

## INTRODUCTION

The 26-year rule of General Ne Win's Burma Socialist Programme Party (BSPP) came to an end on 18 September 1988 when Armed Forces Chief of Staff General Saw Maung led a military coup. The coup followed months of pro-democracy demonstrations throughout the country; thousands of demonstrators were shot and killed by the army. A military State Law and Order Restoration Council (SLORC) was established to head the new government. Martial law was declared. Direct control over the country was established through a martial law administration of local Law and Order Restoration Councils (LORCs).

The new military government pledged political and economic reforms that appeared to go some way towards meeting the demands of pro-democracy protesters. The authorities announced that elections to a new parliament would take place in May 1990, following which a new constitution would be drawn up to lay the foundation for a multi-party, parliamentary democracy. For the first time since 1962 political opposition parties were permitted to organize and were recognized by the government: more than 200 were subsequently registered, many of them formed from the student groups and political organizations that had emerged in the course of mass demonstrations against the Ne Win Government.

However, the promised transition to parliamentary democracy was marred by renewed repression even as the new military government established itself. Hundreds of people were shot in the weeks following the coup by troops who fired on unarmed demonstrators or, in some cases, reportedly took alleged opponents from their houses and summarily executed them. Outspoken leaders of the pro-democracy movement before the coup were jailed and many continue to be imprisoned.

Within a few months of the coup, many leaders and supporters of the newly registered political parties were arrested and imprisoned. By mid-1990 hundreds, and possibly thousands, of people had been detained by the military authorities. Many of them are prisoners of conscience and they include the main opposition party leaders. Some opposition leaders were arrested in July 1989 and officially disqualified by the SLORC from contesting elections.

The death penalty remains in force: death sentences, as well as long terms of imprisonment with hard labour, have been handed down by military tribunals applying summary martial law procedures which severely restrict defence rights and deny any judicial right of appeal. At least 100 political prisoners were sentenced to death in 1989, 24 of them by military courts and 76 by civilian courts, although it is not known whether any executions have been carried out. The SLORC had, upon assuming office, commuted all death sentences outstanding for crimes committed before 18 September 1988.

This report incorporates information from people arrested before and after the September 1988 coup and from relatives, friends or associates of current or former prisoners. It provides

compelling evidence that real or imputed critics of Myanmar's military government have been, and continue to be, imprisoned for the peaceful expression of their political views. It also provides graphic evidence of widespread torture, both of people detained for their participation in the pro-democracy movement and of those held in connection with the activities of armed opposition groups representing Myanmar's ethnic minorities.

## 1. HUMAN RIGHTS VIOLATIONS IN MYANMAR

Civil unrest erupted throughout Myanmar - then Burma - in March 1988.<sup>1</sup> Mass demonstrations, led mainly by students, called for an end to one-party rule by the military-dominated Burma Socialist Programme Party (BSPP). They urged the resignation of General Ne Win's Government and its replacement by an interim civilian administration pending free and fair elections and the introduction of multi-party parliamentary democracy. Demonstrators also called for the restoration of long-restricted civil and political liberties, including the rights to freedom of expression and association.

General Ne Win's Government took power in 1962 in a military coup. It replaced the multi-party system established in the wake of Myanmar's independence in 1948 with a single party state ruled by the BSPP. The BSPP was officially dissolved after the September 1988 coup. However it was subsequently reconstituted as the National Unity Party (NUP) in preparation for the May 1990 elections.

Thousands of people were killed in the first half of 1988 as the government used violent measures in an attempt to suppress the demonstrations. Some demonstrators died in violent clashes with police and soldiers but most of those killed were reportedly shot dead while participating in peaceful protests, or died later as a result of their wounds. In July 1988, General Ne Win resigned as head of government in the face of continuing unrest. However, there were further demonstrations during the short term of office of his successor, U Sein Lwin, who was himself replaced by a civilian, Dr Maung Maung, after further widescale killings of demonstrators. The latter's appointment also failed to end the unrest and the army again took direct power on 18 September 1988.

Independent reports indicate that as many as 1,000 people may have been killed by troops in the first few days after the military coup. Amnesty International has repeatedly called for an inquiry into reports that security forces deliberately killed several thousand demonstrators as the pro-democracy movement gathered strength between March and September 1988 and in the aftermath of the 18 September 1988 military coup. However, there is no indication that the current martial law administration, which includes several officers who occupied command posts in the army during 1988, has investigated alleged extrajudicial killings of demonstrators. No military personnel are known to have been brought to justice in relation to these killings. Rather, the current authorities have denied that security forces committed any human rights violations.

In a letter dated 22 December 1988 to the United Nations (UN) Special Rapporteur on

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<sup>1</sup> In June 1989 the name of the country was changed to Myanmar. The English spelling of the names of several cities and regions was also changed.

Summary or Arbitrary Executions, which the Myanmar Government made public, it said that in dealing with civil unrest in Yangon (Rangoon) and elsewhere in the country since June 1988, the authorities had acted with the "utmost self-restraint" and had resorted to shooting only when public and private property and the lives of citizens were in jeopardy. Myanmar's Ambassador and Permanent Representative to the UN at Geneva stated before the Commission on Human Rights on 2 March 1989 that since assuming power on 18 September 1988, "the authorities and the security forces had acted with the utmost restraint and used the minimum amount of force commensurate with and required by the practical need to curb and control the calculated machinations engineered by the unscrupulous elements." In reality, however, the government was responsible for widespread political killings, torture of prisoners and other human rights violations.

To Amnesty International's knowledge, in only two instances was action taken in connection with human rights violations by security personnel during the student unrest of 13 to 18 March 1988 in Yangon. The government ordered an inquiry commission to look into the killing by riot police of two Yangon Institute of Technology (YIT) students, Maung Phone Maw and Soe Naing. However, the commission's findings were never fully made public and the State Council's report on its conclusions was widely criticized for its shortcomings and for what was seen as a misleading and distorted version of events. The independence and impartiality of the commission was seriously questioned. It did acknowledge that the riot police were responsible for the deaths of the two students and the detention of several hundred others. However it failed to look into other deaths and injuries to students and other demonstrators which occurred in that period, and neglected to indicate whether the police officers responsible had been brought to justice. Eventually, in the face of growing public pressure the government acknowledged on 19 July that 41 detainees had suffocated to death in a police van on 18 March. The Minister for Home and Religious Affairs U Min Gaung took responsibility for these deaths and resigned and the Director General of Police, Thein Aung, and his deputy, Pe Kyi, were dismissed. It remains unclear, however, whether the police responsible for these and other deaths were prosecuted or disciplined in any way.

### **Repression of the pro-democracy movement**

Since the SLORC took power in September 1988, the pro-democracy movement appears to have broadened its popular base while retaining significant student involvement. New political parties were formed by those who had taken the lead in calling for an end to military rule in 1988: they include the National League for Democracy (NLD), led by Aung San Suu Kyi, the daughter of Burma's independence leader, Aung San, and Tin U, a retired army general and long-standing critic of military rule. In July 1990 the former was under house arrest and the latter was serving a prison sentence imposed for political reasons.

Another legally-registered political party, the League for Democracy and Peace (LDP), associated with U Nu, the last prime minister elected before the military took power in 1962, declared that its primary aim was to "safeguard the fundamental rights of mankind". Another

party, the National Politics Front (NPF), was legally registered on 14 November 1988 and stated that its goal was "to systematically attain through legal means, and to safeguard, democratic rights declared in the UN Charter and the Universal Declaration of Human Rights". Other legally registered parties were founded by student leaders, notably the Democratic Party for a New Society (DPNS); its leader, Moe Hein, is now imprisoned. Organizations that were active in the pro-democracy movement but have not sought registration as political parties, notably the All Burma Federation of Student Unions (ABFSU), remain an active part of the pro-democracy movement.

The activities of authorized opposition parties, student organizations and other groups have been restricted by emergency legislation and the special martial law powers of the SLORC. Thousands of people were arrested in 1989 for non-violent criticism of the martial law administration and for participating in peaceful demonstrations called by the major political opposition parties. The military made increasing use of martial law restrictions on freedom of expression and peaceful assembly and censorship legislation. Some of those arrested, including prisoners of conscience, were administratively detained without charge or trial; others were tried by military tribunals under special summary proceedings introduced through SLORC martial law orders.

The numbers of arrests steadily increased as opposition groups undertook campaigning activities in defiance of martial law. Beginning in March 1989, opposition parties and student groups held memorials for students killed by the security forces in past years and rallies at which party leaders called for non-compliance with martial law restrictions on civil liberties. A series of mass meetings protesting against the restrictions were held in June and early July 1989, sponsored by major opposition groups in defiance of martial law orders banning political gatherings. At the same time, political leaders such as Aung San Suu Kyi and Tin U repeatedly urged that such gatherings should be peaceful, and counselled students and others not to take up arms or use any violent means to oppose the military.

On 20 July 1989 troops entered the NLD's national headquarters and arrested 43 people, including much of its leadership; they are now believed to be held at Yangon's Insein Prison. Aung San Suu Kyi and Tin U were placed under house arrest the same day for allegedly "endangering the state"; this was done under the provisions of the 1975 State Protection Law. Their detention orders were imposed for one year or "as long as the danger of disruption of peace and tranquility by them exists". Tin U was subsequently sentenced to a prison term.

Since July 1989 arrests of opposition party leaders and activists have been justified by the SLORC as measures necessary to combat "conspiracies" and "machinations" against the government by both "communist" and "right-wing" forces. These allegations were made in special press conferences held in August and September 1989 by SLORC Secretary 1, Major General Khin Nyunt, who also heads the Directorate of Defence Services Intelligence (DDSI). The texts of General Khin Nyunt's statements were published in two widely circulated pamphlets. In The Conspiracy of Treasonous Minions within Myanmar-Naing-Ngan and

Traitorous Cohorts Abroad, known as the Green Book, General Khin Nyunt described alleged "conspiracies and machinations to do great harm to the country". These were said to be the responsibility of "party organizations, rightist forces, some diplomats, some foreign broadcasting stations, some foreign publications and anti-government forces outside the country who were carrying out both underground and above-ground activities using the students and simple and honest people". In a second pamphlet, The Burmese Communist Party's Conspiracy to Take Over State Power, known as the Red Book, the DDSI chief described the alleged infiltration or manipulation by the Communist Party of Burma (CPB) of the main political opposition parties. The SLORC alleged that the principal opposition parties -- including the NLD, the DPNS, the LDP, the People's Progressive Party (PPP) and the National Politics Front (NPF) -- had been manipulated or infiltrated by the insurgent CPB, a charge the leaders of the legal opposition parties denied.

### **Ethnic minority conflict - a history of human rights violations**

The emergence of the pro-democracy movement, the collapse of the Ne Win Government, and the actions of the current martial law administration have occurred against the complex backdrop of long-standing armed conflict between government troops and ethnic minority and communist armed opposition organizations in remote areas of the country. These insurgencies reflect the country's ethnic diversity: the principal armed opposition groups are ethnic minority based and have sought greater autonomy for peoples of the Kayin (Karen), Kachin, Kayah, Shan, Mon and Rakhine (Arakhan) states.

Myanmar's minority peoples are concentrated primarily in the mountainous regions that arch like a horseshoe around the lowlands of central Myanmar. Violent opposition groups have been active primarily in these areas, particularly in regions adjoining the international borders. About two thirds of Myanmar's estimated 39 million people are of the majority Bamar (ethnic Burman) population and live primarily in central Myanmar in the environs of the Ayeyarwady (Irrawaddy) and Sittoung (Sittang) Rivers.

The principal insurgent organizations include the Kachin Independence Organization (KIO) and the Kayin (Karen) National Union (KNU), although almost all of the major ethnic minorities have one or more armed opposition groups associated with them. In addition, some armed opposition activity along the eastern border with China has been attributed to the Communist Party of Burma (CPB), although their influence and military power had reportedly diminished significantly by 1989.

In the course of the protest movement in 1988 many students fled to border areas in fear of being arrested or killed, or with the aim of joining armed opposition groups. Many who sought sanctuary with such groups or as refugees in Thailand subsequently returned to Myanmar, mostly to the capital and the major towns. An organization openly espousing armed revolt was established by students in border areas in November 1988 under the name All Burma Student Democratic Front (ABSDF). Most reports of insurgent activities and army

counter-insurgency operations, however, have come from the Kayin (Karen), Kachin, Shan and Mon States, where armed opposition activity has continued at relatively high levels since 1984. Extensive human rights violations have been reported in these areas, where ethnic Kayin (Karen), Kachin, Shan and Mon civilians have been subjected to torture and extrajudicial execution on a large scale during army counter-insurgency operations.

