



SILENCING DISSENT

The ongoing imprisonment of Burma's political activists
In the lead up to the 2010 elections



Assistance Association for Political Prisoners (Burma)

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introduction

An election that truly reflects the will of the people requires freedom of speech and expression, a free media, freedom of association and assembly, and freedom of access to information. In Burma, none of the fundamental requirements for free and fair elections exist. Instead, individuals are routinely detained and tortured. Throughout 2009 and 2010, AAPP documented the ongoing imprisonment of political activists, individuals associated with activists, as well as ordinary civilians peacefully expressing their basic civil and political rights. Not only was there an increase in the number of political prisoners during the pre-election period but AAPP also documented the ongoing abuse of political prisoners through torture and dire prison conditions, resulting in serious health problems for political prisoners and even death.

“Violence, intimidation and arbitrary arrests have no place in free, fair and credible elections. Rather than bettering the lives of Burma’s 55 million people, the 7 November elections are increasing the threats that people face on a daily basis.”

Bo Kyi, Joint Secretary of AAPP

Repression to silence dissent

The widespread and unlawful detention of political activists has a significant impact on Burma's political environment in two main ways. Firstly, most of the prominent activists are removed from public or political life. Almost all of the 88 Generation student movement leadership is in prison preventing them from organising against the elections or educating the people on political issues. Lead members of National League for Democracy party, including democracy icon Daw Aung San Suu Kyi, are imprisoned, as are lead ethnic politicians who promote a peaceful tripartite dialogue and national reconciliation, such Gen Hso Ten and U Khun Tun Oo. Secondly, the harsh sentences handed down and the torture and punishments inflicted on political activists threatens the wider population, sending a clear message: refrain from opposition activities or risk the consequences. The consequences are well known. Unlawful arrest and detention and torture are practiced systematically in Burma and occurred throughout 2009 and 2010. These practices pose an ongoing threat to civilians; ensuring populations live in fear, thereby preventing any politically critical activities. This fear stifles dissent, prevents a vibrant civil society and halts any criticism of the regime; key components of a genuine democratic transition.

Current situation of political prisoners

There are currently 2203 political prisoners in Burma. The number of political prisoners has doubled since 2007 – it jumped from about 1,100 in 2006 to 2123 in September 2008. Among these political prisoners, about 700-900 were arrested during and in the aftermath of the peaceful protests led by the 88 Generation Students group in August 2007 and peaceful marches led by monks in September of the same year. The figure steadily increased throughout 2009 and 2010. In the past year, October 2009 to October 2010, **110** political activists, or individuals considered to be in opposition to the regime, were arrested. However, the number may be higher. The figure used by AAPP does not take into account the number of ethnic persons in Burma's rural areas who are frequently detained and tortured in unknown or inaccessible locations.

In contrast, the number of political prisoners released during the same reporting period is much lower, with 69 released, since October 2009. In the two months before the election, there were 18 new arrests and only 6 releases. These arrests include 11 students in September and 5 people arrested in October in relation to an investigation into an alleged bomb plot, which the regime claimed was part of an effort to disrupt the elections.

There are 43 prisons in Burma, over 109 labour camps where prisoners are forced into hard labour projects, and an unknown number of interrogation centres. In Burma, not all interrogation centres have been identified and several secret centers exist. The use of incommunicado and secret detention, along with torture and ill-treatment, was evident in the pre-election period to extract confessions from detainees, to punish them or to force them to make undertakings not to criticize the government

Throughout 2009 and 2010 political activists were imprisoned without the basic rights of a fair trial. One of the many examples is Bo Min Yu Ko, sentenced to 104 years imprisonment at the age of twenty one, while denied the right to any legal representation.¹ He was sentenced on 3 January 2009 in a closed court in a prison compound. Such harsh and cruel sentencing and the lack of due process is illustrative of the unlawful nature of the judicial system in Burma.

¹ AAPP, media release, *ABFSU member sentenced to 104 years in jail*, 14 January 2009

Political prisoners spending this election and the last behind bars

More than 2,200 political activists will spend this week's election in prison; denied not only their freedom, but also their right to vote and their right to participate in the wider political process, their membership in political parties revoked or their parties disqualified.

