

“After release I had to restart my life from the beginning”

The Experiences of Ex-political Prisoners in Burma
and
Challenges to Reintegration



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We would also like to acknowledge artist Oswaldo Guayasamin(1919-1999) for the compelling artwork used on the cover of the report. Guayasamín was an Ecuadoran painter and was awarded the UNESCO International José Martí Prize for "an entire life of work for peace" acknowledging his tireless support of the dispossessed classes of Latin America and the Caribbean.

Preface

Since the military coup d'état in 1962, Burma has been in the grip of authoritarian rule. The junta has consistently practiced oppression, torture, arbitrary detention, and long-term imprisonment against perceived enemies of the regime. As a result, since 1962, thousands of political prisoners have been incarcerated by successive regimes, from the General Ne Win era (1962-1988), through to SLORC (1990-1997), SPDC (1997-2011) and even the notionally civilian government led by former president U Thein Sein (2011-2016).

AAPP research has found that some political prisoners have died in interrogation centers, prisons and labor camps due to severe torture and mistreatment, including insufficient food and water, and lack of health care. Moreover, some political prisoners were forced to work as porters in battle areas. In the worst cases, some political prisoners have disappeared altogether leaving no records behind.

Ex-PPs continue to suffer mentally and physically after they are released from prison. They have urgent needs in education, health care and livelihood. At the same time, their financial situation and their family's education, health and social standing deteriorate as a result of imprisonment. With these consequences, former political prisoners and their families face difficulties with subsistence and significant barriers to reintegration. In many cases, this has led to family breakdown.

Today, Burma is governed by a democratically-elected government, voted for by the people for the people. Just days after assuming office, the government has revoked court cases and released political prisoners, activists, and students facing trial. However, not all political prisoners have been released nor charges dropped against those facing trial. Key ministries are still controlled by the military, who retain a constitutionally-mandated 25% seat share in parliament, and so the new government is operating within limited authority.

Burma must go through a transitional period, like so many others countries in the world. During this period, the government must take note of its bad image in the past, learn lessons from other countries in transition, and plan and implement an effective process to prevent massive abuses by state authorities and to guarantee non-repetition of human rights violations. This includes the documentation of human right violations, rehabilitation and reparation. These actions are crucial to the process of national reconciliation and building sustainable peace.

This report sheds light on the situation of political prisoners and what they have gone through. We strongly believe that this report supports an increased understanding of the situation of political prisoners, creating recognition, finding ways to redress physical and mental pain, implement rehabilitation and truth-seeking measures, planning procedures for transitional justice, and enforcing the mechanism of rule of law and judicial process.

About AAPP

Founded in 2000 by ex-political prisoners (“ex-PPs”) living in exile in Thailand, the Assistance Association for Political Prisoners (“AAPP”) is a non-profit, human rights non-governmental organization (“NGO”) based in Mae Sot on the Thailand-Burma border. AAPP is dedicated to campaigning for the release of all political prisoners in Burma, in addition to providing support and aid to current political prisoners, ex-PPs, and their families. Staffed by ex-PPs, the organization has extensive experience and knowledge of the conditions faced by political prisoners inside prison and after their release, and the effects incarceration has on their families and livelihoods. In order to alleviate some of the physical, mental and financial trauma caused by imprisonment, AAPP runs a range of assistance programs inside Burma, including mental health counselling and educational and vocational opportunities for ex-PPs and their families.

As well as providing assistance, AAPP documents and reports on human rights abuses carried out by the government against political prisoners and activists. As such, AAPP is widely regarded as a reliable and credible source of information on political prisoner issues in Burma. Through advocacy and lobbying efforts AAPP continually stresses the importance of releasing all political prisoners in Burma as part of the transition towards democracy and national reconciliation.

About FPPS

The Former Political Prisoners Society (“FPPS”) was formed in December 2011 with the purpose of reiterating the call for the release of all political prisoners in Burma, and to assist the rehabilitation of ex-PPs in their struggle to reintegrate into society following their release. Maintaining a large network of sympathetic medical doctors, FPPS helps ex-PPs who suffer from physical injuries resulting from their incarcerations, with their search for medical treatment. In addition, FPPS invites ex-PPs to participate in roundtable discussions and political seminars as a part of their peer-support program, in which ex-PPs help each other with healing their mental scars of imprisonment. These activities are engrained in FPPS’s continuing struggle for human rights and democracy in Burma. FPPS has a vision of national reconciliation and democratization in Burma, and is committed to the mission of increased civilian participation in Burma’s political process and peace-making efforts.

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Definitions and Acronyms

AAPP	= Assistance Association for Political Prisoners
ABFSU	= All Burma Federation of Student Unions
Assembly Law	= Right to Peaceful Assembly and Peaceful Procession Act
Basic Principles	= UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law
CBO	= Community-based organization
Constitution	= 2008 Constitution of the Republic of the Union of Myanmar
Ex-PP	= Ex-political prisoner
FPPS	= Former Political Prisoners Society
ICCPR	= International Covenant on Civil and Political Rights
ICRC	= International Committee of the Red Cross
Prison Manual	= Manual of Rules for the Superintendence and Management of Jails in Burma
MHAP	= Mental Health Assistance Program
MNHRC	= Myanmar National Human Rights Commission
NGO	= Non-governmental organization
NLD	= National League for Democracy
PRAIS	= Chile's Program for Reparation through Comprehensive Care and Human Rights
PTSD	= Post-traumatic stress disorder
Report	= “After release I had to restart my life from the beginning”The Experiences of Ex-political Prisoners in Burma and Challenges to Reintegration
SMRs	= Standard Minimum Rules for the Treatment of Prisoners
Special Branch	= Special Intelligence Department of the Burma Police Force
UCI	= University of California Irvine
UDHR	= Universal Declaration of Human Rights
UN	= United Nations
UNCAT	= United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Location of Research Sites: Burma and Thailand-Burma Border



Executive Summary

Since 1962, between 7,000 and 10,000 political prisoners have been imprisoned in Burma. Whilst a multitude of anecdotal records exist, there is very little comprehensive data concerning the torture and mistreatment experienced by political prisoners within Burma's interrogation centers and jails. Nor is there comprehensive data on the challenges political prisoners face upon release. Between January 2014 and July 2015, AAPP and

FPPS collected data on the experiences of ex-PPs by surveying ex-PPs throughout Burma and along the Thailand-Burma border. The findings of data collected on 1,621 ex-PPs inform this report, which seeks to reveal the widespread mistreatment of, and systematic use of torture against political prisoners in Burma, and makes a case for reparations for ex-PPs as part of transitional justice.



The notorious Insein Prison in Burma

In 2005 AAPP released *The Darkness We See: Torture in Burma’s Interrogation Centers and Prisons*, a report detailing torture and ill-treatment inflicted on political prisoners in interrogation centers and prisons based on interviews with 35 ex-PPs. The 2005 report made a number of recommendations to the then military government regarding the imprisonment and mistreatment of political prisoners, however these were largely ignored. Rather than rectifying the mistakes of the previous military regimes, President Thein Sein’s government continued to imprison and mistreat those who sought to defend their civil and political liberties. In fact in early 2015, the United Nations (“UN”) High Commissioner for Human Rights observed that although Burma had promised to end the era of political prisoners, it “now seems intent on creating a new generation by jailing people who seek to enjoy the democratic freedoms that have been promised.”¹ Thus the ex-PP population in Burma continued to grow.

Since the NLD-led government assumed power following their landslide win in the November 2015 general elections, a number of political prisoners have been released. A new dawn of a Burma free from political prisoners finally seems within reach, and it is hoped that the new government will oversee the release of all remaining political prisoners in the near future. In light of the recent wave of political prisoner releases, and given the reintegration issues faced by ex-PPs post-release, this report by AAPP and FPPS and its recommendations comes at a pertinent and crucial time.

Chapter 1 (Overview of the Political Prisoner Situation) provides an overview of the political prisoner situation in Burma from the 1962 military takeover

to the post-2011 quasi-civilian Burma Government ruled by President Thein Sein, during which time civil and political rights were routinely quashed and those attempting to exercise their fundamental freedoms were systematically imprisoned.

