



Assistance Association for Political Prisoners (Burma)

နိုင်ငံရေးအကျဉ်းသားများ ကူညီစောင့်ရှောက်ရေးအသင်း (မြန်မာနိုင်ငံ)

P.O Box 93, Mae Sot, Tak Province 63110, Thailand

E-mail: info@aappb.org, info.aappburma@gmail.com Website: www.aappb.org

An Unofficial Translation of the Prisons Law

2015 Union Parliamentary Law No.

**(00th) day of the (Waxing/Waning Moon) of (Waso) in 1376
(00th) (Month) 2015**

The following is an unofficial translation of the Prisons Law 2015 by

The Assistance Association for Political Prisoners (Burma)

Prisons Law
2015 Union Parliamentary Law no
(00th) day of the (Waxing/Waning Moon) of (Waso) in 1376
(00th) (Month) 2015

In the spirit of peace and tranquility in the community, rule of law, and prevention of prisoners from reoffending, the objective is not to punish prisoners but to change them physically and psychologically, and for them to learn appropriate professions after being released, the Union Parliament enacts this law.

Chapter I
Name and Definition

1. This law shall be called The Prisons Law.
2. The definitions included in this law shall carry meaning as mentioned below:
 - a. “Prison” means a place used permanently or temporarily upon the decree issued by the Ministry(of Home Affairs) with the agreement of the Government of the Republic of the Union of Myanmar cabinet(permanent or temporary for the detention of prisoners, and includes all defined territories, lands, buildings and parts of a building defined as prisons, camps and police lockups. But any place for the detention of prisoners which is not under the administration of the Prison Department is not included (in this definition).
 - b. “Separate room” means a dormitory or cell separately set up to prevent communication with other prisoners.
 - c. “Camp” means any temporary or permanent place belonging to the prison department, set up for prisoners to work in agriculture, animal breeding and production, or to work in regional development and to learn vocational skills.
 - d. “Prisoner” means any person held in prison – a convicted prisoner, a pretrial detainee, a juvenile prisoner, a prisoner who has received the

death penalty, a prisoner with long-term imprisonment and a civil prisoner.

- e. “Convicted prisoner” means any prisoner who is found guilty according to an existing law under the writ, warrant or order of any Court or authority exercising criminal jurisdiction.
- f. “Pretrial detainee” means any prisoner who is held in detention during the trial period/investigation period on the charge of violating an existing law.
- g. “Prisoner with long-term imprisonment” means any prisoner who is sentenced to a total imprisonment of 20 years and above.
- h. “Juvenile prisoner” means any convicted prisoner who is between 16 and 18 years of age.
- i. “Civil prisoner” means any prisoner who lost a civil case indicted by civil law and was sent to prison with a civil warrant by the court.
- j. “Personal record” means according to this law, the necessary personal record and information related to each prisoner stated in written form, or in electronic form in the Prisoners Management Information System.
- k. “Case record,” means the records containing fingerprints and footprints related to the convicted prisoner.
- l. “Prison visit,” means visits whereby members of the family of a prisoner, or members of concerned embassies, or authorized persons are allowed to meet the prisoner and to give authorized items.
- m. “Prison visit guest” means a person who is authorized to come to prison with the intention to meet a prisoner or provide assistance to a prisoner.
- n. “Official guest” means any representative from an authorized organization and any legal representative, who comes to prison so as to provide assistance to the prison and prisoners.

- o. "Prohibited article," means any item that is not allowed to be taken in or out of a prison according to the procedure prescribed by this law or issued by an order.
- p. "Punishment" means any penalty decided by the relevant Court related to the case according to the original case, appeal case, revision case, special appeal case and writ application or remaining punishment after amnesty, or in case of appropriate bail the person who guarantees the bail or in absence of the person who guarantees the bail the penalty to be sent to jail.
- q. "Imprisonment order" means an order issued by a court or a legally authorized person, for a person to be sent to prison.
- r. "Detention order" means during the period of investigation on the charge of violating an existing law, an order issued by a court or a legally authorized person, for a person to be sent to prison.
- s. "Remission" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails
- t. "Parole Order" means the order by the government allowing or awarding any prisoner, who abides by the prison rules, to reside anywhere inside the country for a remainder of the sentence.
- u. "Prison industries" means agricultural, animal breeding (poultry), and production activities carried out in prison, and general or odd jobs in prison.
- v. "Ministry" means the Ministry of Home Affairs of the Republic of the Union of Myanmar
- w. "Director General" means the Director General of the Prison Department.
- x. "Superintendent" means the prison officer assigned to manage a prison.

