

Pleading Not Guilty at Insein

Introduction

In mid-November 1995, the authorities at Insein Prison in Rangoon raided the cells of 22 political prisoners. Following the raids the prisoners were interrogated, and some were beaten, tortured and held in tiny cells usually kept for prison dogs.

Among these prisoners were a prominent journalist U Win Tin, a magazine publisher Myo Myint Nyein, and National League for Democracy (NLD) parliamentarians U Hla Than and Dr. Zaw Myint Maung, both of whom won seats in the 1990 election.

During the raids, the prison authorities allegedly seized “seditious” materials that were “damaging” to the SLORC regime. These materials included pro-democracy magazines, short stories and poems; *Time* and *Newsweek* magazines; transcripts of news items from the British Broadcasting Corporation (BBC), Voice of America (VOA) and Democratic Voice of Burma (DVB), and the prisoners’ letters to Daw Aung San Suu Kyi, to the International Committee of the Red Cross (ICRC), and the United Nations.

Each of the 22 prisoners was subsequently charged under Section 5 (E) of the *1950 Emergency Provision Act* for writing and distributing allegedly false information. If found guilty of this charge a person can be jailed for up to seven years and receive a fine. The law states that to receive a conviction, a person must either know that the information distributed was not correct, or there must be enough evidence to show that the information was not correct.

Among the materials seized was also a letter to former UN Special Rapporteur to Burma, Professor Yokota, which contained information about conditions inside Insein Prison. Insein is the oldest and also the largest of Burma's 36 prisons, and is the country's most notorious in terms of human rights abuses. Nearly all of Burma's well known political prisoners have spent some time there. The trial of these 22 prisoners was held inside Insein Prison.

The prisoners were refused access to legal counsel at the trial and they defended themselves. All 22 prisoners pleaded not guilty to the charges brought against them, either on the grounds that what they had written was the truth or that the charge was false. As a testament to their courage, the prisoners spoke out against the authorities, complaining of torture and beatings in prison, and calling for prisoners' rights and for access to legal counsel. Some also accused the authorities of holding a political trial and criticized the handling of the trial and presentation of the evidence.

This case was specifically mentioned in an interim United Nations report on human rights in Burma as an example of the denial of freedom of expression in prisons. The report, compiled by the UN Special Rapporteur of the Commission on Human Rights, Judge Rajsoomer Lallah, stated that “20 prisoners were” allegedly tried and given additional sentences of 5 to 7 years. However, according to the official report of the trial, translated here, 22 prisoners were tried and they all received an additional seven years with hard labor.

U Hla Than died in custody before he could have served out his sentence. His death certificate states that he died of pulmonary tuberculosis. His request to be allowed to die at home was rejected reportedly because he refused to resign from the NLD.

The other 21 political prisoners are still being held in Insein Prison.

The Trial Report Translation

Rangoon Divisional Court (Northern District Court)

Criminal Regular Trial Case No. 7/1996

Police Lieutenant U Khin Htay Vs.	<ol style="list-style-type: none"> 1. Myo Myint Nyein 2. Zaw Tun 3. Nyunt Zaw 4. Soe Htet Khaing 5. Aung Kyaw Oo 6. Zaw Min 7. Phyo Min Thein 8. Win Thein 9. Aung Myo Tint 10. Htay Win Aung 11. Yin Htway 12. Win Tin 13. Hla Than 14. Ko Ko Oo (aka Bo Bo) 15. Kyi Pe Kyaw (aka Kyaw Gyi) 16. Kyaw Min Yu (aka Jimmy) 17. Myat Tun 18. Tun Win 19. Sein Hlaing 20. Zaw Myint Maung 21. Soe Myint
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	22.	Ba Myo Thein
(Complainant)		(Defendants)
For Complainant:		Maung Maung Hla, District Attorney.
For Defendants:		The defendants themselves.
Charge:		Section 5 (E), <i>1950 Emergency Provisions Act</i> .

JUDGEMENT

In the year 1996, Myo Myint Nyein (inmate no. 9570/C) from Insein Prison and his accomplices secretly wrote and distributed a seditious magazine in commemoration of the Diamond Jubilee of the founding of Rangoon University, and another news magazine entitled *New Blood Wave*.

A letter written and addressed to the Secretary-General of the United Nations was also secretly smuggled out of the prison. The letter, entitled “The Testimonials Of Prisoners Of Conscience From Insein Central Prison Who Have Been Unjustly Imprisoned; Demands And Requests Regarding Human Rights Violations In Burma” is dated July 1, 1995.

Furthermore, the defendants smuggled radios into the prison in order to receive news from outside, and distribute it in the form of news bulletins. They did this knowing that the news was incorrect with the aim to distribute false information.

Following an investigation, twenty two defendants including Myo Myint Nyein were charged under Section 5 (E) of the *1950 Emergency Provision Act* by Police Lieutenant U Khin Htay from Insein Police Station.

During the trial, ten out of the 15 witnesses were present and testified against the defendants. U Khin Htay (complainant witness 1) and U Ye Nyunt (complainant witness 2) presented to the court details of each and every part that the 22 defendants had played in the crime.

Myo Myint Nyein

Myo Myint Nyein, 35, has been detained since September 1990 when he was sentenced to seven years imprisonment by a military court for organizing youths and students to create instability. He is a magazine

publisher and worked for the Information Department of the NLD and for the group "Thone Yaung Chae" which provided bodyguards for Daw Aung San Suu Kyi. At his 1990 trial, officials stated his magazine "Bar Dwaë Phyit Gone Byi Lae" (What Has Become of Us?) was an "anti-government propaganda publication, aimed at making people misunderstand the government and defense forces." Between mid-November 1995 and January 1996 he was held in a small cell in Insein in which prison dogs are normally kept.

Myo Myint Nyein smuggled Time and Newsweek magazines into the prison by unlawful means and distributed them for other prisoners to read. He took responsibility for the layout of the magazine written in commemoration of the Diamond Jubilee of the founding of Rangoon University, which contained seditious literature against the State. Furthermore, he organized other prisoners to write seditious pieces. He also persuaded Nyunt Zaw to copy this seditious literature by hand, providing him with paper and ball-point pens. At the same time, he persuaded Phyto Min Thein, Nyunt Zaw and Kyi Pe Kyaw to make a cloth cover for the magazine and adorn it with illustrations. When the publication was finished in September 1995, he kept it in Cell 18, Long Hall 4.

Moreover, in early May of 1995, he read the magazine *New Blood Wave*, published in Short Hall 4, in memory of 7th anniversary of the death of Phone Maw.¹ U Khin Htay also alleged that from June of 1994, Myo Myint Nyein collected news from visitors during prison visits and distributed this information in a news bulletin every Sunday.

Kyaw Min Yu (aka Jimmy) asked Nyunt Zaw, who had beautiful handwriting, to copy the news from the BBC, VOA, and DVB, but Myo Myint Nyein took charge of distributing it in the news bulletin.

In early May of 1995, Myo Myint Nyein, Nyunt Zaw, Kyi Pe Kyaw, Zaw Min and Phyto Min Thein discussed about collecting information on events within the prison and presenting this information, along with their demands, to the Secretary-General of the United Nations. They gathered this information, and in the month of June, 1995, Win Tin asked Nyunt Zaw to copy it on an Ajinomoto² plastic bag, spreading out the bag in the form of a sheet of paper. After concealing this paper in the handle of a plastic basket made in prison, it was given to Phone Myint Tun during visiting time.

Similarly, in March of 1993, Myo Myint Nyein held discussions with Phyto Min

¹ Phone Maw was the first student to die in the 1988 demonstrations.

² Company brand name

Thein and Kyaw Min Yu (aka Jimmy) about a conference to be held in Vienna, Austria [UN Human Rights Conference]. As a result, Phyo Min Thein wrote a paper in English on a short-sleeved prison shirt and smuggled it out of the prison.

In early 1994, he wrote “new year greetings to Aung San Suu Kyi from her colleagues” on a white cloth and asked 107 prisoners to sign their names on it.

Nyunt Zaw

Beginning in the month of June 1995, while serving his term in Cell 7, Hall 4, Nyunt Zaw copied articles and manuscripts in the evening for the magazine to be published in commemoration of the Diamond Jubilee of the founding of Rangoon University. He also drew illustrations of Shwe Dagon Pagoda and the monument erected in memory of the 1920 Student Boycott on pages 2 and 3 of the magazine.

Additionally, Nyunt Zaw drew cartoon illustrations for an article entitled “Blood Path: Take It. And Walk On It Bravely” and other cartoons on pages 22 and 23 of the magazine. He also copied the final draft letter entitled “The Testimonials Of Prisoners Of Conscience From Insein Central Prison Who Have Been Unjustly Imprisoned; Demands And Requests Regarding Human Rights Violations In Burma” onto the Ajinomoto plastic bag. The letter was concealed in the handle of a plastic basket in Cell 18, Hall 4, where Myo Myint Nyein and Kyi Pe Kyaw lived.

At the request of Myo Myint Nyein, Nyunt Zaw copied the final versions of the news for the weekly news bulletin. He also copied and distributed news from the BBC, VOA etc., which broadcast false news about Burma.

Zaw Tun

Zaw Tun, a second-year student from the Workers' College, has been detained since August 1991 when he was sentenced to 12 years imprisonment on charges of having links with the 208th Battalion of the ABSDF. Between mid-November 1995 and January 1996 he was placed in a prison dog cell.