Chapter 2 (Methodology) outlines the objective, scope and methodology of the report. The primary objective was to examine the life experiences of ex-PPs in Burma, including the human rights violations encountered following arrest, during interrogation and in prison, and the difficulties faced since their release. The research, carried out between January 2014 and July 2015, involved surveying and interviewing ex-PPs throughout Burma and along the Thailand-Burma border. The final research yielded 1,621 surveys and six comprehensive interviews, the findings of which inform this report.

Chapter 3 (Abuse of the Judicial System) reveals how the judicial system in Burma, characterized by institutionalized corruption, inefficiency and military influence, allowed previous governments to criminalize and impede the activities undertaken by those that have sought to protect their civil and political rights. Based on the findings from the data, this chapter describes the circumstances under which the ex-PPs were arrested and imprisoned, highlighting the way in which the authorities have abused the judicial system in Burma in order to silence political dissidents.

Chapter 4 (Torture in Interrogation Centers and Prisons) describes how, despite the legal framework prohibiting torture of prisoners, political prisoners have been subject to torture in Burma’s interrogation centers and prisons, not only to extract

1. OHCHR, “Myanmar “needs urgently to get back on track” – Zeid”, (February 2015) <<http://bit.ly/1eYWfkd>>

confessions and information, but also to punish, degrade and humiliate. The data provides strong evidence as to the widespread and systematic manner in which torture has been employed in Burma against activists.

Chapter 5 (Mistreatment in Prison) reveals the ill-treatment endured by political prisoners in Burma’s prisons, where detainees are frequently denied their basic rights. The prison authorities systematically mistreat and dehumanize political prisoners, violating not only international standards for prisoners but also Burma’s own standards set out in domestic law. Squalid prison conditions, a basic lack of hygiene, inadequate provisions of food and water, and poor levels of healthcare are major causes of a myriad of physical and psychological illnesses amongst detainees.

Chapter 6 (Barriers to Reintegration) depicts the grim reality political prisoners are forced to live in post-release. The multitude of restrictions ex-PPs face, in addition to the lingering effects of imprisonment, and social stigmatization, pose major barriers to successful reintegration. Ex-PPs in Burma face a series of limitations including travel restrictions; denial of education and employment opportunities; financial hardships; social exclusion; family tensions and ongoing health issues.

Chapter 7 (Reparations) makes the case for reparations for ex-PPs as part of transitional justice in Burma, outlining Burma’s legal obligations to provide reparations under international law. While

civil society organizations have been providing services to ex-PPs in the absence of government led initiatives, it remains the responsibility of the Burma Government to provide such support as part of wider reparations. Government-led reparations for ex-PPs in other countries are examined, along with their relevance to Burma.

Chapter 8 (Conclusion) concludes that even after political prisoners have been released in Burma, their hardships are far from over, and the road to reintegration is made almost impossible by a number of stringent restrictions placed upon them by the authorities, and the lingering effects of their harsh imprisonment. Thus, it is crucial that assistance is made available to them to ensure successful reintegration and national reconciliation.

Chapter 9 (Recommendations) makes a number of key policy recommendations to the new Burma Government in terms of providing reparations to ex-PPs and their families as part of transitional justice. Based on the research, these recommendations encompass satisfaction, restitution, rehabilitation, compensation, and guarantees of non-repetition, which if implemented will bring about positive change for ex-PPs and prove the government’s commitment to producing national reconciliation. Recommendations are also made to political parties and civil society groups in Burma, and to the international community, to urge the Burma Government to implement the recommendations and to assist ex-PPs and their families where possible in the interim.

Chapter - 1

Overview of the Political Prisoner Situation

1.1 Introduction

Until the newly elected NLD-led government assumed power in March 2016, Burma had remained under military rule in one form or another since the 1962 military takeover. Under the various military regimes, fundamental freedoms such as civil and political rights were routinely quashed as those regimes sought to stifle even the slightest opposition within the country. It has been within this context that over the last five decades, thousands of activists, journalists, and individuals attempting to defend their rights have been systematically imprisoned, and subjected to torture and other gross mistreatment. This chapter provides an overview of the political prisoner situation in Burma during the military rule of 1962 to 2011; during President Thein Sein's quasi-civilian government of 2011 to 2016; and since the newly elected government assumed power on March 30, 2016.

1.2 Political Prisoners in Burma: 1962 – 2011

In 1962, General Ne Win staged a coup d'état overtaking the then democratically elected government in Burma, after which time Burma effectively remained under military rule until 2011. During this period Burma became one of the most undeveloped countries in the world. Impoverished and repressed by brutal military regimes, the citizens of Burma rarely dared to make their criticisms known due to fear of extreme reprisal, and those that did were tortured and imprisoned. The events of 1988 however, were to spark anger among the largely repressed population, and create nationwide unrest. Student-led pro-democracy protests that spread across the country, also known as the 8888 Uprising, were ended by a brutal crackdown with government troops gunning down thousands of demonstrators and imprisoning thousands more. The number of political prisoners increased

exponentially in the years following the 8888 Uprising as the regime sought to stifle any opposition within the country, yet in spite of the risks, activists bravely continued their activities working toward a free Burma.

Political prisoners were on occasion released as part of prisoner amnesties during this period; however, their release was often timed to coincide with key political developments in order to garner favor with the international community. For example, five prominent 88 Generation student leaders were released in January 2007, a week before the UN

Security Council voted on a resolution on Burma. Yet these conveniently timed releases failed to make a real dent in the political prisoner numbers signifying the lack of real intent by the military to put an end to political prisoners in Burma. In fact, the ongoing arrests of dissidents and lengthy prison sentences handed down to political detainees during this period meant the number of political prisoners continued to rise, peaking between 2009 and 2010 when it was estimated that there were at least 2,000 political prisoners behind bars in Burma.



Press conference for the data collection of ex-PPs/ press conference
on the survey and research of ex-PPs

1.3 Political Prisoners in Burma: 2011 – 2016

After assuming power in March 2011, President Thein Sein's quasi-civilian instigated a number of political reforms in Burma, which initially looked toward improving the political prisoner situation. Hundreds of political prisoners were released in a series of political prisoner amnesties. In particular, a major release on January 13, 2012 was viewed as a landmark in Burma's history as hundreds of political prisoners were released en masse, including a large number of prominent activists. The formation of the Committee for Scrutinizing the Remaining Political Prisoners in 2013 to oversee the release of political prisoners in Burma was yet another positive advancement. However, the initial optimism over reforms was swiftly replaced by a general consensus that reforms had stalled, and accusations were made of government backsliding. In stark contrast to the promise made by the government to release all political prisoners by the end of 2013, 30 remained - a number that steadily rose during the following couple of years. Moreover, the lack of political will to resolve the political prisoner issue was glaringly apparent throughout the committee process and it was eventually disbanded in 2014, its mandate unfulfilled. A replacement committee created shortly after excluded key members of the previous committee who regularly criticized the government's handling of the political prisoner issue, including AAPP, and also failed to fulfill its mandate.

Furthermore, while the government appeared to have moved away from junta-style tactics to imprison activists, it adopted an array of new strategies to ensure dissidents remained in detention for extended periods. For instance, draconian laws that hold excessively heavy sentences were no longer utilized to the same degree to imprison activists as they were under Burma's military regimes; instead, the government used newer legislation – that on the surface seem moderate and carry lesser sentences – to imprison activists. However, by using multiple laws in conjunction with each other to charge activists, or by charging activists under multiple townships for the same offence, the authorities maximized the duration of their imprisonment. In addition, once activists were charged, their trials were often not heard in court for months, and when they were, they were frequently drawn out or invariably delayed, ensuring prolonged periods spent in pre-trial detention.

The ongoing use of torture against political detainees during the Thein Sein administration is further evidence of the lack of commitment to reforms. Despite the Burma Government stating in January 2014 their intention to sign the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“UNCAT”) by September that same year, UNCAT remains unsigned.