For some, like Min Ko Naing, this will be their second election in prison. Of the current political prisoners at least **45** also spent the last election, more than 20 years ago, in prison. Of these, **30** have been in there for the entire 20 years. One ethnic political prisoner, Khin Maung Lin has spent the past 28 years in prison, since his arrest in 1982 for his membership in the Karen National Union.

Some activists like U Ohn Than and Burma's famous comedian, Zarganar, have been in and out of prison over the past twenty years, having spent the 1990 election behind bars they were later released but re-arrested and imprisoned again for their political activities. For Daw Aung San Suu Kyi, first arrested in July 1989, this will be her second election spent under house arrest.

Political leaders in prison

Imprisoned political leaders, such Daw Aung San Suu Kyi and Shan politician, U Khun Htun Oo have an important role to play in any democratic transition. They command the respect and trust of people throughout Burma. Similarly, other national figures who are widely admired and can help unite people behind a national reconciliation dialogue include 1988 student leader Min Ko Naing; Zarganar; and monk leader U Gambira.

During the 1990 election 485 Members of Parliament were elected, 392 were from the National League for Democracy. Currently, **12 MPs** from the 1990 election remain in prison and **34 MPs** are now living in exile. Of these Members of Parliament, 10 are NLD representatives. The other two, **U Kyaw Min** and **U Khun Htun Oo** are representatives of ethnic political parties. U Kway Min, is a Rohingya MP, for the National Democratic Party for Human rights, a party which won 4 seats in the 1990 election. He was arrested in 2005 and is serving a 47 year sentence in Myingyan Prison. He is also a member of the Committee Representing Peoples Parliament.

U Khun Htun Oo, is the leader of the Shan Nationalities League for Democracy (SNLD), which won 23 seats in the 1990 election, the most successful party after the NLD. He is currently held in Putao Prison, in Kachin state, where conditions are said to be very harsh. He is serving 93 years for treason and disrupting the National Convention, as well as additional charges under censorship and unlawful association laws. U Khun Tun Oo was arrested on 9 February 2005, after he took part in a private meeting of senior political representatives to discuss the authorities' plans for political transition, over a meal on 7 February 2005. The authorities arrested the other leaders present at the dinner meeting, including Major General Hso Ten, of the Shan Peace Council, who is now serving a 106 year sentence at the age of 74. These two prominent Shan leaders were outspoken in their desire for peace and democracy in Burma prior to arrest and open in their support for the NLD and Aung San Suu Kyi.² There are currently at least **233 ethnic nationality political prisoners** in Burma's detention centres, prisons and labour camps.

On 16 September the regime announced voting would be cancelled in around 3,400 villages in the ethnic Mon, Karen, Karenni, Shan and Kachin border regions, while up to 500,000 people displaced inside Burma cannot vote. This disenfranchises an estimated 1.5 million ethnic voters.

² Information on these individual political prisoner cases are kept on file at AAPP on the AAPP Political Prisoner Profile database.

The decision by the regime to cancel voting in these ethnic areas and the ongoing imprisonment of prominent ethnic leaders, is further evidence of the regime's reluctance to engage in an inclusive, open dialogue with ethnic nationality groups; a vital component of a genuine democratic transition in Burma.

National League for Democracy Party

There are at least **413** members of the National League for Democracy behind bars, including leader Daw Aung San Suu Kyi. The NLD are the largest single group of political prisoners. In its Shwegondaing Declaration, issued on the 29 April 2009, the NLD stated it would only participate in the 2010 elections after a careful study of any electoral laws, and only then, if certain conditions were met. These conditions were: the unconditional release of all political prisoners; amend the provisions of the 2008 Constitution which are not in accord with democratic principles; and the general election must be inclusive, free and fair and held under international supervision.

