



# Assistance Association for Political Prisoners (Burma)

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*Briefing Paper for United States Secretary of State  
Hillary Rodham Clinton  
Prepared by  
Assistance Association for Political Prisoners  
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## **Current situation of political prisoners**

The U Thein Sein administration officially denies the existence of political prisoners, a call iterated by the previous military regimes. Most recently, during the ASEAN Summit in Bali, Indonesia, U Thein Sein claimed there were “no political prisoners – all prisoners have broken the law. We don’t accept their ‘conscience’<sup>1</sup>.” The refusal to acknowledge the existence of individuals arrested for their beliefs undermines the dignity of the political prisoner and remains the primary obstacle to a deepening of the democratic and national reconciliation process.

There has been no tangible progress in the situation of political prisoners since U Thein Sein assumed power on 30 March 2011. The arbitrary arrest and detention of individuals who exercise basic civil and political rights continue unabated. The deterioration of prison conditions and inhumane treatment of political prisoners remain a primary concern.

AAPP can confirm **1,673** political prisoners have been arrested and are believed to still be in prison. There is an ongoing verification process to confirm their current status and location of their prisons.

## **Summary of main points**

- The U Thein Sein administration must publicly acknowledge the existence of political prisoners.
- Political prisoners must be immediately and unconditionally released, with dignity and recognition of their political status. Their criminal records must also be completely wiped.
- Burden of proof regarding political prisoner numbers rests on the U Thein Sein administration, not the opposition. It is incumbent on the administration to publicly disclose prisoner lists, with evidence. AAPP has done the same.

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<sup>1</sup> [No political prisoners in country's jails: Myanmar president](#), Times Live, 20 November 2011

- An impartial and investigative body, such as the International Committee of the Red Cross, must be authorized to enter Burma's prisons and conduct a verification of the number of political prisoners.
- ICRC's previous prison mandate should be reinstated to regularly monitor Burma's prison conditions.
- The cruel practice of transferring political prisoners to remote prisons, far from adequate medical care and their loved ones, must be immediately halted. Family members must be notified of their imprisoned loved ones' prison transfer in advance.

### **Towards a consensus on definition of political prisoners**

AAPP defines a political prisoner as anyone who is arrested because of his or her perceived or real involvement or supporting role in political movements with peaceful or resistant means. AAPP maintains that the motivation behind the arrest of every individual in AAPP's database is political, regardless of the laws they have been sentenced under.

In support of the national reconciliation process and a genuine democratic transition, AAPP does not discriminate against those who participated in the armed struggle or were wrongfully convicted with criminal charges. AAPP uses the term political prisoner as a blanket phrase for all those who have been imprisoned for participating in the struggle for democracy and national reconciliation.

Although AAPP emphasizes the need to eradicate repressive laws and policies that allow for the arbitrary arrest and detention of individuals over numbers, there has been an ongoing debate as to the exact number of political prisoners in Burma. A root cause of the debate is the lack of consensus on definition of political prisoners. AAPP has always been public with how it defines a political prisoner, and urges the U Thein Sein administration to do the same.

### **Recommendations to the U Thein Sein administration:**

1. Publicly and clearly disclose the administration's criteria for political prisoners.

### **Verifying number of political prisoners: burden of proof rests on U Thein Sein administration**

Tracking the number of political prisoners is undermined by the complete lack of transparency in Burma's prisons. State authorities and prison administrators are highly resistant to public monitoring and publishing information about prison systems. The lack of transparency and openness blunts public accountability and reform efforts. This void is being filled by exiled and opposition groups such as AAPP, who face a number of obstacles in efforts to accurately report on the number and situation of political prisoners. Prisoner lists are not publicly available, and prisoner releases and prison transfers are rarely announced in advance, whether publicly or privately to prisoners' family members.

It is incumbent on the administration, not the opposition, to publicly account for each prisoner to ensure they are being treated humanely and held in conditions that do not violate their basic prisoner rights. For this reason, AAPP fully supports calls made on 1 November by the Special Rapporteur on the human rights situation in Burma, Tomas Ojea Quintana, to authorize an independent investigative body, such as the International Committee of the Red Cross, to verify the number and status of political prisoners in Burma.