In a series of reports published in 1987, 1988 and 1989 Amnesty International documented evidence that army units conducting counter-insurgency operations in Myanmar's ethnic minority states have since at least 1984 carried out widespread torture and summary and arbitrary executions<sup>1</sup>. Although reports of torture and extrajudicial executions were rejected by the authorities in 1988 and 1989 as "totally unfounded" or as "fabricated stories", they have not commented on the detail of the reports or indicated that their denials are based on specific inquiries into the cases cited.

The most recent evidence suggests that the army's counter-insurgency forces continue to torture suspects during interrogation and routinely carry out extrajudicial executions. Many of the reported victims were apparently seized at random from ethnic minority communities by troops operating in conflict areas. Obligated to serve army units as porters, these people reportedly continue to be ill-treated or summarily executed at will.

In one case, three people were seized on 5 August 1989 in Wa Shawng township, Kachin State, and forced to act as porters for the military. Hkrang Jawng Tu, aged 32, U Pung Kraw Seng Li, 28, and Mi Naw Lum Hrong, aged 30, were taken by units of the army's 58th Battalion with some 200 other people seized at random from the villages of Gorut, Ding Jang Yang and others in Wa Shawng township. They were reportedly taken by train to Mokaung township, west of the state's capital, Myitkyina. Some of those taken subsequently escaped and gave the families of the three men information leading them to conclude that they either died of poor treatment or were deliberately killed. One of the relatives gave Amnesty International the following account:

"The conscripted porters included women, children and even elderly people.

They were taken to Seng Da, and to Gara Yang villages, from there to Nam Pung where the KIA's [Kachin Independence Army] Battalion No. 5 is based. The three did not return. According to porters who escaped, they got food once every three days so people got very weak. They were taken for a month. The specific cause of their deaths is not known. About 30 porters died during that month including my three relatives.

"This was not a military operation. The army was simply patrolling the region.

There was no fighting. They were not buried, they were left for dead on the footpath in the forest...Six of the 30 villagers who died were from Nam Ti village. Two friends of my three relatives escaped and

went to my home to tell me about their deaths. They said they had been beaten by soldiers because they could not keep up with the troops."

The intensification of the war in the areas in which armed opposition groups are active has been accompanied by continuing human rights violations. In a dry season offensive in 1989-90, the Myanmar armed forces captured almost all military bases set up by the opposition Kayin (Karen) National Union (KNU) and the New Mon State Party (NMSP), including the strategic Three Pagodas Pass on the Thai border. The opposition Kachin Independence Army (KIA) also suffered heavy losses at the hands of government troops. Military operations were reportedly accompanied by widespread human rights violations against ethnic minority populations; captured insurgents are said to be subject to torture and may be summarily executed and refugees have alleged that civilians were also victims of extrajudicial executions by government soldiers. In one incident, troops reportedly assaulted the Kayin (Karen) village of Thetkaya at about 9am on 1 December 1989 when most of its inhabitants were assembled to watch a film and fired indiscriminately at them. Three young girls, two young women and a 15-year-old monk at the village monastery were reportedly killed outright, shot without warning or provocation. Many of the villagers then crossed the Moei river and sought refuge in Thailand. No official inquiry is known to have been initiated into the shootings, which appear to have occurred because the army suspected villagers of sympathizing with the KNU armed opposition group.

The official media in Myanmar has also reported abuses committed by opposition groups. The Burma Broadcasting System reported on 27 May 1990 that a bomb thrown the day before by insurgents at a private clinic in Thanbyuzayat, Mon State, injured 11 people. On 11 March 1990 the KNU allegedly attacked a pagoda festival in Bilin township, Kayin (Karen) State, shooting at civilians and burning the village. One monk and four villagers were reportedly killed and 15 others wounded in the incident. On 24 March the official radio reported that on 21 March the KIA had attacked a ferry in Kachin State with grenades, killing one passenger and injuring 15 others.

Amnesty International is not able to determine the accuracy of these reports of opposition abuses. It recognizes that governments have a responsibility to maintain law and order and bring to justice those responsible for criminal attacks including violent attacks on government authorities, security forces and civilians. However, in doing so, governments are required to respect the fundamental human rights of all persons. Criminal acts by opposition groups can never justify unlawful killings or torture by government forces. Amnesty International, as a matter of principle, condemns the torture and killing of civilians by anyone, including opposition groups.

### **Recent developments**

In June 1989 the SLORC announced that it would remain in office up to and after the national

elections scheduled for 27 May 1990, and would not relinquish office until the new parliament had agreed a constitution and a new government had been formed in accordance with its provisions. The SLORC also announced its intention to retain martial law during the 90-day period of election campaigning if it considered that attempts to incite "disorder" were continuing.

At the beginning of the campaigning period, martial law was still in force. As a result, the authorities maintained severe restrictions on campaigning activities. Indeed, Aung San Suu Kyi, the NLD's General Secretary, was not only denied the opportunity to participate in election campaigning by the terms of her house arrest order but was also officially banned from standing for election to the new parliament. Tin U, the NLD Chairman, was automatically disqualified from contesting the elections because of provisions in the election laws prohibiting those serving prison sentences from candidature. In December 1989, he was sentenced to three years' hard labour by a military tribunal. U Nu, the former Prime Minister overthrown when General Ne Win took power in 1962, was also under house arrest and unable to participate in the elections. U Htwe Myint, a parliamentary candidate and Central Executive Committee member of the Democracy Party, was arrested on 8 February 1990, as was U Zaw Pe Win, the Chairman of the Burma United Democratic Party. It is not clear whether they are still detained. DPNS leader Moe Hein was arrested on 17 July 1989 and is believed to remain in detention.

The SLORC also severely restricted political campaigning by requiring that all political party rallies, and speeches given at such rallies, should be approved in advance by local Law and Order Restoration Councils. The authorities forbade public criticism of the government and enforced censorship regulations and martial law orders to detain political party activists up until the actual day of the election.

The election took place in 485 constituencies throughout Myanmar on 27 May as scheduled. The polling process was reportedly free of intimidation by the armed forces, and votes were counted in the presence of all the candidates. The SLORC announced the election results in the official media, with the NLD winning 82 percent of the seats. However, by the end of July the SLORC had not set a timetable for the end of military rule and had reaffirmed the need to formulate a constitution and form "a strong government" before it would relinquish power. The SLORC has made it clear that the newly elected national assembly's scope of activity will be restricted to that of writing the constitution. The SLORC also stipulated, on 27 July, that the constitution must be submitted to a national referendum and approved by the army. This statement is a departure from earlier ones, made shortly after the election when the SLORC indicated that it would not interfere with the constitutional process.

Amnesty International is not able to estimate precisely how many people have been arrested for political reasons since September 1988. The SLORC has acknowledged that some 1,200 people, including students and members of legal political parties, were arrested in connection with their political activities between 18 September 1988 and 18 August 1989,

most of whom it acknowledged were then still in detention. Unofficial sources, however, suggest that many more arrests have been carried out, and that over 3,000 people were imprisoned for political reasons in the second half of 1989 alone. Those detained included the leaders of most major legally registered political parties, notably the NLD, the DPNS, the PPP, the NPF and the League of Democratic Alliance (LDA). Dozens of arrests were reported during the first six months of 1990. Most of the detainees were held in connection with political opposition activities.

However, on 19 April 1990, according to an official spokesman, seven lay Catholic workers were detained for protesting against the forced relocation of squatters living on land adjacent to church-owned property in Yangon. Of the seven, who are members of the church's management board in Myanmar, only one, Tin Gyi, has been named. An estimated 500,000 urban-dwellers have been moved from their homes to satellite towns in remote rural areas. The embassy of Myanmar in France stated that the satellite towns were set up to provide higher standards of living for "squatters" who were posing "great environmental, sanitation and fire hazards". Unofficial reports, however, state that these "squatters" include legitimate property owners and that the satellite towns lack sanitation, electricity and transport facilities, and that some people have died from malaria as a result. According to some reports, the government undertook the resettlement program in order to weaken opposition strongholds.

### **Sources of information**

The continuing repression of political activity, including peaceful dissent, has engendered a general climate of fear which discourages individuals from disclosing information about human rights violations. Criticism of the military government and the exercise of freedom of expression and assembly are offences under martial law. Arrests occur as a result; there is a general knowledge that political detainees can be held indefinitely and are frequently tortured.

Former detainees as well as their relatives, friends or persons closely associated with them, have been discouraged, and in some cases openly warned, by the authorities not to disclose information on interrogation procedures and prison conditions. The brother of a medical doctor arrested in July 1989 described the restrictions imposed even on the relatives of political prisoners:

"Since he was arrested, everybody in my family has to report regularly to the local LORC office, and nobody is allowed to visit them. They are under constant surveillance. MIS [military intelligence] officers at the LORC office summon them randomly for further investigation. They want to know everything about us and ask many questions about members of the family, and also about relatives, friends and acquaintances, connections, activities, biographical details, etc. My relatives cannot travel outside the township without a special authorization..."

Several former victims of torture have alleged that before being released they were forced by their interrogators to sign a statement that they had confessed willingly: "The statement [we had to sign] was saying, roughly, that these confessions...were made willingly and not against our will", said a student who was held in 1988. "Before being taken to Insein jail, they tried to make him sign a statement that he had not been mistreated..." said another student, whose brother was allegedly tortured in July 1989 in Yangon.

Former detainees and others interviewed by Amnesty International stated that they were willing to provide information about their experiences only because they were outside Myanmar. They expressed fears of government reprisals against relatives who remained in Myanmar or against themselves should they return. In almost all cases, they specifically asked that their names and any other identifying details be withheld. Such requests have been respected in this report.

Myanmar nationals continued to leave the country, officially or clandestinely, throughout 1989 and 1990 to seek political asylum abroad. They included former political prisoners, some of whom were reportedly victims of torture, as well as others who witnessed fellow prisoners being tortured or ill-treated in the course of interrogation. They also included relatives, friends, close colleagues or associates of currently detained political prisoners. Amnesty International has interviewed many such people, particularly in November and December 1989, and has received personal testimonies from victims of torture and others.

The restriction of access to the country seriously hampers efforts to investigate human rights abuses in Myanmar. Neither Amnesty International nor other independent human rights organizations has been officially permitted to visit the country, and parts of ethnic minority areas have been closed to non-resident nationals and foreigners alike. Myanmar's news media continues to be exclusively government-controlled. The few foreign journalists who have been granted official access to Myanmar since the 18 September 1988 military coup have not been permitted to travel freely inside the country or investigate human rights issues, although some members of the international press corps were allowed into the country at the time of the May elections.

Amnesty International has frequently requested access to visit Myanmar in order to inquire into human rights violations and discuss its concerns with the Myanmar Government. The government, however, has not replied. In addition, Amnesty International has never received a direct response from the authorities about the wide range of concerns it has raised in a series of reports published in 1987, 1988 and 1989. However, the SLORC does allude to these documents in its regular news conferences. In a news conference on 9 September 1989, Major General Khin Nyunt commented in reference to the army shootings of demonstrators in 1988: "The warnings went unheeded and at length force had to be used to control the situation. When this was done, the Amnesty International began filing one objection after another against the Tatmadaw [the army] and the Government. It never

mentioned the destruction caused but began to raise objections every day as soon as arrests were made." He continued, "Amnesty International is nothing but an organization which criticizes, incites and makes demands in the internal affairs of the various nations." In May 1990 Amnesty International once more sought access to Myanmar in order to discuss human rights violations with the government, but it again received no response.

### Endnote

i. In its September 1987 report, Allegations of Extrajudicial Executions, Torture and Ill-Treatment in the Socialist Republic of the Union of Burma, covering human rights abuse in the context of counter-insurgency since 1984, Amnesty International included reports of 177 cases of apparent extrajudicial execution. A subsequent report published in May 1988 and entitled, Burma: Extrajudicial Execution and Torture of Members of Ethnic Minorities, (AI Index ASA 16/05/88) detailed 60 cases of apparent extrajudicial execution of people of Kayin (Karen), Kachin and Mon communities by government counter-insurgency forces. In August 1988 Amnesty International published, Burma: Extrajudicial Execution, Torture and Political Imprisonment of Members of the Shan and Other Ethnic Minorities, (AI Index ASA 16/10/88) which documents 46 alleged extrajudicial executions and 58 alleged cases of torture or cruel, inhuman or degrading treatment since 1986. More recent testimony is summarized in a further Amnesty International report, The Kayin State in the Union of Myanmar [formerly the Karen State in the Union of Burma]: Allegations of Ill-treatment and Unlawful Killings of Suspected Political Opponents and Porters Seized Since 18 September 1988, (AI Index ASA 16/16/89).