Even when political prisoners were released during this time, rather than assisting them in the rehabilitation process, a number of arbitrary restric-

2. Agence France-Presse in Yangon, 'Aung San Suu Kyi hints at mass amnesty for political prisoners', Guardian, (April 07, 2016) <<http://bit.ly/1qvH8Lj>>

tions were placed upon ex-PPs that limited travel, employment and education, and acted as major barriers to successful reintegration. Moreover, ex-PPs were closely monitored and harassed by the authorities, living in constant fear of re-arrest. In the absence of government-led programs to ease the rehabilitation process for ex-PPs, or to compensate for their unjust incarceration, ex-PPs have struggled to overcome the numerous physical, mental, social and financial effects of incarceration. Thus, even when political prisoners have been released from prison, their hardships are far from over.

1.4 Political Prisoners in Burma: post-election

Following a landslide victory in the general elections on November 08, 2015, a new NLD-led government now presides over Burma, although the military still retains its power over 25% of seats in parliament affording them veto power over any constitutional change. Debarred from the Presidency by Article 59F of the Constitution, Aung San

Suu Kyi made her intention to rule above the President clear following the NLD victory. On March 30, 2016, Htin Kyaw, a long-term aide and close confidante, was sworn in as President. Shortly after, on April 06, a new State Counselor role – akin to Prime Minister – was created and assumed by Aung San Suu Kyi. Since assuming power, the NLD-led government has overseen the release of a number of political prisoners. In her first statement as State Counselor made on April 07, 2016, Aung San Suu Kyi declared: “I am going to try... for the immediate release of political prisoners, political activists and students facing trial related to politics.”

Then on April 8, 2016, 199 students and activists were dropped their charges and released and on April 17, 2016, another 83 convicted political prisoners were released by presidential pardon.

Those actions signal the NLD government’s commitment to acting on the political prisoner issue but political prisoners still remain behind bars.

Chapter - 2

Methodology

2.1 Introduction

Since 1962, between 7,000 and 10,000 political prisoners have been imprisoned in Burma, the majority of whom are residing in Burma and along the Thailand-Burma border. Whilst many anecdotal records exist, there is very little comprehensive data concerning the torture and mistreatment experienced by political prisoners within Burma's interrogation centers and jails. In addition, there is little data on ex-PPs' experiences post-release. In 2013, AAPP developed a research proposal to examine the life experiences of ex-PPs in Burma, including the human rights violations encountered in prison, and difficulties encountered since their release. Working in partnership with UCI's School of Law International Justice Clinic, a research team was assembled to develop the design and research methodology of this study.

2.2 Objective

The study aimed to collect data on ex-PPs arrested and imprisoned since the 1962 military takeo-

ver. Prior to AAPP's data collection, there was little to no data regarding the socioeconomic status of ex-PPs in Burma, nor comprehensive data concerning their experiences inside the prison system. This study aimed to address three purposes: to collect census data on the ex-PPs; to understand the extent of the torture and mistreatment they faced whilst in prison; and to gain an understanding of the socio-economic situation of the ex-PP population to provide the empirical basis for the design of future interventions and rehabilitation programs.

2.3 Design and Implementation

UCI's School of Law International Justice Clinic assisted AAPP in developing a methodology for surveying ex-PPs in Burma based on a combination of interviews with ex-PPs in Burma, and extensive research into methodologies used by researchers of ex-PPs in South Africa, Northern Ireland, the Czech Republic, Nepal, and Argentina. The survey,³ comprising of a combination of multiple choice and free response questions, fo-

3. See Appendix 1: Ex-PP Survey



ICTJ workshop for the data collection process



ICTJ workshop for the data collection process

cused on baseline demographic and economic data; mental and physical health; educational needs; needs and aspirations; and qualitative responses on post-release reintegration.

AAPP's 10 data collectors who implemented the surveying were all ex-PPs themselves and native Burmese. All 10 could speak Burmese and between them they could speak an additional two local languages. In January 2014, AAPP's data collectors began to administer the survey, utilizing various micro-networks of ex-PPs and partner or-

ganizations to identify ex-PPs throughout Burma and along the Thailand-Burma border. The 88 Generation Peace and Open Society, the NLD, and the Shan National League for Democracy all assisted AAPP and FPPS with identifying the ex-PPs. Whilst not all of the data collectors had prior experience in data collection, in early 2014 the International Center for Transitional Justice conducted a training workshop in Rangoon for the data collectors on how best to administer the survey to the ex-PPs.



ICTJ workshop

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Before arriving in a town to administer the survey, the data collectors would telephone their contact in that town, who would then arrange a safe space to gather the known and willing ex-PPs in that area to join the data collection. No financial incentives were offered to the ex-PPs in return for taking part in the survey; rather, at the meetings the data collectors explained in detail the objectives of the project, which acted as an incentive to participate. Consent was also obtained at these meetings before collecting the data. In ethnic areas where language acted as a barrier, those ex-PP contacts who set up the meetings also acted as translators. All surveys were completed in Burmese by the ex-PP themselves or by the data collectors if translation was required, or if the ex-PP was illiterate.

In areas where the data collectors were unable to administer the survey with the ex-PPs – for instance if the ex-PPs in that area worked long hours which made it difficult to arrange a meeting, or if the ex-PPs were reluctant to meet the data collectors – the surveys were distributed at collection points to be self-administered by the ex-PPs and collected by the contact person in that area. They then returned the collected surveys to AAPP and FPPS in Rangoon, either in person or via prearranged transportation. All surveys were translated from Burmese into English by AAPP’s research team, and the data was stored in Martus, a secure information collection and management database that enables NGOs to catalogue and store information on human rights abuses.



Explaining the objectives of data collection/ AAPP’s explanation of the objectives of data collection

In early 2015, the research team identified the need for further qualitative research to inform the report – interview guidelines⁴ were developed, and ex-PPs were selected based on their responses and willingness to share information in their

surveys. These guidelines covered various aspects of the participants’ background, their reasons for becoming involved in politics, their experiences in prison, and future aspirations. Case specific questions were also drafted for each case

4. See Appendix 2: Interview Guidelines

in accordance with the information they had revealed in their surveys. The data collectors conducted in-depth interviews between March and July 2015 with six ex-PPs that agreed to participate, recording the ex-PPs’ responses and their own interviewer observations. The records were then translated into English by AAPP’s research team.

2.4 Obstacles and Limitations

The data collection was not without its difficulties. Many individuals were unwilling to discuss past experiences, given the sensitive nature of the information that was being collected. Some ex-PPs were reluctant to share information due to the effects of the trauma they had suffered, and a major

obstacle to collecting information was a fear of repercussion. Many ex-PPs regularly face disturbances from the authorities in their lives post-release and are fearful that participating in any activity deemed to be political by the authorities may lead to further harassment or re-arrest. Fear of reprisal meant that often the ex-PPs avoided the data collectors completely once they arrived, or declined to fill out the questionnaires. In certain areas, when the research team made contact with the key ex-PP contacts, the ex-PPs instructed the data collectors not to come. This was due to the local authorities who, upon hearing of the data collection, had threatened the ex-PPs that they would be reported if they met with the data collectors. In contrast, there were also instances of ex-PPs contacting AAPP and FPPS to participate once they



Ex-PP completing the survey

“After release I had to restart my life from the beginning”

had learned that other ex-PPs had not faced immediate repercussions after participating in the surveying.

Many ex-PPs in Burma live in remote and hard to access areas, often with no telephone access. As many ex-PPs, especially in rural areas, work long hours, the data collectors aimed to contact them in advance to schedule meetings. In the absence of telephone access, this was difficult to do. Therefore, the data collectors had to return on several occasions, traveling long distances to collect information from those remote areas.

Despite these limitations, with determination and flexibility the research team were able to survey approximately 2,000 ex-PPs, and conduct comprehensive interviews with six ex-PPs, throughout Burma and along the Thailand-Burma border.

2.5 Data Analysis

After cross-checking the data input from the surveys to ensure correct data entry, data analysis was conducted to describe and summarize the data, compare and contrast variables, and identify relationships between variables. Whilst data was collected on around 2,000 ex-PPs, the analysis had to take into account missing data in the forms of item nonresponse and partial nonresponse. In the surveying of the ex-PPs, item nonresponse may have occurred because the respondent refused to answer an item on the grounds that it was too sensitive; they did not know the answer to the item; they gave an answer that was inconsistent with answers to other items and was thus deleted in editing; or because the data collector failed to ask the question or record the answer. Partial nonresponse occurred when the respondent provided

data for some, but not all sections of the survey. Missing data arising from item nonresponse can lead to biased survey estimates if the analysis is restricted to the records with responses for the items in question. To reduce the risk of bias as much as possible, surveys that were found to have had large chunks of missing data were removed completely before any analysis was conducted. In total, 1,621 surveys and six interviews made the final analysis.