AAPP provides public monthly updates on the number of political prisoners as well as status updates to the best of our ability. However, it is virtually impossible to ascertain the real number of political prisoners given the curtain of secrecy enshrouding Burma's prisons. There is a lack of reliable information in remote ethnic areas, monasteries, and during periods of mass arrests. For this reason, AAPP believes the number of current political prisoners to be much higher. For example, a leaked official state document revealed that at least **2,314** individuals were detained during the Saffron revolution. The fate of these individuals remains unaccounted for and it is the responsibility of the administration to reveal their whereabouts.

One of those detained is Tin Tun Aung, 23 years, a member of Generation Wave, a youth media activist organization. He was sentenced to 5 years in Insein prison for making a statement conducive to public mischief<sup>2</sup>. Tin Tun Aung, formerly a government employee, was taken to the front line by Light Infantry Battalion 209 on 1 January 2011 and used as a minesweeper for the Burmese army. On 17 February, he lost one of his legs while stepping on a mine. He was given the equivalent of US \$6 as compensation. Tin Tun Aung's case could have remained unknown to the public were it not for his recent radio interview highlighting his plight.

### **Recommendations to the U Thein Sein administration:**

1. Publicize prisoner lists along with evidence such as arrest date and sentencing history to identify political prisoner status.
2. Allow an impartial and investigative body such as the ICRC into Burma's prisons to verify the number of political prisoners.

### **Release of political prisoners must go much further**

On 12 October, the U Thein Sein administration declared an amnesty for prisoners in bad health, elderly, and of good behavior, resulting in the release of 6,359 prisoners. AAPP can so far confirm that **241** political prisoners were included in the release. This falls in line with previous releases in that only a fraction of those released are political prisoners. Since September 2009 there have been 6 releases, only 0.9% of those freed have been political prisoners.

Of course, AAPP welcomes the release of any political prisoner, as each has a role to play in deepening the transition from military rule to a strong democracy. However, releases of political

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<sup>2</sup> Tin Tun Aung was charged with section 505/b of penal code and Article 7

prisoners have never trended towards a decrease in political prisoner numbers or towards an easing of repressive laws that target those critical of the administration. This time is no different. AAPP has received a number of reports highlighting ongoing violations of basic civil and political rights, coinciding with the October release.

Two youths from Prome district, Zarni Tun and Wei Phyo, were tortured and imprisoned for having posters underneath their motorbike seat calling for the release of political prisoners and are currently on trial. Their arrest came around the same time a Member of Parliament raised the issue of the release of political prisoners in a parliamentary session. In September, Nay Lin Oo, a youth NLD member of Dala Township, was arrested for reading a public statement calling for the release of political prisoners during a ceremony commemorating the International Day of Democracy. He was accused of being drunk in public. His case is currently under trial.

On 14 November, three days before the ASEAN summit that would decide whether Burma would chair in 2014, a leader of the Human Rights Defender and Promoter's Network (HRDPN) was arrested for filming a protest staged by over 200 farmers in Rangoon regarding confiscations of their land perpetuated by state and private companies. U Myint Naing is currently detained in a police station in Bassein district and faces a court trial on 25 November.

Two members of the Backpack Health Worker Team (BPHWT) were arrested by the Burmese army in Papun Township, Karen state on 29 October while caring for a patient. The two, Sar Phar Say Choe, 25, and Naw Kamwe Khu, 24, were taken to a Burmese battalion before being transferred to unknown locations. The BPHWT is a non-politically aligned organization committed to bringing quality healthcare to individuals in conflict zones in Burma. The harassment of independent medical and charity workers is indicative of the dire state of the nascent civil society movement and the urgent need for an independent one to emerge.

For a prisoner release to be genuine, it must be coupled with a lifting of draconian laws that continue to stifle and criminalize dissent. The wall of impunity surrounding state authorities must be taken down and replaced with a strong and independent judiciary. If not, released political prisoners and others critical of the administration face the real and constant threat of arrest.

Many influential leaders who played a key role in the democracy movement, the restoration of basic human rights, and national reconciliation process previous to their arrest continue to be held behind bars. They, along with all political prisoners, must be immediately and unconditionally released and allowed to resume their previous work free from harassment.