## **2. MARTIAL LAW AND HUMAN RIGHTS**

Freedom of expression and peaceful assembly were significantly limited from 1962 under General Ne Win's Government. The imposition of martial law in September 1988 placed further restrictions on such rights, and security provisions introduced in 1989 further reduced rights to due process of law.

### **Laws in force before September 1988**

Legislation passed by previous governments severely restricts the rights to freedom of expression and assembly. Censorship is enforced under the terms of the 1962 Law for the Registration of Printers and Publishers, violation of which is punishable by up to seven years' imprisonment. The 1950 Emergency Provisions Act and the 1975 State Protection Law (also known as the Law Protecting the State From Threat By Those Wishing to Undermine It) provide for long terms of imprisonment for non-violent activities construed as threatening public order or the security of the state. The Emergency Provisions Act allows for up to seven years' imprisonment of anyone who "spreads a false news item or a rumour to excite disaffection" or to promote "disloyalty to the State". The Unlawful Associations Act of 1957 provides for not less than two years' imprisonment for anyone who "is a member of an unlawful association, or takes part in meetings of any such association...or in any way assists the operations of any such association...". An unlawful association is defined as an association:

"(a) which encourages or aids persons to commit acts of violence or intimidation or [whose] members habitually commit such acts, or (b) which has been declared to be unlawful by the President of the Union [i.e. the Head of State] under the powers hereby conferred."

The law further states that:

"If the President of the Union is of the opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, the President of the Union may, by notification in the Gazette, declare such association to be unlawful."

Although those accused of violating the Emergency Provisions Act, the Unlawful Associations Act and the Law for the Registration of Printers and Publishers are apparently to be charged and brought to trial, the 1975 State Protection Law allows the authorities to order up to three years' detention or restricted residence without charge or trial. The State Protection Law provides for the detention of anyone who there is "reason to believe will commit, is

committing or has committed an act endangering popular peace or state security and sovereignty".

### **Martial law restrictions**

In a speech given on 9 May 1990 to the state and regional law and order restoration councils Prime Minister General Saw Maung described how the SLORC views the legal system: "What we are using is the force of power. However, we use law as much as possible. We are using both force of law and force of power".

The legal basis for the application of martial law is unclear, as illustrated by comments of the SLORC information committee at a press conference on 20 April 1990: "There is no such law providing for when and how to use martial law in our country". The current status of the 1974 Constitution of the Socialist Republic of the Union of Burma is also uncertain. In his 9 May speech General Saw Maung said: "Legally speaking, the 1974 constitution still exists...The constitution was suspended by the act of the military coup, but we can take from it what is needed". Article 76 of the 1974 Constitution provides for the declaration of a state of emergency and martial law in all or part of the country "if an emergency affecting" the country's "defence and security...should arise". Article 166 provides that in such circumstances: "necessary restrictions on the rights and freedoms of citizens" may be imposed although these should be "regularly reviewed and modified as necessary".

Martial law was declared on 18 September 1988, the day of the military coup which brought the SLORC to power. On 27 September the SLORC legalized the formation of political parties by the enactment of the Political Parties Registration Law (4/88), after imposing severe restrictions on public meetings and political campaigning through a series of martial law orders. Martial law Order 2/88, dated 18 September 1988, prohibits "congregating, walking, marching in procession, chanting slogans, delivering speeches, agitating and creating disturbances on the streets by a group of more than five people." It also imposes a curfew between 8pm and 4am. Notification 8/88, issued on 10 October 1988, prohibits public criticism of the Defence Forces and the martial law administration: "Organizational activities, speeches, propaganda, and subversive literature aimed at dividing the Defence Forces are prohibited. It is hereby declared that effective action will be taken if this prohibition is violated". These orders provided a basis for large-scale arrests after September 1988 and became the object of major protests. The new opposition parties maintained that political organization and campaigning for the scheduled May 1990 elections were unduly restricted by these orders.

The SLORC has repeatedly accused the opposition parties of deliberately violating martial law restrictions and of seeking to "create disturbances", "confusion" and "chaos". The SLORC has denied arresting and detaining people arbitrarily and describes those arrested under martial law as "unscrupulous agitators" who cannot be considered non-violent demonstrators. Those arrested, according to Major General Khin Nyunt, Secretary 1 of the

SLORC, were detained "not because of their political convictions but because they transgressed the law...They were detained in accordance with the prevailing security measures...". In practice, however, many hundreds of people have been arrested for their peaceful political activities.

Although martial law orders do not generally stipulate penalties, previous legislation has been invoked in order to hand down long terms of imprisonment. The 1950 Emergency Provisions Act, the 1975 State Protection Law, and the Unlawful Associations Act of 1957 are sometimes cited in order to justify the imprisonment of people who have violated martial law orders. The imprisonment of prisoners of conscience has also been facilitated by the enforcement of the 1962 Law for the Registration of Printers and Publishers.

On 6 June 1989 Major General Phone Myint, the Minister of Home and Religious Affairs, issued a directive that printers and publishers must abide by Regulations Number 18 and 19 of the 1962 law. These regulations require all publications to specify the name of the editor, the name and registration number of the printer and the location of the printing press. On 18 June the authorities increased the maximum prison term for those who published material without proper registration from three to seven years. The major general also drew attention to a 1977 directive modifying the law to require printers and publishers to submit "all manuscripts", except "periodicals which are published regularly", to the authorities "for approval before printing and publishing them", or face imprisonment.

On 9 June 1989 an official of the Ministry of Home and Religious Affairs announced that because the 1962 law did not cite political parties, "publications related to elections that are published by parties - such as objectives and platforms of the parties, biographical data of their candidates and election campaign materials" could be "exempted" from its provisions. Political parties, nevertheless, had "to submit drafts of the printed material they want to publish for approval before they are distributed". A further official statement on the restrictions was issued on 2 August 1989: "Organizations that received exemption certificates shall publish their party policies, programs, organizational methods and rules", but not "articles opposing the SLORC or the regional law and order councils..."

Martial law and extensive national security legislation grants extraordinary powers to military security services. On 7 April 1989 a SLORC spokesman declared that under martial law, a "military commander has the right to apply the military regulations from the battlefield in resorting to maximum power to restore stability". On 29 June 1989 the official newspaper, the Working People's Daily, stated that military officials had total freedom of action in emergency situations: the absolute power of a "field commander" in "the battlefield". It announced that under a "martial law regime", a military official need not be accountable to any higher authority for official acts: not to his superior officers, or government, or the country's basic law and constitution.

### **Judicial proceedings under martial law**

Shortly after assuming office the SLORC promulgated the Judicial Law. This law, announced on 26 September 1988, guaranteed the independence of the civilian judiciary, the right to a public hearing "except in the cases where legally prohibited", the rights to be defended and to appeal against sentence. In July 1989, however, the military acquired judicial powers. Martial Law Orders 1/89 and 2/89 bestowed judicial authority on the military commanders in Yangon and the Central and Northwestern Military Commands, empowering them to conduct summary trials. Fifteen military tribunals were formed as a result and began to operate immediately. People who opposed martial law authority by "violation or defiance of the orders issued by the SLORC, the government or [military] commanders" could henceforth be tried only by military tribunal.

Order Number 2/89 also established special procedures to be observed in the summary trials of martial law offenders. Military tribunals were to "waive unnecessary witnesses", "indict an offender without hearing prosecution witnesses" and "reject the recalling of witnesses who have already testified". The tribunals were instructed that those found guilty of offences against martial law were to be awarded "(a) The death sentence; (b) life imprisonment; or (c) a jail term of not less than three years with hard labour". Order Number 2/89 also declares that "decisions and judgments passed by military tribunal shall be final". There is no judicial appeal. Order Number 2/89 instructed and empowered military tribunals to impose death sentences "regardless of the provisions under existing laws". Death sentences must be approved by the regional military commander alone, and the only recourse of the condemned is to ask the army commander-in-chief within 30 days to "revise" the sentence.

According to the SLORC, 100 people were sentenced to death in the three months after the military tribunals began to operate, 24 of them by military tribunals. It is not known whether any executions have taken place. Several prisoners have been condemned for offences such as bombings or killing police officers; Amnesty International has information on 22 such cases. In one of the first cases to come before a military tribunal, Moe Kyaw Thu, aged 17, Nyi Nyi U, and Zaw Gyi, aged 27, three young NLD activists, were condemned to death for causing an explosion at the Syriam State Oil Refinery to the south of Yangon, which killed two people and seriously wounded a third on 7 July 1989. However, spokesmen for the Kayin (Karen) National Union have claimed responsibility for the bombing.

Martial law restrictions were further elaborated in 1990. On 23 February 1990 the SLORC issued Order Number 3/90, "relating to the right to assemble and campaign". This order prohibits denigration of the state and regional law and order restoration councils and the defence forces, as well as incitement to "undermine security, the prevalence of law and order and regional peace and tranquility". Fines of up to 5,000 kyat, or three years' imprisonment, or both, are prescribed for violations of the order. In a press conference held on 1 March 1990 the information committee of the SLORC explained that Order Number 3/90 had been issued because: "We have to lay down rules for assembly and campaigning in order to prevent overt and covert subversive elements and the colonial-imperialists from exerting their influence,

and to ensure that law and order prevail and campaigning is disciplined...". The SLORC also required that opposition parties obtain prior government approval for campaign speeches: local authorities were to vet speeches before they were delivered at campaigning rallies. Order 3/90 was invoked to arrest 13 DPNS members on 24 April 1990, one month before the general elections, for giving campaign speeches without obtaining prior approval from the authorities.

On 22 May 1990 the SLORC issued Order 1/90, which states that people who do not "report people illegally residing in their houses" may be punished with up to seven years' imprisonment and a fine. This order refers back to an earlier directive of 18 July 1989 which ordered residents of Yangon's 41 townships to report guests staying in households in Yangon as well as people missing from them to the local Law and Order Restoration Council. The lifting of martial law has been announced in some townships, but it is unclear which martial law orders cease to have effect or whether military tribunals cease to operate in these areas. Notification 8/88 and Martial Law order Number 2/88, which severely curtail the rights to freedom of expression and assembly, remain in force throughout the country.

### **3. ARREST AND DETENTION PROCEDURES UNDER MARTIAL LAW**

Myanmar law in times of normality appears to prohibit the arbitrary detention of suspects. The 1974 Constitution and the Code of Criminal Procedure guarantee the right to be brought promptly before a judicial authority. They provide that no citizen may be detained for more than 24 hours without judicial approval. The Code of Criminal Procedure indicates that an arrest should normally be carried out with a warrant issued by a court. However, under the 1974 Constitution all such rights may be abridged during a declared State of Emergency.

Myanmar has not ratified or acceded to the international covenants on human rights. However, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which stipulates that detainees "be heard promptly by a judicial or other authority" was adopted without a vote in the United Nations General Assembly on 9 December 1988. Principle 11.2 states that each detainee "shall receive prompt and full communication of any order of detention, together with reasons therefore". Principle 13 provides that "Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights." Principle 4 guarantees that "Any form of detention...and all measures affecting the human rights of a person under any form of detention...shall be ordered by, or be subject to the effective control of, a judicial or other authority". The Body of Principles applies even to legal States of Emergency.

Although political detainees themselves often do not know under what legislation they are being held, most are thought to have been detained under either Section 10(a) of the 1975 State Protection Law, which concerns supposed threats to state security or Section 5(j) of the 1950 Emergency Provisions Law, which concerns promoting disloyalty to the state. Those held under the 1950 law are generally tried under Section 5(j). Prior to the establishment of military tribunals in July 1989, most prisoners held under this law were tried by ordinary courts and those convicted were sentenced to two to three years' imprisonment. Since July 1989 such trials have been before military tribunals and sentences handed down have ranged from three to 20 years' imprisonment. Political prisoners held under the 1975 law are detained without trial under its preventive detention provision. Some of those held initially under Section 5(j) of the 1950 Emergency Provisions Law have subsequently been detained under Section 10(a) of the 1975 law, which permits their detention for up to three years without trial. The SLORC has repeatedly made general statements to the effect that detainees have been arrested for breaking martial law provisions and that no one has been detained solely for their political beliefs.

