'an, Bago and Mawlamyine on this occasion. The delegation sought and received prior guarantees from the SPDC that there would be no adverse consequences for anyone with whom we spoke and

worked, including those prisoners we interviewed confidentially with the assistance of an independent interpreter.

As we requested, the SPDC arranged meetings with specific government officials in Yangon and facilitated access to Insein, Bago, and Mawlamyine prisons. The delegation itself arranged meetings with a broad range of Myanmar civil society, particularly political party leaders from several ethnic nationalities, as well as the international community of diplomats, NGOs and UN officials. We cannot however report that we were granted unimpeded access to everyone we proposed to meet. Specifically, we were not permitted to visit Daw Aung San Suu Kyi, National League for Democracy (NLD) General Secretary, currently under de facto house arrest. We were also officially requested not to visit the headquarters of the New Mon State Party (NMSP) during our visit to Mawlamyine.

We held frank discussions on our concerns with the Minister for Home Affairs, Col. Tin Hlaing, Attorney General U Aye Maung, Chief Justice U Aung Toe, Deputy Foreign Minister U Khin Maung Win, and senior prison and police officials.

Substantive Issues Covered during the Visit

At Insein Prison, Moulmein Prison, and Bago Prison, officials facilitated confidential interviews with 35 political prisoners, ranging up to two hours each. We talked with male and female prisoners from a wide range of backgrounds and varying terms of imprisonment. Most we consider prisoners of conscience, people arrested solely for the peaceful expression of their beliefs or because of their ethnicity; we call for their immediate and unconditional release. The remainder were political prisoners who demonstrably had not received a fair trial. The prisoners included students and young political activists; members of armed opposition groups; journalists; and NLD members and leaders. Over a quarter had been arrested in 2003. These included some detained for protesting about the 30th May violence; a solitary demonstrator who called for the release of all political prisoners; and others who had simply expressed concern about the quality of education in personal letters.

We obtained clarification about the legal status of named individuals detained on or after the 30 May. The SPDC acknowledged the continued detention of 23 people (not including Daw Aung San Suu Kyi) arrested on that day and the detention or imprisonment of 52 persons after 30 May. However pending further information from the SPDC, this update remains preliminary. Most of these people were charged or sentenced under Article 5j of the 1950 Emergency Provisions Act, which provides for up to seven years' imprisonment for "anyone who causes or intends to disrupt the morality or behaviour of a group of people... or to disrupt the security or reconstruction of stability of the union". Disrupting the "morality" "behaviour" or "security" are not specifically defined and have been used to criminalize the peaceful expression of dissent for many years.

During our visit we were gravely concerned to have confirmed by the authorities that in November seven people were sentenced to death for high treason under 122(1) of the Penal Code. Amnesty International opposes the death penalty in all cases. The delegation received assurances from the authorities that commutation of these sentences was seriously being considered. Beyond commutation however, our research over the past 14 years demonstrates that political trials in Myanmar fall far short of international standards for fair trial. Moreover we are concerned that some of these people may be prisoners of conscience.

As a result of detailed research conducted throughout this year and on this visit, we have substantially deepened and updated our knowledge of political imprisonment in Myanmar. We have the most serious concerns about:

- Arbitrary arrests, prolonged interrogation and incommunicado detention without judicial oversight carried out by Military Intelligence and other security personnel. Incommunicado detention during interrogation facilitates the use of torture and other forms of ill-treatment.
- Trials falling far short of international fair trial standards. Those recently tried have been denied access to a lawyer or have only been permitted to talk to a lawyer minutes before their trial. In some cases political detainees have not been able to speak in their own defence or

cross examine prosecution witnesses. As a result, long sentences have been handed down solely on the basis of statements provided by police officers or Military Intelligence personnel.

- The use of administrative detention provisions repeatedly to prolong detention of those who have already completed their sentences. At least three elderly prisoners of conscience detained after serving their sentences under 10a of the 1975 State Protection Act have in the last four months had their detention renewed by one year. Amnesty International knows of at least 21 other named individuals who are being held under this provision.

With regard to prison conditions, Amnesty International has welcomed improvements reported over the last few years. At the end of our first visit to Myanmar in February 2003 we urged the SPDC to allow significant daily social interaction for all political prisoners and access to reading and writing materials. In our visits to three prisons we found that some reading materials were now more generally available but writing materials have not been permitted. Some social interaction was possible for many of the prisoners we interviewed. However people held for weeks or even months in pre-trial detention were not allowed visits from their families, lawyers, or doctors.

Medical care remains inadequate for political prisoners. Serious medical problems have been exacerbated by delayed and inadequate medical treatment. Deaths in custody which may have been avoided with proper, timely intervention reportedly continue to occur.

Conclusions and Recommendations

Our 17 days of meetings and interviews have expanded the range of our information, and strongly reinforced our concerns over continued political imprisonment in Myanmar. Through detailed discussions with the authorities and other parties we have affirmed the validity of recommendations we have been pursuing for a considerable time.

As we do globally, we will judge progress on human rights in Myanmar by concrete improvements on the ground. Fine words, and vague promises for the future without any timetable for change ultimately carry little weight.

As with our work on all countries, Amnesty International sees its work on Myanmar as a process. Certain human rights improvements can, with a genuine commitment to reform, move forward with all speed. We acknowledge that other improvements take time, like comprehensive reform of the justice system to entrench international standards for fair trial. We have been told to be patient, and that change may come soon. But these assurances ring hollow in the face of continuing repression.

Ultimately there comes a time for action, and that time is now. Once again, and in the strongest possible terms, we urge the authorities to:

1. Release all prisoners of conscience immediately and unconditionally.

They include members of parliament elect, journalists, doctors, lawyers, teachers and young activists. These men and women have the potential to make an invaluable contribution to the future of the country. Selective releases of a few high profile individuals will not suffice.

2. Stop the use of repressive legislation to criminalize freedom of expression and peaceful association.

These laws date from the nineteenth century to the present. Examples of their use in recent months include sentencing people for staging solitary protests, or discussing social problems in personal letters.

3. End the use of administrative detention provisions to hold prisoners of conscience without trial or prolong the incarceration of political prisoners who have completed their sentences.

Existing provisions (Articles 10a & 10b of the 1975 State Protection Law, amended by law 11/91) allow for up to five years' detention without charge, trial or recourse to appeal in the courts.

4. Address the black hole of incommunicado detention without charge or trial carried out by Military Intelligence Personnel and other members of the security forces.

Continued arbitrary detention under these provisions, intimidation and harassment by the authorities have created an atmosphere of fear and repression that will take more than rhetoric to dispel.

These concrete improvements are essential to underpin the government's professed commitment to an inclusive, transparent reconvening of the National Convention process. Such reforms will also create an enabling environment for independent, impartial investigations into allegations of serious human rights violations, such as the Depayin violence, and continuing forced labour imposed by the military and other violations against civilians in counter-insurgency areas.

Reconciliation and enduring security can best be achieved by protecting rather than curtailing fundamental human rights for all the people of Myanmar.