Burma's ruling military regime ignored the NLD's request and instead the election will take place this week with more than 2200 political prisoners behind bars and no foreign media or independent international observers. The NLD decided not to contest the elections. Under the new Election Laws introduced in March 2010, the Political Party Registration Law (SPDC Law No.2/2010, Chapter 1. 2(I)) prohibits political parties from having members who are currently serving prison terms or detention orders. The NLD were given an ultimatum, expel all of its members in detention or no longer exist. Rather than expelling its leader and the other 413 party members in prison, the NLD disbanded.

The criminalisation of peaceful dissent

In the lead up to the elections the regime introduced new restrictions further prohibiting civil and political rights. Added to the list of oppressive decrees and directives, which ban gatherings of more than 5 people, outlaws debate on the Constitution and criminalize membership in trade unions, human rights organizations and student groups, is Directive 2/2010, issued on 23 June, which prohibits holding flags, chanting slogans and marching to and from an assembly venues.

State media is used by the regime to warn potential dissidents that anyone who disrupts the country's election could face up to 20 years in prison. Through the *New Light of Myanmar* the regime reminded people that the 1996 Law on the Transfer of State Responsibility is still in force, a law that provides up to 20 years imprisonment for anyone who "incites, delivers a speech or makes oral or written statements that undermine the stability of the state, community peace and tranquillity and prevalence of law and order"⁴.

Campaigning against the 2010 elections

Despite the risks, brave individuals are campaigning against the elections. In the pre-election period stickers and leaflets appeared in Rangoon and Mandalay urging potential voters to boycott the election. This campaign was reportedly organized by the All Burma Federation of Students Union (ABFSU), the 88 Generation Students Group and Generation Wave, a youth culture network. All of these groups currently have a number of members in prison, including **39 Generation 88** members, **21 Generation Wave** members and over 100 from **ABFSU**. On 27 October 2010 young members of the NLD distributed election boycott leaflets in Insein and Mingalardon Townships in Rangoon

³ Elections Commission, Enlisting the Strength of Political Parties, Directive 2/2010

⁴ *New Light of Myanmar*, 4 August 2010, the author was only identified as Law Analyst.

Division. The leaflets, which were distributed in markets and busy streets, stated ‘everyone has the right not to vote’. One young NLD member explained: “Based on what party leader Aung San Suu Kyi has said, we distributed leaflets saying people have the right not to vote in the general election”. While the authorities did not disrupt their protest, they were photographed handing out the leaflets.

Election-related arrests

A number of election related human rights violations were reported in the lead up to the elections. The election related violations recorded by AAPP relate to cases where political activists have been detained or imprisoned because of election related activism or perceived opposition to the regime’s elections. At least 15 people have been arrested for their opposition to the 2010 elections.

In September, 11 university students were arrested for anti-election campaigning. Five were arrested on the 14 September and three on the 17th and three more on the 18th September. AAPP can confirm that of the 11 arrested only two Cham Myae Aung and Ye Linn Phyo have since been released. The other nine remain in detention at an interrogation centre at Insein Prison, where they are being held unlawfully, without trial, for over one month. The students distributed leaflets at Dagon University campus with slogans, which included “If you vote the USDP [the junta-backed Union Solidarity and Development Party], monks and people will be killed again” and “the 2008 constitution and elections guarantee that military rule will be prolonged.”

The targeting of students is nothing new, there are currently **285 students** held in prisons in Burma for their peaceful political activities, some imprisoned when at high school.

U Oakkantha, a monk, 28 years, was arrested by Special Police in January in Thanbyuzayat Township, in Mon State, after he launched a campaign opposing the 2010 elections. He was arrested for painting “No 2010 Election” along the highway from Moulmein to Ye townships to mark New Year’s. When he was arrested, police seized a video camera, a computer and leaflets opposing the 2010 election. He was sentenced on 27 September 2010 to 15 years imprisonment under three charges – the Press Law, the Electronics Act, and article 505(b), for ‘disturbing public tranquillity’ –carrying a sentence of four years, 10 years and one year respectively.