The authorities generally give reasons for the detention of well-known political leaders and activists. For example, it has been announced that NLD General Secretary Aung San

Suu Kyi and former Prime Minister U Nu are detained under the preventive detention provisions of the 1975 State Protection Law. Other prisoners of conscience such as lawyer Nay Min and NLD leader U Ba Thaw are held under the 1950 Emergency Provisions Act. Both of the latter have been tried by military tribunals and sentenced to 14 years' and "20 years' life imprisonment with labour" respectively. Still other political prisoners are detained under Section 17-1 and 17-2 of the 1957 Illegal Associations Act - Tin Nain Tun (whose case is discussed in section 4), and ethnic Kachin lawyer Baw La are reportedly held under this legislation. In a recent censorship case four political activists were arrested under the 1962 Law for the Registration of Publishers and Printers for distributing campaign leaflets in Patheingyi (Bassein) on 12 May 1990.

Although many political prisoners in Myanmar are held without charge or trial, the official media does sometimes announce sentences handed down on individuals tried by military tribunals. These have included several political leaders such as Tin U, the 64-year-old Chairman of the NLD, who was sentenced to three years' imprisonment with hard labour in December 1989 for engaging in "agitation aimed at the disintegration of the armed forces", "helping and encouraging military protestors during the 1988 pro-democracy demonstrations", inciting people "to misunderstand the government" and "creating public disturbances".

### **Circumstances of arrest**

Many arrests of government opponents have been carried out by the Directorate of Defence Services Intelligence (DDSI), the military intelligence agency, often with army support. This agency is known by the acronym MIS. Other arrests were conducted by police agencies: the Special Investigation Department (SID), and notably the Bureau of Special Investigation (BSI) and the Criminal Investigation Department (CID).

Former detainees have told Amnesty International that they were shown no warrant at the time of their arrest, were not informed of any charges against them, and that their cases were never brought before a judicial authority. A former civil servant detained in January 1989 said he had been interrogated and beaten for three days by military intelligence officers before being transferred to police custody:

"The police told me my arrest was not pursuant to any law. They said they were still holding me because they had been ordered to do so. I was kept without being accused of any specific act. Throughout the entire period I was in the police prison. I never went to court...After two months in prison, I was released by a Law and Order Restoration Council order."

Another former detainee, a 26-year-old student from Mandalay arrested in late 1987, said he was interrogated under torture for two weeks by police Special Branch officers and

then transferred to a regular prison: "I did not see a judge or any official from the court for the following eight months during which I was held there. I just stayed in my cell. I had no trial".

Political detainees sometimes have their heads covered upon arrest, apparently so that they will not know where they are being taken and to conceal their identities from witnesses. One student arrested in October 1988 said he was taken from a Yangon tea-shop with two friends by Military Intelligence Service (MIS) officers in civilian clothes accompanied by about 40 soldiers: "We were blindfolded with ricebags which they pulled over our heads and were made to lie on the floor of the army truck that was taking us away to an unknown destination".

Some arrests were carried out at night during raids on people's homes. The son of a former civil servant arrested in July 1989 in Yangon told Amnesty International:

"My father was arrested...in the middle of the night, at about 3am. Everybody was sleeping in the house...He was arrested by...maybe 50 soldiers and MIS people. They surrounded the house and 10 of them came in to catch my father. My mother was at home. They took my father away...While he was being taken away, other soldiers searched the house for documents."

In another case, a teacher was also arrested in Yangon in July 1989 when police were searching for one of his sons: "[They] found some books deemed 'leftist' so they arrested [him], accusing him of being inspired by leftist ideas".

Detainees' families invariably are not informed of their whereabouts by the authorities, although some have been able to find out unofficially. Relatives usually do not know the prisoner's whereabouts until they are either released or handed over to police custody and transferred to a regular detention facility within the prison system. Even then, months may pass before they are authorized to visit the prisoner, although sometimes relatives may be allowed to send food and clothing to the prisoner during these periods.

Sany Ko Ko Gyi, a 25-year-old tutor at the Department of History, Yangon Arts and Sciences University, was one of the 43 arrested at the NLD headquarters on 20 July 1989. He was a member of the NLD Youth Organization. By the end of the year his family had reportedly still not been permitted to visit him.

Similarly, a relative of U Aung Khin (see section 4), who had still not been seen months after arrest, expressed the family's fear for his life: "I do not know why they used an old photo of [him] in the Red Book instead of taking a fresh picture of him, as they have done for most of the people in the Red Book. But it is possible that he died in custody or that he was severely mistreated and that they could not publish a photo which would have condemned them". (The Red Book is a SLORC publication about the Communist Party of Burma's

alleged infiltration of major opposition groups).

A student activist from Moulmeingyun, Ayeyarwady Division, who was held for two weeks and interrogated in a place he could not identify (he was taken there blindfolded), said: "While I was detained, my family had no information about my whereabouts; they did not know where I was and what had happened to me". A 26-year-old student who was allegedly tortured by Special Branch officers in Mandalay in 1989 said: "After five months of detention in Mandalay prison, my mother was allowed to visit me for the first time". The family of a Yangon medical doctor arrested in July 1989 by MIS personnel reportedly still had no news about him in September 1989. A relative said:

"He may have been taken to Ye Kyi Aing [an army camp outside Yangon], because it is usually there that they detain suspects for interrogation. I am not sure where he is really detained...Since his arrest he has not been allowed to receive family visits in prison. We have no news about him since. We do not know whether he is dead or alive or whether he has been mistreated during interrogation."

Detaining authorities sometimes refuse to identify places of detention to parents or other relatives making enquiries. A 19-year-old student from Mawlamyine (Moulmein), who reportedly spent 10 months in a rebel student camp near the border with Thailand, returned home under a government program in July 1989 but was arrested two months later by LORC officials. In late November, according to a source close to the family, his whereabouts were still unknown: "His place of detention is unknown. Nobody knows. Even his parents whom I met a week ago...They inquired with the Law and Order Restoration Council authorities and were answered that they had to investigate his case and would release him afterwards".

This also occurred in the case of an 18-year-old student activist from South Okkalappa, Yangon, who was reportedly arrested in February 1989 by the military and taken to an unknown place. When his parents went to the LORC office to ask where he was being held, the authorities reportedly refused to provide any details: "They just said they had to keep him for questioning and things like 'what are you worried about?', 'what do you take us for?', and 'you should not ask too many questions'".

A 24-year-old who had been in Thailand was reportedly arrested in his home in Hpa-an (Pa-an), capital of Kayin (Karen) State in early 1989, a few days after his return. In July, six months after his arrest, he was apparently still held incommunicado and "even his mother did not know where he was detained" according to a friend of his who added: "In October, [his parents] learned that he was held in Hpa-an prison and were authorized to send him food or other things via prison authorities. But they were still not permitted to visit him and to have a face-to-face meeting with him".

#### 4. PRISONER PROFILES

Thousands of critics and opponents of the government, including many prisoners of conscience, have been detained without trial or imprisoned since the SLORC took power in September 1988. They include opposition party leaders, students, teachers and academics, lawyers, doctors, civil servants, former armed forces and police officers, writers, and others. Buddhist monks have also been imprisoned.

Many arrests have occurred because of repeated efforts by students and opposition party activists to challenge martial law restrictions by holding political meetings and other peaceful political activities. These protests have resulted in successive waves of arrests, the most far reaching of which occurred in July 1989 when hundreds of people were arrested throughout the country, including student and political opposition party leaders.

Official restrictions on dissemination of information make it impossible to fully document cases of political imprisonment in Myanmar. Although thousands have been detained, only the fate of a few is known. Nevertheless Amnesty International has to date identified dozens of prisoners of conscience, including the following individuals whose cases may be seen as typical.

**Nay Min:** Nay Min is a lawyer who also worked as a journalist. He was detained in October 1988 and sentenced a year later to 14 years' imprisonment with hard labour under the 1950 Emergency Provisions Act. According to the official news media, he "had become dissatisfied with the government" after "hearing rumours in connection with the March and August disturbances in 1988", an apparent reference to the killing by security forces of hundreds of peaceful demonstrators during these two months. Unofficial sources say that Nay Min became close to student and other leaders of the emerging democracy movement during that period.

The official media said he was detained for "sending false news and rumours" to the British Broadcasting Corporation (BBC) in August and September 1988. He was reportedly first held under the provisions of the 1950 Emergency Provisions Act for "defaming the government" and "inciting unrest". According to a foreign news report, Nay Min complained of ill-treatment during a court appearance when he was remanded for further detention and asked to be admitted to a hospital, but this request was denied. Other unofficial sources also alleged that he had been ill-treated. The authorities then invoked the 1975 State Protection Law, which allows for detention without charge or trial, to prolong his imprisonment. On 21 January 1989 the authorities confirmed his detention and said he was in good health.

Nay Min was sentenced by a military tribunal under summary procedures on 5 October 1989, and therefore has no judicial right of appeal. In May 1990 Amnesty International

received reports that he had developed an acute heart condition which may be a consequence of torture by electric shocks. He was apparently not receiving medical treatment for heart disease and is being held in a cold, damp cell at Yangon's Insein Prison. Amnesty International believes he is detained solely for exercising his right to freedom of expression and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Nan Zing La:** Nan Zing La, an ethnic Kachin, is a 60-year-old lawyer from Myitkyina, capital of Kachin State. He is married and has several children. Nan Zing La is a leader in the Baptist Church in the state. He was previously imprisoned for five years and was released in 1963 when Ne Win granted an amnesty for political prisoners. He was reportedly the first Kachin to graduate in law. An associate described his background and his arrest:

"He talks well, is a good orator and is very fond of his Kachin origin and of his people. He would advise younger lawyers about points of law...He is a high grade lawyer which means he can take up a case anywhere in the country. He was arrested on the same day as [lawyers] Bawk La and U Kyaw Zaw and for the same reasons: he gave speeches on two occasions during the demonstrations last year. He...gave two speeches but did not intend to play any particular leading role in the movement. He was not tortured or beaten to my knowledge. He was sentenced to five years' imprisonment..."

Nan Zing La was reportedly arrested in October 1988 and his relatives were reportedly not permitted to visit him until six months had passed although they had been allowed to send him food. Amnesty International believes he is detained solely for exercising his right to freedom of opinion and expression.

**Ba Thaw:** Ba Thaw, also known as Maung Thawka, is a 62-year-old writer, cartoonist and former naval officer. A senior member of the NLD, he was found guilty of inciting naval personnel to join the 1988 pro-democracy movement and was sentenced to "20 years' life imprisonment with labour" on 5 October 1989. He was tried under summary procedures by Military Tribunal 2 and has no judicial right of appeal.

U Ba Thaw is one of the best-known novelists in Myanmar and was also the president of the Writers' Union. His novels recount his experiences in the navy and his most recent book is about a shipwreck which took place over 30 years ago. He is said to be held in solitary confinement at Insein Prison. He suffers from chronic spondylitis, which is an arthritic-like condition of the spine causing pain and stiffness. Amnesty International believes he is detained solely for exercising his right to freedom of expression as a leader of a legal political party.

**Ma Theingi:** Ma Theingi is a well-known painter and art teacher in her early 40s who acted

as personal secretary to Aung San Suu Kyi. She has also written a book on the tradition of puppet theatre in Myanmar which is awaiting publication in Bangkok. Arrested along with U Ba Thaw and 41 others on 20 July at the NLD headquarters, she is believed to be held in Insein Prison. Like many people arrested in the 1989 sweep, she is thought to be held without charge or trial. Amnesty International believes she is detained solely for exercising her rights to freedom of peaceful assembly and association in a legal political party.

**Dr Tin Myo Win:** Thirty-seven-year-old Dr Tin Myo Win, also known as U Tin Myo Win, was arrested on 11 August 1989. Chairman of the NLD Supervisory Committee for students and a member of the NLD Central Committee, he was politically active in the Mawlamyine and Mergui areas. He taught at the Institute of Medicine Number 1 in Yangon and had worked as a surgeon at Yangon General Hospital for nearly 10 years.

Dr Tin Myo Win led doctors and nurses' protests against the security forces' shooting of demonstrators in 1988. In December 1988 he left Yangon General Hospital to work in a private clinic. He reportedly believed he would have been forced to resign from the General Hospital as were many of his colleagues who had participated in peaceful demonstrations. Dr Tin Myo Win is reportedly held without charge or trial in Insein Prison. His family, apparently, is not permitted to visit him, although they are allowed to bring food for him to the prison every two weeks. Amnesty International believes he is detained solely for his role as a leader of a legal political party.

