
BURMA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

The year 2009 was characterised by a campaign by Burma's ruling military junta, the State Peace and Development Council (SPDC), to eradicate all political opposition ahead of the 2010 elections. Hundreds of prominent political activists, Buddhist monks and nuns, journalists, labour activists, bloggers and human right defenders as well as social workers were arrested and sentenced to lengthy jail terms. Even some of the lawyers representing activists were imprisoned for speaking out against the grossly unfair secret trials held in detention centres or in closed courthouses.

The trial of Ms. Aung San Suu Kyi, the leader of the National League for Democracy (NLD) party and winner of the 1991 Nobel Peace Prize, who has been subjected to house arrest since 2003, was perhaps one of the most significant event of 2009 in Burma. On May 14, 2009, the military regime arrested Ms. Aung San Suu Kyi on charges of breaching the terms of her house arrest order by permitting the intrusion of an American citizen into her house, just days before she was due to be released. Ms. Suu Kyi was transferred to Insein prison, Rangoon, and went on trial on May 18 for allegedly violating Article 22 of the 1975 State Protection Act¹. On August 11, she was sentenced to three years of imprisonment with hard labour, commuted to 18 months of house arrest². The case was riddled with irregularities and raised severe concern within the interna-

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1/ According to this provision, "any person against whom action is taken, who opposes, resists or disobeys any order passed under this Law shall be liable to imprisonment for a period of up to three years, or a fine of up to five thousand kyats, or to both".

2/ In the initial phase, except on two occasions, her trial was conducted behind closed doors. Subsequently, under the pressure of international experts, a number of diplomats were invited to attend the court hearings in July. Only two of Ms. Aung San Suu Kyi's four proposed witnesses were allowed to testify, and she was never allowed to meet with her lawyer in private.

tional community³. Ms. Suu Kyi appealed her sentence, but the Rangoon Division Court dismissed the appeal on October 1. Ms. Aung San Suu Kyi has been imprisoned by the military authorities for nearly 15 of the past 21 years. Her sentencing is part of the military regime's campaign to ensure that the most viable pro-democracy candidates would be unable to run in the 2010 elections. In addition to Ms. Aung San Suu Kyi, in 2009 the military regime sentenced 99 pro-democracy activists to prison terms, including 23 NLD members⁴.

In 2009, thousands of activists continued to be detained in Burma, especially those involved in the 2007 mass protests. While the SPDC released more than 6,000 prisoners in February to demonstrate its cooperation with the visiting UN Special Rapporteur on the Situation of Human Rights in Myanmar, Professor Tomás Ojea Quintana, only 31 of them were political prisoners⁵. Likewise, more than 7,000 prisoners benefited from an amnesty in September, but only an estimated 128 were political prisoners and no leading opposition figures were released⁶. In his report, the Special Rapporteur insisted that all 2,156 prisoners of conscience currently detained should be released before the elections. The Special Rapporteur also received disturbing information regarding harsh conditions of detention, solitary confinement, forced labour, shackling, and ill-treatment of prisoners, in particular during the interrogation phase⁷. During the year,

3/ On August 11, 2009, UN Secretary-General Ban Ki-moon, who visited Burma in July but was denied permission to visit Ms. Aung San Suu Kyi, "deplored the decision by a Myanmar court to sentence [...] Aung San Suu Kyi to an additional 18 months of house arrest, and urged that she be released immediately". The sentence was also condemned by the Vice Chairperson-Rapporteur of the Working Group on Arbitrary Detention Mr. El Hadji Malick Sow, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression Mr. Frank La Rue Lewy, the Special Rapporteur on the Situation of Human Rights Defenders Ms. Margaret Sekaggya, and the Special Rapporteur on the Situation of Human Rights in Myanmar Mr. Tomas Ojea Quintana. See United Nations Press Releases, August 11 and May 14, 2009. See also EU Presidency Statement calling for all-inclusive dialogue between the authorities and the democratic forces in Burma/Myanmar, February 24, 2009.

4/ For instance, on February 13, the SPDC extended the house arrest of NLD Deputy Chairman Tin Oo by another year. On the same day, NLD elected Members of Parliament Myi Pu and Tin Min Htut were sentenced to 15 years in prison for writing an Open Letter to the UN. On March 23, 2009, Messrs. Htet Htet Oo Wai, Win Myint Maung and Tun Tun Win were sentenced to five years in prison for calling for Ms. Suu Kyi's release in front of the People's Assembly building in Rangoon in December 2008 and, on June 26, 2009, NLD members Chit Pe and Aung Soe Wei were sentenced to 18 months in prison for participating to a vigil prayer for her release. On October 26, 2009, Mr. Tin Htut Paing was sentenced to 15 years in prison for putting up a poster that called for the release of political prisoners in Burma. See Alternative ASEAN Network on Burma (ALTSEAN-Burma).