Zaw Tun sat on the “Committee for the publication of the magazine of the Diamond Jubilee of Rangoon University.” His duty was to read and screen manuscripts for the magazine. He contributed an article entitled “Meeting With Great Leaders,” and the poems “Historic Peacock” and “Making A Decision.”

Zaw Min

Zaw Min wrote in the same magazine an aesthetic piece entitled “Obeisance To Mother,” a poem titled “Consequence To A Cup of Low Sweet Strong Tea” and a feature story “A Day Of Hope.”

Zaw Min was a signatory to the human rights letter written on the Ajinomoto plastic bag and addressed to the United Nations. He also participated in the writing of a letter acknowledging “happiness” at the release of Daw Suu Kyi and was a signatory to this letter.

Phyo Min Thein

Phyo Min Thein is a member of the Democratic Party for New Society (DPNS) and the all Burma Federation of Students’ Union (ABFSU).

After a discussion with Zaw Min, Nyunt Zaw and Soe Htet Khaing, Phyo Min Thein took responsibility for collecting articles from the prisoners in Long Hall 4, Short Hall 4 and Hall 3 for the Diamond Jubilee magazine. He also took charge of preparing the back cover of the magazine and sent it to Myo Myint Nyein when it was finished. Phyo Min Thein translated the letter to the Vienna Human Rights Conference and also sent it to Myo Myint Nyein. Furthermore, Phyo Min Thein was one of the signatories to the letter written in English on the prison shirt. Similarly, at the request of Myo Myint Nyein, he signed his name on the plastic bag as a part of the letter to the Secretary-General of the United Nations. He also signed his name to the letter written on another plastic bag addressed to Daw Aung San Suu Kyi, informing her of their delight on her release from house arrest.

Soe Htet Khaing

Soe Htet Khaing, 32, was a second-year Rangoon University student when he was detained in October 1989 and sentenced by a military tribunal to ten years imprisonment. He had reportedly never been politically active, and is thought to have been arrested on account of his father's and brother's reported anti-government activities during the 1988 demonstrations. Between mid-November 1995 and January 1996 he was held in a prison dog cell.

Soe Htet Khaing participated in the discussions on publishing the magazine to honor the Diamond Jubilee of Rangoon University. He also proof-read articles and other

writings and was a signatory to the letter for the release of Daw Suu Kyi.

Aung Kyaw Oo

Aung Kyaw Oo, a first-year student from the Workers' College, was arrested with Zaw Tun in August 1991 and sentenced to 12 years imprisonment on charges of having links with the 208th Battalion of the ABSDF.

Aung Kyaw Oo was a member of the "Committee To Publish The Diamond Jubilee Magazine." He wrote the poem "Together With Infinite Strength" published in the magazine.

Aung Myo Tint

Aung Myo Tint was placed in a prison dog cell between mid-November 1995 and January 1996 in Insein.

In February 1995, Aung Myo Tint discussed with Htay Win Aung, Win Thein and Myint Htway the publication of a magazine in memory of the 7th anniversary of Phone Maw's death. He persuaded other prisoners to contribute articles, poems and cartoons to it. He wrote a short story called "Summer Dream: Purple Flower," and poems entitled "Conception Of A Kant Kaw Flower"³ and "Night Beyond Its Prime." He rewrote the magazine in his own handwriting. After discussion with Htay Win Aung, the magazine was named *New Blood Wave*. They then sent it to the prisoners of Long Hall 4 and Short Hall 4 to read, after which it was buried in the ground beside the hall.

Win Thein

Win Thein is a member of the NLD Youth.

Win Thein participated in discussions concerning the publication of *New Blood Wave*. He wrote letters to prisoners in other cells requesting manuscripts. He also edited and proof-read them for the magazine.

Win Thein also participated in the prayers and memorial services held for the anniversaries of the deaths of Phone Maw and Thaw Ka, and provided the participants

with coffee and snacks. He was a signatory to the letter written for the 50th birthday of Daw Suu Kyi, which called for her freedom. He played an instrumental role in the naming and the successful publication of the *New Blood Wave* magazine. In it, Win Thein wrote poems such as “Phone Maw: Introduction To A New History,” “The Immortal,” “Anger of 13-16” and “Water Current.” He also drew illustrations for the publication.

Yin Htway

Yin Htway is a member of the Central Executive Committee of the DPNS and was placed in a prison dog cell between mid-November 1995 and January 1996.

Yin Htway took part in the discussions to publish the *New Blood Wave* magazine. He wrote an article entitled “With Broad Based Politics,” a short story called “Acceleration Of Light” and the poem “Errors On The Right Path.” He gave his writings to Aung Myo Tint.

Hla Than

The late U Hla Than won the seat of Coco Islands in the 1990 election for the NLD. He was arrested in October 1990 for attending a meeting to form a provisional government and sentenced to 25 years imprisonment with hard labor. He was also found to have infringed election laws and was banned from future elections. Between mid-November 1995 and January 1996 he was held in a prison dog cell and was not permitted visits by his family. On August 2, 1996 he died in custody at the age of 52. The death certificate attributed his death to pulmonary tuberculosis and stated that he had tested positive for HIV. His request to be allowed to die at home was turned down by prison authorities, reportedly because of his refusal to resign from the NLD.

Hla Than received from Myo Myint Nyein the pieces of thin Ajinomoto plastic bag on which Win Tin had written a letter to the United Nations. Hla Than concealed this letter in the handle of the plastic basket he had made.

Win Tin

U Win Tin, 66, is a prominent journalist and secretary of the NLD's

Executive Council. He was arrested in July 1989 and since then has been sentenced three times to a total of 19 years imprisonment. He was charged in October 1989 with offering hospitality to a young girl who had undergone an illegal abortion and was sentenced to three years imprisonment with hard labor. In 1992 he was sentenced to a further 11 years under the 1950 Emergency Provisions Act. In mid-November 1995 he was placed in a prison dog cell and not allowed family visits, and in January 1996 he was transferred to solitary confinement. He is reportedly suffering from a heart condition, acute inflammation of the vertebrae and is in need of dental treatment having lost several teeth during his imprisonment.

Win Tin wrote a draft paper called “Ten Principles Of Unity” with which he organized and agitated the prisoners. He also wrote another paper under the pen-name of Yae Hlaing [Water Wave], and contributed an article to the New Blood Wave magazine entitled “Students, Youth And Human Rights.”

Win Tin wrote reports on NLD meetings held in prison, and other articles and papers calling on people to accept the leadership of Daw Suu Kyi. He wrote a paper supporting the work of Daw Sun Kyi under the title “To The Lady's Birthday” in honor of her release [from house arrest].

Likewise, he wrote policy papers calling for the NLD, DPNS, the Communist Party of Burma (CPB) and others to work co-operatively in areas of common interest, and to work separately in other areas.

Win Tin also wrote papers calling for the release of Daw Suu Kyi, the transfer of power to the Hluttaw⁴ and for the abolition of the National Convention. He also attempted to smuggle these papers out of the prison.

Ko Ko Oo (aka Bo Bo)

Ko Ko Oo is a member of the NLD Youth and worked in the organization's national headquarters in Rangoon. He was arrested in April 1991 and was politically active during the high school student movement in 1988, for which he was detained for one month.

Ko Ko Oo secretly brought in a “Crown” 8-band radio receiver to the prison. He listened to the news from the BBC, VOA, and DVB, rewrote the news and distributed it among the prisoners. He also took part in publishing the weekly news

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Burma's Parliament.

bulletin.

Kyaw Min Yu (aka Jimmy)

Kyaw Min Yu is a member of the Central Executive Committee of the DPNS and was arrested in late 1989/early 1990 and sentenced to 20 years imprisonment, which was commuted to ten years in 1993.

Kyaw Min Yu was a DPNS representative in the “Organization To Protect The Rights Of Prisoners” within the prison. He was the one who initiated sending human rights reports to the UN Commission on Human Rights. He also signed his name on the letter to the UN. On the Christmas greeting to Daw Suu Kyi, he wrote alongside his signature “I would like to greet you with genuine democracy.” Similarly, he helped put together the news bulletin for which he once contributed an article entitled “False News From Burma.”

Myat Tun

Myat Tun is a member of the NLD Youth and was detained in June/July 1991 and sentenced to eight years imprisonment on charges of establishing contacts with NLD members in exile.

Myat Tun listened to Ko Ko Oo's radio in order to collect and reprint news for the news bulletin. He was also involved in the distribution of this bulletin.

Zaw Myint Maung

Dr. Zaw Myint Maung, 45, won a seat in parliament in the 1990 election for the NLD. He was arrested in February 1991 for allegedly attending a meeting with the aim to form a provisional government and was sentenced to 25 years imprisonment. This sentence was commuted to ten years in 1993. He was dismissed from parliamentary membership by the Election Commission in November 1991 and banned from running in future elections. Between mid-November 1995 and January 1996 he was held in a prison dog cell in Insein.

Zaw Myint Maung was a member of the “Organization To Protect The Rights Of Prisoners.” He contributed a poem called “Noble Mother [or] To My Mother” to the Diamond Jubilee magazine and another poem entitled “History Of The Fighting

Peacock's Ability" to the *New Blood Wave* magazine. He signed his name to the paper calling for the release of Daw Suu Kyi.

Kyi Pe Kyaw (aka Kyaw Gyi)

Kyi Pe Kyaw is a member of the DPNS.

