

October 2011

## **Prisoner amnesty leaves most political prisoners in jail**

On 12 October, Burma's dictatorship released over 6,300 prisoners from jails across the country under a new prisoner amnesty. However, only around 240 political prisoners were among those released. While the release of any political prisoner is welcome, there was disappointment at the low number of political prisoners released. Many senior political prisoners remain in jail, including NLD members, and leaders of the 88 Generation Students, such as Min Ko Naing.

The low number of political prisoners released places these releases in the same category as many similar releases in Burma over the years and means it is not necessarily a sign that real change is on the way. When former dictator Than Shwe came to power in 1992, for example, he released 427 political prisoners.

The release of all political prisoners remains a key test for judging whether the Burmese government is serious about claims that it is reforming. Despite promises of reform from Thein Sein, there remain between one and two thousand political prisoners in Burma. Many have been tortured, have been moved to remote prisons making it difficult for families to visit, are kept in squalid cells, and denied proper access to medical care.

There has been a dispute over the exact number of political prisoners in Burma. While the government still officially denies political prisoners exist, some officials have stated that there are only around 600 political prisoners.

There are at least 1,300 political prisoners, double the government's figure, and possibly many more. The Assistance Association for Political Prisoners (AAPP), which provides the most reliable data on the political prisoner situation in Burma, is currently verifying its prisoner list. However, it is extremely difficult to provide exact numbers as there are no public records regarding the arrest and release of any prisoner. The government therefore has a responsibility to publicly disclose their prisoner lists.

In October, the AAPP reported that political prisoner Nay Myo Zin has been repeatedly denied vital medical care and has been unable to sit or walk without severe pain.

Nay Myo Zin, a former army captain and charity worker, was arrested in May and given a 10 year sentence for possession of an e-mail critical of the military. He was tortured during interrogation and is currently suffering from a broken hip and rib leaving him unable to walk or stand. Despite repeated requests, he has been denied the urgent medical care he needs.

As well as the continued detention, torture and ill-treatment of political prisoners, those political prisoners that have been released face ongoing human rights abuses, including harassment and arbitrary arrest, denial of education and employment opportunities and discrimination.

The Assistance Association for Political Prisoners said that "in addition to recognizing and unconditionally releasing all political prisoners, it is equally necessary to erase the criminal records of all political prisoners in order for them to participate in the democratic transition and national reconciliation. Unless they are recognized as political prisoners and their records erased, they will continue to be persecuted in a form of on-going repression."

A background briefing on previous prisoner releases in Burma is available at: <http://www.burmacampaign.org.uk/index.php/news-and-reports/burma-briefing/title/political-prisoner-releases-in-burma>

## **Major increase in forced displacement in Burma**

A new report from The Thailand Burma Border Consortium (TBBC) finds forced displacement in south east Burma is at its highest level in a decade, rising from an average of 75,000 per year, to 112,000. This excludes an estimated 25,000 in Kachin State. If these are included, forced displacement has almost doubled. Furthermore, these figures do not cover all areas where displacement is happening.

The total number of villages destroyed since 1996 is now 3,700. This includes 105 villages and hiding sites during the past year, an average of two villages a week, when at least 112,000 people were forced to leave their homes. While some fled into Thailand and others returned to former villages or resettled elsewhere in Burma, over 450,000 people currently remain internally displaced in south eastern Burma.

Jack Dunford, TBBC's Executive Director, said, "a determined and sustained effort to resolve ethnic conflict in Burma is essential to avoid another generation of violence and abuse. Democratic reforms by the new government are vital and welcomed, but the demands for ceasefire groups to form Border Guard Forces has escalated conflict and displacement in ethnic areas. As prospects for the voluntary return of refugees and internally displaced persons are directly linked to national reconciliation, the urgency of finding a solution to conflict in Burma has never been greater."

The report, 'Displacement and Poverty in South East Burma' is available here: <http://www.tbcc.org/resources/resources.htm#idps>

## **Kachin conflict worsens**

The conflict in Kachin state continues to escalate. The Burmese Army have deployed additional troops, armored vehicles, and heavy artillery to Kachin areas resulting in increased fighting, tens of thousands of civilians displaced and continuing reports of grave human rights violations.

According to the Kachin News Group, over 2,000 Chinese troops have been deployed on the long border with Burma since early October. It also reported that Chinese border authorities are preventing Kachin refugees from entering China and prohibiting the cross-border supply of food and medicines from China to Kachin internally displaced persons in Kachin Independence Army (KIA) controlled areas.

An estimated 20,000 to 30,000 civilians have been displaced by fighting and only around 5,000 are

being given assistance by government-approved aid agencies.

In October, Human Rights Watch accused Burma's armed forces of committing serious abuses against ethnic Kachin civilians, including killings and attacks on civilians, pillaging of villages, and the use of forced labour. In one case documented by Human Rights Watch, a Burmese soldier shot and killed a 52 year old woman and her 4 year old grandson in their home at close range as they tried to flee.

