

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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Tuesday, October 22, 2013

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U Tun Shin
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Dear President and Attorney General;

Re: Call for Release of Prisoners of Conscience Held in Myanmar

Lawyers' Rights Watch Canada ("LRWC") welcomes the latest presidential amnesty in Myanmar, which resulted in the release of 56 political prisoners on October 8th. These prisoners had been imprisoned unjustly under the former military government, and their release is an important step in the ongoing process of democratic transition and national reconciliation. However, LRWC is extremely concerned about the conditions attached to the release of these prisoners, as well as the ongoing arrests of political activists in Myanmar.

The freedom of the recently released prisoners is not unconditional. Article 401 of Myanmar's Code of Criminal Procedure permits that conditions be attached to the discharge of prisoners – for example, the remaining sentence may be imposed on the released prisoner if the President determines that a condition on which the sentence was suspended or remitted has not been fulfilled.¹ Many recently released prisoners have also been subject to restrictions on their ability to run for public office, relocate to another part of the country, or acquire passports and professional work licenses.² On December 12, 2012, the UN General Assembly adopted Resolution 67/233, which implores Myanmar's government to release prisoners of conscience "without delay and without conditions and to ensure the full restoration of their rights and freedoms".³ LRWC urges the government to comply with this recommendation, in order to ensure the released prisoners can live without fear of continued persecution or harassment.

LRWC is also deeply concerned about politically motivated arrests that continue to take place in Myanmar. Human rights activists are being arrested and detained under section 505(b) of the Penal Code, which prohibits individuals from spreading statements that cause alarm or induce others to commit an offence against the public or the state, and section 18 of the Peaceful Assembly and Procession Law (the "Peaceful Assembly Law"), which regulates the legal regime for public assemblies and can result in fines

¹ Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, Tomás Ojea Quintana, A/HRC/22/58, 22nd Sess, (6 March 2013) online: <http://www.ohchr.org/Documents/Countries/MM/A-HRC-22-58.pdf>.

² "Rule by Law: An Analysis of the Use of Legislation to Stifle Civil Society Space in Burma," *Burma Partnership* (30 September 2013) online: <http://www.burmapartnership.org/wp-content/uploads/2013/09/Rule-by-Law-September-2013.pdf>.

³ *Resolution Adopted by the General Assembly on 24 December 2012*, GA Res 67/233, 67th Sess, (8 April 2013) online: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/67/233.

and a one year prison sentence.⁴ Although the Peaceful Assembly Law ostensibly protects the right to freedom of assembly, Human Rights Watch reports that it is actually being used to “prosecute rather than protect those exercising their basic rights”.⁵ The Peaceful Assembly Law requires protesters to apply at least five days in advance for permission to demonstrate, and an application may be denied if “the security of the State, rule of law, public tranquility and the existing laws protecting the public are to be breached”.⁶ Further, the law makes it a criminal offence to make speeches that contain “false information” or to do anything that causes a disturbance or blocks roads, vehicles or pedestrians.⁷

The Penal Code and Peaceful Assembly Law have made it increasingly difficult for the general public and human rights activists to participate in peaceful assemblies and protests. In particular, they have been used to arrest individuals for their involvement in peaceful land rights protests.⁸ The Assistance Association for Political Prisoners (Burma) estimates that more than 200 political activists are currently awaiting trial, most under the Peaceful Assembly Law and section 505(b) of the Penal Code, and that 133 political prisoners remain incarcerated across Myanmar.⁹

LRWC calls for the unconditional release of all prisoners of conscience currently being held in Myanmar, and deplores the arbitrary and politically motivated arrests that continue to take place. LRWC also urges the government to reform the Peaceful Assembly Law so that it reflects Myanmar’s obligations to protect the rights to freedom of expression, association and peaceful assembly.¹⁰ These actions are imperative to ensure the rule of law is upheld during Myanmar’s ongoing process of democratic transition.

Sincerely,



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Lawyers Rights Watch Canada



Erika Heinrich, B.Comm., J.D.
LRWC member

⁴ “Myanmar: Dismiss Charges Against Scores of Human Rights Defenders and Peaceful Protesters,” *Amnesty International* (4 July 2013) online: <http://www.amnesty.org/en/library/asset/ASA16/002/2013/en/db943ba1-a638-443a-8189-1be22fc70cfe/asa160022013en.html>.

⁵ “Burma: Drop Charges Against Peaceful Protesters,” *Human Rights Watch* (13 January 2013) online: <http://www.hrw.org/news/2013/01/13/burma-drop-charges-against-peaceful-protesters>.

⁶ Amnesty International, *supra* note 4.

⁷ *Ibid.*

⁸ See “56 political prisoners freed in 12th Presidential release,” *Assistance Association for Political Prisoners (Burma)* (9 Oct/13).

⁹ *Ibid.*

¹⁰ Myanmar is a party to the *Universal Declaration of Human Rights*, GA Res 217A(III), UNGAOR, 3d Sess, UN Doc A/810, (1948), which protects the right to freedom of opinion and expression (Article 19) and the right to freedom of peaceful assembly and association (Article 20).

Copied to:

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