The most prominent political prisoners released on 12 October were:

1. Zarganar, satirist, 35 year sentence.
2. Su Su Nway, labor activist, 8 year and 6 months sentence.
3. General Hso Ten, leader in Shan State Army, 106 year sentence.

Both Su Su Nway and General Hso Ten have expressed their commitment to resuming their political activities upon their release, but face obstacles in doing so because of their deteriorating health condition exacerbated by their time spent in prison. When asked on her future plans, Su Su Nway, 39 years, responded she must first “take a rest for her health<sup>3</sup>,” as she was kept in solitary confinement the majority of her time in prison, in the remote Kale prison where there is no doctor. She was denied family visits and parcels, and prescribed incorrect medication for her health problems, at one point causing her to collapse. Similarly, General Hso Ten, 75 years, required constant medical attention during his 5 year jail term for his diabetes, heart problems, hypertension, and cataracts. He was denied basic medical care and ultimately held in the remote Sittwe prison after several prison transfers.

### **Recommendations to the U Thein Sein administration:**

1. Acknowledge the existence of political prisoners.
2. Unconditionally and immediately release all political prisoners with dignity, i.e. recognition of their political status.
3. All political prisoners must have their criminal records completely wiped.

### **Prison transfers: inadequate substitute for a prisoner release**

On 17 November the U Thein Sein administration began transferring political prisoners from remote prisons to prisons closer to their family members in lieu of a highly anticipated prisoner release that was believed to take place during the ASEAN summit in Bali. The transfers followed an open letter submitted by the Myanmar National Human Rights Commission on 12 November, which stated “if for reasons of maintaining peace and stability, certain prisoners cannot as yet be included in the amnesty, the Commission would like to respectfully submit that consideration be made for transferring them to prisons with easy access for their family members<sup>4</sup>.” When asked when the release would take place, a senior Home Ministry official responded “Now we are transferring those [prominent political prisoners] who will not be freed. Then the release of others will happen gradually<sup>5</sup>.”

AAPP can confirm that **6** political prisoners have been transferred:

- U Gambira, monk political prisoner serving 63 year sentence, was transferred from Kale to Myaungmya prison with a transit in Insein prison. This is around **385 miles** away from his family in Meiktila.
- Min Ko Naing, 88 generation leader serving a 65 year sentence, was transferred from Kengtung to Thayet prison, with a transit in Insein prison. This is around **340 miles** from his family in Rangoon.

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<sup>3</sup> “[In solitary I wanted to talk with people](#)” Mizzima, 24 October 2011

<sup>4</sup> “[Myanmar National Human Rights Commission sends open letter to the President](#)” New Light of Myanmar, 12 November

<sup>5</sup> “[Myanmar moves some political prisoners, none freed yet](#)” Reuters, 16 November 2011

- Nilar Thein, women's activist and student leader serving a 65 year sentence, was transferred from Thayet to Tharyarwaddy prison. This is around **78 miles** from her family in Rangoon and around **300 miles** away from her husband Kyaw Min Yu @ Jimmy in Thayet prison.
- Kyaw Min Yu, alias Jimmy, 88 generation student leader serving a 65 year sentence, was transferred from Taunggyi to Thayet prison. This is around **340 miles** away from his family in Rangoon and **300 miles** away from his wife, Ma Nilar Thein in Tharyarwaddy prison.
- U Khun Htun Oo, leading Shan leader sentenced to 93 years, was transferred from Puta-o prison to Taungoo with transit in Myitkyina and Mandalay prisons. This is about **175 miles** from his family in Mayangone Township, Rangoon.
- Sithu Zeya, journalist for Democratic Voice of Burma sentenced to 18 years, was transferred from Insein prison to Myaungmya. This is around **175 miles** from his family in Rangoon<sup>6</sup>.

Five of the political prisoners were transferred to prisons marginally closer to their family members, but one, Sithu Zeya, was sent to a prison much farther from his family members.