"Ongoing abuses starkly demonstrate that until real steps are taken towards accountability, including an international commission of inquiry, minorities such as the Kachin will be a grave risk," said Elaine Pearson, deputy Asia director at Human Rights Watch.

The Burmese army broke a 17 year ceasefire with the Kachin Independence Army (KIA), Burma's second largest ethnic armed group, in June this year and has since launched a major offensive and moved in hundreds of troops to areas formerly controlled by the KIA.

## **UN Human Rights expert condemns "serious human rights violations"**

On 20 October, UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana presented his annual report to the UN General Assembly following his visit to the country in August this year.

Quintana welcomed some positive steps taken by Burma's government but said that "many serious human rights issues remain." He raised particular concerns about "the ongoing tensions in ethnic border areas and conflict with some armed ethnic groups continue to engender serious human rights violations, including attacks against civilian populations, extrajudicial killings, sexual violence, arbitrary arrest and detention, internal displacement, land confiscations, the recruitment of child soldiers, as well as forced labour and portering,"

He also called for the speedy release of all political prisoners and raised concerns over "continuing allegations of torture and ill-treatment during interrogation, use of prisoners as military porters or 'human shields', and the transfer of prisoners to prisons in remote areas where they are unable to receive family visits or packages of essential medicines and foods."

## **Parliament amends Political Parties Registration Law**

In an effort to persuade the National League for Democracy (NLD) to re-register as a political party,

Parliament has approved a bill that amends the 2010 Political Parties Registration Law. The bill has removed the clause that prohibited anyone serving a prison sentence from joining a political party. In addition, the law now requires political parties to “respect and observe” the 2008 constitution instead of “preserving and safeguarding” the charter.

The NLD was a registered political party until May last year. It was banned in May last year after the NLD decided it could not register for the sham elections in November 2010 because the election laws were so unjust. The NLD was required to register as a political party to maintain its legal status, but the dictatorship deliberately introduced conditions in the election laws that would make it impossible for the NLD to register.

The NLD will hold a meeting on 18 November to decide whether it will re-register as a political party.

### **New labour law comes into force**

A new labour law came into force in October giving workers in Burma the right to form unions and to strike. However, there is concern about whether this new legislation will lead to free and independent trade unions.

The International Trade Union Confederation (ITUC) has expressed concern that the government may prevent the formation of any trade union which it does not or cannot control.

In June 2011, The Irrawaddy quoted an official from the Ministry of Labour, who said, “if they get a chance to form a labor union, it can be a group which can destroy the stability of the country. That’s why we will not allow forming a union.”

Under the 2008 Constitution, Parliament has the power to legislate with respect to “labour organizations” and Article 354 allows for citizens “to form associations and organizations.” However, that right can only be exercised, “if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquillity or public order and morality”. Furthermore, this right can be suspended indefinitely by invoking a state of emergency under Article 379.

It also remains unclear whether the existing laws, such as the ‘Unlawful Association Act’, will remain in effect.

In October, seven people were arrested after around 70 farmers staged a peaceful protest against alleged unfair land confiscation. They were charged with unlawful assembly. Among those reported to be charged included labour rights lawyer Pho Phyu.

### **Thein Sein visits India**

From 12 to 15 October, Thein Sein made his first official visit to India as President, although he has visited India twice before as Prime Minister and with Burma’s former dictator Than Shwe.

The two countries agreed to strengthen economic cooperation, including in oil and gas exploration, \$500 million in credits for infrastructure projects and raising bilateral trade to US\$3 billion by 2015. There were also agreements on intelligence sharing to combat insurgency, arms smuggling, and drug trafficking along the Indian-Burma border.

### **US Envoy makes second visit to Burma**

US Special Representative for Burma Derek Mitchell returned to Burma in October for a two day visit, just over a month after his first trip. He met government officials, including Foreign Minister Wunna Maung Lwin and People’s Assembly Speaker Shwe Mann. He also met Aung San Suu Kyi.

In a briefing before his trip, Mitchell said “we have seen encouraging signs over time, but of course, there are some things that haven’t changed, and we should be noting those. As much as we’ve seen some changing of dynamics in – between Naypyidaw and Rangoon with some of the democratic opposition, we, of course, have not seen similar progress in the relationship between the government and the ethnic minorities, the ethnic nationalities in the north and the east and elsewhere. Violence continues. Credible reports of human rights abuses, including against women and children, continue.”

Norway’s Deputy Foreign Minister Barth Eide also visited Burma in October. He left the country with a positive impression of the pace of change, saying “I almost left the country thinking they’re moving a little too fast.” While he called for the release of political prisoners, he did not mention the war in ethnic states or the increase in human rights violations.

### **UK Parliament**

**26 Oct 2011 Mr Andrew Smith:** To ask the Secretary of State for Foreign and Commonwealth Affairs if he will press for any UN General Assembly resolution on Burma to include a recommendation to establish a Commission of Inquiry to investigate allegations of human rights violations in that country.

**Mr Jeremy Browne:** It is essential that mechanisms be found that deliver a credible response to allegations of human rights abuses in Burma, both past and present. The Government have therefore made clear its support for the UN Special Rapporteur’s recommendation for the UN

to consider establishing a Commission of Inquiry into human rights abuses in Burma as a means to achieving this goal.