- y. "Prison officer" means any managerial officer, ranging from deputy level up to Director General level in the Prison Department.
- z. "Staff" means any officer or employee in the Prison Department.
- aa. "Medical staff" means any staff officially recognized by the ministry or in cooperation with the Ministry of Health to serve duty fulltime or part-time in the Prison Department.

Chapter II

Prisons management

Duty and authorities

- 3. With the consent of the Government of the Republic of the Union of Myanmar, the ministry may, in order to keep prisoners, build, demolish and move prisons, based on necessity.
- 4. The Director General shall set the number of prisoners in order to smoothen security and administration in prisons.
- 5. If the number of prisoners exceeds beyond what is set, the Director General shall, according to the procedures laid out in this law, transfer prisoners to another prison. If it is not convenient to transfer to another prison or in time of an endemic disease breakout, temporary shelters and safe custody shall be provided to keep prisoners in safety and convenience.
- 6. The Director General:
 - a. Shall implement the objectives and duties of the Prison Department.
 - b. Shall, regarding financial matters manage the budget allocated by union budget law in accordance with financial rules and regulations and guidance given by the ministry.
 - c. May assign whole or part of his or her duties and authorities to any prison officer from the Prison Department

- d. Shall manage as a special case, whenever the outbreak of an epidemic disease within any prison or natural disaster occurs, or a situation endangering the prisoners' safety.
 - e. May permit, dependent on the Superintendent's report, the continued fettering over three months of a prisoner who has already been fettered for three months.
 - f. Shall make a decision when a prisoner complains through the Superintendent that he or she has been denied one of his or her rights prescribed by this law.
 - g. Shall appoint the Superintendent, prison staff and medical staff for every prison.
7. The Superintendent:
- (a) The Superintendent shall manage the prison in all matters relating to discipline, labor, expenditure, punishment and control.
 - (b) Shall keep prisoners based on gender, ages, numbers, and illness in line with this law.
 - (c) Shall manage prisoners sentenced to hard labor.
 - (d) Shall manage, in line with existing law, punishment for those who committed prison offences.
 - (e) Shall closely supervise prison staff to ensure they obey the law, procedures, orders and instructions.
 - (f) Shall systematically keep prison records, prisoner biographies and records of prisoners' cases.
 - (g) Shall shackle any prisoner who he or she considers to require maximum security or state of prison or character of prisoner. If

needed, he can place such kind of prisoner individually in a solitary confinement cell.

- (h) Shall provide medical examination once a day to any prisoner who is kept in solitary confinement for over 24 hours, because of punishment or other reasons.
- (i) Shall help any prisoner, who was not assigned to hard labor, be employed if he or she desires it.
- (j) May use a weapon or gun to arrest any prisoner who committed any violations under article 49 of this law if a prisoner does not follow the order to stop, or warning before shooting, but must not use excessive power.

(8) The Director General and Superintendent may award remission to a prisoner in accordance with the procedures laid out in this law.

(9) Ensure prison staffs do not torture prisoners, or subject prisoners to cruel, degrading or inhuman treatment.

(10) Medical officers must provide healthcare to prisoners and prison staff under instruction of the Superintendent.

Behavioral Change and Provision of Vocational Training

(11) The Prison Department must have a correctional plan for changing prisoners physically and psychologically with the aim of reintegration into society as a good person who will not reoffend after being released.

(12) In order to change prisoners' character, the Prison Department shall occasionally provide religious preaching, meditation camps, counseling and educational ceremonies.

(13) In order to have more knowledge about domestic and international affairs, the Prison Department must open libraries whereby prisoners can read newspapers, journals, magazines, publications and watch television sets.

(14) The Prison Department shall provide educational opportunities for prisoners who are still studying or who are illiterate

(15) In order for recreational purposes, the Prison Department must provide entertainment, information and education programs.

(16) In order to ensure the good health of the prisoners, the Prison Department must provide areas and facilities for exercising.

(17) Regarding the assigning of labor, the Prison Department shall provide appropriate vocational, agricultural and livestock trainings.

(18) Prison department shall produce products with the use of prison labor.

Healthcare

(19) In every prison, a hospital or proper place for the reception of sick prisoners shall be provided, with enough medicine and if needed, the Prison Department must arrange for a sick prisoner to meet with a specialist.

(20) In order to provide healthcare, the ministry can appoint medical staff under negotiation with the Ministry of Health, or the ministry can appoint directly.

(21) Upon the request of prisons without medical staff, relevant medical staff, the Ministry of Health shall provide medical staff to those prisons.

