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Myanmar: Dismiss charges against scores of human rights defenders and peaceful protesters

The continuing arrest, detention, and threats against human rights defenders and peaceful protesters in Myanmar are stark reminders that basic freedoms remain at risk in the country. The authorities must immediately and unconditionally release and dismiss charges against scores of activists and others who are detained or threatened with arrest for exercising their rights to freedom of expression, assembly, and association. Amnesty International considers individuals who are imprisoned solely for the peaceful exercise of their human rights to be prisoners of conscience. Laws in Myanmar that are used to criminalize individuals exercising their rights to freedom of expression, assembly, and association must be amended and brought in line with international human rights standards.

On 11 June 2013, three activists - Thant Zin Htet, Myint Myint Aye, and Khin Mi Mi Khine - were arrested and detained for failing to register their organizational affiliations with the government. The three activists are members of the Nattalin and Meikhtila Social Networks, informal networks of social activists that operate through mobile and online platforms. They have been charged by the Nattalin Township Court with violating the Unlawful Associations Act and face a maximum sentence of three years' imprisonment. The arrests came after they travelled to Bago Region to demonstrate solidarity with villagers protesting land confiscations that occurred nearly two decades ago. They remain in custody and have been denied bail. Amnesty International considers them to be prisoners of conscience.

In a separate case, on 13 June 2013, the Monywa Court in Sagaing Region issued a warrant for the arrest of three other activists - Moe Thway, Wai Lu and Wai Hmuu Thwin - on charges of incitement in violation of section 505(b) of the Penal Code. In an interview with local media on 10 May 2013, the three activists denounced restrictions imposed by the police, which prohibited villagers from accessing fields located near the controversial Letpadaung copper mine project. In April 2013, the police arrested and issued warrants against several individuals who tried to plough land near the mine site in protest against the project. The three activists face up to two years imprisonment for criticizing police action during the April 2013 protests. If imprisoned, Amnesty International would consider these men to be prisoners of conscience.

Provisions in the Penal Code and the Unlawful Associations Act are among laws that have been used, both in the past and recently, by the Myanmar authorities to stifle free expression and association in the country. Section 505(b) of the Penal Code criminalizes the act of publishing or circulating information with the intent or likelihood to cause public fear or alarm whereby a person may be induced "to commit an offence against the State or against the public tranquillity." The Unlawful Associations Act requires associations to register with the government and contains sweeping provisions to arbitrarily outlaw peaceful associations. The examples above are representative of other cases of activists and peaceful protesters who have recently been arrested, charged, or imprisoned in Myanmar for exercising their rights to freedom of expression and association.

Moe Thway and Wai Lu, two of the three human rights defenders with arrest warrants in Monywa, are also among 13 activists facing charges for their involvement in organizing a peaceful march in Yangon on 21 September 2012. More than 1,000 individuals joined a

march across several Yangon townships to protest the ongoing armed conflict in Kachin state in northern Myanmar. Thirteen activists were charged in multiple townships under Section 18 of the law on the Right to Peaceful Assembly and Peaceful Procession (Peaceful Assembly and Procession Law) for demonstrating without a permit. Since September, they have attended more than 80 hearings in more than five townships in connection with these charges.

The Peaceful Assembly and Procession Law requires protesters to apply at least five days in advance for permission to demonstrate and stipulates that an application may be denied if “the security of the State, rule of law, public tranquillity and the existing laws protecting the public are to be breached.” Violation of Section 18 of the Peaceful Assembly and Procession Law carries a sentence of up to one year imprisonment.

Since its enactment in 2012, the Myanmar authorities have relied on the Peaceful Assembly and Procession Law to arrest and charge activists and protesters for engaging in peaceful assemblies. For example, on 19 April 2013, the authorities arrested and charged 10 activists under Section 18 of the Peaceful Assembly Law for organizing a peaceful protest on 18 April 2013 against offshore and onshore oil and gas pipeline projects in Kyaukphyu township, Rakhine state. These activists have attended four hearings since being charged. In November 2012, more than 30 gold miners were charged with violating Section 18 of the Peaceful Assembly Law and Section 505(b) of the Penal Code in Mandalay region after engaging in a series of peaceful protests in 2012 to oppose the government’s decision to close Moehiti Moemi gold mine.

Articles 19 and 20 of the Universal Declaration of Human Rights protect the right to freedom of expression and the rights to peaceful assembly and association. International human rights law requires that any restrictions imposed on these freedoms must be clearly articulated in law, necessary and proportionate, and serve specific legitimate aims as set out in international human rights treaties. The right to engage in peaceful assemblies also cannot be bound by state authorization. The prohibition of participation in activities of “unlawful” associations, where “unlawful” could mean merely that the association is not registered with the state, places wide and disproportionate restrictions on freedom of association and gives the state full discretion in determining the civil society activities it will permit. Such discretion is incompatible with international human rights standards.

The restrictions on the rights to freedom of expression, peaceful assembly and association and penalties as imposed by Section 505(b) of the Penal Code, the Peaceful Assembly and Procession Law, and the Unlawful Associations Act are phrased in an excessively broad and vague manner, potentially resulting in both an overreach of the law and a discriminatory application of the law. These laws must be amended to bring them in line with international human rights standards.