AAPP received reports that on 13 October the authorities transferred him from Insein to Patheingyi Prison, at the time of transfer he was suffering from a fever and stomach problems. He was disrobed and tortured by authorities while being detained in Thanbyuzayat Township, according to sources from the New Mon State Party. As consequence, he was hospitalised briefly at Moulmein Hospital. At the time of reporting **262 monks and nuns** remain in prison.

The use of state media to undermine the opposition

State media is used to undermine the political opposition. The state-controlled media routinely denounces the external destabilizing elements’ and their ‘internal stooges’ who are blamed for all of Burma's problems.

In 2010, political activists and those associated with exile groups were connected with alleged bomb plots and real bombings, including the tragic April Water festival bombing, in Rangoon, which killed 10 people. After the April water festival bombing, Phyo Wai Aung, not a political activist himself but someone who simply knew individuals working in exile on the Thai border, was publicly declared a “terrorist bomber” and ‘murderer’ by the Chief of Police at a press conference on 6 May, two months before his trial. A fundamental right to a fair trial is the presumption that a defendant is innocent

until proven guilty⁵. The presumption of innocence must be maintained not only during a criminal trial, but also in relation to a suspect or accused throughout the pre-trial phase.

On 28 October, just days before the elections the regime, through the New Light of Myanmar branded opposition groups inside Burma and in exile as terrorists: “Insurgents and minions of alien countries are committing terrorist attacks in the country with the intention of undermining state’s peace and stability and disrupting the elections”. They also announced they had detained five people accused of plotting to detonate bombs at Rangoon airport and other public places in an effort to disrupt the elections. The five accused, claimed the newspaper, were linked to the Karen National Union and the All Burma Students Democratic Front.

The scapegoating of dissidents

In Burma, there is a well-established pattern of wrongful imprisonment of those who speak out against the regime, with the SPDC blaming political dissidents and democracy activists for crimes they did not commit. This scapegoating amounts to a serious abuse of the criminal justice system. It prevents a proper investigation and ensures the real perpetrators are not brought to justice. Following bombings, such as those in 2010, 2005, 1996 and 1989, political activists have been falsely accused, tortured and unlawfully imprisoned for these crimes, in an attempt by the regime to damage the reputation of opposition groups.

The case of Thant Zaw and Nyi Nyi Oo, two NLD members wrongfully convicted of bombing a petroleum factory in July 1989, illustrates this. In the absence of any evidence of involvement in the bombing, confessions were extracted under repeated and brutal torture and the two were sentenced to death for high treason and murder. A man confessed to the bombing and received a 10 year sentence. Despite his confession, sentencing and statement saying that the NLD members did not take part in the incident, Thant Zaw and Nyi Nyi Oo were never released⁶.

Lack of media freedom

Burma is one of the most repressive and censored countries in the world, due to both its restrictive press laws and its practice of imprisoning journalists. There are currently, **40** people in prison, in Burma, for media related activities, including journalists and bloggers, photographers⁷. It is not only journalists that suffer under these repressive laws but also artists, and musicians. In October 2010, Reporters Without Borders released their annual press freedom report. Burma ranked 174th out of 178 countries just ahead of Iran and North Korea⁸. On 18 October, the regime announced that foreign journalists would not be granted access to Burma for the elections, closing off an already isolated country.

Nyi Nyi Tun, editor of the *Kandarawaddy* news publication was sentenced to 13 years in prison on 13 October 2010, a year after he was first arrested. He was sentenced for violating the Unlawful Associations, Immigration Emergency Provisions and Wireless Acts. Authorities originally tried to connect him to a series of bomb blasts; allegations that were later discarded. In an attempt to force a confession, Nyi Nyi Tun was brutally tortured for 6 days, by 16 police personnel including Police Lieutenant Aung Soe Naing. Nyi Nyi Tun, his hands tied behind his back, was kicked in the head and

⁵ Article 11, *Universal Declaration of Human Rights*

⁶ AAPP, media release, A New Year but the Same Injustice: Concerns for Dissidents in the Aftermath of Bombings, 20 April 2010

⁷ AAPP, October Monthly Chronology, 2010

⁸ Reporters without Borders, Press Freedom Index, 2010

face with boots and repeatedly. He was sexually abused by the police, who sodomised him with a baton. As consequence, he received severe wounds to his head and body⁹.