Transferring political prisoners to remote prisons is a well-worn strategy to isolate and break down the individual. Their continued detention and arbitrary transfer effectively places them outside the safety of the rule of law, remove them from the political discourse, and isolate them from their loved ones in an attempt to weaken their political and moral resolve. The most recent transfer, however, can also be seen as a cruel ruse to ease international pressure and as a substitute for their freedom.

The benefits of the transfers to the political prisoners are questionable, as the 6 political prisoners were not moved to the prisons closest to their family members nor experienced an upgrade in the medical care they so urgently need. For example, Sithu Zeya's mother, Daw Ye Ye Tint, stated the transfer will pose difficulties to her as Myaungmya prison is much farther away from their home in Rangoon than Insein, where Sithu Zeya was previously serving his sentence. The transfers are instead indicative of the lengths the administration will go to eliminate any oppositional voices from entering the political discourse. These prominent political prisoners must be released immediately and unconditionally, and allowed to seek urgent adequate medical care.

### **Recommendations to the U Thein Sein administration:**

1. Stop the cruel practice of transferring prisoners to remote prisons far from their family members.

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<sup>6</sup> It must be noted on 30 August the Working Group on Arbitrary Detention (WGAD) found the imprisonment of Sithu Zeya and his father Thagyi Maung Zeya to be in violation of articles 19 and 20 of the Universal Declaration of Human Rights. The WGAD urged the administration to take immediate steps to remedy the situation. This recent ruling casts a shadow of doubt over the legitimacy of their continued detention.

2. Publicly announce an impending prison transfer, especially to family members.
3. Allow prisoners' their right to family visits. If suspended, provide a concrete reason for why and for how long.

### **Hunger strikes expose deteriorating prison conditions and highlight importance of prison reform**

Since the Thein Sein administration came to effect on 30 March, there have been at least 6 documented hunger strikes peacefully staged by political prisoners. Although the hunger strikes differed in objectives, from requesting an upgrade in prison conditions to underscoring the inadequacy of a recent prisoner release, all pointed to the importance of transparency and accountability in Burma's prisons and the pressing need for a regular independent body to monitor prison conditions.

In the months of October and November, there were 2 hunger strikes in Insein prison. The first, beginning on 26 October, was initially staged by 15 political prisoners calling for all prisoners to be restored their right to remission days. Political prisoners are generally not accorded their right to a reduction in their sentence, even though this right is clearly authorized in domestic prison regulations. On 28 October, the strikers were punished by having their right to family visits and parcels suspended, as well as denied drinking water. This led to the internal hospitalization of 2 striking political prisoners. At least 8 were placed in the military dog cell for their perceived role in leading the protests. The health situation of the political prisoners was a high concern, as a number of those participating are in poor health and barred from accessing critical medication sent by their family members. The strike lasted 12 days, ending on 7 November.

The second hunger strike, commencing on 10 November, was undertaken by 6 political prisoners in the Insein prison hospital, where they have been hospitalized prior to starting the strike. They are demanding a reform of the prison healthcare system so as to comply with domestic and international standards. Two of those striking are on AAPP's list of prisoners in poor health: Nay Myo Zin, former army captain sentenced to 10 years, suffering from a cracked hip bone, broken ribs, and faces potential paralysis of his lower body; and Ko Aung Cho Oo, serving a 15 year sentence, suffering from severe abdominal pain since February 2011. The prison health care system in Burma falls dangerously below international minimum stands, with a reported 1 doctor for every 7,314 prisoners<sup>7</sup>. Remote prisons tend to have no doctor and no hospitals or clinics nearby. AAPP has documented that at least **122** political prisoners are currently in poor health and urgent need of medical care. This is especially worrying considering there have been at a minimum **147** recorded deaths of political prisoners while in prison.

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<sup>7</sup> ["One doctor for every 7,314 prisoners"](#) Irrawaddy, 29 December 2009

During the Insein hunger strike that took place shortly after the 17 May release, at least 7 political prisoners participating were placed in a military dog cell twice<sup>8</sup>, an extreme solitary confinement cell that is notorious for the severity of the conditions and level of punishment. This is a common tactic to isolate those who are perceived to be the leaders of the strike from the rest of the prison population and fragment the movement.