**U Aung Khin:** U Aung Khin, a retired civil servant, was detained in the wave of arrests in the summer of 1989. One of his relatives described the circumstances of his arrest:

"He was arrested in the middle of the night on 11 July 1989 at home...He used to be a government official working at Yangon People's Council office until he retired and became a merchant selling and buying goods between Thailand and Myanmar...He was arrested by a mixed team of maybe 50 soldiers and MIS people. They surrounded the house and 10 of them came in...They took him away to Ye Kyi Aing camp, I believe, or to MI-6 which is located near the Mingaladon airport and which is the MIS headquarters. While he was taken away, other soldiers searched the house for documents. They did not find anything..."

The relative speculates on the reasons for his arrest:

"Many of his friends are political figures, all of whom are now under detention: some were arrested before him, some at the same time and others after. He was not actively involved in actual opposition activities...I have had no news since he was arrested...he is accused of being a CPB underground agent. To my knowledge he had never

been in touch with or sympathetic to the CPB. This accusation is impossible, he was not pro-communist. He was a trader going to the Shan State..."

U Aung Khin's family had reportedly not seen him by the end of 1989 and did not know his whereabouts. To Amnesty International's knowledge he had neither used nor advocated violence: he is believed to have been detained solely for the real or imputed political activities of friends and relatives.

**Tin Nain Tun:** Tin Nain Tun is a 26-year-old Yangon Arts and Sciences University student from Myaungmya in the Ayeyarwady Division. He was the vice-chairman of the DPNS Ayeyarwady unit and had been one of the leaders of the Myaungmya strike committee during the 1988 protest movement. He was arrested on 14 May 1989 at his home by MIS personnel and taken to the Patheingyi MIS office where he was interrogated for over a month and reportedly tortured. He was apparently charged under Section 17-1 of the 1957 Illegal Associations Act for membership in an illegal organization and sentenced to five years' imprisonment by a military tribunal in Yangon in September 1989. Tin Nain Tun reportedly advocated peaceful political protest through legal means: Amnesty International believes he is detained solely for his leadership role in a lawful political party.

**U Than Nyunt:** U Than Nyunt, in his early 50s, was arrested in mid-1989. He was the headmaster of Thanbyuzayat State High School, Mon State, and is married with three children. He was a civil servant, and was reportedly not involved with any political party (participation in a political party is forbidden to government employees). Most of the students in his school joined in the 1988 demonstrations, and, according to his colleagues, he participated in them as well in order to advise and help his students. According to reports, he opposed confrontation with the army and police, but helped to organize peaceful demonstrations.

Reportedly because of his participation in demonstrations, he was dismissed in early 1989. He found a new job as a translator on a merchant ship trading with Singapore. The boat was reportedly involved in black-market activities in other Indian Ocean ports. The government issued a warrant for his arrest and he was detained in Nhit Aing village, near Amherst, Thanbyuzayat township, after disembarking from the ship. By mid-October 1989 his wife had no information as to his whereabouts. Amnesty International believes he is detained solely for having participated in political demonstrations without having used or advocated violence.

## **5. TORTURE**

Torture has been widely reported in Myanmar for many years. The victims have included students and others detained during periodic unrest in the cities and members of ethnic

minority groups arrested in the course of army counter-insurgency operations. Torture has been a persistent feature of military operations in the areas in which ethnic minority and communist guerrilla forces have been engaged in armed opposition to the government. In such areas, torture often assumed a further dimension in that it culminated in summary and arbitrary extrajudicial execution. In recent years overwhelming evidence of torture - and extrajudicial execution on a large scale - became available as thousands of ethnic Kayins (Karens), Kachins, Mons and Shan fled across the frontiers to seek refuge in neighbouring countries from the conflict within Myanmar's border areas. Many could describe both their own experiences as prisoners and the detention or deaths of friends and relatives. The mass killings of urban demonstrators in 1988 and subsequent waves of arrests generated a similar flight across the borders, this time of students and others associated with opposition to the military government.

The information summarized here is primarily based on detailed testimonies of torture given to Amnesty International in November and December 1989 by 16 recently released people, as well as on other detailed reports of torture received over the past two years. In addition to reports of torture, Amnesty International has received numerous accounts of beatings and other ill-treatment, sometimes resulting in death, in police or military custody, of demonstrators arrested during street protests between March and September 1988.

### **Victims of torture**

People suspected of organizing or participating in political activities critical of or in opposition to the government run a high risk of torture. Most victims of torture outside the insurgency areas, whose cases are known to Amnesty International, were opposition activists and organizers. Among them were student union activists and supporters and leaders of student organizations, notably of the All Burma Federation of Student Unions (ABFSU). Other torture victims included members and leaders of the main opposition parties, notably the NLD and the DPNS, and local civic leaders who had delivered speeches or organized strike committees during the 1988 unrest, and later joined opposition parties. Also tortured were a number of returnees from Thailand - students and others who returned, often through government programs, after having fled from the country in the immediate wake of the military takeover. Others were detained and tortured after returning from a period in hiding in jungle areas under the control of insurgent groups; they were often suspected of having been involved in the violent opposition activities of the insurgent All Burma Student Democratic Front (ABSDF). In the ethnic minority areas affected by conflict, entire communities appear to be at risk of random detentions, torture or extrajudicial execution by government soldiers engaged in counter-insurgency operations.

### **Agencies responsible for torture**

At least six state security forces and agencies have been implicated by former torture victims in the torture and ill-treatment of political and other detainees in their custody. In addition to

the regular army (Pyithu Tatmadaw, or People's Defence Forces) and the People's Police Force, the Directorate of Defence Services Intelligence (DDSI), the Special Investigation Department (SID), the Criminal Investigation Department (CID) and the Bureau of Special Investigation (BSI), are all alleged to have tortured or ill-treated prisoners.

The activities of the DDSI, the SID, BSI and CID are coordinated by the National Intelligence Bureau (NIB). The NIB was formally responsible to the Prime Minister and to the ruling Burma Socialist Programme Party (BSPP) until the party's formal dissolution in September 1988; it is now believed to be under the direct control of the SLORC.

**Directorate of Defence Services Intelligence:** The military intelligence agency, the Directorate of Defence Services Intelligence (DDSI), appears to be the largest security agency and to be responsible for most reported arrests and investigations of political suspects in Myanmar. It is the agency most frequently identified by former political prisoners who described prolonged interrogation under torture. The DDSI directs the Military Intelligence Services and as a result, is commonly known in Myanmar by the acronym MIS.

The DDSI is officially an agency of the Ministry of Defence. Its primary task is military intelligence and investigation, particularly in regard to armed insurgencies. In practice, it appears to have almost unrestricted authority to arrest without warrant, detain and investigate anyone suspected of political dissent, violent or non-violent. It operates a network of agents organized throughout the country in at least a dozen detachments that report directly to the DDSI. These detachments are designated by the letters MI (Military Intelligence) and a number (MI-1, MI-2, MI-7, etc.). They are said to report only to the DDSI. The Military Commands based in each military region reportedly have their own intelligence networks of informants.

Major General Khin Nyunt, the SLORC's Secretary 1, is currently the director of the DDSI. The DDSI's headquarters are believed to be located in Kone Myint Thaya, Mayangon township, in north Yangon. DDSI personnel are reportedly co-opted exclusively from the ranks of the army and often operate in civilian clothes. Since the military reasserted control in 1988, the DDSI appears to have become the most powerful of the agencies which investigate and suppress activities considered to represent a threat to state security.

The DDSI administers detention and interrogation centres across the country in which torture and ill-treatment appear to be routinely applied by interrogators. Former prisoners have described torture in the DDSI headquarters in Yangon, in detention and interrogation centres in Mingaladon township and Dagon township and at Ye Kyi Aing camp. Former prisoners of the DSSI who were held in Patheingyi, the capital of Ayeyarwady Division, in May 1989, said they were beaten and kicked all over, nearly drowned and had iron rods rolled over their shinbones. Another former detainee said he was tortured in early 1989 by MIS officers in a place he identified as the MI-5 office in Hpa-an, "behind the golf course near Kan Thaya pond".

The main detention and interrogation centre administered by the DDSI in the Yangon area is the Ye Kyi Aing camp, north of the capital, near Taukkyan township. It was reportedly opened following the 1962 military takeover and has, according to former political detainees, been used continuously since then for the interrogation and confinement of political prisoners. Many of the political prisoners arrested in Yangon since 18 September 1988, and particularly those arrested since July 1989 in connection with alleged "communist" and "right-wing plots", are thought to have been "investigated" in this centre. Prisoners taken there are reportedly always blindfolded and held and interrogated under conditions which are intended to disorient them.

**Police intelligence agencies:** The Criminal Investigation Department (CID), the Special Investigation Department (SID) and the Bureau of Special Investigation (BSI) are part of the People's Police Force (the national police). They are responsible to the Ministry of Home and Religious Affairs (the Ministry of Interior), although they also report to the National Intelligence Bureau.

The Criminal Investigation Department (CID) is responsible for investigating common criminal offences, but also appears to deal with political suspects. A student arrested during street demonstrations on 18 March 1988 in Yangon said he had been transferred from Insein Prison to Tharawaddy Prison, some 70 miles north of Yangon, on the following day together with hundreds of other prisoners, most of them students. He alleged that most of the 60 students held in his cell were tortured or severely ill-treated during their interrogation by CID officers who were dispatched to the prison especially to investigate them. He said he was twice beaten unconscious and saw two other students returned to the cell unconscious after interrogation.

The SID is most often referred to as Special Branch-II or SB-II and is a law enforcement agency responsible for investigating political matters. Its headquarters is believed to be located on 47th Street, near the YMCA building in Yangon. It administers a number of interrogation centres throughout the country, located mostly in state and division capitals and the main townships. In Mandalay, the second largest city in the country, one of its centres is apparently located in the vicinity of the old palace; a former prisoner described interrogation under torture there for several weeks in late 1987 in a dark underground room.

The Bureau of Special Investigation (BSI) is primarily responsible for investigating economic crimes such as black marketeering activities and corruption. Its headquarters behind the Strand Hotel, on Lewis Street, Yangon, reportedly has several interrogation rooms. The former prisoner who was held at Lewis Street for several days in March 1987 alleges that he was tortured with electric shocks.

**Detention centres:** Amnesty International's reports about human rights violations in ethnic minority areas, published in 1987 and 1988, identified a dozen detention centres where torture

or ill-treatment had allegedly occurred since 1984. These were administered mostly by army personnel - regular troops assigned to counter-insurgency duties in the Mon, Kayin (Karen), Kachin and Shan States. They were usually located inside military barracks or compounds at the regimental (ka.la.ya or ka.ma.ya), brigade (ta.ma) and regional military command levels. Other, temporary, military camps were identified in remote areas of counter-insurgency operations. Former prisoners reported having been held in pits and tortured or ill-treated in these camps both as a part of the interrogation procedure and as a punishment.

Recent research among former political detainees enabled Amnesty International to identify 19 other detention centres throughout the country where brutal interrogation has reportedly taken place since 1987. These include major detention facilities such as Insein Prison, Yangon, and state and divisional level prisons as well as township-level police stations. They also include a number of other detention centres which have either not been officially acknowledged by Myanmar authorities or whose existence they have tried to conceal. Among the latter is the secret DDSI interrogation centre at Ye Kyi Aing camp, outside Yangon, as well as over a dozen other military intelligence centres located in Yangon and elsewhere in the country, and offices administered by state security agencies such as Yangon's BSI and SID headquarters and Mandalay's Special Branch office. Seven of these 19 centres are located in and around Yangon and the rest in seven other divisions and states.

The 19 detention centres from which recent testimonies have emerged are: the DDSI and BSI headquarters; Insein prison and its annex; Yankin township military registration camp; Sanchaung police station; Mingaladon and Ye Kyi Aing DDSI interrogation centres (Yangon Division); Patheingyi township MIS office (Ayeyarwady Division); Special Branch II office and Police Station No 8 (Mandalay); Tharawaddy and Bago (Pegu) township prisons (Bago Division); Regiment 31 Headquarters, Thanbyuzayat township, and Mawlamyine (Moulmein) MIS office (Mon State); Hpa-an township MI-5 office (Kayin [Karen] State); Regiment 59 Headquarters, Mawchi township (Kayah State); the Myitkyina central prison, No 8 (Northern Command) army headquarters, and Special Branch II office (Kachin State).