2.6 Demography of Participants

This report is based on data collected on 1,621 ex-PPs living throughout Burma and along the Thailand-Burma border. For security reasons, when individual cases are discussed in this report names will not be used, unless the ex-PP's case is high profile and they have given consent. All individuals surveyed met AAPP and FPPS' definition of a political prisoner:

“Anyone who is arrested, detained, or imprisoned for political reasons under political charges or wrongfully under criminal and civil charges because of his or her perceived or known active role, perceived or known supporting role, in association with activities promoting freedom, justice, equality, human rights, and civil and political rights, including ethnic rights, is defined as a political prisoner.”⁵

This definition includes those that arrested and arbitrarily detained, but never formally charged. Out of the 1,621 ex-PPs, 108 were arrested and detained without being formally charged for at least 24 hours before being released.

At the time of completing the surveying, 1,459 of

5. For further information see AAPP & FPPS' Press Release on the Definition of a Political prisoner (August 17, 2014) <<http://bit.ly/1traau7>>

the respondents were aged between 21 and 86 years. A further 162 surveys were completed by family members of deceased ex-PPs.⁶ Of those deceased ex-PPs, eight died in detention or during interrogation; 27 in prison; one in a labor camp; and 126 after their release. Whilst the average life expectancy in Burma is lower than the world average (65.94 years compared to 70 years⁷), many of the deceased ex-PPs that died outside of prison died not from old age, but from persisting injuries related to the mistreatment they were subject to in prison. This will be discussed in further detail in section 6.7 of this report. The following tables⁸ provide a breakdown of some of the characteristics of the 1,621 ex-PPs:

Gender	
Male	91%
Female	9%

Birth Place	
Irrawaddy Division	24%
Pegu Division	19%
Rangoon Division	18%
Mandalay Division	13%
Magwe Division	7%
Sagaing Division	7%
Tanintharyi Division	3%
Chin State	3%
Kachin State	3%
Mon State	1%
Arakan State	1%
Shan State	1%
Karen State	<1%
Kayah State	<1%

Ethnicity	
Burmese	73%
Karen	20%
Shan	1%

Arakan	1%
Chin	1%
Mon	1%
Chinese Burmese	1%
Tavoy	1%
Pathi	1%
Other*	1%
Arakan State	1%
Shan State	1%
Karen State	<1%
Kayah State	<1%

*Other includes Indian-Burmese, Kachin, Pathi, Pa-O, Peshu, Kamam and Rohingya

Religion	
Buddhism	79%
Christianity	17%
Islam	5%
Other	<1%

Level of Education	
Illiterate	1%
Literate - no school	1%
Monastic school	4%
Elementary school	15%
Middle school	17%
High school	7%
High school graduate	24%
Vocational diploma	2%
Undergraduate	8%
Graduate	22%
Postgraduate	1%

Marital Status	
Married	79%
Unmarried	19%
Divorced	2%

Parental Status	
Has children	86%
No children	16%

6. It is common for ex-PPs to share their experiences inside prison with close friends and family.

7. Central Intelligence Agency, The World Factbook (2014) <<http://1.usa.gov/1dsLynr>>

8. Figures in charts and tables may not total to 100% due to rounding error

Chapter - 3

Abuse of the Judicial System

3.1 Introduction

From 1962 to 2011 the judicial system in Burma remained firmly under the control of the military. Even under the Thein Sein government, the judiciary remained under the de facto control of the military and government, characterized by institutionalized corruption and inefficiency.⁹ Thus, over five decades the continued use of draconian legislation, arbitrary detention and failure to provide detainees with fair trials, enabled the criminalization of activities undertaken by those that sought to protect their civil and political rights. Based on the data, this chapter describes the circumstances under which the ex-PPs were arrested and imprisoned arbitrarily, highlighting the ways in which the authorities in Burma have abused the judicial system in order to silence political dissidents.

3.2 Arrest of Activists

In the majority of cases prior to 2004, Military Intelligence and the Special Intelligence Department of the Burma Police Force, also known as Special Branch, made the arrests of the ex-PPs. In 2004 Military Intelligence was replaced with Military Security Affairs and, since that time, Special Branch became responsible for the majority of political prisoner arrests. Often these organizations have carried out arrests of those suspected of political dissent in the absence of a warrant. A number of the ex-PPs revealed having been arrested and imprisoned multiple times between 1962 and 2013 (see Table 1), revealing the extent of their struggle and commitment to ensuring democracy, human rights, equality and freedom for the people of Burma.

Table 1:

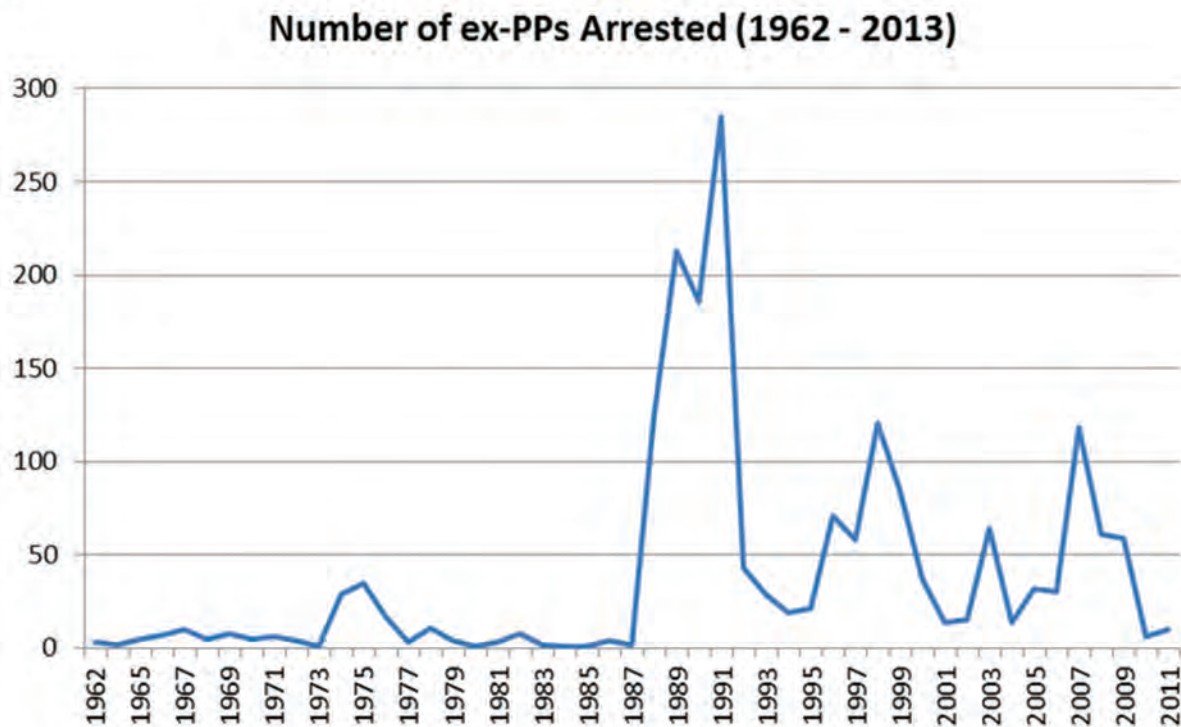
Number of ex-PPs Arrested on Multiple Occasions	
1 time	1,284
2 times	225
3 times	77
4 times	25
5 times	8
6 times	1
7 times	1

9. United States Department of State, “2013 Country Reports on Human Rights Practices – Burma” (2014) <<http://1.usa.gov/1fv2Reb>>

One fifth of the ex-PPs were arrested at least two times. One ex-PP and Deputy Chairman of his local NLD branch had been targeted to such an extent for opposing the military regime and later for his involvement with the NLD that he had been arrested and imprisoned seven times in total between 1967 and 1998 by both Military Intelligence and Special Branch. On five occasions he was not formally charged, but arbitrarily detained for periods ranging from six days to three months.¹⁰ Activists, and in particular NLD members, are routinely

harassed in this manner to discourage them from continuing with their activities, and to act as a deterrent to others. In addition, prominent activists are often targeted in crackdowns following major periods of unrest in Burma. Chart A shows the number of ex-PPs arrested yearly between 1962 and 2013 according to our research, revealing fluctuations in the number of arrests, which can be attributed to such periods of unrest and the aftermath of the crackdowns.