Hla Hla Win, a teacher and undercover journalist with the Democratic Voice of Burma was sentenced to 20 years in prison on the 6 January 2010 for violating the Electronics Act. Hla Hla Win was first arrested on 11 September 2009, on her way back from a DVB reporting assignment in Pakokku Township, Magwe Division, where she had conducted interviews with Buddhist monks in a local monastery. On 6 October, Hla Hla Win and her assistant, Myint Naing were sentenced to seven years in prison for using an illegally imported motorcycle.

After torture in prison, they were both subsequently charged with violating Section 33 of the Electronics Act, which forbids unauthorised use of electronic media and is increasingly used by the regime to punish journalists and activists for sending information out of the country, including over the internet. Hla Hla Win now faces a combined 27 years in prison for her reporting activities.

A fundamental tenet of democratic elections is a free press. The ongoing arrest and abuse of journalists is not indicative of a regime moving towards democracy but one committed to the maintenance of power at any cost.

Consequences of dissent

The referendum in May 2008 for the 2008 Constitution set the stage for what would happen to those who messed with the regime's plans for 'democratisation'. Following the announcement of the Referendum, on 19 February 2008, the SPDC passed Referendum Law 1/2008, criminalizing 'distributing papers, using posters or disturbing voting', punishable by a jail term of up to three years. This law was used as a deterrent to stop people from campaigning for a 'no' vote or a boycott of the referendum. Pro-democracy activists took part in a Vote No campaign, despite intimidation and harassment. AAPP records show that 79 activists were arrested for their involvement in the campaign to 'Vote No'. It was a peaceful campaign to encourage ordinary people to exercise their basic political rights and vote against the fundamentally flawed draft Constitution. **Twenty-two 'Vote No' campaigners remain in prison.**

The length the SPDC go to suppress any opposition, is evident in the arrest and imprisonment of twenty one volunteers for their efforts to assist in the aftermath of the cyclone. When the regime failed to provide and protect its people in the havoc wrecked by the cyclone, civil society groups and ordinary civilians stepped into the breach left by the military regime.

Seemingly, non-political acts such as gathering dead bodies and burying them, distributing aid to remote areas, and fundraising resulted in some volunteers serving 35 years in prison. A total of 21 volunteers remain in detention including Dr Nay Win and his daughter, Phyo Phyo Aung, a university student who was only 20 years old when arrested.

⁹ Submissions received by AAPP from the family of Nyi Nyi Tun.

Torture¹⁰

The use of torture continued, unabated, in 2010. Recent cases of torture brought to the attention of AAPP are particularly alarming in their severity. According to the testimony of torture victims and their families, detainees were subjected to physical, psychological and sexual torture by authorities. The most fundamental protection for prisoners is the absolute prohibition on torture. Under international law there are no circumstances under which torture can be justified: not in a time of war; when facing internal instability; or a state of emergency. The brutal and systematic torture carried out in Burma's places of detention indicates a total disregard for international law by the regime and that torturers operate in a culture of impunity.

NLD members were tortured in 2010. On 28 April, U Than Maung, a member of the NLD in Arakan State, was arrested in the middle of the night by members of the army and police and was tortured at his home in front of his family. The officers had entered the house, without permission, on the pretence of checking the visitor lists.

In August, NLD member Htay Aung, went deaf in one ear due to injuries sustained during torture. His sister San San Aye, said that he was being denied medical assistance whilst in detention. He was told by a doctor that his ear drum was ruptured and needed to be operated on, however, a request for an operation on his ear was ignored by authorities.

The regime also uses other forms of violence to suppress dissent, and political opponents are assaulted by regime backed thugs. On 6 May NLD member, Chit Tin, in Mon state was hospitalised for one month after being attacked by a militia-type organisation, allegedly on the orders of two Union Solidarity and Development Association (USDA) members.¹¹ The USDA is now the Union Solidarity Development Party, the political party formed by the regime to contest the elections.