### **Incommunicado detention**

Torture and ill-treatment of prisoners usually takes place during the first phase of the detention process. Most people arrested on political grounds in Myanmar are initially held in incommunicado detention for investigation and interrogation. In almost all of the cases documented by Amnesty International, torture or ill-treatment took place during these sometimes prolonged periods in which prisoners were isolated from the outside world and under the complete control of their interrogators. Incommunicado detention sometimes persisted for six months or more.

Outside the insurgency areas prisoners were generally transferred to an interrogation centre immediately after their arrest. Prisoners were often not permitted their first contact with outsiders, whether lawyers or relatives, until several weeks, and sometimes months, after

they were interrogated. Even then, prisoners were often not authorized to see their visitors privately and therefore could not openly describe their treatment. As a result, information about torture is rarely obtainable before the victim is released and long after most injuries have healed, although scars of beatings remain in some cases.

Although immediate interrogation is reportedly the norm, some former prisoners seized in mass arrests have described waiting for up to five days as teams of investigators worked systematically to process large groups of prisoners. A student arrested in March 1988 in Yangon and taken to Insein Prison described his experience:

"We were locked up in a large room. Altogether maybe 400 people. On the fifth day of my detention it was my turn to be interrogated. All of us were interrogated in turn, individually, one after the other, by MIS personnel. They had assigned large numbers of MIS personnel in the prison compound to carry out the job..."

In the insurgency areas prisoners were reportedly subjected to summary interrogations in the field or in temporary counter-insurgency camps or transferred for in-depth interrogation to regional army bases. Speed and secrecy was apparently the rule in such cases, as military interrogators sought tactical intelligence about the armed opposition groups. Conditions of confinement described in some remote army camps were in themselves cruel, inhuman and degrading.

Former prisoners who were held in army counter-insurgency camps have frequently described being held in deep pits which were covered over with heavy logs at night and stank with excrement; no sanitary facilities were provided. Similar accounts have been received from the Mon, Kayin (Karen) and Kachin States and from the Tanintharyi (Tenasserim) Division. These accounts suggest that suspects are frequently confined in such pits in the temporary army camps of remote conflict areas. The conditions described in these pits may have in themselves resulted in the death of prisoners. Prisoners held in these conditions, however, were reportedly also taken for sessions of systematic interrogation under torture which was itself inherently life-threatening and frequently culminated in deliberate killing.

Interrogation appears almost invariably to be the primary purpose of incommunicado detention. Once the interrogation is completed, detainees may be released, handed over to police authorities, subjected to prolonged detention without charge or trial under administrative detention orders, or sometimes brought before a court to be formally charged with a crime.

Former prisoners have maintained that prolonged incommunicado detention is sometimes ordered to provide the necessary time for injuries sustained during interrogation to heal and to allow the prisoner "to get and look better". The authorities' refusal to permit access to prisoners during prolonged periods of incommunicado detention has often given rise

to fears of death under torture, or secret and summary execution.

### **A methodology of pain, fear and intimidation**

Victims have said that torture was used both to punish them and to compel them to cooperate with interrogators. Torture and ill-treatment in the course of interrogation was carried out in conjunction with demands that prisoners confess to unlawful activities, implicate others, and respond to questioning about the activities, structure and personnel of both illegal organizations and legal opposition organizations. Descriptions by student demonstrators of beatings they received at the time of their arrests suggest that they were ill-treated simply to punish them: more systematic beatings often ensued during structured interrogations.

Torture and ill-treatment of prisoners has also served to intimidate others. The prevalence of torture is well-known in Myanmar: arrest and torture is seen as an ever-present threat by those contemplating any public criticism of the government.

The reported methodology of torture has been relatively consistent in Myanmar over many years, from the isolated army camps in the areas of insurgency to the urban detention centres of the security services. Torture methods and even the vocabulary of torture have remained the same, according to testimonies obtained by Amnesty International from a wide range of prisoners whose times and places of imprisonment have differed greatly. Some variations do occur - some prisoners, for example, have been made to walk on their knees over sharp gravel, rather than broken glass. In some cases the "helicopter" has involved suspension by the wrists or feet from a ceiling fixture, or a ceiling fan, or being placed in a sack and spun around. Near suffocation has been termed the "wet submarine" and prisoners have been subjected to the "iron road" by torturers using a bamboo stick or a police officer's truncheon to lacerate their skins.

Beatings, sometimes to the point of unconsciousness, were a common denominator of the treatment described by former detainees. They included slappings, punches in the face or the body, and kicks with combat boots or blows with the knees in the sides, chest or back. Detainees have also reportedly been struck on the face, the chest or the back with wooden sticks, truncheons or rifle butts. Beatings in many cases were reportedly carried out after the body was padded with folded rice bags, reducing external marks but providing no protection against internal injuries. Prisoners were often blindfolded or hooded with a black cloth or a rice bag.

Former detainees frequently described prolonged kneeling on sharp gravel and "motorcycle riding", entailing squatting for prolonged periods in a position suggesting driving a motorcycle. Electric shocks were reportedly applied to finger tips, toes, ear lobes, penis or testicles. Some detainees described prolonged standing in water, prolonged exposure to sun or to intense cold, burnings with cigarettes, rolling iron or bamboo rods or bottles along the shinbones until the skin scrapes off ("the iron road"), near-drowning through immersion in

water and hanging by the hands or feet from a ceiling fixture or a rotating fan (the "helicopter"). Beatings with whips and clubs while suspended have also been reported. Salt, salted water, urine and curry powder have reportedly been applied to open wounds inflicted by whippings or by slitting parts of the body with a knife or the tip of a bayonet.

Detainees undergoing interrogation have often been deprived of sleep, food and water and some have been held for prolonged periods in solitary confinement in dark cells. They have also been intimidated with pistols, threatened with execution and humiliated while stripped naked for interrogation. In other instances, psychological pressures have been used to break the prisoner's will and force confessions. Several former prisoners have alleged they were interrogated continuously for several days by teams of interrogators working in relays. This technique has sometimes been combined with deprivation of sleep, food, water or washing facilities.

The practice of torture by government security forces is a long-term and endemic problem in Myanmar. Amnesty International has documented a pattern of widespread torture of civilians since 1984 in areas of ethnic insurgency. Evidence gathered by Amnesty International in the last two years reveals that the practice of torture by the security forces occurs throughout the country -- in urban centres as well as in rural areas. Testimonies summarized below describe incidences of torture ranging from early 1987 and continuing throughout the civil unrest of 1988 and the subsequent mass arrests of 1989. Just as civilian members of ethnic minority groups continue to be victims of torture, so students and other political activists have become targets of the same security forces and the nationwide network of intelligence agencies.

In a testimony of torture dating from before the rise of the pro-democracy movement, a 30-year-old graduate from Yangon University who made his living selling clothes described his arrest in March 1987 by the BSI on suspicion of illegal "economic activities". He was allegedly tortured for three days before being held without trial for 16 months in Yangon's Insein Prison. He was finally released by demonstrators in August 1988. He said he was initially tortured by electric shocks: "My whole body shocked and I almost fell from my chair...Each time the electricity flashed inside my head...The pain is not limited to your fingers or even your arms, your whole body shocks. I had burns on my fingers for almost two weeks as a result." He said he was then subjected to "the motorcycle" and "the helicopter", and beaten severely. He was interrogated about his clothing business, who his contacts were and who was involved in smuggling goods into the country, but refused to answer for fear of involving more people in arrests and torture. He was finally transferred to Insein Prison. He said six other prisoners in his cell had been interrogated by the BSI and the CID. The CID had reportedly subjected them to beatings, slaps, kicks, water-cell treatment (the prisoner is tied up in a small cell filled with water) and had held them in solitary confinement in total darkness.

In late 1987 a 26-year-old physics student and his friend were arrested in connection

with student protests which took place in Mandalay after the September 1987 demonetization. (The Ne Win Government had declared the three highest denomination banknotes - 75, 35, and 25 kyats - to be worthless, which removed over 50 per cent of all money from circulation and wiped out the life savings of many ordinary citizens. Demonetization provoked street protest demonstrations by students.) The student alleged that he and his friend were both tortured by the Special Branch police: "We were tortured repeatedly, both of us. We were slapped, punched, kicked, burnt with cigarettes, hung from the ceiling and whipped, had iron rods rolled across our shinbones, and given electric shocks." He described one session in detail:

"At some point a team came in, stripped us of all our clothes...tied up our hands with handcuffs and hung us to the ceiling with a rope...They interrogated me again and asked the same questions, to which I made the same answers. So they whipped me with a car's fan belt...Altogether I may have been given 70 or 80 lashes...after a while I lost consciousness completely. They 'treated' my wounds the same way they treated my friend's...They took him down, poured salt and curry powder on his back...and then urinated on his back."

The student and his friend were held until demonstrators released them on 27 August 1988 when Mandalay was briefly in control of strike committees.

The treatment of students and demonstrators seized during the mass arrests of 1988 frequently entailed intensive interrogation involving torture or ill-treatment, with more severe and prolonged treatment accorded those suspected of having played leadership roles in the pro-democracy movement or of having links with armed opposition groups on the borders. A student detained during a demonstration on 21 July 1988 in the capital said he was arrested after being injured by an exploding tear-gas grenade. He said he was beaten on the spot by riot police with their long wooden riot batons and then taken to a police station where he was again beaten on arrival. He and the dozens of other student detainees taken there were interrogated in groups of three; as they were questioned they were beaten by an officer standing behind them with a truncheon. He said that his right index finger and the little finger on his left hand were broken and one eye was swollen shut. That night they were transferred to Insein Prison where a doctor examined him and stitched up the cut in his scalp but said "he could do nothing" about his other injuries. "My whole body was in pain because of the beatings and I was feeling an intense pain in the chest from the kicking at the police station."

A student arrested with hundreds of others when troops raided the Yangon university campus on 17 March 1988 described the procedure by which he and others were processed after arrest. They were taken first in four trucks to the Buddhist Association building, where MIS personnel recorded their names and photographed each of them. After a brief stop at a police station they proceeded to Insein Prison. From there, over 500 of them were transferred to Tharawaddy Prison, north of Yangon, where they all were interrogated by CID personnel.

His turn came on the 20th day. He was first asked to provide a "biography" and to account for his actions on 17 March, and was then beaten while questioned about incidents on that day.

"After each of my answers, the men behind me hit me in turn, with either the truncheon in the sides or in the back with the cable tube which he used as a whip. I was beaten maybe eight or 10 times and fell unconscious twice as a result of the knocks in the lower ribs, in the right side, and in the liver area, with the truncheon. The three men had obviously been drinking and smelled of alcohol. After I fainted for the second time the officer took down some notes and called the interrogation off. The interrogation lasted about 25 minutes after which I was taken back to my cell. In our cell we were about 60 detainees.

"Everyone was beaten by CID personnel...At least several students held in the same cell as I and who were interrogated several times were beaten on each occasion, especially those whose names had been given as being involved in the demonstrations or as ringleaders. The day I was interrogated for the second time, two inmates were brought back to the cell unconscious from interrogation."

Incidents of torture continued as arrests increased in the months following the 18 September coup. A 22-year-old student from Ayeyarwady Division was arrested in a tea-shop in October 1988 and interrogated for several days in a secret detention facility. He gave the following account of his treatment:

"They wanted to know...what organization I was involved with, who was leading it, who were our contacts, what sort of activities did I carry out during the demonstrations and since the military takeover...Because I refused to respond, they began ill-treating me...Throughout the interrogation period I was tortured unconscious twice, each time as a result of prolonged kneeling on sharp gravel. This caused severe pain. You first feel an intense pain and after a while your legs began shivering...your eyes begin to cloud over until you can see nothing, and then you lose control of your mind: you cannot answer the questions any longer. As a result they would beat you up...If you fell down, you would be kicked and put back into position...On several occasions I was threatened with execution..."

He also reported that his interrogators avoided provoking external injuries: "For instance they would pound my ribs one after the other with a drum stick or a wooden rule...Three days before releasing me they looked after the light bruises I had on my face and increased my food ration."

The army continued to torture those suspected of sympathizing with insurgency movements in ethnic minority states. In early 1989 a Kachin jade trader was held for over two months at the army headquarters in the state capital, Myitkyina. A friend described his interrogation and torture:

"They asked him whether he was KIA...he denied their accusation because he had nothing to do with the KIA...he is not politically active. During the first three or four weeks of his detention he was beaten during interrogation."