Chart A:



It is clear from Chart A that whilst activists were arrested for political activities between 1962 and 1987 (the most significant event being the series of protests in 1974 following the military government’s refusal to give U Thant, the third UN Secretary General, a state funeral), the number of arrests increased exponentially during and after the year

of the 1988 pro-democracy student-led protests in Burma. The 1988 protests, also known as the 8888 Uprising, clearly sparked enduring nationwide unrest and the movement for freedom in Burma, as the numbers of arrests have not returned to pre-1988 figures since. In fact, the number of arrests correspondingly peak with major events in Burma

10. Ex-PP Survey: FPP/DC/00507 (February 2014)

“After release I had to restart my life from the beginning”

that have inspired political activism: in 1991 when Aung San Suu Kyi was awarded the Nobel Peace Prize whilst under house arrest and her supporters took to the streets to celebrate and demand her release; in 1996 when students staged a series of demonstrations calling for autonomy and protesting police brutality; in 1998 when further student protests took place; in 1999 during the 9999 demonstrations; in 2003 when protests erupted after Aung San Suu Kyi’s convoy was attacked and around 70 NLD members were killed in what is known as the Depayin Massacre; in 2007 following the monk-led Saffron Revolution; and in 2009 during anti-election protests. After a decrease in the number of arrests in 2010, the following year saw an increase, once again. Although not shown by Chart A, following the introduction of the Peaceful

Association and Peaceful Procession Act in 2012, the number of activists arrested increased exponentially.

3.3 Laws Used to Oppress Activists

The major laws used to detain the ex-PPs were oppressive “security” legislation, and laws that have been selectively used to restrict freedoms of expression, assembly and association, as well as numerous restrictive provisions in the Penal Code. Table 2 outlines the most commonly identified sections of law the ex-PPs were charged under, and the proportion of ex-PPs that were charged under those laws. Often these laws were used in conjunction with each other to ensure the ex-PPs faced longer terms of imprisonment.

Table 2:

Laws Used to Charge the ex-PPs	
Emergency Provisions Act	44%
Unlawful Associations Act	29%
Section 505(b) of the Penal Code	10%
Section 143 of the Penal Code	5%
Law Relating to Forming of Organizations	4%
Printers and Publishers Registration Law	4%
Burma Immigration (Emergency Provisions) Act	3%
Section 122 of the Penal Code	3%
Section 447 of the Penal Code	1%
Section 353 of the Penal Code	1%
State Protection Law	1%
Right to Peaceful Association and Peaceful Procession Act	1%

The Emergency Provisions Act (1950)

The Emergency Provisions Act was the most commonly used piece of legislation to charge the ex-PPs, and has frequently been used to sentence

journalists and writers; Section 5 (e) makes it a criminal offence to “spread false news, knowing, or having a reason to believe that it is not true.”¹¹ It also condemns anyone who is considered to have contributed towards the diminishment of respect

11. The Emergency Provisions Act, (1950) <<http://bit.ly/1SajMRu>>

or disloyalty among members of the civil service or the military towards the government. Section 5 (j) allows punishing any person whose actions may "affect the morality or conduct of the public or a group of people in a way that would undermine the security of the Union or the restoration of law and order." These offences are punishable by up to seven years imprisonment.

The Unlawful Associations Act (1908)

Section 17 (1) of the Unlawful Associations Act, passed when Burma was under colonial rule, has continually been used to suppress political opposition, most often in the case of ethnic minority groups. Under Section 17 (1), association with any organization that the president declares illegal is punishable by two to three years imprisonment, along with a possible fine.¹²

Law Relating to Forming of Organizations (1988)

The Law Relating to Forming of Organizations was adopted following the 1988 student uprisings, and was used to severely curtail freedom of association in Burma; effectively it banned any civil society organization from registering unless it maintained close ties to the government. It carried prison sentences of up to three years for those who were members of an unregistered NGO.¹³ The law was repealed and replaced with the more progressive Association Registration Law in 2014, which does not require mandatory registration for NGOs but instead provides voluntary registration procedures, and contains no restrictions or criminal punishments.

Printers and Publishers Registration Law (1962)

The Printers and Publishers Registration Law allowed for a sentence of seven years imprisonment for those who printed, published or distributed written materials without permission. The law has since been replaced with the 2014 Printing and Publishing Law of Myanmar, and whilst it carries lesser penalties compared to its predecessor, rights groups have raised concerns over the legislation which they say has the potential to create additional mechanisms to control the press.¹⁴

The Burma Immigration (Emergency Provisions) Act (1947)

The Burma Immigration (Emergency Provisions) Act, also known as the Burma Immigration Act, has been used against many activists who, especially before 2011, would cross the border into neighboring countries to coordinate with community based organizations (“CBOs”) and disseminate information to the outside world (the Internet only became available in Burma in 2000 and until late 2011 was stringently censored). Many of the political prisoners crossed into Thailand to attend human rights and political defiance trainings provided by CBOs in order to assist the democracy movement in Burma. These activists would cross illegally so the authorities would not be aware of their movements.

12. The Unlawful Associations Act (India Act XIV) (1908) <<http://bit.ly/1KQnKQy>>

13. Law Relating to Forming of Organizations (1988)

14. Article 19, “Myanmar: Printing and Publishing Law” (November 2014) <<http://bit.ly/1LXMGFS>>

State Protection Law (1975)

The State Protection Law, also known as the Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts, has allowed the government to declare a state of emergency in parts of, or the whole of the country, “in order to prevent the infringement of the sovereignty and security of... [Burma] against any threat to the peace of the people” and “against the threat of those desiring to cause subversive acts causing the destruction of the country”.¹⁵ Section 4 allows the restriction of fundamental rights of the country’s citizens, whilst Section 10 allows for detention without charge or trial for up to five years.¹⁶ Section 10 is also used to keep political prisoners in detention, even after they have served the entirety of their prison sentence.

Right to Peaceful Assembly and Peaceful Procession Act (2012)

Since its adoption in 2012, Section 18 of the Right to Peaceful Assembly and Peaceful Procession Act (“Assembly Law”) has frequently been utilized to arrest and imprison political activists peacefully protesting for their rights, and severely curtails political freedom in Burma. The wide-ranging use of the Assembly Law has allowed political activists to be handed sentences overwhelmingly disproportionate with their alleged offence, and since its adoption on July 5 2012, hundreds have been sentenced under it. Of the 47 ex-PPs surveyed that were arrested in 2012 and 2013, over one third were charged under the Assembly Law.

Whilst the Assembly Law was amended following months of campaigning by activists throughout the country on June 24 2014, it remains in violation of international standards. The amended Assembly Law still requires prior authorization from the authorities before a protest is staged, despite the Special Rapporteur on the rights to freedom of peaceful assembly and of association’s assertion that States should not impose prior authorization and should require prior notification “at the most”¹⁷. Whilst the authorities can no longer outright reject permission requests for assemblies, Section 5 stipulates consent shall be issued if the application is “submitted in accordance with the rules of consent”,¹⁸ which leaves the issue of granting permission for assembly open to wide interpretation. Moreover, the notorious Section 18 remains, albeit with slight amendments, imposing a maximum jail sentence of six months, rather than one year for conducting a peaceful assembly or procession without obtaining prior permission.¹⁹ As such, even in its amended state, the Assembly Law remains open to abuse, enabling the authorities to imprison political activists, peaceful protesters and human rights defenders.

