

“Instead of guaranteeing and protecting the right to freedom of peaceful assembly in Myanmar, the Peaceful Assembly and Peaceful Procession Law has become a tool to stifle dissent.”

Richard Bennett, Asia-Pacific Director, Amnesty International

# MYANMAR: STOP USING REPRESSIVE LAW AGAINST PEACEFUL PROTESTERS

The ongoing arrests and charges brought against scores of peaceful protesters in 2014 is a stark reminder that the rights to freedom of expression and peaceful assembly are still severely restricted in Myanmar. Despite amendments to the 2011 Peaceful Assembly and Peaceful Procession Law (Peaceful Assembly Law) adopted in 2014, the authorities are still using the law as a tool to stifle dissent, however peaceful.

Amnesty International calls on the Myanmar authorities to immediately drop all charges brought against those solely for peacefully exercising their rights to freedom of expression and assembly, to immediately and unconditionally release all those detained or imprisoned under such charges and to amend the Peaceful Assembly Law to bring it into line with international human rights law and standards.

## PEACEFUL PROTESTERS ARRESTED AND CHARGED

So far in 2014, Amnesty International has received reports that at least 60 individuals have been charged under Article 18 of the Peaceful Assembly Law. However, the actual number is believed to be higher. These individuals include political activists; land rights and environmental activists; human rights defenders; farmers; and other peaceful protesters. They have been charged solely for their participation in peaceful assemblies and demonstrations.

- **Htun Htun Oo** (m), an environmental activist from the Human Rights Watch and Defence Network (HRWDN), was sentenced on 23 September to a total of six months in prison under three counts under Article 18 for holding public talks about environmental conservation on 10 March, planting mangrove trees on 12 May and for holding a solo protest against corruption in July. Htun Htun Oo claims he had received oral permission to plant trees during a meeting on 9 April with the Regional Governor in Dedaye Township, in Ayeyarwaddy Region. On the same day, villagers, **Khin Shwe** and **Cho Lwin** (both m) were also sentenced to four months' imprisonment for joining Htun Htun Oo on 10 March and 12 May, and **Myint Lwin** (m) to two months' for joining them on 12 May. All three are currently detained in Pyapon prison in Ayeyarwaddy Region and face further charges under the Forestry Act and for trespassing and causing damage under Myanmar's Penal Code.
- On 22 September, **Bo Bo**, **Tin Htun Khaing** (both m) and **Nan Aye Aye Khaing** (f), were informed by the police in Patheingyi Township in Ayeyarwaddy Region that a case has been opened against them under Article 18 for participating in a peaceful demonstration on 21 September to mark International Peace Day. The three, along with around 20 other protesters, were marching, singing peace songs and reciting poems. They were not shown any arrest warrant or criminal complaint letter.

## THE RIGHTS TO FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

The rights to freedom of expression and peaceful assembly are enshrined in Articles 19 and 20 of the Universal Declaration of Human Rights (UDHR):

### Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

### Article 20

(1) Everyone has the right to freedom of peaceful assembly and association.

## AMENDED LEGISLATION FALLS SHORT OF INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

On 24 June 2014, President Thein Sein signed into law revisions to the Peaceful Assembly Law. The revisions came in response to national and international pressure to bring the law into line with international human rights law and standards, as it had been frequently used to arrest and detain peaceful activists and human rights defenders since first enacted in 2012.

The revisions to the law have done little to halt the pace of arrests. The law continues to place far-ranging and arbitrary restrictions on the rights to freedom of expression and peaceful assembly.

Of particular concern is the requirement for organizers to apply for *permission* – at least five days in advance – to hold an assembly or procession. The law should only require organizers to *notify* the relevant authorities.

Furthermore, “consent” to hold peaceful assemblies can still be revoked and assemblies and processions dispersed on a range of overly broad and arbitrary grounds such as affecting “[...] the country or the Union, race, religion, human dignity and moral principles” or spreading “[...] rumours or incorrect information”, and using loudspeakers or singing chants others than the ones approved. The amended law further removes the right of individuals and organizations to appeal against decisions to revoke consent.

Under international human rights law and standards, restrictions to the right to freedom of expression must be provided by law; be limited to certain specified purposes such as national security, public order or respect of the rights or reputation of others and necessary and proportionate to the achievement of one of those permissible purposes.