Kyi Pe Kyaw crocheted pictures of a peacock and of Rangoon University on the front cover of the Diamond Jubilee Magazine. He was also a participant in a meeting organized to write a paper on the protection of the rights of prisoners. Electric wires, a water-heating electrode, a Newsweek magazine, an English dictionary and ball-point pen refills were seized from his cell.

Ba Myo Thein

Ba Myo Thein, 42, is associated with the Democracy Solidarity Front and worked as an assistant supervisor in the Myanmar Agriculture Head Office in Rangoon. He was believed to have been arrested after September 1990 and was sentenced to seven years imprisonment under the 1950 Emergency Provisions Act. Between mid-November 1995 and January 1996 he was held in a prison dog cell.

Ba Myo Thein signed as a representative of the Da Nya Ta⁵ on the document on the protection of the rights of prisoners which was to be sent to the United Nations.

Soe Myint

Soe Myint was held in a prison dog cell in Insein between mid-November 1995 and January 1996.

Soe Myint wrote the song "The Battle Cry" published in the *New Blood Wave* magazine.

Sein Hlaing

Sein Hlaing, 41, is a writer and has been detained at Insein prison since September 1990. He was a Central Committee member of the All Burma

Federation of Youth Unions and a former leader of the Thone Young Chae group. He was sentenced in a military court with Myo Myint Nyein to seven years imprisonment under the 1950 Emergency Provision Act. Between mid-November 1995 and January 1996 he was held in a prison dog cell.

Sein Hlaing took responsibility for the distribution of the weekly News Bulletin in Long Hall 4.

Win Tun

Win Tun unlawfully smuggled a “National” 8-band radio along with 80 batteries into the prison. These were the charges brought against the accused prisoners by [complainant witnesses] U Khin Htay and U Ye Nyunt.

EVIDENCE

The evidence produced in court consisted of radios and batteries, two magazines [the Diamond Jubilee and the *New Blood Wave*] a weekly news bulletin and a number of pieces of paper.

Chief Warden U Zaw Myint (complainant witness 4), testified that he participated in the search of Cells 1 to 18 in Hall 4 on November 12, 1995, along with the team leader of the raid Warden U Thein Myint. Chief Warden U Zaw Myint testified that they found:

- an iron water pipe
- a *Thuta Swae Sone* [Assorted Knowledge] magazine issued in November 1994
- a *Veda* [Astrology] magazine
- a copy of February 1995 *Dana* [Wealth] magazine
- six sheets of paper on which were written brief summaries of radio broad-casts
- a letter of condolence and a book of poems written on the 4th anniversary of Maung Thaw Ka's⁶ death
- a copy of a hand-written news bulletin issued on May 7, 1995
- 25 sheets of paper containing suggestions for the movement to secure the release of Nobel Peace Prize winner Daw Aung San Suu Kyi

6 Maung Thaw Ka was a famous writer and member of the NLD who died in Insein Prison after being beaten and tortured.

- 22 sheets of paper on which were written short news stories
- a number of other papers.

The papers of short news stories and the iron pipe seized from Hall 4 were placed under Evidence Category I. According to Warden U Thein Myint, the team leader of the raid, all the other evidence seized during the raid of Cells 1 to 18 were listed under Evidence Categories C, D, E, F, G and H.

On November 12, 1995, Warden U Nyunt Wai (complainant witness 5) searched Cell 7, Long Hall 4 and found:

- 76 sheets of hand written manuscripts for the Diamond Jubilee magazine aimed at opposing the State
- five sheets of handwritten papers written in English
- a book of [Buddhist] Sutras.

They were listed under Evidence Category J. According to U Nyunt Wai, prisoners Zaw Tun and Nyunt Zaw lived in this cell.

According to the testimony of Warden U San Ya (complainant witness 6) he was told to search Hall 4 on the morning of November 13, 1995 along with the authorities in charge of Halls 4, 5 and 6. The authorities seized 37 sheets of paper torn out from various English magazines from Cell 29 where Sein Hlaing, Win Thein and Aung Myo Tint lived.

Warden U San Ya also testified that Khaing Soe, Saw Myint Maung, Moe Kyaw and Maung Gyi lived in Cell 18, and that 21 pages from an English magazine were seized from their cell. He further verified that the authorities found 3 lamps wrapped up in a cement bag buried in front of Cell 2 1, Hall 4 where Kyaw Zin Htwe and Pyone Cho lived. He also testified that Maung Swe Oo and Phyo Min Thein lived in Cell 5 of Hall 4.

According to the confession of Ko Ko Oo, Warden Maung Hla, Warden Tint Lwin and Corporal Shwe Win searched in the garbage pile and toilet behind Hall 5 on November 19, 1995 and found a ten-and-a-half foot long black wire, two four-foot long white wires, ten small "National" dry batteries, a destroyed speaker and broken bits of a radio.

The search team also found, in the area between the pond and the officers' houses a copy of the *New Blood Wave* magazine and another copy of the same magazine, which were listed in Record No. 2 under Evidence Categories M and B. A draft copy of seditious literature listed as Record No. 12 was also found buried in the

ground near Hall 4.

Warden Kan Myint (complainant witness 7) testified that he was ordered to search Cells 2 and 13 of Hall 3 on November 12, 1995. In his testimony, he stated that Win Tin lived in Cell 2. He said his team found:

- two *Newsweek* magazines
- a nail cutter
- two ball-point pens, a pair of felt pens and two refills
- three bottles of home-made medicine
- a lighter
- illegal literature written on 109 pieces of plastic and 39 pieces of paper.

Furthermore, Warden Kan Myint testified that the team found another batch of evidence in Cell 13 of Hall 3. They were:

- two new gas lighters and three old gas lighters
- three shaving blades and a shaving metal blade
- a container for colored pencils
- a painting brush
- two copies of *Today Burma*
- a book of English usage
- a thermometer
- 12 colored pencils, seven colored pens and 14 felt pens
- an article called "Living Revolution" written on eight pieces of torn plastic bags
- 155 kyat⁷
- a *Newsweek* magazine
- five "Spoken English" books
- an old nail cutter
- a picture of Bogyoke [Aung San]
- five pictures of Aung San Suu Kyi.

According to the testimony of handwriting expert U Tin Sein (complainant witness 8), he was able to confirm that the hand writing of the publications, except the weekly news bulletin (Record A-1), was that of Nyunt Zaw. After carrying out an examination of his writing alongside that of Saw Myint Maung, Aung Myo Tint, Aung Kyaw Oo, Zaw Tun, Kyaw Min Yu, Phyo Min Thein, Myat Tun and Win Tin, he found the hand writing in the A-1-1 copy and the magazine for the Diamond Jubilee of Rangoon University was identical to that of Nyunt Zaw.

⁷ Burma's currency.

U Tin Sein further testified that:

- the hand writing on Record A-2 belonged to Nyunt Zaw
- Aung Myo Tint wrote *New Blood Wave* (Record A-3)
- Record A-4 and Evidence Category P were Aung Kyaw Oo's writings
- writing on the back of an oil-soaked paper used for wrapping up snacks from “Joker Bakery” was written by Zaw Tun (Record A-5, Evidence Category Q)
- writing in red ink on 10 pieces of paper was written by Kyaw Min Yu (aka Jimmy) (Record A-6, Evidence Category R)
- Phyo Min Thein wrote two sheets of paper constituting Record A-7, Evidence Category S
- Record A-8, Evidence Category T, was in Myat Tun's handwriting
- Win Tin's handwriting was on Record A-9, Evidence Category N.

Following an investigation, the State brought various charges against Myo Myint Nyein along with 21 other partners-in-crime involved in the case. They were charged under Section 5(E) of the *1950 Emergency Provision Act* for writing and distributing seditious literature and drawing cartoons and illustrations aimed at discrediting the State despite knowledge and proof that the information contained in these documents was false.

The court also produced evidence for the case involving the Diamond Jubilee magazine and 20 sheets of paper addressed to the United Nations (Evidence Category C); the weekly news bulletin -6 different editions of which were seized from Myo Myint Nyein's cell (Evidence Category D); minutes of NLD meetings in prison (Evidence Category F); and the *New Blood Wave* magazine and other literature (Evidence Category K).

All the defendants denied the charges. All the defendants with the exception of Zaw Min, Hla Than and Sein Hlaing testified as witnesses during the trial and produced witnesses.

TESTIMONY OF THE ACCUSED

Myo Myint Nyein

In his main statement Myo Myint Nyein told the court that he discussed with Phyo Min Thein writing a message to the UN Human Rights Conference in Vienna, Austria in 1993. The message stated that “we [Burmese] hope for more support from the

international community for the promotion of human rights in Burma.” He also confessed that along with Phyo Min Thein he signed the message written in English on the prison shirt. The message was later sent to the Human Rights Conference.

Myo Myint Nyein stated he made arrangements to send a message of congratulations “from political prisoners, colleagues and friends to Daw Aung San Suu Kyi” when she was released [from house arrest]. He said he made arrangements for the publishing of the weekly news bulletins, distributed them among those who wished to read them, and wrote articles for the bulletin. He testified that he also held discussions with Phyo Min Thein to publish a magazine in commemoration of the Diamond Jubilee of Rangoon University, and he took joint responsibility for the magazine.

Myo Myint Nyein said he wrote a paper on the “rights and grievances of the prisoners” to be presented to the United Nations through the ICRC during their proposed visit to the prison. He said he was unable to deliver the paper because he could not meet the ICRC delegation.