The Penal Code

Several provisions in the Penal Code have also been used to detain political activists. For example, Section 505(b) criminalizes the act of publishing or circulating information with the intent or likelihood of causing public fear or alarm whereby a person may be induced “to commit an offense against the State or against the public tranquility”.²⁰ Overly

15. State Protection Law (1975) <<http://bit.ly/1jJm1xX>>

16. Ibid

17. United Nations, General Assembly, “Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai” (May 2012) <<http://bit.ly/1fd7O6A>>

18. ARTICLE 19, “Myanmar: Amended Right to Peaceful Assembly and Peaceful Procession Law,” (August 2014) <<http://bit.ly/1HP3IW2>>

19. Ibid

20. Myanmar Penal Code (1861) <<http://bit.ly/THzmO2>>

vague terms such as “offense against the State” and “public tranquility” leave this section of the law open to abuse by the authorities, who often use this section of law to detain activists who they do not want bail granted for. In addition, Section 500 of the Penal Code stipulates a prison sentence for criminal defamation,²¹ in contravention of international laws and norms on the right to freedom of expression. Moreover, General Comment 34 of the Human Rights Committee calls for the decriminalization of defamation, as does the report of the Special Rapporteur on promotion and protection of the right to freedom of opinion and expression.²² Other typical criminal charges under the Penal Code used to sentence political prisoners are kidnapping and abduction (Articles 359-368), vandalism (Article 427) and trespassing (Article 447).

3.4 Unfair Trials

The right to a fair trial is guaranteed under international law by Article 10 of the Universal Declaration of Human Rights (“UDHR”), and Articles 14 and 15 of the International Covenant on Civil and Political Rights (“ICCPR”). Article 14 of the ICCPR provides that “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”.²³ Trials for political prisoners in Burma however, routinely fail to adhere to international fair trial standards, especially those held in military and prison courts (see Table 3) that are closed. Nearly all (97 percent) of the ex-PPs felt they had not been given a fair trial. Respondents cited a number of violations of fair trial rights as to why they perceived their trials to be unfair, including the lack of an independent judiciary, denial of the right to prepare defense and to communicate with counsel, and the right to call and examine witnesses.

Table 3:

Court that Processed the ex-PPs' Case (1962-2013)	
Civil Court	45%
Military Court	28%
Prison Court ²⁴	27%

Cases heard in military courts and prison courts in Burma are notoriously unfair – defendants are denied the right to legal counsel, and the trials are closed off to the public, often shrouded in secrecy. Prior to President Thein Sein’s administration, political prisoners were commonly tried in military and prison courts. The outcomes for trials held in these courts were often predetermined and the trials conducted as a pretense. For many cases, the trials merely lasted between five and fifteen min-

utes and it was common for the judge to simply read out the sentence from a sheet of paper.²⁵ If political prisoners were given access to legal representation during their trial, their only option was a government lawyer. Political prisoners therefore sometimes refused legal representation, knowing it would have no effect on a predetermined outcome.²⁶ Moreover, many of the ex-PPs were young when they were first arrested and unaware of their right to legal counsel.

21. United Nations Human Rights Committee, General Comment No. 34 (September 2011) <<http://bit.ly/1iEDw3C>>

22. United Nations General Assembly, “Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue” (June 2012) <<http://bit.ly/1eI4MO5>>

23. ICCPR, Article 14 (1966) <<http://bit.ly/1eeGc40>>

24. Prison court refers to instances where a trial is held in an allocated room inside prison

25. AAPP, “The Darkness We See: Torture in Burma’s Interrogation Centers and Prisons” (December 2005) <<http://bit.ly/1CqJ4cH>>

26. Ibid

Table 4:

Court That Processed Case (2011-2013)	
Civil Court	80%
Military Court	8%
Prison Court	12%

Focusing solely on trials for ex-PPs conducted post-2011, the situation does seem to have improved in that the majority of cases were held in civil, rather than military and prison courts (see Table 4). However, despite this, only one of the 50 ex-PPs²⁷ sentenced during this period perceived their trial to be fair. Currently political prisoners are permitted legal representation if their case is being heard in a civil court, however detainees have not always been allowed access to a lawyer of their choice and often lawyers have been denied visits to the prisons in order to take their client's instructions. In such instances, the first time a political prisoner meets their lawyer is at the hearing itself. This has occurred in spite of the fact that lawyers are granted access to their clients before hearings as per Article 40 of the Prisons Act, 1984, which concerns visits to prisoners and states: “prisoners under trial may see their duly qualified legal advisers without the presence of any other person”.²⁸ Where lawyers have been allowed to visit their clients in prison, they have often been prevented from conducting their visits in privacy, as prison guards are almost always present, recording the meetings. The restrictions placed on political prisoners' access to legal counsel deny them any real opportunity to prepare a proper defense.

Out of the 1,621 ex-PPs, 1,513 were formally sentenced and handed sentences ranging from a few months to 65 years in prison (taking into account appeals and concurrent sentences). The average

sentence handed down was eight years in prison. Six of the ex-PPs were given 65-year sentences; using several laws in conjunction with each other, the authorities are able to sentence political activists to excessively lengthy prison terms. Life sentences were handed to 93 of the ex-PPs – typically a 20-year sentence, although depending on the judge this can vary to 25 or even 30 years. Sentences of imprisonment with hard labor were given to 53 of the ex-PPs. Death sentences were handed to 14 of the ex-PPs. The most recent case of a death penalty sentence among the surveyed ex-PPs was in 2006 to an ex-PP who was accused of planting a bomb in the garbage outside of a market in Bago Division. Although he had no knowledge about the bomb, he eventually made a false confession after enduring severe torture and threats to his wife and daughter.²⁹ While President Thein Sein commuted all death sentences to life imprisonment in January 2014, provisions allowing for the death penalty remain part of the legal framework and at least one death sentence has been handed down since.³⁰

3.5 Arbitrary Detention

Whilst the law does not specifically prohibit arbitrary arrest, it does require permission of a court for detention of an individual for more than 24 hours. With permission from the court, police can detain individuals without charge for up to two weeks, with the possibility of a two-week extension.

27. 52 of the ex-PPs were arrested post-2011 but two were released after being held in detention without facing trial

28. The Prisons Act, Article 40 (1984) <<http://bit.ly/1gpA8u2>>

29. Ex-PP Survey: FPP/DC/00033 (February 2014)

30. Amnesty International, “Amnesty International Report 2014/15” (2015) <<http://bit.ly/1GZojRH>>

sion without bringing detainees before a judge or informing them of the charges against them.³¹

As has been previously noted, 108 of the ex-PPs were held in detention for at least 24 hours without being formally charged. One tenth of those political activists held in detention but never sentenced were held for over a year, evidencing the excessive and arbitrary nature of detention for political activists in Burma. One activist was detained in this arbitrary manner for a total of three years without being charged.

The ex-PPs that were sentenced experienced similarly lengthy periods in pretrial detention; even under the current government the authorities frequently and arbitrarily extend pretrial detentions.³² In addition, many of the ex-PPs were imprisoned for a longer period of time than the sentence they were given, although they were not charged or put on trial upon completion of their sentence. There were also many ex-PPs who, on the day of their release, were suddenly charged with Section 10 (a) of the State Protection Act, which allows for de-

tention without charge or trial for up to five years.

According to the UN Working Group on Arbitrary Detention, depriving a person of their liberty constitutes as arbitrary if their case falls into one of three categories: when there is no legal basis to justify the deprivation of liberty (as when a person is kept in detention after the completion of his sentence); when the deprivation of liberty violates certain articles of the Universal Declaration of Human Rights and the ICCPR; and when international norms relating to the right to a fair trial are ignored or only partially observed.³³ It is evident that the detention of all the ex-PPs that participated in this research project meets at least one, if not all of the criteria outlined by UNWGAD: many of the ex-PPs were held in prison after the completion of their sentences; the detention of those attempting to exercise their fundamental rights to freedoms of expression, association and assembly violates both the UDHR and the ICCPR; and finally, in the majority of cases international norms relating to fair trial rights were completely disregarded.