In July, Noble Aye, a female political prisoner serving an 11 year sentence, was held incommunicado in an isolation cell with an absolute and indefinite ban on family visits for writing a letter to state authorities asking them to retract statements denying the existence of political prisoners. When her family attempted to visit her, the prison warden claimed she had broken prison regulation.

No effective complaint mechanism exists in the prison system and prisoners are not offered any avenues to seek redress. In addition, there is a pattern of punishing political prisoners who exercise their basic prisoner rights to complain about conditions within the prison. Hunger strikes are forcefully suppressed by prison authorities and are generally followed by heightened prison security. Those striking often are denied water, family visits, and parcels, and/or isolated by being placed in solitary confinement or transferred to a remote prison. The manner in which they are treated violates the lowest minimum standard for the treatment of prisoners. Every prisoner has the right to make requests or complaints to the appropriate authority without censorship or fear of retaliation<sup>9</sup>.

### **Former political prisoners face ongoing harassment**

The real test of the October prisoner release is to what extent the freed political prisoners are able to resume their peaceful political, civil, and humanitarian activities free from harassment. A monk political prisoner released on 12 October has faced ongoing surveillance from state authorities. U Kawvida's monastery has been visited by the Special Branch and Military Affairs Security who spoke with fellow monks and villagers to inquire about U Kawvida and his dedication to Buddhism. He was arrested on the 29th of September 2007 for his involvement in Saffron revolution and sentenced to 4 yrs and 3 months. He only had 2 months left of his term upon release. There have also been reports that General Hso Ten has been under constant surveillance since he returned to his home in Lashio on 15 October. Prisoner releases generally follow a period of heightened repression, and this most recent release is no different.

The categorical denial of political prisoners means that those released face undue obstacles due to their criminal records. Professionals are subjected to arbitrary license revocations and students are barred from resuming their studies. Aung Thein, lawyer sentenced to 4 years for alleged contempt of court when defending his clients, refers to the license revocations as “punishing a person twice – when we were released lawyers and doctors cannot do their work and students have been

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<sup>8</sup> The seven striking political prisoners were first sent to the military dog cell on 24 May and then again on 28 May after talks with prison authorities regarding their demands broke down.

<sup>9</sup> [Standard Minimum Rules for the Treatment of Prisoners](#) Office of the United Nations High Commissioner of Human Rights

dismissed from school. In this era this should not happen<sup>10</sup>.” Twenty-two lawyers, seven doctors, and seven students organized a petition to the President urging for a reinstatement of their licenses in November.

There is a clear pattern of harassment against lawyers defending clients in cases where government interests are at stake. For example, Pho Phyu, a lawyer known for representing farmers involved in the forcible seizure of their land by state or private companies, is constantly under the threat of arbitrary detention and re-arrest. He was most recently detained in October for leading over 60 landless farmers in a rare protest in Rangoon. He was interrogated for over 12 hours and was forced to drink a strange substance that accelerated his heart beat and rendered him nauseous, exhausted, and depressed. His trial commenced on 11 November and faces charges on participating in an unlawful gathering.

### **Summary of recommendations to Thein Sein administration**

The news of an impending visit of the United States Secretary of State, Hillary Rodham Clinton, to Burma is warmly received by AAPP. We deeply appreciate the work the United States has done in highlighting ongoing human rights abuses and in encouraging genuine democratic progress. In order for Burma to move forward to a brighter future, AAPP humbly urges the following recommendations.

1. First and foremost acknowledge existence of political prisoners.
2. Publicly and clearly disclose the administration’s criteria for political prisoners.
3. Publicize prisoner lists along with evidence such as arrest date and sentencing history to identify political prisoner status.
4. Allow an impartial and investigative body such as the ICRC into Burma’s prisons to verify the number of political prisoners.
5. Unconditionally and immediately release all political prisoners with dignity, i.e. recognition of their political status.
6. All political prisoners must have their criminal records completely wiped.
7. Publicly announce an impending prison transfer, especially to family members.
8. Allow prisoners’ their right to family visits. If suspended, provide a concrete reason for why and for how long.

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<sup>10</sup> “[Professionals urge authorities to reinstate their licenses](#)” Mizzima, 7 November 2011