It is not only political prisoners that are tortured in Burma. In 2010, AAPP also received reports of torture in non-political cases. In one case, six men were randomly assaulted by police officers in Bago, and held in detention where they were tortured for several hours in the night, including beatings and having their genitals burnt.

In Burma, torture is used to send a strong warning not only to those within political groups, but to all citizens, that they do not live in a free or safe society; their basic human rights are neither guaranteed nor respected. This ultimately has a prohibitive effect on peaceful dissent - one of the fundamental tenets of free and fair elections.

Prison transfers

The practice of transferring political prisoners continued throughout 2009 and 2010. Since November 2008, at least 275 political prisoners have been transferred to remote prisons, in malarial

¹⁰ For more information on torture and political prisoners in Burma, see AAPP's recently released report *Torture, political prisoners and the un-rule of law: challenges to peace, security and human rights in Burma*, by Bo Kyi and Hannah Scott, October 2010.

¹¹ AAPP, *Monthly Chronology* May, 2010

zones, with extreme weather conditions, where there are no prison doctors.¹² Medical supplies in prisons are inadequate, and often only obtained through bribes to prison officials. It is left to the families to provide medicines and food, but prison transfers prohibit. This policy leads to psychological hardship for both prisoners and their families and additional health problems and starvation as political prisoners rely on their family members for supplementary food and medicines. **Thirty** political prisoners were transferred to remote prisons in 2010 and **71** transferred in 2009.

An extreme example, of this took place in August 2010 to Shan leader, General Hso Ten who was transferred to three different prisons in one week, in a cruel ploy to further weaken the already sick and elderly political prisoner. General Hso Ten, 74 years old, a Shan ethnic politician, is currently serving a 106 year prison sentence.

On 2 August, he was transferred from Khamti Prison to Obo (Mandalay) Prison, then from Mandalay Prison to Insein Prison on 5 August and finally to Switte Prison, where there is no doctor, despite his poor health. He suffers from heart problems, diabetes and has cataracts. The authorities have repeatedly denied him adequate medical care.

When his daughter, Nang Kham Paung, visited him on 11 August 2010, she learned that he had been shackled during the train journey from Mandalay to Insein, which resulted in him dislocating his arm, for which he has not received medical treatment and continues to suffer pain. The total disregard for the health and wellbeing of this elderly and high profile ethnic leader is indicative of the regime's total disregard for genuine national reconciliation with ethnic groups.

Denial of health care

In May 2009, AAPP released a report highlighting the growing health crisis facing political prisoners in Burma. The health situation for political prisoners did not improve in 2010 and the impact of systematic torture, long-term imprisonment, prison transfers to remote areas and the denial of health care has led to a worsening health situation. There are currently 142 political prisoners in need of medical care who, like Gen. Hso Ten, are denied their fundamental right to health. Other sick prisoners include U Tin Yu, Ko Mya Aye and U Khin Maung Cho. They have all been transferred to prisons in remote areas away from their families. AAPP has grave concerns for these political prisoners. There are serious doubts that they will be able to survive the merciless prison environment for much longer, unless they receive urgent medical care.

Political prisoners who have died behind bars

On May 2010, political prisoner **Ko Kyaw Soe**, age 39, died in Myingyan prison due to prolonged ill-treatment in custody and the denial of medical treatment for respiratory problems. He was the 144th political prisoner to die during incarceration, since 1988, as a direct result of severe torture, the denial of food and medical treatment. Ko Kyaw Soe, a member of the Human Rights Defenders and Promoters Network was arrested on 17 September 2007 and tortured during interrogation, reportedly beaten, burnt with cigarettes and electrocuted. When his family members requested the Myingyan Prison authorities to buy appropriate medicine for Ko Kyaw Soe, the prison authorities replied that they had been taking care of him adequately and carefully.