Over recent months there have been some indications that the regime in Burma is willing to embark upon meaningful and inclusive political reform, including through investigation of human rights abuses. With this in mind, we are working in close coordination with international partners to ensure the widest possible support in the UN General Assembly for a strong resolution on the human rights situation in Burma, which reflects our concerns and urges the Burmese authorities to address accountability for human rights abuses.

## **European Parliament**

### **Question for written answer E-008082/2011 to the Commission**

#### **Rule 117**

**Raül Romeva i Rueda (Verts/ALE)**

#### **Subject: UN Burma Crimes Inquiry**

The EPCB (European Parliamentary Caucus on Burma), of which I am a member, is calling on the European Union to officially support a United Nations Commission of Inquiry into war crimes and crimes against humanity and to include its establishment in the United Nations General Assembly resolution on Burma. The Burma resolution is being drafted by the EU.

The creation of such a Commission was recommended by the United Nations Special Rapporteur on Burma in March 2010. The EPCB is deeply concerned about the failure of the EU to endorse and act upon this recommendation, despite the apparent increase in human rights abuses in Burma. For decades the dictatorship in Burma has acted with impunity, committing gross violations of international law. Abuses taking place include military attacks against civilian villages, arbitrary detention and torture, rape and gang rape, including child rape, forced labour, forced relocation, denial of humanitarian assistance, and many others.

As twenty previous UN General Assembly resolutions testify, the UN is fully aware that these actions have been taking place yet has taken no practical steps to put an end to them. The EPCB is concerned that the continuing failure of the EU to support a UN Inquiry is encouraging the dictatorship to continue to believe it can act with impunity. The European Parliamentary Caucus on Burma reminds European governments that they have repeatedly been lied to and deceived by the

dictatorship in Burma. Promises of reform have never been delivered. The promises made to visiting diplomats still stand in stark contrast to the actions of the leadership.

As the recent Arab Spring should have taught us, when dealing with brutal dictatorships, policies of appeasement and pursuing reforms through gentle persuasion do not work. The European Union must take a united, robust and principled stand in support of human rights and democratisation in Burma.

What recommendations is the VP/HR making to the EU Member States regarding the call by the United Nations Special Rapporteur on Burma for a UN Commission of Inquiry into war crimes and crimes against humanity in Burma?

What action has been taken by the VP/HR in response to reports of increased use of rape and gang-rape by the Burmese Army against ethnic minority women in Burma?

### **Answer given by High Representative/Vice President Ashton on behalf of the Commission (20.10.2011) EN E-008082/2011**

Establishing an international commission of inquiry for Burma/Myanmar, initially mentioned by the United Nations Special Rapporteur on Human Rights in Myanmar more than a year ago, has been debated ever since. The key question is how to achieve real improvements in the human rights situation on the ground that have a tangible impact, while avoiding further deepening the existing cleavages in society.

For effective action, it is important to build the broadest possible support ideally ensuring a measure of cooperation from the national authorities. With a new Government in place and with a National Human Rights Commission just created, as well as new legislation on Trade Unions, the EU will look for every appropriate opportunity to engage the authorities on their human rights' responsibilities. The new Foreign Minister has stated, in his recent speech in the Human Rights Council in Geneva that the National Human Rights Commission will cooperate with "regional groupings", such as the Association of South East Asian Nations (ASEAN) and the EU.

Focusing on results, the EU will support the fight against impunity and promoting accountability through investigation of alleged human rights violations by the army and the ethnic militias. The

Union will consult with like-minded countries and with key regional partners, and will continue to listen to democratically legitimised stakeholders in Burma/Myanmar. It is noteworthy that none of the democratic opposition parties in that country has so far endorsed a retrospective investigation.

**Statement From European Parliamentary  
Caucus on Burma  
17 October 2011**

**Burma Political Prisoner Releases Not Enough  
To Justify Lifting of Sanctions**

The European Parliamentary Caucus on Burma (EPCB) welcomes the release of around 200 political prisoners in Burma. The release of all political prisoners, along with the implementation of a nationwide ceasefire, are essential first steps in creating a climate in which there can be a genuine dialogue process to solve political problems in the country.

However, by releasing so few political prisoners, President Thein Sein has not gone beyond similar releases already undertaken by his predecessors, which had no broader political significance. In fact, Than Shwe released 427 political prisoners when he came to power in 1992. Most political prisoners remain in jail, are kept in appalling conditions, and denied proper medical care. Many have been moved to remote prisons days travel away from their families. Despite the facts, Thein Sein's government continues to deny political prisoners even exist in the country.

While the release of any political prisoner should be welcomed, the releases that have taken place in Burma this week do not justify the lifting of any diplomatic or economic sanctions currently applied by the European Union. Premature lifting of any sanctions could undermine the prospects of further and larger political prisoner releases. Political prisoners are not bargaining chips. The release of all political prisoners must remain one of the core benchmarks for the European Union and international community.

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