31. United States Department of State, “Burma 2013 Human Rights Report” (2013)

32. Ibid

33. OHCHR Fact Sheet No. 26, The UN Working Group on Arbitrary Detention <<http://bit.ly/1NUUmH9>>

Chapter - 4

Torture in Interrogation Centers and Prisons

4.1 Introduction

Interrogators have long employed the practice of torture in Burma, not only to extract information and false confessions, but also to punish, degrade and humiliate political detainees. An overwhelming majority of the ex-PPs revealed experiences of enduring torture while in detention; of those that responded to the question, 72 percent of respondents reported having been subject to physical torture, whilst 75 percent reported having been subject to psychological torture. Eight of the ex-PPs died during interrogation: two due to the rigorous torture they endured, and six due to being shot and killed outright by their interrogators. Despite the ample evidence that exists exposing grave instances of torture and even extrajudicial killings during interrogation, the perpetrators continue to enjoy complete impunity for their actions. Those responsible for these crimes are Burma's security forces, the very people charged with ensuring the safety of Burma's citizens. Since Military Security Affairs replaced Military Intelligence in 2004, Special Branch is the primary perpetrator of the torture of political detainees.

This chapter will outline the legal framework that prohibits the torture of prisoners; describe the ex-

tensive array of physical and psychological torture methods the ex-PPs identified as having been subject to; and reveal how our research indicates that torture in Burma has been both systematic and widespread, thus constituting a crime against humanity.



Maung Ko (aka Min Thit)



Maung Ko (aka Maung Lay)

4.2 Legal Framework Prohibiting Torture of Prisoners

The prohibition of torture is reflected in Burma's domestic law. While there are no explicit provisions prohibiting torture, Burma's Penal Code outlaws the injury of anyone by a public servant, and Articles 330 and 331 specifically prohibit "hurt" and "grievous hurt" during interrogation.³⁴ Though such

34. Myanmar Penal Code (1861)



Funeral of Maung Ko (aka Min Thit)

provisions indicate a prohibition of torture, the failure to explicitly define and designate torture as a grave crime in Burma's domestic law facilitates a culture of impunity for perpetrators of torture.

However, there are international standards that provide protections against torture, to which Burma is obliged to adhere to. While Burma has yet to sign UNCAT, prohibition against torture is firmly embedded in a number of major human rights instruments including the UDHR and the ICCPR, thus its prohibition is widely accepted to form part of customary international law as *jus cogens*, under which no derogation is ever permitted.³⁵

For the purpose of the report, torture is defined according to UNCAT as:

“...any act by which severe pain or suffering,

whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent of acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”³⁶

4.3 Physical Torture Methods

Separating physical torture from psychological torture is inherently problematic due to the continuum

35. Human Rights Watch, “The Legal Prohibition Against Torture” (March 2003) <<http://bit.ly/1eI7Fyl>>

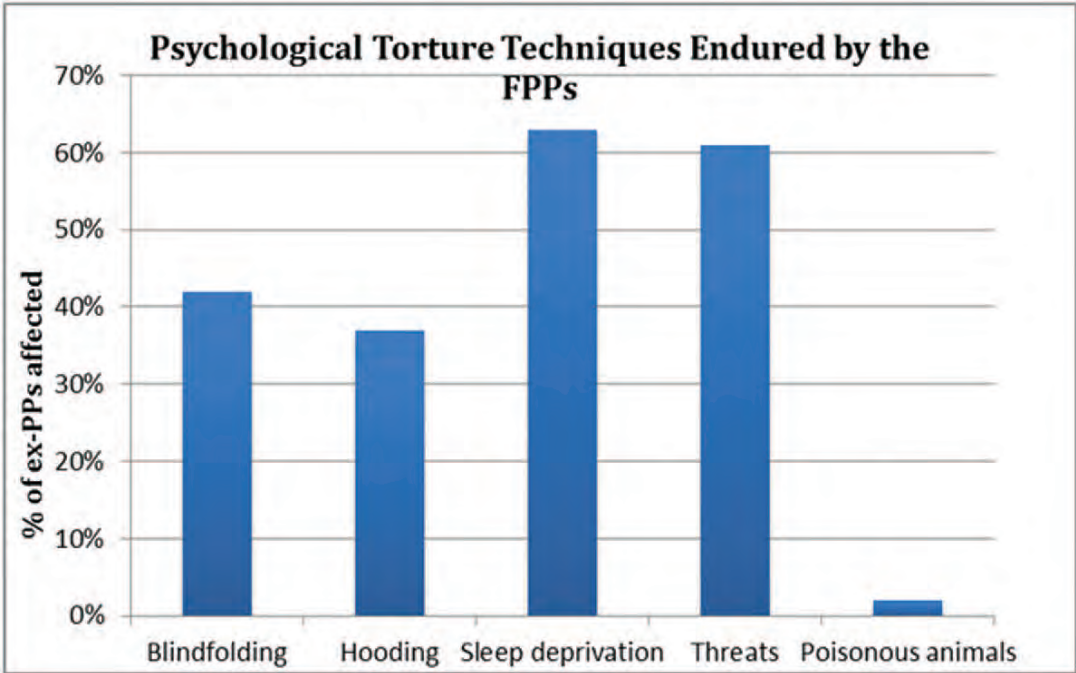
36. United Nations, “Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” (December 1984) <<http://bit.ly/1aS9qjc>>

“After release I had to restart my life from the beginning”

that exists between physical and psychological forms of torture. However for the purpose of the report, physical methods outlined in this section include only those forms of torture that are applied to the body to maim or cause physical hurt. It is clear from our research that in addition to physically beating the ex-PPs (48 percent responded that they were subject to beatings during interrogation), Burma’s interrogators have utilized a wide range of torture techniques to maximize physical pain (see Chart B for the more common physical torture techniques endured by the ex-PPs and the following explanations).

Physical assault of political detainees was not reserved exclusively for males – both male and female ex-PPs revealed having been subject to rigorous physical torture. One female ex-PP recounts vomiting blood after being physically beaten for eight consecutive days during her interrogation in 1984.³⁷ In fact, many of the ex-PPs revealed being tortured so severely that coughing up blood and falling unconscious due to the pain was commonplace. Yet for the most part political detainees are refused treatment for the injuries they sustain whilst in detention. Ninety percent of the ex-PPs stated that medical treatment was not made available to them during detention.

Chart B:



Stress Positions

Stress positions force the human body into positions that place a great amount of weight on particular

muscles that cause excruciating pain and eventually muscle failure. Forty percent of the ex-PPs reported having been made to stand in a stress position for prolonged periods of time during interrogation. In

37. Ex-PP Survey: FPP/DC/00471 (January 2014)

Burma political prisoners have been made to sit, squat and stand in the same position for several hours at a time; if they break their position they are beaten. Commonly used stress positions identified by the ex-PPs were: the “airplane”, whereby the prisoner is made to balance on one foot holding out their arms and other leg³⁸ (13 percent of the ex-PPs); the “motorcycle”, where the prisoner is forced to squat, balancing on the balls of their feet, as if they are riding a motorcycle³⁹ (23 percent of the ex-PPs); and the “Simeekhwet Dance”,⁴⁰ which forces the subject onto their knees and elbows, with their hands and feet not touching the floor⁴¹ (10 percent of the ex-PPs). Another common stress position political detainees are made to assume is known as the Poun-Zan position,⁴² whereby the subject is made to raise their arms in the air and stand on the balls of their feet. One ex-PP describes how the interrogators placed sharp nails beneath his heels to harm him if he lost his balance while he was being made to assume the Poun-Zan position: “When I had raised my heels for a long time, I got pain, and then the nails injured my heels. When I stood [on the balls of] my feet for a long time, I would fall forward. Everything was made impossible.”⁴³

In addition to causing severe pain, being made to stand in a stress position for prolonged periods of time can have serious physical and psychological effects. A renowned researcher on the topic of torture has described the potential effects of stress positions: “ankles double in size, skin becomes ‘tense and intensely painful’, blisters erupt oozing ‘watery serum’, heart rates soar, kidneys shut down,

and delusions deepen”.⁴⁴

The Iron Road

Fifteen percent of the ex-PPs were subject to the “iron road”. The iron road is a method of torture that involves the interrogator rolling an iron bar or bamboo rod up and down the shins with increasing pressure until the detainee’s skin peels off. The open wounds created by this method are often left untreated, susceptible to infection in squalid detention conditions.