Chapter III Prisoners Management

Admission of Prisoners

22.

- a. Whenever a prisoner is admitted into prison, he shall be searched by the prison staff on duty, and all weapons and prohibited articles shall be taken from him.

- b. If a prisoner's possession including money is not prohibited by the relevant court, or bringing the possession to prison is official or the possession is sent to prison for the use of the prisoner, the relevant prison officer shall take custody of the possession.
- c. The medical officer shall examine each prisoner after admission. The health condition of the prisoner, any wounds on the body of the prisoner or similar marks or symptoms shall be recorded. Appropriate prison officers shall keep records of the medical examination of the prisoner.
- d. Female staff and female medical officers shall search and examine female prisoners.
- e. On the death of any prisoner, the Superintendent or prison officer in charge shall get the death certificate from the medical officer relating to the cause of death, register the death in the record and if necessary file the record at the police station. Necessary arrangement shall be provided for a funeral service to take place according to traditional customs.

Separation of Prisoners

24.

- a. In a prison where not only male prisoners but also female prisoners are kept, the females shall be imprisoned in separate buildings, or if there is only one building in a separate part of this building, to ensure that the male prisoners cannot see, talk to and communicate with the female prisoners.
- b. Juvenile prisoners shall be separated from other prisoners.
- c. Children under 16 years of age shall not be received/admitted as prisoners.
- d. Pretrial detainees shall be kept apart from convicted prisoners.
- e. Civil prisoners shall be kept apart from convicted prisoners.
- f. Prisoners under sentence of death shall be confined in a cell apart from other prisoners.

25. Without exceeding beyond the provision stated in article 24, convicted prisoners may be kept together or individual in separate rooms or in one of either ways.
26. No prisoner shall be kept separately in separate confinement without arrangement to be able to communicate with the jailer on duty. A prisoner who has to be kept in separate confinement is to be closely monitored by the jailer. A prisoner who is kept separately for more than 24 hours because of punishment/penalty or other reason is to be subject to an examination by medical staff/officer once a day.

Transfer of Prisoners

27.

- a. Prisoners to be transferred to other prisons are to be examined by a medical officer before the transfer.
- b. No prisoner shall be transferred to another prison without a medical examination and approval stating they are suitable to be transferred by the medical officer.
- c. If the medical opinion of the medical officer suggests it is not suitable for the prisoner to be transferred to another prison or if they are suffering from a disease and are in a serious condition, the transfer shall not be done against the will of the prisoner suffering as such.
- e. Standards and norms for prisoners to be transferred to camps shall be issued through orders and instructions accordingly.

Release/Discharge of Prisoners

28.

- a. The Director General may submit to the ministry upon the approval/request made by the Superintendent on the suspension of sentenced penalty/imprisonment or reduction or exemption/amnesty of sentenced imprisonment to a/one prisoner or more than a prisoner.
- b. The ministry may submit to the president through the cabinet for the suspension of sentenced penalty/imprisonment or reduction or

exemption/amnesty of sentenced imprisonment to a prisoner or more than a prisoner.

- c. The Superintendent shall release a prisoner on Presidential Order, or if the sentence is suspended or reduced, or if they are exempt from sentence, or at the end of the prison term.
- d. Any prisoner at the end of his or her prison term but is suffering from a serious health condition or is infected with a dangerous endemic disease and is deemed to require medical treatment to recover by the medical staff, shall be transferred to the nearest hospital.

Court Appearances

29.

- a. Upon receiving the order to send a prisoner to court from the court or an authorized person, the Superintendent needs to carry this out carefully in line with existing law.
- b. If due to any reason the prisoner is unable to attend court, the Superintendent shall inform the concerned court the reason as to why the prisoner is unable to attend the court.
- c. If special security is needed to send the prisoner to the court, the Superintendent shall report to the Director General.

Visits to Prisoners

30. In each prison, in order for visiting guests and official guests to be able to meet prisoners, a schedule and regulations shall be arranged.

31. The Superintendent concerned:

- a. May request the name, address and documents of anyone who comes to meet a prisoner. If there is any suspicion, a search shall be conducted of this visitor by the Superintendent themselves, or by an assigned prison officer. Such a search shall not be carried out in front of any prisoners or any other visitors.