The deplorable conditions in Burma's prisons: the absence and denial of adequate medical care, torture, malnutrition, lead to the tragic deaths of far too many of Burma's human rights defenders and democracy activists. Four political prisoners died in 2009. On 24 December 2009, **Tin Tin Htwe**,

¹² According to the World Health Organisation, morbidity rates for malaria in Burma are highest in Arakan, Karen and Kayah states, and Sagaing and Tenasserim Divisions, where high profile political prisoners were transferred.

age 38, died in Insein Prison from a burst aneurism. She was arrested during the 2007 Saffron Revolution. On 12 May 2009, 48-year-old NLD member **Salai Hla Moe** died in prison. His family was only informed of his death during a routine prison visit at the end of the month, almost three weeks after his death. They had already cremated him before the family visited. He was suffering from hepatitis and stomach swelling and had not received medical care for these conditions. **Saw Cha Leik**, a member of the Karen National Union, also died in 2009, in Thayet prison. Last year, monk **U Arnanda** of Thita Tharaphu Monastery, North Okkalapa Township died in Insein Prison at age 61 years.

Interrogation of political prisoners on the elections

In the pre-election period, the military regime interrogated political prisoners on the upcoming election and their intentions for future political activity, according to reports from the families of political prisoners. Shwe Maung, a Saffron Revolution activist, held in Mandalay Prison said the special police visited him in June and asked his opinion on the elections and whether he would continue to be politically active when released. Another political prisoner, Zaw Thet Htwe, was also interrogated, in June, by the police on what he would do once released. Zaw Thet Htwe was the chief sports editor for a journal in Rangoon when he was arrested in 2008 for helping Cyclone Nargis victims. Ashin Gambira, a prominent monk leader, held in Kalay Prison, was also asked the same questions by authorities. Political prisoners in north-western Burma were questioned about their stance on the National League for Democracy's elections boycott. Political prisoner, Yin Yin Wyne, was shown the NLD's Shwegondaing declaration and had to tell them what she thought about it. Her sister, Ma Moe, added that the officers had acknowledged they were from the Special Branch Police and had interviewed every political inmate in the prison¹³. The reasons for the questioning remain unclear, although it may be an indication that the authorities were considering releasing 'softer' political prisoners prior to elections.

In February it was reported that Min Ko Naing and Ko Ko Gyi were offered the choice of release from prison, on the condition that they publicly accept the junta's election process, they refused and instead, hold fast to the 'Maubin Declaration' - an accord they reached in Maubin Prison in 2008. It states the 88 Generation Student group will not support an election without the unconditional release of all political prisoners and unless the regime engages in an inclusive dialogue between all the political stakeholders. The regime shows no sign of such engagement and in fact repeatedly denies the very existence of political prisoners arguing that there are only criminals in Burma's prisons¹⁴.

The release of political prisoners

In the lead up to the elections there have been repeated calls at the international level for a release of all political prisoners, so far, **67 political prisoners** were released in the past year due to their sentences finishing. After an anonymous quote was released to the media by a state official saying that 11,000 prisoners would be released before the elections, there was speculation that political prisoners would be included in the release. In the past amnesties of prisoners have been used as public relations stunts designed to appease the international community. In reality, very few political prisoners are ever released during these amnesties. According to the SPDC's publicly released figures, a total of 45, 732 prisoners have been released in six separate amnesties since November 2004. Of those release only 589 political prisoners, or 1.3 percent:

¹³ AAPP, Monthly Chronology July, 2010

¹⁴ AAPP, Monthly Chronology February , 2010

- In September 2009, 7114 prisoners were released. 127 of them were political prisoners.
- In February 2009, 6,313 prisoners were released. 31 of them were political prisoners.
- In September 2008, 9,002 prisoners were released, 9 of them political prisoners, including the famous journalist, 80 year old U Win Tin.
- In November 2007, 8,585 prisoners were released. 20 of them were political prisoners.
- In July 2005, around 400 prisoners were released. 341 of them were political prisoners.
- In November and December 2004, 14,318 prisoners were released. 60 of them were political prisoners¹⁵.

Conclusion

On 7 November, the people of Burma will have the opportunity to vote in the first election in 20 years. While the regime continues to champion the elections, as a step on the road to democracy, at the recent United Nations General Assembly meeting in New York in October, they denied the existence of any political prisoners and showed no willingness to engage in a constructive dialogue with the United Nations Special Rapporteur, Tomas Quintana.