Myo Myint Nyein also testified that he received messages on the 4th anniversary of Maung Thaw Ka's death, and that he was sent to Cell 2 of Hall 6 while his cell was being searched on November 11 and November 15, 1995. He said he was also responsible for the letter sent to the government suggesting the release of Daw Aung San Suu Kyi when she was not freed as expected, and that this letter was not distributed.

He further testified that he was responsible for the evidence contained in Evidence Categories C, D, E and K, that he had never seen the *New Blood Wave* magazine before, and that it was not true that he asked Nyunt Zaw to copy the news after recording it from the BBC, VOA and DVB, and nor did he distribute this news. He said it was also not true that the news was read by the prisoners from Long Hall 4, and Short Halls 4 and 3. He said it was only sent to the political prisoners in Long Hall 4 to be read.

Myo Myint Nyein said it was not true that Myo Nyunt Thein signed his name on the prison shirt to be sent to the Vienna Human Rights Conference, and added that the news contained on the shirt was all correct. He said the meeting of the VOA correspondent with leaders of the country was proof of that, and said the information contained in the papers, magazines and bulletins was all true.

Zaw Tun

Zaw Tun testified that his room was not searched on November 11, 1995 and that

he and Nyunt Zaw were brought out of their cell when Hall 4 was searched on November 12, 1995. He said nothing was found in his cell.

Zaw Tun also said he learned from Warden U Nyunt Wai that the search team found a package when another search was conducted in their absence. He said the first time he had seen the package was when Warden U Nyunt Wai showed it to him.

He said he did not read the Diamond Jubilee magazine, and asserted that, as written in the “Historic Peacock” poem, it was true that a number of students had died or were injured on July 7, 1962, during the 1974 U Thant Funeral Strike, at the Hmaing Centennial Strike, during the 1987 Demonetization Strike and on the day of Phone Maw's death in 1988.

He said he was not guilty.

Nyunt Zaw

Nyunt Zaw testified that on November 12 1995, the authorities searched his cell in his absence. He said he did not sign the documentary record [listing the evidence found in his cell]. He also said that the Diamond Jubilee magazine was written by hand in recognition of the plight of political prisoners. Nyunt Zaw further testified that he only copied news collected from visitors during prison visits at the request of Myo Myint Nyein, and said there was also news from Radio Myanmar in the news bulletin.

Soe Htet Khaing

Although he did not refute the charges explicitly, Soe Htet Khaing told the court that the allegations stated by U Ye Nyunt (complainant witness 2) were incorrect.

Aung Kyaw Oo

Aung Kyaw Oo told the court that he was not a member of the “Committee To Publish The Diamond Jubilee Magazine,” and that he had only participated in putting the magazine together. He did not deny the fact that Nyunt Zaw, Phyo Min Thein, Kyi Pe Kyaw were involved in publishing the magazine.

Zaw Min

As a defendant, Zaw Min answered 11 questions asked by the court. He did not produce any witnesses to refute the charges, and he did not act as a witness during any of the other cases being tried.

Phyo Min Thein

Phyo Min Thein testified that after a discussion with Myo Myint Nyein in early May 1993, he signed his name on the prison shirt on which they wrote that “the political prisoners welcome the Vienna Conference,” that “the rays of hope for human rights will be brightened in Burma” and that “we are still under detention in the SLORC prison where no human rights are practiced.”

He said he held discussions with Myo Myint Nyein to compile a paper on human rights violations common in prison to present to the ICRC when its delegation was scheduled to visit the prison. Phyo Min Thein said he was a participant, along with others, in the preparation of the paper to be presented to the UN through the ICRC. He said the paper was unable to be delivered to the ICRC because the proposed visit was canceled. Similarly, he said they could not send the paper [to the UN] by any other means. Phyo Min Thein stated that what was contained in this paper regarding the situation in prison was true and the information was based on his own experience under detention.

Phyo Min Thein said he took the main responsibility for publishing the magazine in honor of the Diamond Jubilee of Rangoon University. He said he drew illustrations on both the front and back covers, and that anyone could participate in the writing and preparation of the magazine. He said there was no committee as such for the publishing of the magazine and that he informed only those who could help him put the magazine together.

He testified that he asked Myo Myint Nyein to do the layout of the Diamond Jubilee magazine, and asked Nyunt Zaw, who had beautiful handwriting, to copy the final draft. He stated the information contained in the magazine was all correct and that it reflected the genuine feelings of political prisoners.

He pleaded not guilty.

Win Thein

Win Thein testified that nothing was found in his cell during the special search con-

ducted on November 11, 1995. He said the *New Blood Wave* magazine that Warden U San Ya alleged was discovered there was not in his possession and stated that he had no connection with the magazine.

Win Thein told the court he was beaten during his interrogation. He pleaded not guilty.

Aung Myo Tint

Aung Myo Tint testified that on November 12, 1995 a warden and other prison officials took him from his cell (no. 29, Short Hall 4) saying that he would have to meet the chief warden. He said that he was tortured that night.

Aung Myo Tint said he was taken away again on November 16, 1995 and officials showed him a hand written book and asked if he had written it. When he denied this, he said they asked him to write something on paper [to check his hand-writing].

Aung Myo Tint testified that the accusations made by the prison officials against him were biased and untrue. He said he had not held any discussions with Win Thein, that he did not share a cell with Pyone Cho and Yin Htwe, had nothing to do with them, and that his prison visiting time was not the same as theirs.

He said that according to prosecution witnesses, the notebook was found near the official quarters. He also said he was not connected with the *New Blood Wave* magazine.

Aung Myo Tint pleaded not guilty.

Htay Win Aung⁸

Htay Win Aung is a member of the ABFSU and was placed in a prison dog cell in Insein between mid-November 1995 and January 1996.

Htay Win Aung testified that on November 12, 1995 he was taken away from his cell, his head having been covered with a mask, and was beaten during an interrogation. He also told the court that on November 16, 1995 he was treated in the same way during another interrogation. He said six officials interrogated him using threats and torture.

Htay Win Aung said he had no connection with the evidence found elsewhere and that nothing was found in his cell. He said U Khin Htay's allegations against him were wrong. He denied that the handwriting in the *New Blood Wave* magazine was his, that he and Aung Myo Tint named the magazine, that Aung Myo Tint drew illustrations and copied the writing in the magazine, or that he wrote the poems "Summer Dream: Purple Flower," "Phone Maw" or "He Whose History Does Not Die" and "Anger of 13-16."

He pleaded not guilty.

Yin Htway

Yin Htway testified that on November 12, 1995 he was sent to Cell 7, Hall 6 before U Myint Thein and his team searched his cell. He said after he was interrogated, he signed a paper because he was asked to do so.

Yin Htway said that although Warden U San Ya claimed he found the *New Blood Wave* magazine, he could not tell the court exactly where he found it. He said the magazine had nothing to do with Hall 4 where he lived and that he had no connection with the publication.

Yin Htway pleaded not guilty.

Win Tin

Win Tin testified that Military Intelligence Service (MIS) personnel took him to a show entitled "Windy With Big Wave" at Envoy Hall on U Wisara Road while he was serving a prison term for previous offenses. He said the MIS asked him to write a 25 page assessment paper and he complied with this.

He told the court the main points in the paper were: "the Army was working for continued military domination in Burma," "he could not accept the fact the Tatmadaw⁹ was creating a destiny for the country," "he objected to the military intervention during the 1988 Uprising in which a new generation of students and the entire nation participated," "he supported Daw Aung San Suu Kyi's tireless effort to establish democracy for the generation to come" and "he presented the sufferings of political prisoners when he was allowed to meet two foreign delegations." He said that when he was allowed to meet a foreign delegation for a second time, he also presented some of his views on the release of Daw Suu Kyi and political prisoners, on the

9 Burma's armed forces.

meeting which the SLORC held with Daw Suu Kyi and on the abolition of the National Convention. He said that the current charges against him must not be connected with actions that he had been legally permitted to undertake.

Win Tin testified that the statement in the letter to the UN that “political prisoners did not receive sufficient medication in prison,” was a true statement. He said he himself had not received sufficient medication. He told the court that political prisoners refused to eat food for three days to protest against the punishment received by Bala Gyi (aka Than Htut). He said when U Hla told him of the [punishment] incident he refused food as part of the protest. When he was told [by the authorities] to change his mind, he said he did not. He said he began to eat again when Bala Gyi was exempted from punishment.

Win Tin testified that when prisoners demanded their rights, the authorities only allowed prisoners to heat up their food before eating it. He said that although he demanded the status of political prisoners be clearly defined, [the authorities] did not comply with this.

He told the court that the facts contained in the letter to the United Nations, describing the situation with regard to the treatment of prisoners in solitary confinement and other matters, were correct and were beyond the limits of regulations outlined in the prison manual.

Win Tin said that after the search of his cell on November 12, 1995, the officers confiscated many papers and materials from the cell. He said he did not know if all of the confiscated materials were shown to the court, but said that among the materials shown in court he had not seen the paper about the NLD meetings in prison or the paper entitled “To The Lady's Birthday.”

He said he had not seen the “Ten Principles of Unity” document or his view on the Joint Action Committee. He said although officials claimed that the letter of Ko Phyo, addressed to “Ah Ba” or father, was found in his cell, this was not correct. He added that the “De Hlaing” poem was not written in his handwriting, and that he could not write poems because he was old. He said he was only a newspaper writer, but testified that he did not write any of the articles in the *New Blood Wave* magazine. He said just because there was no name alongside an article, didn't mean that he had written it.