- b. Anyone who refuses such a search can be denied their visit. Such denial shall be written in the record book including the complete reason for the denial.
- 32. Any visiting guest who may pose harm to security, peace and tranquility and rule of law shall not be allowed the visit.
- 33. When it is not appropriate for a prisoner to attend court, the trial should be brought to the prison, and the Superintendent may allow after thoroughly consideration.
- 34. If in accordance with this law, a prisoner and his or her lawyer are allowed to discuss freely in a designated area.
- 35. If any organization or anyone wants to donate food or things for prisoners, the Superintendent may allow it after thorough consideration.

Employment of Convicted Prisoners

- 36.
 - a. No convicted prisoner is to work for more than eight hours in a day.
 - b. The medical officer shall go frequently to inspect the working site of the prisoners.
 - c. If the medical officer certifies that the prisoner is not in good health because of the work currently undertaken, he or she may be assigned to another type of work deemed more suitable.
- 37. The Superintendent shall:
 - a. Pay set wages to prisoners working in income-generating activities in prisons.
 - b. Make sure that defined compensations are established regarding injuries, and death of prisoners while working.

Giving or withdrawing Parole Order

- 38. (A) The ministry, with agreement with the Government of the Republic of the Union of Myanmar is allowed to give legal permission to a prisoner to stay

with certain principles at a designated place within the country as part of his remaining sentence.

(B) No one can detain and arrest a prisoner who is granted a legal permission by his original sentence without receiving an order of withdraw legal permission and to be punished again for his original sentence.

(C) If a situation given to withdraw legal permission to a prisoner, Ministry, with the approval of the Government of the Republic of the Union of Myanmar must inform to prison department about withdrawing his legal permission.

Civil Prisoner and Pretrial detainee/Detainee

39. Civil prisoners and pretrial detainees may, according to instruction, take in or purchase outside food and clothing verified and allowed by the prison Superintendent during the times allowed.
40. Civil prisoners and pretrial detainees shall not give away, or lend or sell any part of the above mentioned food and clothing to any prisoner. If provisions in this section are violated, the Superintendent may revoke the right to purchase or receive food from outside for an appropriate period.
41. Regarding provisions of clothing, bedding and food, the Superintendent:
 - a. Shall make arrangements for prisoners who cannot afford these provisions on their own.
 - b. Whenever clothing or bedding is supplied to a civil prisoner, who has been committed to prison in execution of a decree in favor of a private person, the Superintendent shall submit to such a person an account of the cost of the clothing or bedding, with a demand, in writing, for payment of the cost; and if payment is not made within 48 hours of receipt of this demand, the Superintendent shall release the civil prisoners in respect of whom the demand was made.

Prisoners' Rights

42. Prisoners:

P.O Box 93, Mae Sot, Tak Province 63110, Thailand, e.mail: info@aappb.org, info.aappburma@gmail.com, web: www.aappb.org

- a. May report in person to the Superintendent matters regarding health, food and accommodation, and grievances concerning their rights providing for under existing laws, and regulations.
- b. Shall exercise freely his or her religion and beliefs.
- c. Shall not be discriminated against based on race, origin, religion, culture, position, status, gender, or wealth.
- d. Shall enjoy a reduced period of imprisonment according to procedures laid out in this law.

CHAPTER (4) **PRISON OFFENCES**

(43) The following acts are declared to be prison-offences when committed by a prisoner:

(A) Disobedience or violations of this law and related regulations;

(B) Failure to obey this law and regulations regarding prison visits, prison visit guests, and official guests.

(C) Any assault or use of criminal force;

(D) The use of insulting or threatening language;

(E) Immoral or indecent or disorderly behavior;

(F) Willfully disabling himself from labor;

(G) Refusing to work without any proper reason;

(H) Filing, cutting, altering or removing handcuffs, fetters or bars without due authority;

- (I) Willful idleness or negligence at work by any prisoner sentenced to imprisonment with labor;
- (J) Willful damage to prison-property;
- (K) Tampering with or defacing history-tickets, records or documents;
- (L) Feigning illness;
- (M) Willfully bringing a false accusation against any officer or prisoner;
- (N) Any attack or preparation for an attack, or assisting an attack upon any prisoner, prison-officer or any other person;
- (O) Omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any of the above declared prison offences, or committing or preparing to commit prison offences;

(44) A – The Superintendent may examine any person committing any such offence, and determine thereupon, and punish such offence by one of the following:

- (1) A formal warning;
- (2) Change of labor to some more irksome or severe form for a certain period
- (3) Hard labor for a period not exceeding seven days in the case of convicted prisoners not sentenced to rigorous imprisonment;
- (4) Loss of privileges admissible under the remission system for a certain period;
- (5) Imposition of handcuffs or fetters for a certain period;
- (6) Solitary confinement for any period not exceeding fourteen days;
- (7) Separate confinement for any period not exceeding three months;

(8) Solitary confinement for more than two weeks as per instruction by the Director General;

(B) If punished by one of the above, a prisoner has the right to appeal to the Director General. However, the subsequent decision of the Director General is final.