After three or four weeks he was again taken from his cell for further interrogation. He was subjected to the "motorcycle" while being beaten repeatedly. A few days later when he was again removed from his cell the officer in charge told him: "Three days ago you rode a motorcycle. Today it will be a new experience.' They began rolling an iron rod along his shinbones...until he fainted..."

A week later, he was again taken out for interrogation. The officer told him they had "prepared a new game for him". The description continues:

"They made him sit on the ground, put a large plastic bag over him, and whipped him all over with electric wires. Then they took the bag off, threw a bucket of water on his body, put the bag over him again and whipped him again...They called this treatment 'having a bath'. They repeated the operation a third time and he fell unconscious..."

After two more weeks, an army officer asked him: "Are you still here? What are you doing here? Do you want to go home?" The officer reportedly said, "okay, we let you out...but next time, you won't leave this place alive..."

As the tempo of arrests accelerated in 1989, political party activists were detained in Yangon and other parts of Myanmar. A high school teacher aged about 50 was one of three DPNS members arrested in Moulmeingyun, Ayeyarwady Division. He was arrested in mid-May 1989 at his home by army troops and taken to the MIS office in Pathein. He was reportedly interrogated and tortured, and then transferred to Pathein Prison where he is still believed to be detained. Because of his political activities as a leader of a strike committee during the 1988 demonstrations, he had received an order requiring him to move to a remote town in the Kachin state where he was unknown and would have less political influence. At the time of his arrest he had not yet moved. Another political prisoner, a 28-year-old lawyer who was arrested in the first week of June 1989, was also tortured. He was said to have been active in the 1988 demonstrations and had joined the NLD after the coup. According to one of his relatives, he was interrogated, beaten and given electric shocks at Insein Prison while being held incommunicado for four months.

Among others reported to have been tortured are three NLD workers arrested at the league's headquarters on 20 July. They were reportedly tortured at Ye Kyi Aing camp north of Yangon shortly after their arrest. One is said to have suffered a broken arm as a result, while another was reportedly beaten on the face and burnt with cigarettes. The third NLD worker, a physics student at Yangon university, was said to have been severely beaten and to have had his head submerged in a bucket of water during interrogation. All three are believed to have been detained solely because they were members of the NLD headquarters staff. At the end of 1989 they were not known to have been charged or tried or to have received any family visits. Their present situation is unknown.

### **The consequences of torture**

Some student detainees are alleged to have suffered severe psychological trauma, including memory loss, as a result of torture or ill-treatment. A 25-year-old mathematics and sciences student from Tamwe township who was detained in 1988, was said by another student who saw him shortly after his release to have been seriously affected by torture:

"I met him in Yangon just before the coup. He had become amnesiac. He did not recognize me. He could not recognize even his parents and had forgotten everything. When I...approached to greet him, he said, 'Don't come, don't approach me, go away, I am afraid of you, you want to beat me again'. This is all he said. He had just been released from Insein Prison...When I saw him, the only thing I noticed were dark marks on his right cheek and forehead."

Another student and former prisoner, who had been held in Mandalay Prison until it was emptied by demonstrators in August 1988, said that all the political prisoners he spoke to while imprisoned there had been tortured either by MIS, BSI, SB personnel or by the regular army, and that "several of them had lost their mind". As a result "one of them was scared away at the simple sight of a military or police uniform..."

The treatment of a 40-year-old lawyer, Bawk La, arrested in October 1988 and believed currently to remain in detention, also appears to have involved torture, possibly with lasting psychological effects. According to a colleague from Myitkyina:

"He was severely beaten and tortured with electric shocks during interrogation. He had been arrested two or three times already since the coup...I had a chance to see him last summer, as he was getting out of the vehicle that was taking him from the prison to Myitkyina state court office...I asked him how he was and he did not recognize me although we know each other well. He did not respond. So I thought he had lost his memory as a result of electric shocks."

Detainees suffering injuries during interrogation have sometimes been denied medical attention or hospital admission after release. They included the jade trader whose case is described above who was held in Myitkyina in early 1989. Despite severe injuries he was reportedly denied medical care by state health authorities. Months after his release he was said to remain seriously ill:

"His body was still aching all over, and he had two broken ribs. Sometimes, he said, blood would come out of his ears or he would cough blood. He was breathing with difficulties, as if all the muscles of his chest had contracted and did not relax. Breathing was painful. When he was released he went to the hospital but the doctors and nurses refused to admit him out of fear of military retaliation. So he bought medicine on the black market and tried to cure himself as he could. At night, he had nightmares that he was arrested or interrogated by soldiers and would awake shouting things like 'let me alone, leave me in peace'. He had difficulty talking."

Numerous deaths in detention have been reported. Some occurred apparently as a result of torture or ill-treatment, others because of the denial of medical attention. In March 1988, 41 students died in a police van because of suffocation arising from what would appear at least to be gross criminal negligence.

In one case, a 25-year-old student was arrested on 17 or 18 September 1987 with several other students after two grenades were thrown at a police station in Mandalay. He was severely ill-treated during interrogation and left overnight in a police station lock-up. The following morning he was found dead in his cell. A post-mortem carried out on behalf of his family reportedly revealed that he had died as a result of internal injuries. His death was reported in the press but there was apparently no official investigation into the death or his treatment in police custody. Eighteen officers from the police station were, however, said to have been transferred to Kyaukse township south of Mandalay after the incident.

Between March and September 1988 many people were reported to have died in custody as a result of severe beatings or gunshot wounds received during street demonstrations or after arrest. Myanmar authorities have been accused by student activists and opposition parties of concealing information relating to these deaths.

A former medical worker in Insein Prison's clinic described the case of a 15-year-old boy who, he said, died after torture in March 1988:

"On 17 March, a 15-year-old Muslim [boy] got severely burned on the abdomen and upper legs in an incident during which a car was set on fire by demonstrating students. It is not clear whether he was involved in

the incident or whether he was just passing by when the car exploded. He was taken to Yangon General Hospital for treatment. After a few hours, security personnel, possibly from the Special Branch, came in and took him away. The next day he was handed over to the doctor in Insein prison's hospital. When the doctor examined him he discovered that both his upper limbs, from fingers up to the elbow, and lower limbs, from toes to knees, had been fractured many times. His bones had been systematically fractured several times, broken into pieces. The security people had suspected him of being involved in the bombing incident and interrogated him despite his already severe burns."

The boy reportedly died 17 days after he was turned over to the prison's hospital. According to reports, his relatives were not permitted to see him and his body was not handed over to them but was cremated in Insein prison's hospital. This is one of several unconfirmed reports that prisoners who died after torture were secretly cremated at Insein Prison without notification of their relatives.

Other deaths in custody were reported in the aftermath of the September 1988 coup and during 1989. Zaw Win Htun, also known as Po Zaw, aged 21, a physics student at Yangon Arts and Sciences University, was reportedly arrested at home along with his father on 21 October 1988, by MIS personnel. Two weeks later, his father was released and allowed to return home. According to a detainee who shared his cell, Zaw Win Htun was so severely tortured with electric shocks that he could not speak and could hardly stand up by himself. On 16 November, he was reportedly released and sent home, where he is said to have remained in bed, almost motionless. His legs and arms began swelling and he apparently died suddenly on 30 December. A short obituary was published in the official newspaper, The Working People's Daily, announcing the date of the funeral service as 1 January 1989.

The following account of the death in custody of a student who returned from Thailand was given to Amnesty International by a source close to the victim's family:

"Kyaw Soe, aged 22, a Yangon student, and his young brother fled to border areas in the immediate wake of the 18 September military takeover. They returned home in the first week of January 1989 by their own arrangement and not via one of the 'reception centres' set up by the army along the border with Thailand. Upon arrival home, they reported to the local township LORC authorities. A few days later both were arrested at home by MIS personnel and...taken to Insein Prison. Two days later, the young brother was released. Some three more days later, the authorities addressed a letter to the family explaining that Kyaw Soe had died, 'by accident' while he was being questioned. His body was not returned to his parents and was

cremated in Insein Prison, so that no post-mortem could be carried out."

### **Torture in the insurgency areas**

Torture in the insurgency areas has frequently been described as having involved a similar methodology to that employed by the state security agencies in the capital and the major towns.

A former detainee of Mon ethnic origin, Menh Tun Ya, interviewed shortly after his release in 1989, had been the subject of Amnesty International appeals to the Government of Burma in December 1987. The organization had called for an investigation into allegations that he had been tortured by military interrogators at the headquarters of Infantry Regiment No. 31 in Thanbyuzayat township in Mon State. Menh Tun Ya, a cultural activist who worked as a medicine salesman, was released after serving a two-year sentence imposed under Section 17-1 of the 1975 Unlawful Associations Act. He gave a detailed account of his treatment in custody.

Menh Tun Ya said he was held incommunicado for 16 days at the army's Thanbyuzayat base and interrogated about travel abroad and contacts with armed opposition groups, particularly the clandestine New Mon State Party (NMSP). He said he was unaware of the reason for his arrest as he had had no contact with the NMSP, and was "only involved in Mon culture and literature activities...The problem is that if you are not a Burman and you are involved in cultural and literary activities for your own people, the authorities suspect you harbour nationalistic ideas and are using your cultural activities against the government. You are suspected of being connected to the nationalist rebels".

He said he was "shackled in wooden stocks" throughout the 16 days he was held by the army, apart from interrogation sessions. "During the first interrogation they removed the stocks but tied my elbows up together in the back with a rope. A soldier beat me very brutally on the back with his rifle until I bled and lost consciousness. My right elbow was smashed and three vertebrae were broken as a result. When I recovered I was lying outside my cell and my feet had been put back into the stocks. Then they put me back into my cell". The next day, he said, he was left in the sun without food or water. Torture during subsequent interrogation sessions included electric shocks administered by means of a hand-cranked generator: "The electricity flashed into my brain and I almost suffocated because the nerves and muscles of my chest contracted". He said he was also stripped and hanged by his arms from the ceiling, with only his toes touching the floor and burned with a cheroot and a candle on the neck, chest and abdomen. At one of the final interrogation sessions, Menh Tun Ya said, he was almost suffocated:

"[The interrogators] put a cloth over my head and began pouring water onto my face which made me begin to suffocate and scream. To prevent me

from screaming they pushed a piece of cloth into my mouth. Then a soldier sat on my stomach and threatened me by poking his pistol in my mouth. He hit me with his carbine butt on the forehead and I began bleeding. Then he took his knife and drew a line from my throat to my stomach, pressing on the blade so that a red line appeared on my skin but the slit was only superficial. He said 'you are an insurgent, look how we deal with insurgents'.

"I spent the next three days in the cell, feet in stocks...By that time, my whole body was in pain. I did not receive any medical treatment and my injuries became infected. My broken elbow was swollen and so was my forearm, all black and blue. I could not sleep because of the pain in my back from my broken vertebrae".

In the more remote areas of the ethnic minority states torture was frequently reported to result in death. A relative of Thi Lwin, a prisoner, has described to Amnesty International how he was detained with others from Kru Yi village in Mon State in September 1987 because troops believed the village rice reserve might have been stored for use by armed insurgents. Those detained were all held in an underground pit. Thi Lwin was beaten to death: "He didn't speak Burmese very well, so they hit him really hard because he couldn't answer their questions...the other prisoners were (also) kicked and beaten. Some of them could speak a little Burmese, and...they weren't beaten as badly...."

A former prisoner from Ta U Khi village in Mon State, detained in February 1987 by troops of Battalion 75, was interrogated about the Karen National Union. After an initial beating, he said that the battalion commander ordered the soldiers to put him "in the pit":

"The pit was south of the pagoda. It was nine forearm-lengths deep. The top of the pit was just big enough for one person to go through, but at the bottom inside it was big enough for maybe six people. It was very quiet. You could hear almost nothing that was happening on the surface. At night it was dark...it was very cold...it smelled badly...It was very difficult to breathe...There were also a lot of mosquitoes in the pit."

Although suffering from malaria, he said, he was held in the pit for five days, being removed every evening for interrogation sessions during which he was threatened with death, had his fingers crushed together with bullets between them, was cut superficially with knives and had his shins "rolled with rough bamboo." His case was exceptional, he said, because he was released after only five days.

Evidence emerged in 1989 that students and others detained in Myanmar's cities have been taken into custody, transported to remote areas and forced to work for the army as

porters, an apparently punitive practice without basis in law. In the aftermath of the September 1988 coup the authorities announced that the army had been seizing "petty criminals", "unsavoury elements" and "waifs and strays" in the capital to serve as porters for rural counter-insurgency operations. Other sources report that among those press ganged into service were hundreds of Yangon residents, including students and others active in the campaign for multi-party democracy. The forcibly conscripted porters were also reported to include numerous Indian Muslims who are believed to have played an active role as a group during the campaign.