Win Tin said the letter written on Aung San Suu Kyi's 50th Birthday entitled “Bowling To The Lady On Her Birthday” was a personal letter, not a political letter. He said he wrote the greeting letter to Aung San Suu Kyi on her release [from house arrest].

Win Tin pleaded not guilty because he said all of what he had written was based on the truth.

Hla Than

Hla Than did not act as a witness, but as a defendant. He answered only two questions posed by the court. He didn't produce anything to prove he was not guilty.

Ko Ko Oo (aka Bo Bo)

In his defense, Ko Ko Oo told the court that on November 12, 1995 he was taken from Cell 14, Hall 3 and interrogated in the "special" hall. He further alleged that he was interrogated again on the following day in Cell 6, Hall 6.

He said he was again taken away from his cell on November 20, 1995. He said he was taken to the plot behind Hall 5 and saw a group of prisoners digging away a garbage heap of about 6 feet square. Ko Ko Oo said he was then taken to a dug-out for human excrement about 30 yards away [from the garbage pit]. He said an official ordered a prisoner to poke the pit with something and the prisoner refused. He said two officials, Warden U San Ya and U Hla, were present at that time and he saw them abusing and beating the inmates. He said he also saw someone bringing batteries and cables, and that although he had no idea what the group of prisoners who had been beaten earlier had found in the sewerage pit, he saw them cleaning something at the water tap. He said he was then interrogated.

He testified that in February 1996 he was charged for allegedly being involved in the smuggling of an 8-band radio into the prison. He said he had heard news that this had been done in 1994. He denied his involvement in this, further testifying that the radio parts and cables were not his, that they were not found in his room, and that there was no evidence that he listened to the BBC, VOA, DVB, Voice of Myanmar, and Far East Radio, and redistributed the news. He said he was not guilty of this charge.

During cross-examination by the law enforcement officials, Ko Ko Oo refused to answer all the questions and denied that he listened to the news and distributed the news. He also asserted that the news contained in the news bulletin was all correct.

Kyi Pe Kyaw (aka Kyaw Gyi)

Kyi Pe Kyaw was acquitted from a case on November 29, 1995 [while serving a prison term]. He was again recalled to the court on February 5, 1996 to face charges.

He testified in court that a special search was conducted in his cell on November 12, 1995 and that he was transferred from his cell to Cell 2, Hall 6 during the search. He told the court the statement that Warden U Thein Myint searched Long 18 and Long Hall 4 alone was incorrect.

Kyi Pe Kyaw denied that he decorated the Diamond Jubilee magazine and that he sent a letter to the UN detailing the abuse of prisoners in Insein. During cross-examination, he denied his participation in putting out the news bulletin and denied that he had discussed it with anyone. He also testified that he co-signed the letter to the UN written by Win Tin, because the authorities told him to sign the letter.

Kyaw Min Yu (aka Jimmy)

In his defense, Kyaw Min Yu testified that he was recalled back to Insein by MIS (6) and that he had to stay in Thayawaddy Prison from August 6 to November 20, 1995. He said he did not advise Myo Myint Nyein to write a letter to the Vienna Human Rights Conference on the prison shirt in 1995. In addition, he said he did not know anything about the letter. He said he was not involved in the collection of manuscripts for, the finalizing of, or the distribution of the news bulletin, and told the court he had never talked about the news bulletin with Myo Myint Nyein. He also told the court that broadcasting stations such as the BBC and VOA were good for the people and that these stations broadcast only correct and confirmed news.

Kyaw Min Yu denied that it was his handwriting (Evidence Category R) that was found in the news bulletin despite verification from the handwriting expert. He said he grew more confident after he took the [handwriting] test. Furthermore, Kyaw Min Yu said it was not true that he co-signed the Christmas card addressed to Daw Aung San Suu Kyi. He said all he knew was that the card was destroyed without it being sent to her. He told the court that the note “I would like to greet you with genuine democracy” had nothing to do with the charge that had been brought against him.

Kyaw Min Yu pleaded not guilty on the grounds that he had done nothing related to the charges.

Myat Tun

Myat Tun testified that the authorities did not find anything illegal in his cell during the search and that they only found a nail cutter, a photo, a small *Dhama Setkya*¹⁰ and a note written on a piece of paper used for wrapping up snacks. He said the note in Evidence Category T was just a note of news that he had received during a prison visit. He said did not distribute any news nor tell any news to anyone.

Myat Tun pleaded not guilty.

Win Tun

Win Tun confessed that the search team found a radio and batteries in his cell. He further testified that the search was conducted in his absence. During cross-examination, he told the court that he listened to the BBC, VOA, etc., but did not distribute any news to anyone.

Sein Hlaing

Sein Hlaing allowed himself to be questioned as a defendant. He answered only two questions and did not have any witnesses to present to the court.

Zaw Myint Maung

Zaw Myint Maung testified that he heard loud noises similar to digging on the ground with axes from the direction of Hall 4 at about 8:30 p.m. On November 11, 1995. He said the following day, a team led by Chief Warden U Kan Myint searched all of the 14 cells in Hall 3 using hoes and axes to dig. He said the officials found nothing in his cell. He said that on November 13, 1995, the team dug the ground in front of Cells 6 to 9 and also dug in front his cell (no. 10, Hall 3) and nothing was found. On November 15, 1995, he said he and some other prisoners were taken away from their cells and ordered into separate cells in which they are still living. He said the officials did not even allow him to drink water during his period of interrogation.

Zaw Myint Maung told the court that he was later shown two sheets of paper and was accused of writing a poem in the Diamond Jubilee magazine, and a poem and an article in the *New Blood Wave* magazine. He said he had never heard of the existence of nor read these magazines. He said he had seen his name in the magazines

¹⁰ *Wheel of Dharma, first sermon given by the Lord Buddha.*

and suggested that it may have been written by the investigators. He added that on November 23, 1995 the authorities took a sample of his handwriting. He said the words he was told to write were designed to hurt his political dignity.

Zaw Myint Maung said although it was alleged that he wrote the poem “Noble Mother” (Evidence Category C), he could not find this title in the table of contents [of the Diamond Jubilee magazine]. He added that the testimony of handwriting expert U Tin Sein was incorrect and that it was unnecessary to counter his claims. Therefore he did not answer the law enforcement official's question regarding his handwriting (Evidence Category O).

Zaw Myint Maung denied all the charges.

Soe Myint

Soe Myint testified that it was difficult to determine who was responsible for putting out the *New Blood Wave* magazine because Warden U San Ya could not verify where it was found. He said he did not write the song “Battle Cry” in the magazine, and added that U Ye Nyunt himself had answered “no” when asked if he knew whether the song was written by Nantawshayt Saya Tin.¹¹ He refuted the accusation on the grounds that the prosecution told the court that it was true only according to the investigation rather than in fact.

He again denied writing the song when under cross-examination and denied reading or distributing the *New Blood Wave* magazine.

Ba Myo Thein

Ba Myo Thein testified that the search of his cell was conducted from November 12, 1995 to November 14, 1995 and that he was interrogated on January 20, 1996. He said he learned three days later that he would be charged formally at the court. Ba Myo Thein told the court that he did not sign the plastic bag on which the letter was written to the UN Secretary General, or the white sheet of paper. He said although his cell was searched, the authorities did not find anything so he didn't need to sign any document acknowledging anything was found. Ba Myo Thein pleaded not guilty on the grounds that the prosecution only alleged that they had found evidence of his involvement in the crime on February 5, 1996. He denied all the charges during the cross-examination.

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Well-known pre-WWII composer of classical Burmese songs.

The testimonies of defense witnesses U Saw Nay Dun and U Tin Maung Lwin could only verify the accused were put in solitary confinement and tortured during their interrogation. They were not able to tell the court anything that would support the defense case against the other charges.

Myo Myint Nyein

As the court listened to testimony from both sides, Myo Myint Nyein told the court that the information contained in the letter to the Vienna Human Rights Conference was not fabricated, but based on true accounts. He said he wrote the letter to Daw Aung San Suu Kyi when he heard that she had been released [from house arrest] but said it was not sent to her because she was not released.

He added the facts in this letter were correct and contained no false statements. Myo Myint Nyein also testified that when he wrote the news bulletin in 1994/95, the news in it was also true and that those who were interested in it were allowed to read it. He said he also wrote a paper to present to (former UN Special Rapporteur) Professor Yokota when he was scheduled to visit the prison and although he was not able to give him the letter because he did not see him, the content of the letter was based on actual events in Insein Prison.

Myo Myint Nyein took responsibility for publishing the Diamond Jubilee Magazine and said the news and facts published in the magazine were all true accounts. He therefore pleaded not guilty.

Zaw Tun

He further testified that he was not on the “Committee to Publish the Diamond Jubilee Magazine” and said that the facts in the magazine were all correct. He said he did not write any poems and that Nyunt Zaw copied the manuscripts at the arrangement of Phyo Min Thein.

Zaw Tun said statements such as “Phone Maw's death” and “It is better to play chess” had nothing to do with Section 5 (E) of the *Emergency Provision Act* [the formal charge brought against him]. He said although he discussed with Phyo Min Thein what should be told to the ICRC when its representatives paid a visit to the prison, some of the accusations made were not covered in that discussion.