Ruling elite, serious about democratic transition and genuine regime change would be wise to take advice from a UN human rights expert rather than repeatedly discarding his comments with indifference and denial. Since March 2010, Quintana has called for the immediate release of all political prisoners for the elections to be considered free and fair.

The regime, mentioned through unofficial channels that there would be a general amnesty of prisoners before the elections. At the time of reporting this amnesty had not taken place. The regime may release political prisoners after the elections when the newly 'elected' military regime is formed. Such an amnesty, if it happens, should not be accepted as an act of compassion or the promise of things to come. A number of political prisoners, handed down 2-3 year sentences after the Saffron Revolution and Cyclone Nargis, are due for release early next year. Their release will be part of a ploy to promote a new, more humane side to the regime.

At this late stage, with the elections only days away, any release of political prisoners will not make the elections free or fair, as preparation for the elections occurred in a climate of fear and repression and with most of the opposition in prison or exile, denied the right to contest the elections or engage in the wider political process.

Political prisoner releases are meaningless without the regime first acknowledging the existence of political prisoners, wiping their criminal records and then unconditionally releasing all of them

Of course, AAPP welcomes the release of any political prisoner but in the absence of the rule of law, in the face of an impartial judiciary and laws that criminalise basic civil and political rights, political prisoners will continue to face the threat of re-arrest. As the case of political prisoner and high profile NLD member U Win Htein, highlights. Released from Katha Prison on 23 September 2008 after spending 12 years in prison, U Win Htein, was re-arrested the following morning at 10.00am. He was one of nine political prisoners released by the regime in the September 2008 amnesty. He was cruelly sent back to prison not even 24 hours after his first night of freedom, in 12 years. Win Htein was not told why he was being returned to prison, and prison staff, including a prison governor, could

¹⁵ AAPP, The Role of Political Prisoners in the National Reconciliation Process, 2010

not give a reason for his arrest. The Internal Affairs Ministry, Deputy Minister's office and Special Branch refused to comment on the case¹⁶.

History shows us that political prisoners have a vital role to play in democracy building and national reconciliation. On release, political prisoners, such as Nelson Mandela and Vaclav Havel, went on to lead their countries through the shaky transition from dictatorship to democracy, from incarceration to freedom. Political prisoners like Aung San Suu Kyi, U Khun Htun Oo and Min Ko Naing must be given this chance. However, if the regime was genuinely interested in change it would have already released Daw Aung San Suu Kyi, U Khun Htun Oo, and other important political and ethnic leaders, allowing them to freely contest the elections.

Nyan Win, Burma's Foreign Minister, told the UN General Assembly: "Whatever the challenges facing us, we are committed to do our best for the successful holding of the free and fair general elections for the best interest of the country and its people." He went on to say that the country can draw from "its ample experiences and lessons learned in holding multi-party general elections in the past" to stage the ballot on 7 November¹⁷.

It is hard to imagine what lessons they are drawing on, the last election they held was in 1990 and the military regime refused to recognize the results, and before that 30 years earlier in 1960. Each time mass arrests of political activists followed. More than 2203 political prisoners remain in prison, at least 30 of them having spent the past 20 years in prison, their second election behind bars.

In the past year, there have been no improvements in the overall political prisoner situation. In fact, the elections have increased the restrictions people face. People have been arrested and tortured for simply voicing their opinions about the elections and for educating others about the electoral process.

A general amnesty for all political prisoners must be motivated by genuine political will on the part of the regime. The release must be unconditional and the criminal records of political prisoners wiped. This must occur alongside a review of the 2008 Constitution, to ensure the Constitution is in line with democratic and human rights principles. Only then will the path be laid for an inclusive tripartite dialogue for national reconciliation, democratic transition and ultimately free and fair elections.

¹⁶ AAPP Political Prisoner Profile database

¹⁷ Bangkok Post, Burma Diplomat Dismisses Election Critics, 29 September 2010