Political prisoners have reportedly been conscripted as porters in order to punish them for participating in the pro-democracy demonstrations and to prevent them from engaging in further anti-government political activities. In August 1989 up to 500 students held in Insein Prison on political grounds were said to have been taken by night by the army, via Mandalay and Maymyo, to the northern Shan State town of Nong Cho. Their transport by rail apparently took place a few days after the official radio announced the imminent release of 1,500 prisoners from Insein Prison. It is not clear whether the 500 prisoners were among the 1,500 whose planned release was announced; the government has made no formal acknowledgement that political prisoners were sent into the conflict areas in the custody of operational army units.

At Nong Cho, the detained students were reportedly split into four or five different groups of varying size and assigned to duties as food and ammunition porters for several army units patrolling areas bordering China, including Kunlong, Nam Hsan, Nam Hkam and Muser. Eye witnesses have reported seeing one group of 48 such students on 7 September 1989 in Human village, Nam Hsan township, northern Shan State. The same sources have also alleged that at least five of those they saw were subsequently beaten to death by soldiers in nearby Nam Tu township, apparently because they could not perform their porter duties to the satisfaction of their captors.

Further allegations were received in 1989 that people arrested in ethnic minority areas where armed insurgents were active had been tortured or ill-treated during interrogation. In one case, a man arrested by soldiers of the 22nd Light Infantry Division in Hpa-an, the Kayin (Karen) State capital, in early 1989 said he was repeatedly beaten during three days and nights of virtually non-stop interrogation by military intelligence officers until: "I was unable to walk. I had to be supported by two men in order to be able to move."

Information has also been received from the Kayin (Karen) State that soldiers have routinely seized people living in areas in which armed opponents of the government operate or who participated in peaceful anti-government demonstrations, forcing them to serve as porters. One informant told Amnesty International that he had been repeatedly kicked by soldiers in June 1989 because he "wasn't able to stand up again quickly" after stumbling under a heavy load. He said he saw another man forced to work as a porter knocked unconscious with a rifle butt for the same reason. Amnesty International urged the Myanmar

authorities to investigate these allegations in August 1989, but received no response.

Government troops have reportedly seized local people and forced them to act as porters and guides in ethnic minority areas, and have accused those who fail to carry out their duties satisfactorily of being in sympathy with anti-government rebels. Such individuals have then often been ill-treated or summarily killed. For example, in May 1987 Pha Mu, from Me Ta Me village in Kayin (Karen) State, is said to have returned home after three months of portage service in a seriously ill state. His wife said he had been accused of collaborating with insurgents and had been subjected to frequent beatings: "They hit him on the calves with bamboo and hit him in the chest with their rifle butts...He came back on his own and was with me for four days before he died...He had been released because he was no longer able to do anything for them. Before...he was strongly built" but on his return "he had terrible chest pains, and...he was very thin, just skin and bones. You could see a place where his rib was broken...He had blood in his stool...He had a fever...He said before he died that if they hadn't beaten him so much he would have survived despite the diseases and the hard work...He said he was only given one can of rice per day...".

### **Provisions against torture in Myanmar and in international law**

The 1974 Constitution of Burma contains two provisions which would appear to prohibit torture and other cruel, inhuman or degrading treatment or punishment. Article 24 declares: "Punishments shall not be awarded in violation of human dignity". Article 159 adds: "Personal freedom and security of every citizen shall be guaranteed". Articles 330 and 331 of the Burmese Penal Code of 1957, which is believed to remain in force with some modifications, prohibit torture and ill-treatment during interrogation. In a state of emergency, the norms of which appear to be applied under martial law, all rights guaranteed in the Constitution may be abridged. However, torture and ill-treatment of political prisoners violate basic human rights guaranteed in international and human rights law which can not be suspended under any circumstances.

The prohibition of torture under international human rights law is absolute. Torture and ill-treatment are prohibited by Article 5 of the Universal Declaration of Human Rights: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". The Universal Declaration of Human Rights is an affirmation of the human rights and fundamental freedoms referred to in the Charter of the United Nations, of which Myanmar is a member. Torture is further condemned by the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which describes torture and ill-treatment as a denial of the purposes of the Charter of the United Nations. Torture is also condemned under the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, which was adopted by the United Nations General Assembly without a vote on 9 December 1988. Principle 6 states: "No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may

be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment".

### **The Government's Response**

Myanmar's military government has persistently rejected calls for the investigation of reports of torture and denied that torture or ill-treatment occurs. On 22 March 1989 Director General Ohn Gyaw of the Foreign Ministry's Political Department responded to reports of widespread human rights abuse:

"People must understand that Burma is facing a difficult situation. There are not only human rights to consider...there is the national interest. Many accusations have been made about torture and the like while people have been in detention. The government has no record of torture taking place."

In a document dated 27 February 1990 and entitled "Right of Reply", which was read to the United Nations Commission on Human Rights by Myanmar's representative on the same day, the official position that torture does not occur was reiterated:

"In the course of the discussion...a few [non-governmental organizations] and certain western countries referred to what...is supposed by them to be taking place in Myanmar. Some of their statements or allegations are too far-fetched to be believed by anyone in his or her right sense. They make complete travesty of truth. The statements merely betray the ignorance on their part of the history, the people, and the culture of my country which they do not seem to know anything about...Torture of detainees, inhuman and cruel treatment of prisoners, etc. are unknown to us except when we ourselves were under foreign domination. Hence, those allegations do not deserve our reply anymore."

In one of its regular press conferences, the government also responded to an Amnesty International report published on 2 May 1990<sup>2</sup> :

"The BBC, in a broadcast at 0640 on 2nd May, carried the allegations made by Amnesty International on Burma. In the broadcast, Amnesty claimed that the Burmese government was ill-treating political prisoners and torture was routinely being used...we describe the allegations as completely untrue. The allegations were made because

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<sup>2</sup> Myanmar: Prisoners of Conscience and Torture, AI Index ASA 16/04/90

of the activities of interfering in the internal affairs of Burma, in violation of their diplomatic status, by some diplomats..."

Another response to the 2 May report was given by Soe Win, a first secretary in the Myanmar embassy in Washington. He said that he had not read the report but that "these allegations are not true". He commented further: "The torture of detainees, inhuman and cruel treatment of prisoners, etc., are unknown to us, except when we were under foreign domination."

## 6. RECOMMENDATIONS

Amnesty International bases its work on international human rights standards which are agreed by the international community through the United Nations and other intergovernmental bodies. Amnesty International addresses itself to governments because of the specific obligations they have under international law.

Myanmar has ratified only one major international human rights instrument, the Convention on the Prevention and Punishment of the Crime of Genocide. It is not party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is also one of the few countries that has failed to ratify the Geneva Conventions of 12 August 1949, nor has it ratified their Additional Protocols. However, this cannot be interpreted as giving government authorities the right to violate the internationally agreed human rights standards which the provisions of these various instruments reflect, or to act contrary to the United Nations Universal Declaration of Human Rights.

### Torture

Amnesty International makes the following recommendations in regard to reports of torture in Myanmar:

1. The government should order an impartial inquiry into all allegations of torture.

Such a step would be in accordance with international standards. Article 9 of the UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates that:

"Wherever there is reasonable ground to believe that an act of torture as defined in article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint."

2. Criminal proceedings, in accordance with national law, should be initiated in cases where there is evidence of involvement in torture.

Article 10 of the Declaration Against Torture states:

"If an investigation under article 8 or article 9 establishes that an act of torture as defined in article 1 appears to have been committed, criminal

proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings".

3. Victims of torture should receive redress and compensation, in accordance with national law. Article 11 of the Declaration Against Torture specifies that a victim of torture be afforded compensation.

4. Members of the security forces should be trained to observe the prohibition of all forms of torture, inhuman or degrading treatment or punishment.

Article 5 of the Declaration Against Torture stipulates:

"The training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. This prohibition shall also, where appropriate, be included in such general rules or instructions as are issued in regard to the duties and functions of anyone who may be involved in the custody or treatment of such persons."

Article 3 of the Declaration specifies that:

"Exceptional circumstances, such as a state of war or a threat of war, internal political instability or any other public emergency, may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment".

5. As stipulated in article 12 of the Declaration Against Torture, statements extracted under torture or other cruel, inhuman or degrading treatment or punishment should not be admitted in evidence in any legal proceedings.

Amnesty International believes that the legal provision of habeas corpus is one of the most important safeguards against torture and extrajudicial execution, and that prolonged incommunicado detention may facilitate these abuses. These considerations are also reflected in international human rights standards.

Amnesty International recommends that incommunicado detention be prohibited and that the following international human rights standards be applied:

1. Article 9 of the Universal Declaration of Human Rights, which proclaims:

"No one shall be subjected to arbitrary arrest, detention or exile".

2. Article 9.2 of the ICCPR which states:

"Anyone who is arrested shall be informed, at the time of his arrest, of the reasons for his arrest and shall be promptly informed of any charges against him".

3. Article 9.3 of the ICCPR, which specifies that:

"Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release".

4. Article 9.4 of the ICCPR provides for habeas corpus for anyone who has been arrested and detained.

### **Fair trial**

Summary trial procedures used by military tribunals, which were formed by Martial Law Orders 1/89 and 2/89, severely restrict the defendant's rights of defence and appeal. A resolution approved by the 40th Session of the UN General Assembly in November 1985 on the independence of the judiciary proclaims, inter alia, the right to due legal process:

"Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals."

The International Covenant on Civil and Political Rights (ICCPR) represents internationally recognized standards for, inter alia, the provision of fair trials. In Resolution 35/172 on arbitrary and summary executions adopted in December 1980, the United Nations General Assembly urged member states "to respect as a minimum standard the content of the provisions of Articles 6, 14 and 15" of the ICCPR. Although the Government of Myanmar has not ratified the ICCPR Amnesty International recommends that it consider the following safeguards in order to ensure that procedures for fair trial are followed, in accordance with Article 14, which states, inter alia:

- "1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."
- "3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
  - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
  - (c) To be tried without undue delay;
  - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him"
- "5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

### **Imprisonment on grounds of conscience**

Amnesty International also recommends that all prisoners of conscience, that is, those detained solely for the peaceful expression of their opinions, be unconditionally and immediately released.

The organization asks that the legal basis for all arrests be clarified, and that political prisoners charged with a criminal offence be brought to trial fairly and promptly, or released. The prolonged detention of political prisoners without trial is contrary to international human rights standards, as stated in Article 9.3 of the International Covenant on Civil and Political Rights.

Amnesty International urges that prisoners who are held under administrative detention laws be guaranteed the right to have the legality of their detention examined. Article 9.4 of the ICCPR states:

"Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide

without delay on the lawfulness of his detention and order his release if the detention is not lawful."

A central register of detentions should also be established to which lawyers and families have access.

### **The death penalty**

Amnesty International is unconditionally opposed to the death penalty. It believes all executions are a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment.

Amnesty International recommends that all death sentences which were passed since the 1988 coup be commuted, and that the death penalty be abolished, either as a punishment handed down in military tribunals or civilian courts. Amnesty International also urges the immediate suspension of all executions. The ICCPR provides that "No one shall be arbitrarily deprived of his life" (Article 6.1). This right is also proclaimed unequivocally in Article 3 of the Universal Declaration of Human Rights.

### **Extrajudicial executions**

Amnesty International recommends that the authorities initiate an impartial and independent inquiry into alleged extrajudicial executions by government security forces, including the deaths of thousands of people reported to have occurred in 1988. It also urges that when the investigation has been completed, the results are made public and criminal proceedings be brought against those found responsible. The families of the victims should receive redress and compensation for the deaths.

These recommendations accord with those set out in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, which was endorsed by the UN General Assembly on 15 December 1989. Principle 2 states:

"...Governments shall ensure strict control, including a clear chain of command over all officials responsible for the apprehension, arrest, detention, custody and imprisonment as well as those officials authorized by law to use force and firearms."

Principles 9 and 17 respectively call for an independent investigation to be carried out of all suspected cases of extra-legal, arbitrary and summary executions and for the results of the report to be made public.

Amnesty International urges the Myanmar Government to affirm its commitment to

respect for human rights by ratifying the International Covenant on Civil and Political Rights and its First Protocol as well as its Second Optional Protocol, which aims at the abolition of the death penalty. Amnesty International also urges the Government to ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.