Nyunt Zaw

Nyunt Zaw testified that he wrote the Diamond Jubilee magazine and all the facts published in it were genuine. He said the prosecution could not produce any proof the information in the magazine was not correct. Despite the fact that the letter to the UN investigator was unable to be delivered, the details in it were all based on realities in the prison. He said he also wrote the news bulletin.

Soe Htet Khaing

Soe Htet Khaing said there were no witnesses other than U Khin Htay and U Ye Nyunt who testified that he endorsed both the letter to the UN and the letter to Daw Aung San Sun Kyi. He said their testimonies were based on his confessions which were made during his interrogation. He therefore pleaded not guilty.

Aung Kyaw Oo

Aung Kyaw Oo said it was true that he wrote the poem “Together With Infinite Strength” in the Diamond Jubilee magazine. He said everyone has strength and requested that the court rule to give prisoners the right to read and write if they are convicted under the present charge.

Zaw Min

Zaw Min testified that he was not in Insein Prison during the period between August 6, 1995 and November 21, 1995. He said he did not write the poem “Obeisance To Mother,” the poem titled “Consequence To A Cup of Low Sweet Strong Tea” or the feature story “A Day Of Hope.” He said there was no proof he had written them, nor had any drafts of them been found.

He also said it was untrue that Soe Htet Khaing and Aung Kyaw Oo had helped him. Zaw Min said there was also no proof that he signed the letter to the UN. He denied he discussed the letter with Nyunt Zaw, Kyi Pe Kyaw and Phyo Min Thein because it was already stated that U Win Tin alone had written the letter.

Phyo Min Thein

Phyo Min Thein also said he was transferred from Taungoo Prison to Insein Prison on November 24, 1995. He said after the investigation he was formally charged for alleged involvement in this case.

He stated that the prosecution could not prove that the contents of the Diamond Jubilee magazine were false or that he edited it. He said although he was accused of writing the poem "Obeisance to Mother," the authorities also accused another prisoner of writing the same poem. He confessed that he wrote the letter to Daw Aung San Suu Kyi and the other letter on the prison shirt to the UN.

Phyo Min Thein maintained that all the facts contained in these letters were based on genuine accounts and on these grounds he pleaded not guilty.

Win Thein

Win Thein said that a special team searched his cell on November 11, 1995. He testified that on November 15, 1995 he was beaten while being interrogated.

He asserted that there was no proof that he wrote a piece in the *New Blood Wave* magazine. Furthermore, he stated that according to Warden U San Ya the magazine was found at a place far away from his cell and this showed that he had nothing to do with it. He said he did not participate in the publishing of the magazine because he was too tired--both in body and mind--due to his constant torture in prison.

Aung Myo Tint

Aung Myo Tint said he did not organize or discuss with Pyone Cho, Yin Htway and Win Thein about the *New Blood Wave* magazine. He told the court that his handwriting was different from those on pages 5, 28, 32, 33, 35, 37, 53 and 93 although the handwriting expert claimed that these writings were his. He also said he had never met Soe Myint or Ne Oo, and had not seen the news bulletin before.

Htay Win Aung

Htay Win Aung told the court that he was not allowed to hire a lawyer to represent him. He pleaded not guilty on the grounds that the charges against him were unfounded, that there was no proof to back up the accusations, and that the prosecution testimonies were based on information obtained through interrogation.

Yin Htway

Yin Htway stated he was not allowed to hire a lawyer to represent him. He further

testified that the accusations against him with regard to the *New Blood Wave* magazine were erroneous. He asked the court when it sentenced the prisoners to urge the authorities to allow him and the others full rights of prisoners in prison.

Win Tin

Win Tin said he did what he believed was right and there was not a single fact written that was incorrect. He told the court that the loss of human rights and torture in prison were all genuine and added that the prosecution could not prove that these points were inaccurate.

He said he did not write the “reports on the NLD”. The facts contained in the letter to the UN he said were real, and that he did not write anything in the *New Blood Wave* magazine under the name of “*De Hlaing*.” He also told the court that the materials brought to the court as evidence were all mixed up. He said the “Ten Principles To Unity” document was a confession obtained from him during torture.

Win Tin said that although he wrote the letter to Daw Aung San Suu Kyi, it contained true accounts of what was going on. He admitted that he wrote the piece “To the Lady's Birthday.” He said he met the UN delegation with the permission of the authorities.

Win Tin pleaded not guilty on the grounds that all that he told the court was correct.

Hla Than

Hla Than attested that there was no way that he could have met Kyi Pe Kyaw. Likewise, he said he did not meet Soe Htet Khaing and Phyo Min Thein.

Ko Ko Oo (aka Bo Bo)

Ko Ko Oo pleaded not guilty on the grounds that the prosecution was not able to produce any evidence against him.

Kyi Pe Kyaw (aka Kyaw Gyi)

Kyi Pe Kyaw said he did not co-operate with Phyo Min Thein, Hla Than and Nyunt Zaw. He said the poem entitled “Mother Irrawaddy” was not included in any of the

publications so he pleaded not guilty.

Kyaw Min Yu (aka Jimmy)

Kyaw Min Yu further testified that he did not know anything about the *New Blood Wave* magazine and that he did not distribute it. He also said he was not involved in the letter to the UN written on the prison shirt and that it was not true that he had written the letter to Daw Aung San Suu Kyi.

He admitted that Evidence Category R was his handwriting, but he pleaded not guilty on the grounds that the contents were all based on true accounts.

Myat Tun

Myat Tun told that court that he was not guilty because the record of news that he had collected during prison visits (Evidence Category T) was accurate.

Win Tun

Win Tun told the court that it was true the search team found a radio in his possession, but it was not true that he distributed news to prisoners. He said he had no connection with the news bulletin or the Diamond Jubilee magazine. This being the case, he said he should only be punished in accordance with Section 42 of the prison manual.

Sein Hlaing

Sein Hlaing countered the charges on the grounds that the materials allegedly found in connection with him were all mixed up and that the location of where the materials were found were also presented incorrectly to the court. He also told the court that prisoners from Halls 3 and 4 could not see each other and that for this reason he had no way of meeting with Myo Myint Nyein.

Zaw Myint Maung

Zaw Myint Maung said he did not sign his name on the message of congratulations [to Daw Aung San Suu Kyi] and did not write a letter to her on her release [from

house arrest]. He said it was also incorrect that he had written a poem in the Diamond Jubilee magazine and said he had never read the *New Blood Wave* magazine, stating that he did not even know where it was found.

Zaw Myint Maung said the sample of his handwriting had not been taken in accordance with the law and asserted that he was being tried for political reasons.

Soe Myint

Soe Myint contended that he was not guilty because no witnesses other than U Khin Htay and U Ye Tun accused him of the crimes.

Ba Myo Thein

Regarding the accusation that Ba Myo Thein drew illustrations in the Diamond Jubilee magazine as shown in the evidence, the accused claimed this evidence had not been obtained in accordance with the regulations. He denied his participation in the letter to the UN and the endorsement on behalf of Da Nya Ta. He said that the letter was written by Win Tin alone.

Ba Myo Thein pleaded not guilty.

SUMMARY¹²

The judicial officer told the court that all the evidence shown to the court was either seized or found in the possession of the defendants. He ascertained that although they were written by hand, they were still magazines and literature according to Section 2 (a), (b) and (c) of the *Printing and Distributing Act* and that it was clear that the accused co-wrote, read and distributed the magazines and other literature. It was also evident that they listened to the news broadcasts from foreign broadcasting stations and distributed this false information.

The handwriting expert verified that those accused of writing Records A-1 to A-9 had actually written the literature concerned. Since the radios had been seized from Ko Ko Oo and Tun Win, it was evident that they had distributed the news from the radio.

Although Win Tin claimed that he wrote the letters according to his version of the

¹² This heading is not in the original report and has been added by the translator.

truth, they contained facts that were unacceptable to the government. In addition, Myo Myint Nyein had confessed that he took responsibility for the publication of the Diamond Jubilee magazine and the evidence showed that all the accused worked together to publish the magazines.

He [the attorney] therefore appealed to the court that they be given sentences under the charges that had been laid against them.

As mentioned, Nyunt Zaw wrote the news bulletin (Record A- 1). Similarly, the handwriting found on the Diamond Jubilee magazine was his. The investigators found that he had copied false news from the BBC, VOA and DVB.

The attorney told the court that all the writings - poems, articles, descriptive pieces, aesthetic writings, cartoons, short and long stories-contained in the 102 page Diamond Jubilee magazine were aimed at defaming and discrediting the government. The person responsible was no other than Nyunt Zaw as testified by the complainant witnesses and from the confessions of the accused.

In the defense of Myo Myint Nyein, he confessed that he co-operated with Phyo Min Thein to put out the magazine. Although he claimed the handwriting in the magazine was his, it was obvious from the evidence that it was Nyunt Zaw's. The poem "History Of The Fighting Peacock's Ability" (Record A-2) was entirely against the government. It reads as follows:

"Let it be known to
those in the military who hunger for power,
those demonic military,
wishing to build a military nation,
under a military democracy and military politics,
that we shall resist defiantly with the strength of
the fighting peacock,
may it be eternally recorded in history!"

It was evident that this poem was written by Zaw Myint Maung from U Tin Sein's testimony and from Evidence Category N.