The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has explicitly stressed that no authorization should be required to assemble peacefully.<sup>1</sup> The exercise of the right to freedom of peaceful assembly should be governed at most by a regime of prior notification, which should not be burdensome, the rationale of which is to allow state authorities to facilitate the exercise of the right and take measures to ensure public safety and order and the rights and freedoms of others.<sup>2</sup> The Special Rapporteur has recommended that notice should be subject to a proportionality assessment, and should only be required for large assemblies or those where a certain degree of disruption is anticipated, with a recommended maximum notice requirement of, for example, 48 hours.<sup>3</sup>

Also of serious concern is the fact that the revised Peaceful Assembly Law still provides for criminal sanctions for those found to be in violation of its provisions, leaving human rights defenders, political activists and others at risk of arrest and imprisonment. In particular, Article 18 which allows for the imprisonment of individuals who conduct peaceful assemblies and processions without consent remains in effect, although the maximum penalty has been halved from one year to six months in prison.

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<sup>1</sup> See Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39, 24 April 2013, para. 51.

<sup>2</sup> *Ibid.*

<sup>3</sup> See Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/20/27, 21 May 2012, para. 28.

“...Many laws still remain which do not conform to international human rights standards. Such laws if not revised will continue to be used to stifle freedom of expression and opinion, and interfere with the people’s rights to peaceful assembly and association”.

Tomás Ojea Quintana, former Special Rapporteur on the situation of human rights in Myanmar, 30 May 2014.

## MISUSE OF LAW TO CHARGE SOLO-PROTESTERS

Amnesty International is also concerned that the Myanmar authorities are misusing the already flawed Peaceful Assembly Law to arrest and charge solo-protesters, in clear violation of its provisions. Article 2 of the law states that a peaceful assembly and a peaceful procession refers to the gathering of more than one person. As such, solo protests – and solo-protesters – are not covered by the Peaceful Assembly Law. But Amnesty International has received information that at least six solo-protesters have been charged under the law since the beginning of the year.

- **Myat Ko Ko** (m), the joint secretary of the National League for Democracy (NLD) in Aunglan Township in Magway Region, was sentenced on 4 July to one month in prison for staging a solo protest calling for the resignation of a minister.
- **Zaw Myint** (m) was charged on 22 September after staging a solo-protest in Myanmar’s capital Nay Pyi Daw, urging the government to hold talks on the country’s future with representatives of the national Parliament, the Myanmar Army and leader of the NLD Aung San Suu Kyi.

## MULTIPLE CHARGES LEADING TO LENGTHY, CUMULATIVE SENTENCES

Amnesty International is further concerned that authorities are using the Peaceful Assembly Law and other laws to charge activists in multiple townships for the same ‘crime’. The result is a series of cumulative sentences leading to lengthy imprisonment.

- **U Sein Than** (m), a prominent member of the Michaungkan community, was sentenced by three different Township courts to a total of one year imprisonment under Article 18 for a protest on 21 May against the issuance of an arrest warrant against him.
- **Ko Htin Kyaw** (m), leader of the Movement for Democratic Current Force (MDCF), has been sentenced to a total of 10 years and four months’ imprisonment by 10 Township courts under Section 505 (b) of the Penal Code for distributing leaflets calling on the government to resign and by three Township courts under Article 18 of the Peaceful Assembly Law for holding protests calling on the government to resign and against land evictions.

This is a clear continuation of patterns of arrest and detention observed by Amnesty International and others in 2013.

## RECOMMENDATIONS

The rights to freedom of expression and peaceful assembly are enshrined in Articles 19 and 20 of the Universal Declaration of Human Rights. Amnesty International calls on the Myanmar authorities to:

- Immediately and unconditionally release all those who have been imprisoned solely for the peaceful exercise of their human rights and immediately drop all charges brought against those who have solely and peacefully exercised their rights to freedom of expression and assembly.
- Review and amend the Peaceful Assembly and Peaceful Procession Law to bring it into strict compliance with international human rights law and standards.
- Repeal or else review and amend all other laws, which violate the rights to freedom of expression, association and peaceful assembly, in line with international human rights law and standards.
- Ratify the International Covenant on Civil and Political Rights (ICCPR) at the earliest opportunity, incorporate its provisions in domestic law and implement it in policy and practice.