5/ See Human Rights Watch Report, *Burma's Forgotten Prisoners*, September 2009.

6/ See Assistance Association for Political Prisoners (AAPP).

7/ See United Nations Press Releases, March 17, May 14 and August 11, 2009, and UN General Assembly, *Situation of human rights in Myanmar - Note by the Secretary-General*, UN Document A/64/318, August 24, 2009.

freedoms of expression, association and assembly remained also seriously hampered.

Throughout the year, various international bodies condemned the human rights situation in the country. In March, the Human Rights Council condemned the ongoing systematic violations of fundamental rights in Burma and urged the Government to guarantee the rights to the freedoms of assembly, association and expression, including for free and independent media, and to lift immediately all restrictions on the exercise of these rights⁸. These concerns were backed up by a UN General Assembly Resolution of August 2009⁹. In August, the European Union also adopted additional restrictive measures against Burma “in reaction to the verdict against Daw Aung San Suu Kyi and given the gravity of the violation of her fundamental rights”¹⁰. The UN Secretary-General’s Special Advisor on Burma, Mr. Ibrahim Gambari, visited Burma three times in 2009 to meet with senior junta officials and leaders of the pro-democracy movement.

In this context, anyone campaigning for the respect of human rights and democracy continued to face heavy repression in Burma in 2009.

Targeting of defence human rights lawyers

As in previous years, in 2009 authorities in Burma increasingly targeted defence human rights lawyers. The independence of lawyers to practise their profession continued to be hindered for politically motivated reasons and those who challenged the unfair conditions of their clients’ trials were often charged under the Contempt of Courts Act (1926)¹¹. Moreover, their licence was sometimes revoked in order to prevent them from practising. For instance, on March 6, 2009, Messrs. **U Khin Maung Shein** and **U Aung Thein**, two lawyers, were released after completing their full sentences. They had been convicted in November 2008 to four months in prison for “contempt of court”¹². They immediately resumed their legal duties. However, in May, a day after Mr. U Aung Thein’s application was

8 / See UN General Assembly, *Report of the Human Rights Council, Resolution 10/27. Situation of human rights in Myanmar*, UN Document A/64/53, March 27, 2009.

9 / See United Nations General Assembly, *Situation of human rights in Myanmar - Note by the Secretary-General*, UN Document A/64/318, August 24, 2009.

10 / See Council of the European Union Statement, August 13, 2009. Under the new restrictive measures, members of the judiciary responsible for the verdict are added to the existing list of persons and entities subject to a travel ban and to an assets freeze. Moreover, the list of persons and entities subject to the restrictive measures is extended to cover the assets freeze to enterprises that are owned and controlled by members of the regime in Burma/Myanmar or by persons or entities associated with them.

11 / This Act does not specify what actually constitutes “contempt of court”, leaving it open for any interpretation and decision by higher courts.

12 / See Observatory Annual Report 2009.

filed to represent Ms. Aung San Suu Kyi, he was sent a copy of an order disbaring him from practice as a lawyer and revoking his licence, on grounds that he was not “abiding by professional ethics”. Mr. U Aung Thein’s close associate, Mr. U Khin Maung Shein, who was not directly involved in Ms. Aung San Suu Kyi’s case, also had his lawyer’s licence revoked. As of the end of 2009, they were still working in the NLD’s Legal Committee and helping activists on trials as legal consultants¹³. Likewise, the law licence of Mr. Nyi Nyi Htwe, a lawyer who had been sentenced to six months’ imprisonment in October 2008 under Section 228 of the Criminal Code on charges of “contempt of the court” due to his involvement in the defence of 11 NLD youths, was revoked after he was released from Insein prison on April 28, 2009¹⁴. Moreover, on January 15, 2009, Mr. U Phoe Phyu, a lawyer who had assisted farmers whose land had been forcibly seized by the army, was arrested and charged under the Unlawful Association Act for alleged “links with illegal organisations” after representing labour activists detained for reporting the seizure of farmland to the International Labour Organisation (ILO). On March 17, 2009, he was sentenced to a four-year imprisonment by Magwe Division Court. His appeal was rejected in May and, as of the end of 2009, Mr. U Phoe Phyu remained detained¹⁵.