The *New Blood Wave* magazine (Record A-3) was written by Aung Myo Tint. He contested the allegation by U Tin Sein that the handwriting in certain pages of the magazine was not identical to that shown in Evidence Category K. U Tin Sein confirmed in his testimony that Aung Myo Tint did not ask a cross question about it. There were poems, stories, satirical pieces, songs, articles and aesthetic writings in the magazine and these were aimed at discrediting the government and presenting

inaccurate information.

From U Tin Sein's testimony combined with the Evidence Category N it was undeniable that the handwriting of the poem "Together With Infinite Strength" was Aung Kyaw Oo's. It was a poem which was libelous to the government.

The two pages of "Meeting With Great Leaders" (Record A-6, Evidence Category Q) as accepted by the court, were clearly seditious literature. They were written in Zaw Tun's handwriting, as testified by U Tin Sein and confirmed by Evidence Category N.

The Record A-7, Evidence Category R, was in the handwriting of Kyaw Min Yu. This was confirmed by U Tin Sein's testimony together with Evidence Category N. In any case, Kyaw Min Yu himself admitted that it was his handwriting.

The two sheet letter that was Record A-7, Evidence Category S, started with the word "Father" followed by the signature "Ko Phyto" and ended with the date "15/1/95". According to Evidence Category N and the testimony of U Tin Sein, it was written by Phyto Min Thein. The facts contained in this were defamatory to the government.

The Record A-8, Evidence Category T, was the record of inaccurate news broadcast by the DVB. The testimony of U Tin Sein and Evidence Category N affirmed that it was Myat Tun who had copied it out. He admitted that it was news he had collected during prison visits. Myat Tun countered that these were not false statements. The law enforcement official testified in court that the news from the DVB (Evidence Category T) was damaging to the country as it had been fabricated.

Record A-9, Evidence Category T, contains an anti-government poem written on bits of thin plastic bag, and brief notes of NLD meetings and policies. The documents were addressed to Win Tin at Cell 2 in Hall 3 and according to evidence and testimonies of U Tin Sein, it was proven that the handwriting on these documents were Win Tin's. But Win Tin testified that it was not entirely true that all these documents were written in his handwriting, as some were in other handwriting styles that he did not recognize. U Tin Sein did not ask a return question regarding this.

As mentioned, it is clearly evident that Nyunt Zaw, Zaw Myint Maung, Aung Myo Tint, Aung Kyaw Oo, Zaw Tun, Kyaw Min Yu, Phyto Min Thein, Myat Tun and Win Tin had written and published magazines, news bulletins and papers that were all against the government.

Myo Myint Nyein did not deny that he wrote the letter to the Human Rights

Conference on the prison shirt. He also did not deny his involvement in the work of the Diamond Jubilee magazine (Evidence Category C), the letters questing rights for political prisoners, the news bulletin (Evidence Category Q) and the *New Blood Wave* magazine (Evidence Category E). He in fact confessed that he was involved with the Diamond Jubilee magazine and the news bulletin.

Nyunt Zaw did not ask U Tin Sein a cross-question although he denied that the handwriting on the Diamond Jubilee magazine was his.

With regard to charges made against Soe Htet Khaing, he countered that U Ye Nyunt's accusations were unfounded because he did not name the Diamond Jubilee magazine. Soe Htet Khaing contended that he saw the magazine only when he arrived at the court. Similarly, he denied the charge that he read the news bulletin which Myo Myint Nyein passed on to him. But according to the confiscated materials and testimonies of witnesses, it has already been proven that he had worked with Zaw Tun, Aung Kyaw Oo, Nyunt Zaw, Kyi Pe Kyaw, Zaw Min and Phyo Min Thein on the publishing of the Diamond Jubilee Magazine.

Aung Kyaw Oo testified in court that he carried out work supportive of democracy and human rights. During cross-examination he confessed that he participated in the work of the Diamond Jubilee Magazine.

Zaw Min allowed himself to be questioned as a defendant. He denied all the charges. He cross-examined U Khin Htay regarding "Obeisance To Mother," the poem titled "Consequence To A Cup of Low Sweet Strong Tea," the feature story "A Day Of Hope" and the letter to the UN in relation to human rights issues in Burma. Evidence Category C contains the poem "Consequence To A Cup of Low Sweet Strong Tea" and "A Day Of Hope" on page 28 and page 96 respectively in the Diamond Jubilee Magazine.

In the testimony of Win Thein, he mainly focused on making an appeal. During cross-examination he denied his involvement in discussions with Pyone Cho, Lwin Oo, Yin Htway and Aung Myo Tint about collecting manuscripts and publishing a magazine in commemoration of the 7th anniversary of Phone Maw's death. He also denied that he wrote "The Immortal" for the *New Blood Wave* magazine. Win Thein however did not say in his main testimony if he was involved in providing coffee and snacks to the participants in the prayers and memorial services [held on the anniversaries for the deaths of Phone Maw and Maung Thaw Ka].

Htay Win Aung in his main testimony did not deny his involvement in naming the magazine *New Blood Wave* and in drawing illustrations for it. Likewise, he could not deny writing "The Immortal" and "Anger of 13-16" on page 2 of the magazine.

Yin Htay's testimony was similar to that of other defendants. He also told the court of his dissatisfaction in prison. He casually denied that he was involved with the *New Blood Wave* magazine. He however could not deny the charges by the prosecution. Hla Than answered only 3 questions [among those posed by the court]. He allowed himself to be questioned as a defendant. He did not defend the charges as a witness or produce any witness to the court.

Ko Ko Oo (aka Bo Bo) did not defend himself against any of the main charges. Instead, he told the court of his feelings, desires, demands and beliefs. He denied smuggling the radio into the prison (Evidence Category F), but he did not deny explicitly the fact that the radio and its paraphernalia was found in the place to which he had guided the search party.

Kyi Pe Kyaw denied the accusation that he crocheted pictures of a peacock on the Diamond Jubilee magazine. During cross-examination, he confirmed that he shared a cell with Myo Myint Nyein and Si Thu (aka Khin Maung Lwin). He denied discussing anything with them, but he did not present any witnesses to support this to the court.

Tun Win confirmed that a radio was seized from his cell and that he listened to news from foreign broadcasts. But he contended that he did not know about the document sent to the Vienna Human Rights Conference, the letter to the UN Secretary General or the *New Blood Wave* magazine. However, he did not deny in his main testimony that he distributed news from the radio as alleged by the prosecution. He confessed that a radio and batteries were seized from his cell (Evidence Category D).

Sein Hlaing answered only two questions and did not present any witnesses to the court.

Soe Myint denied knowing anything about the *New Blood Wave* magazine and said that he believed it was ownerless. He also denied he wrote the song "Battle Cry." He presented no witnesses to the court.

In the main testimony of Ba Myo Thein, he contended that the testimonies of U Khin Htay and U Ye Nyunt were untrue and that he did not sign the document acknowledging the seizure of materials from his cell. During cross-examination, he denied writing the brief news reports and denied he discussed anything with Zaw Myint Maung, Myint Naing and Jimmy. He however was unable to present any proof to back up his denials.

To analyze all the testimonies and the materials shown as evidence the Diamond

Jubilee Magazine (Evidence Category C), the requests regarding human rights issues addressed to the UN Secretary General (Evidence Category D), the message of condolence at the death of Maung Thaw Ka seized from Myo Myint Nyein's cell, the drafts of the news bulletin, and other papers and literature (Evidence Categories F, A, D, P, Q, R, T, and U) - they are all damaging to the State. Furthermore, they contain fabricated news broadcasts from foreign broadcasting stations. The content and style of writing in the magazines is also detrimental to the State. It is evident that although the accused had reason to believe that what they were doing was incorrect, they were distributing and planning to distribute false news not only within the prison but to organizations outside.

Although conclusions cannot be drawn from the testimonies of the handwriting expert alone, it is evident that all the 22 accused worked together in committing these crimes, a fact supported by other materials and testimonies of the witnesses and of the accused themselves.

The accused prisoners committed a crime while serving out prison terms received for various other offenses. For this reason there is no justification in showing them mercy. Their sentences are handed out as follows:

The court hereby sentences the following accused to seven years each with hard labor under Section 5 (E) of the 1950 Emergency Provision Act:

Myo Myint Nyein	(son of U Kyar Ba Nyein)
Zaw Tun	(son of U Kan Tun)
Nyunt Zaw	(son of U Lay Myint)
Soe Htet Khaing	(son of U Myint Thein)
Aung Kyaw Oo	(son of U Kyaw Hlaing)
Zaw Min	(son of U Tin Swe)
Phyo Min Thein	(son of U Khin Tun)
Win Thein	(son of U Ohn)
Aung Myo Tint	(son of U Soe Tint)
Htay Win Aung	(son of U Win Aung)
Yin Htway	(son of U Mya Soe)
Win Tin	(son of U Pu)
Hla Than	(son of U ---)
Ko Ko Oo (aka Bo Bo)	(son of U Yan Aung)
Kyi Pe Kyaw (aka Kyaw Gyi)	(son of U Hla Kyi)
Kyaw Min Yu (aka Jimmy)	(son of U Tin Yu)
Myat Tun	(son of U Myo Thwin)
Tun Win	(son of U Htway Nyo)
Sein Hlaing	(son of U Ba Yi)

Zaw Myint Maung	(son of U Chit Maung)
Soe Myint	(son of U Maung Phat)
Ba Myo Thein	(son of U Aung Thein)

If they have already served a period of detention for these crimes, this period must be reduced from the sentence. All money presented at the court will be confiscated as the property of the State as soon as the period of appeal has expired. At which time all materials presented as evidence in this case will be destroyed.