Chapter (5)

Offences and Punishments

Offences

(45) No person is allowed to introduce or remove, or attempt to introduce or remove any prohibited articles into or from prison;

(46) No person is allowed to introduce or remove, or attempt to supply to any prisoners outside the limit of prison, any prohibited articles;

(47) No one is allowed to communicate or attempt to communicate with any prisoner unlawfully;

(48) Every prison officer must not fail to report to the supreme office as soon as it comes to his or her knowledge a prisoner who committed prison offences under sections 45, 46 and 47;

(49) No prisoner is allowed to riot, rebel, escape, or damage prison properties and buildings with a crowd, or attempt or prepare or encourage to do the above at any time;

(50) Any prison staff will be guilty if he or she commits the following:

(A) Any violation of his or her duty;

(B) Willful breach or neglect of any rule or regulation or lawful order made by competent authority;

(C) Withdrawal from the duties of his or her office without permission;

(D) Withdrawal from the duties of his or her office without having given previous notice in writing of his or her intention for the period of two months;

(E) Absence should not exceed any permitted leave period knowingly without any proper reason;

(F) Work an additional job without prior permission;

(G) Cowardice while in duty;

(H) Torture, cruel, inhuman or degrading treatment that violates human rights or humiliates a prisoner;

(I) Stopping, delaying or preventing a prisoner's right which is granted by the rules and regulations;

(51) No prison officer or person related with a prison officer shall sell any products, or borrow or take money by dealing directly or indirectly with a prisoner, without permission for his or her personal interest.

(52) No prison staff or persons related with prison staff are allowed to deal with a representative who is contracted to import products into prison for his or her personal interest, or other interest or making money interest.

Punishment

(53) If any prisoner is guilty of violation of section 43 by reason of having frequently committed such offences, he or she shall be sentenced to imprisonment which may extend to one year, but not exceed one year;

(54) If anyone is guilty of violation of section 45/46/47 and 48, he or she shall be sentenced to imprisonment not exceeding six months, or subject to a fine not exceeding 100,000 kyats, or to both.

(55) If any prisoner is guilty of violation of section 49, he or she shall be sentenced to imprisonment not exceeding three years, or subject to a fine not exceeding 500,000 kyats, or to both.

(56) If any prison staff is guilty of violation of section 50, he or she shall be sentenced to imprisonment not exceeding three months, or subject to a fine not exceeding 50,000 kyats, or to both.

(57) If any prison staff is guilty of violation of section 51 and 52, he or she shall be sentenced to imprisonment not exceeding six months, or subject to a fine not exceeding 100,000 kyats, or to both.

Chapter (6) **GENERAL (OR) MISCELLANEOUS**

(58) When any person, in the presence of any officer of a prison, commits any offence specified in sections 45, 46, and 47, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay hand him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

(59) If any prisoner is guilty of any offence against section 43 which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court.

(60) A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any prison in or under the lawful custody or control of a prison officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

(61) Prisoners who have been appointed as officers of prisons shall be deemed to be public servants by this law.

(62) (Prison staff and public servants (convicted prisoners who are assigned by prison officers) who perform their duties assigned accordingly under regulations of the this law shall not be sued neither civilly nor criminally.)

(63) All lands which produce natural resources and buildings appurtenant used for prison which has been declared by the Government of the Republic of the Union of Myanmar are regarded as restricted areas;

(64) Income and other taxes for a prison and prison product must pay in line with existing law;

(65) When a convicted prisoner is sent to prison, it must include writ (or) summary of case file, warrant written by order of any Court or authority exercising criminal jurisdiction;

(66) Any cases taken action under this act shall be considered police jurisdiction;

(67) The rules and regulations, decrees, instructions, directives and procedures, under the Prisons Act 1894, The Prisoners Act 1900 and The Identification of Prisoners Act which are deactivated by this law, shall be used the same if they do not contradict this law.

(68) In order to implement this law:

(A) With the approval of the Government of the Republic of the Union of Myanmar, the Ministry can issue rules and regulations.

(B) The Ministry and Prison Department can also issue commands, orders and instructions and procedures.

(69) The following laws are removed (or) repealed by this law:

(A) The Prisons Act, 1894

(B) The Prisoners Act, 1900

(C) The Identification of Prisoners Act, 1920

END