Arbitrary arrest of trade unions members

Trade unionists also continued to face repression in 2009, although the release of Mr. U Thet Way, a labour activist actively working to prevent the recruitment of child soldiers and forced labour and who had provided information to the ILO on these issues, under the amnesty of February 28, 2009, was to be welcome¹⁶. On January 3, 2009, Mr. **Bo Min Yu Ko**, aka Phyo Gyi, a member of the Mandalay branch of the All Burma Federation of Student Unions (ABFSU) – the largest national student organisation, outlawed by the regime – was sentenced to a total of 104 years of imprisonment by the Obo Prison Court in Mandalay. He had been arrested on September 18, 2008 and charged under 40 different sec-

13 / See AAPP Media Statement, May 16, 2009.

14 / See AAPP, *Chronology of Political Prisoners in Burma for January 2009*, and US Campaign for Burma.

15 / See AAPP, *Chronology of Political Prisoners in Burma for January 2009* and *Chronology of Political Prisoners in Burma for March 2009*, and United Nations General Assembly, *Situation of human rights in Myanmar - Note by the Secretary-General*, UN Document A/64/318, August 24, 2009. After ILO intervention, the sentence against Mr. U Phoe Phyu was reduced to one year, and he was released from prison on March 5, 2010. But shortly after his release, he received a notice that his licence had been revoked. Following the ILO Liaison Office in Rangoon intervention, the arrested farmers were also released.

16 / On September 16, 2008, Mr. U Thet Way had been sentenced to two years’ imprisonment with hard labour.

tions of law, including six charges under Section 13/1 of the Immigration Act. He was not allowed a defence lawyer and his family was not allowed to attend his court hearing¹⁷. Furthermore, on February 9, 2009, Mr. **Kyaw Ko Ko** and Mr. **Nyan Linn Aung**, two leaders of the ABFSU who had been arrested on March 16, 2008 by members of the Burmese Military Intelligence Unit, were sentenced to three years of imprisonment each by Rangoon Mingalar Taung Nyunt Township Court for “possessing illegal videos” of the 1988 uprising under the Video Act, which regulates uncensored videos. As of the end of 2009, Messrs. Kyaw Ko Ko and Nyan Linn Aung remained detained¹⁸. On April 1, five members of the Federation of Trade Unions of Burma (FTUB)¹⁹, namely Mr. **U Zaw Myint Aung**, Mr. **U Soe Oo**, Mr. **Maung Tun Nyein**, Ms. **Khine Lin Myat** and Ms. **Shwe Yi Nyunt**, also a member of FTUB Women’s Committee, were arrested at their places of residence in Rangoon as they returned home from the First National Congress of the FTUB, which ended on March 24. All are campaigners for workers’ rights and for the improvement of wages and working conditions for workers inside Burma. Furthermore, an unspecified number of family members of these five human rights defenders were also arrested, threatened or put under pressure in an effort by the authorities to compel cooperation from the five detained FTUB members. On April 10, 2009, they all returned safely to their homes in Rangoon, albeit after having been warned to cease any activity within the FTUB.

Ongoing repression of relief workers assisting Cyclone Nargis victims

Several of the individuals who were arrested in 2008 for carrying out relief activities in the Irrawaddy delta following the passage of Cyclone Nargis remained under detention as of the end of 2009, including Mr. **Nyan Tun**, who was given a 14 years’ imprisonment sentence in September 2008²⁰, and Mr. **U Thura**, aka **Zarganar**, prominent comedian, film director and activist, who was sentenced on November 21 and 27, 2008 to, respectively, 45 years’ and 14 years’ imprisonment for multiple charges, including “committing disaffection towards the State and Government by using the Internet”. On February 13, 2009, he was granted a 24-year

17/ See AAPP Media Statement, January 14, 2009.

18/ See AAPP, *Chronology of Political Prisoners in Burma for January and Chronology of Political Prisoners in Burma for February 2009*, ABFSU and Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, UN Document A/HRC/10/19, March 11, 2009.

19/ Since its foundation in 1991, FTUB has worked to end violations of fundamental trade union and other human rights, notably the systematic use of forced labour by the military.