Signed,
Kyaw Htun
Deputy-Divisional Judge
Rangoon Division Court (Northern District)
Date: March 28, 1996

Conclusion

The official trial report shows the lack of due process of law in Burma and the judiciary's contempt for fundamental human and legal rights. It demonstrates how the SLORC uses its repressive laws as a tool to suppress political opposition with the aid of an acquiescent judiciary.

Denying the prisoners access to legal counsel is contrary to one of the most basic legal rights and to international standards for fair trials. Without such access to legal counsel, the accused should never have been convicted of the charge brought against them.

Perhaps one of the more disturbing aspects of the trial report is how the judiciary accepts the use of interrogations, beatings, and torture in prison. It is evident from the official report that these were used as a means to obtaining confessions for use as evidence against some of the accused.

The denial of freedom of expression also demonstrates how the treatment of prisoners by the SLORC's prison administration falls well short of international minimum standards. The trial report shows how political prisoners are not only refused the right to read, write, or have access to national and international news, but that such activity is regarded as punishable.

An examination of the evidence produced at the trial also shows that the prisoners should not have been found guilty of the charge under Section 5 (E) of the *1950 Emergency Provision Act*. Under this law a person can be convicted of planning

to, or actually disseminating false information either if they know the information to be false, or there's enough proof that it's false. In court, the defendants argued that they knew the information contained in the letters and magazines to be the truth. Therefore, the prosecution had to prove that this information was instead false for the judge to then convict the accused of the charge. However, there was no discussion regarding the truthfulness of the information -- it was only stated that it was "damaging" to the government. For this reason the 22 accused should, once again, never have been convicted of the charge brought against them.

Such abuses of fundamental legal and human rights are used by SLORC as a means to silence political opposition. In the face of such abuses, there is a continuing need for increasing international pressure on the SLORC to respect justice and individual freedoms and heed the will of the people it purports to represent in their call for democratic reform.

Facts on Human Rights Violations in Burma 1996

- 1. Extra-judicial, Summary, or Arbitrary Executions**
 - 1.1. Background
 - 1.2. Death in Custody
 - 1.3. Death of Monks in Custody
 - 1.4. Death in Prison Labor Camps
 - 1.5. List of Incidents

 - 2. Arbitrary Detention and Enforced or Involuntary Disappearances**
 - 2.1. Background
 - 2.1.1. Illegal Arrests and Detention of NLD Members
 - 2.1.2. Human Rights and SLORC's Laws
 - 2.2. SLORC's Recent Detainees
 - 2.3. Student Demonstrations and Mass Arrests
 - 2.3.1. NLD Youth Members Detained Since December 1996
 - 2.3.2. NLD Members and Supporters Detained Since Dec. 1996
 - 2.3.3. Students Detained Since December 1996
 - 2.3.4. Other Persons Detained Since December 1996
 - 2.3.5. List of the NLD-elected MPs in Detention
 - 2.4. Life in Prison
 - 2.4.1. The Case of U Win Tin, Myo Myint Nyein, and others
 - 2.4.2. The Situation of Dr. Ma Thida
 - 2.4.3. The Situation of Daw San San Nwe
 - 2.4.4. The Situation of Min Ko Naing
 - 2.4.5. The Situation of Zaw Zaw Aung
 - 2.5. List of Incidents

 - 3. Rights of the Child**
 - 3.1. Background
 - 3.2. Education of Children in Burma
 - 3.3. Child Soldiers
 - 3.3.1. Incidents of Forced Conscription
 - 3.3.2. Army Volunteers
 - 3.4. Child Forced Laborers
 - 3.5. Life as an Illegal Immigrant

 - 4. Forced Portering and Labor**
 - 4.1. Background
 - 4.2. Types of Forced Labor
 - 4.2.1. Use of Civilian Porters
 - 4.2.2. Use of Prison Porters and Prison Labor
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- 4.2.3. Civilian Forced Labor
- 4.3. Incidents of Forced Labor by Region
 - 4.3.1. Karen State
 - 4.3.2. Tenasserim Division
 - 4.3.3. Chin State
 - 4.3.4. Pegu Division
 - 4.3.5. Sagaing Division
 - 4.3.6. Magwe Division
 - 4.3.7. Shan State
- 4.4. Individual Incidents in 1996

5. **Forced Relocation**

- 5.1. Background
- 5.2. Forced Relocation and SLORC Development Projects
 - 5.2.1. Yadana Gas Pipeline Project in Tenasserim Division
 - 5.2.2. Tavoy-Mergui-Kawthaung Road and Tenasserim River
 - 5.2.3. Karen Villages in Tenasserim Division
- 5.3. Relocation as a Military Tool against the Armed Opposition
 - 5.3.1. Massive Forced Relocation in Karen State
 - 5.3.2. Forced Relocation in Shan State
 - 5.3.2.1. List of Villages Forcibly Relocated in Shan State
 - 5.3.3. Massive Relocation in Karenni State
 - 5.3.3.1. List of Villages Forcibly Relocated in Karenni State
 - 5.3.4. Forced Relocation in Tenasserim Division
- 5.4. Cemeteries Relocated for Hotel Project
- 5.5. Other Incidents of Forced Relocation
- 5.6. Maps of Relocated Villages in Shan State

6. **Deprivation of Livelihood**

- 6.1. Situation in Irrawaddy Division
 - 6.2. Situation in Shan State
 - 6.3. Situation in Chin State
 - 6.3.1. 1997 Students' Festival in Haka
 - 6.4. Nyaunglebin District, Pegu Division
 - 6.5. Situation in Karen State
 - 6.5.1. Taungoo District
 - 6.5.2. Papun District
 - 6.5.3. Pa-an District
 - 6.5.4. Dooplaya District
 - 6.6. Situation in Tenasserim Division
 - 6.7. List of Incidents
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7. Rights of Minorities

7.1. List of Cease-fire Agreements

8. Torture and other Cruel, Inhuman, or Degrading Treatment, and Punishment

8.1. Torture in Detention

8.1.1. Solitary Confinement

8.1.2. Beatings

8.2. Ill-treatment during Forced Portering and Labor

8.2.1. Other Ill-treatment During Forced Labor

8.2.2. Ill-treatment in the Ethnic Areas

8.3. List of Incidents

9. Freedom of Belief and Religious Discrimination

9.1. Background

9.2. Treatment of Buddhist Monks in Detention

9.3. SLORC's Control over Buddhism

9.3.1. Violation of the Ordination Procedures

9.3.2. Prior Permission Required for Religious Ceremonies

9.3.3. Compulsory Recital Groups of Religious Verses in Sagaing

9.3.4. Thai Buddhist Monk Escapes from the SLORC's Harassment

9.3.5. Ancient Pagodas Destroyed to Make Way for Reservoir

9.4. SLORC-instigated Unrest between Buddhist Monks and Muslims

9.5. SLORC's Disrespect for all Religions

10. Freedom of Opinion, Expression, and the Press

10.1. One of the Ten Enemies of the Press

10.2. SLORC's Laws Restricting Freedom of Expression

10.3. Visa Restrictions and other Forms of Harassment of Journalists

10.4. Sentencing for a Joke: Case of U Pa Pa Lay and U Lu Zaw

10.5. Sentencing for Production of a Video: Case of U Win Htein

10.6. Sentencing for Meeting a Foreign Journalist: Case of San Hlaing

10.7. Sentencing for Distributing NLD Video: Case of U Sein Hla Aung

10.8. Sentencing for Espousing Peaceful Dialogue: Case of U Kaythara

10.9. Sentencing for Two Songs: Case of Shwe Than Zin Band

11. Freedom of Assembly and Association

11.1. Mounting Pressure on pro-democracy Opposition

11.2. Restrictions Placed upon Daw Aung San Suu Kyi

11.3. Mass Arrests of NLD Members

11.4. Systematic Harassment of NLD Leaders and Forced Resignations

- 11.5. Harassment of NLD landlords and Removal of NLD Signboards
- 11.6. List of Typical Incidents
- 11.7. No Free and Independent Trade Unions
- 11.8. USDA, SLORC's "Brown Shirt"
- 11.9. SLORC-run NGOs in Burma

12. Freedom of Movement

- 12.1. Background
- 12.2. Restriction on the Movement of Daw Aung San Suu Kyi
- 12.3. Restriction on the Movement of NLD Members
- 12.4. Harassment of Foreign Visitors
- 12.5. Foreign Travel Restricted Areas

13. Abuse of Women

- 13.1. Background
- 13.2. Burmese Women in Politics
 - 13.2.1. Incidents
- 13.3. 1996 Arrests of Female Activists
- 13.4. Women and Forced Labor
- 13.5. Incidents of Rape and Sexual Assault
- 13.6. The Situation of Refugee Women
- 13.7. Burmese Women and HIV

14. The Refugee Situation and Forced Repatriation

- 14.1. Refugees in Thailand
 - 14.1.1. SLORC/DKBA Border Incursion
 - 14.1.2. SLORC 1997 Offensive Against the KNU
 - 14.1.3. The Situation of the Mon refugees
 - 14.1.4. The Situation of the Shan Refugees
 - 14.1.5. Thai Policies on Refugees
 - 14.2. The Rohingya Muslim Refugees in Bangladesh
 - 14.3. Chin Refugees in India
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