20/ On June 27, 2008, Mr. Nyan Tun was arrested because he was trying to appeal to the SPDC headquarters in Nay Pyi Taw about the forcible removal of Nargis victims from a camp in Labutta township by local authorities. On September 28, 2008, he was sentenced to 14 years’ imprisonment by Myaungmya Township Court. As of the end of 2009, he remained detained in Tharawaddy prison.

reduction of his original 59-year sentence by Rangoon Divisional Court and, as of the end of 2009, he remained detained in Myitkyina prison in Kachin State, in the country's far north, where he was transferred in December 2008. On several occasions, his family was denied permission to visit him²¹. Moreover, in early February 2009, Ms. **Phyo Phyo Aung** and her father, Dr. **Nay Win**, were charged under provisions of the Unlawful Associations Act that bans any "organisations that attempt, instigate, incite, abet, or commit acts that may in any way disrupt law and order, peace and tranquillity, or safe and secure communications [...] or [...] that attempt, instigate, incite, abet or commit acts that may effect or disrupt the regularity of state machinery". Ms. Phyo Phyo Aung was also charged under Section 505(b) of the Criminal Code for making statements causing public mischief. Both were arrested in June 2008 along with Messrs. **Aung Thant Zin Oo**, **Shein Yarza Tun**, **Aung Kyaw San** and **Phone Pye Kywe** for organising to collect bodies of Cyclone Nargis victims for burial, and had started an organisation called "The Group that Buries the Dead". On April 10, 2009, the six relief workers were sentenced by a special court in Insein prison to jail terms ranging from two to four years²². On October 26, 2009, Messrs. **Thant Zin Soe**, Editor of the Foreign Affairs weekly journal, **Ka Gyi**, **Zaw Gyi**, **Lai Ron**, **Shwe Moe** and **Aung Myat Kyaw**, members of the Cyclone Nargis relief group "Lin Let Kye" (Shining Star), were arrested in Rangoon's Dagon township. On October 27, freelance journalist Mr. **Pai Soe Oo** was also arrested and the police confiscated notes that contained the names of other members of Lin Let Kye group. While detained, they were reportedly interrogated about their links with foreign "opposition groups" and the sources of the "financial support" they had allegedly received. On December 1, 2009, they were all released from the Aung Thabyay interrogation centre in Rangoon, after being asked to sign a pledge that they would not make contact with foreign organisations or accept overseas money again²³.

Imprisonment of land rights defenders

In 2009, land rights defenders were subjected to arbitrary detention and harsh sentences. As an example, Mr. **U Aye Myint**, a human rights defender who worked to support the land rights of farmers in Burma, was

21/ See AAPP, *Chronology of Political Prisoners in Burma for February 2009 and Chronology of Political Prisoners in Burma for April 2009*.

22/ Messrs. Aung Thant Zin Oo and Shein Yarza Tun and Ms. Phyo Phyo Aung were sentenced to four years each, while Dr. Nay Win and Messrs. Aung Kyaw San and Phone Pye Kywe were sentenced to two years each. See AAPP, *Chronology of Political Prisoners in Burma for April 2009 and Cyclone Nargis Anniversary Report*, May 2009.

23/ See AAPP, *Chronology of Political Prisoners in Burma for December 2009 and ALTSEAN-Burma, Burma Bulletin Issue 34 and Burma Bulletin Issue 36*, October and December 2009.

sentenced to two years' imprisonment on September 24, 2009, on a spurious charge of "threatening to injure a public servant". As of the end of 2009, he remained detained in Thayet prison, central Burma²⁴. According to the Forestry Department in Aungmye in Magwe division, Mr. U Aye Myint reportedly threatened a forest manager on August 11 and 14, saying that he would have him and other officials sacked for having lodged a criminal complaint against two villagers after they had cut eucalyptus plantations in a reserve area in order to make charcoal. The so-called reserve was previously the farmers' land, but officials allegedly confiscated it. Mr. U Aye Myint worked closely with Mr. **Ko Zaw Htay**, who was found guilty of giving out official secrets and sentenced by Magwe Township Court to ten years in prison on January 23, 2009 on charges of "leaking sensitive information", for taking video footage of army-confiscated land and sending it abroad in order to help farmers in Natmawk township, Magwe division, to lodge complaints before the ILO on the seizure of more than 5,000 acres of land by the military. His lawyer, Mr. U Phoe Phyu, was also imprisoned in the same period²⁵. As of the end of 2009, Mr. Ko Zaw Htay remained detained in Thayet prison²⁶.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. U Zaw Myint Aung, Mr. U Soe Oo, Mr. Maung Tun Nyein, Ms. Khine Lin Myat and Ms. Shwe Yi Nyunt	Arbitrary arrest / Harassment	Urgent Appeal MMR 001/0409/OBS 060	April 9, 2009
	Release	Urgent Appeal MMR 001/0409/OBS 060.1	April 16, 2009
Burma Lawyers' Council (BLC) / Mr. U Aung Htoo	Obstacles to freedom of association / Harassment	Press Release	May 5, 2009

24/ See AAPP.

25/ See above.

26/ See AAPP, *Chronology of Political Prisoners in Burma for January 2009*, and US Campaign for Burma. 237