Tick-Tock Torture

Sixteen percent of the ex-PPs reported being subject to a method of torture nicknamed “tick-tock torture”. Tick-tock torture involves the detainee being hit rhythmically with an object, such as a ruler, in the same place repeatedly for hours or even days on end, causing both great physical and mental suffering.⁴⁵

Water Torture

Seven percent of the ex-PPs revealed having been subject to water torture. The ex-PPs identified in particular the use of two methods of torture involving water: where water is poured over a cloth covering the face, causing the individual to experience the sensation of drowning (also known as “waterboarding”); and where water is steadily dripped onto the individual’s forehead, causing physical pain but namely severe psychological

38. See Appendix 3 for illustration

39. See Appendix 3 for illustration

40. Nicknamed for its similarity to the Burmese performance

41. See Appendix 3 for illustration

42. See Appendix 3 for illustration

43. Ex-PP Interview: FPP/DC/00766 (July 2015)

44. A. McCoy, *A Question of Torture: CIA Interrogation, from the Cold War to the War on Terror* (Henry Holt and Company) (2006)

45. AAPP, “The Darkness We See: Torture in Burma’s Interrogation Centers and Prisons” (December 2005) <<http://bit.ly/1CqJ4cH>>

“After release I had to restart my life from the beginning”

suffering (also known as “Chinese water torture”).

Electric Shocks

Seven percent of the ex-PPs were subject to electric shock torture. Electric shocks are delivered via wires wrapped around parts of the body, electric rods the prisoners are made to hold onto, and headsets placed over the prisoners’ ears. The shocks are administered to the most sensitive parts of the body to maximize pain.⁴⁶

Genital Mutilation

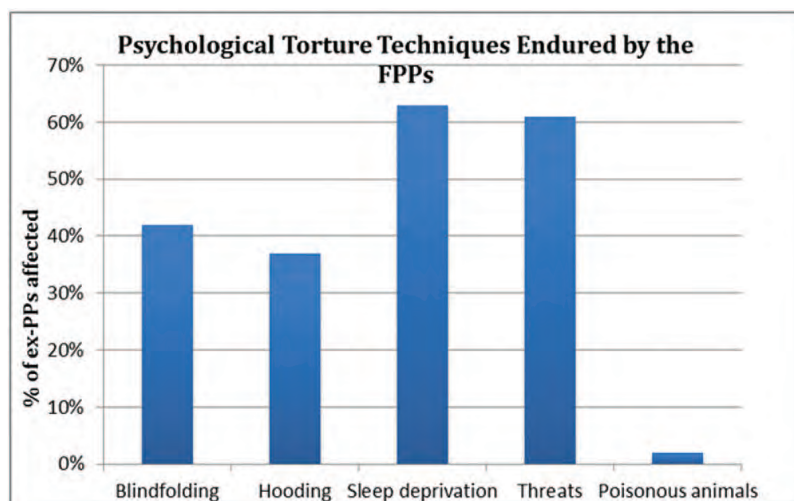
While previous research by AAPP has revealed sexual abuse in Burma’s prisons,⁴⁷ this study did not include specific questions pertaining to sexual abuse or humiliation. Some of the ex-PPs however did reveal experiences of sexual abuse and genital mutilation during interrogation – many were stripped completely naked, and there were instances where

the authorities repeatedly beat their genitals with blunt objects such as plastic rulers and in one case, the butt of a gun,⁴⁸ electrocuted their genitals, burnt their genitals with lit cigarettes, or poured hot wax or boiling water on their genitals. One ex-PP describes such genital mutilation: “in interrogation they repeatedly poked my genitals and buttocks with lit cigarettes, I was tortured inhumanely.”⁴⁹

4.4 Psychological Torture Methods

Psychological torture relies primarily on psychological effects and is used to cause fear, and break down any resolve prisoners may have to resist interrogators’ demands. The various negative health effects of psychological torture have been widely documented, evidencing that psychological interrogation methods can constitute torture and be considered unlawful.⁵⁰ Chart C shows a breakdown of some of the psychological methods of torture inflicted upon the ex-PPs.

Chart C:



46. Ibid

47. See AAPP, “The Darkness We See: Torture in Burma’s Interrogation Centers and Prisons” (December 2005) pp.50-56 <<http://bit.ly/1CqJ4cH>>

48. Ex-PP Survey: FPP/DC/00624 (February 2014)

49. Ex-PP Survey: FPP/DC/01007 (May 2014)

50. H. Reyes “The worst scars are in the mind: psychological torture”, International Review of the Red Cross, Vol. 89, No. 867 (2007) <<http://bit.ly/1P3BPsl>>

Hooding and Blindfolding

During interrogation, political prisoners are often either blindfolded or hooded, causing sensory deprivation where vision, smell and hearing is affected, the extent to which depends on the material used. Hooding may also impede normal respiratory function. In Burma's prisons, hoods are generally made of thick cotton, old rice bags, or the prisoners' own clothes or blankets; often the material used is already dirty.⁵¹ As well as depriving the detainees of senses vital to balance and coordination, the practice of hooding and blindfolding subjects prevents them from being able to identify the perpetrators of the abuse they suffer. Thirty-seven percent of the ex-PPs were hooded during interrogation, and 42 percent blindfolded. One ex-PP recalls being blindfolded for so long that he became unable to distinguish whether it was day or night.⁵²

The practice of the intentional sensory deprivation of detainees via blindfolding and hooding is widely recognized as a form of torture and/or cruel, inhuman and degrading treatment by international and regional human rights bodies. The UN Committee Against Torture has determined that hooding in certain circumstances constitutes torture, in particular when used in conjunction with other coercive interrogation methods.⁵³ All of the ex-PPs that reported being hooded or blindfolded during interrogation were also subject to other forms of abuse, thus in all of the cases reported,

the blindfolding and hooding can be considered torture.

Hooding and blindfolding have a number of serious physical and psychological effects. Importantly, hooding and blindfolding increases an individual's vulnerability to other methods of torture – as they are unable to anticipate harm such as punches and kicks, they are unable to react defensively to protect themselves.⁵⁴ Moreover, forms of sensory deprivation typically cause fear, anxiety, high levels of stress, disorientation, and a sense of loss of control and powerlessness – these adverse cognitive and emotional effects of hooding may impair individual psychological coping mechanisms.⁵⁵

Sleep Deprivation

Sixty-three percent of the ex-PPs that responded to the question reported having been deprived of sleep during interrogation. For some this form of torture lasted a considerable amount of time – one ex-PP reported having been deprived of sleep for 15 consecutive days, only being permitted sleep for 15-minute intervals before being woken up and interrogated all over again. Denying an individual of sleep, a basic biological necessity for all humans, can be extremely dangerous when long-term eventually leading to death,⁵⁶ however even short-term sleep deprivation can cause hallucinations, paranoia and disorientation, and can have deleterious psychological effects on a person.⁵⁷

51. AAPP, “The Darkness We See: Torture in Burma's Interrogation Centers and Prisons” (December 2005) <<http://bit.ly/1CqJ4cH>>

52. Ex-PP Survey: FPP/DC/00766 (January 2014)

53. Committee Against Torture, “Concluding observations of the Committee Against Torture: Israel” (1997) UN Doc. A/52/44 <<http://bit.ly/1RISoVy>>

54. International Forensic Expert Group, “Statement on Hooding” Torture, Volume 21, No. 3 (2011) <<http://bit.ly/1ILnOdO>>

55. Ibid

56. K. Bulkeley, “Why Sleep Deprivation Is Torture” (December 2015) <<http://bit.ly/1j0bKk5>>

57. H. Reyes, “The worst scars are in the mind: psychological torture” (2007) <<http://bit.ly/1P3BPsl>>

Threats

Interrogators often make threats during interrogation to obtain information through fear of a perceived harm. Sixty-one percent of the ex-PPs that responded to the question stated that themselves, or their family members were threatened whilst they were in detention. Political detainees in Burma are routinely told they will be shot and killed. These threats are often brought to fruition and extrajudicial killings are not uncommon – six of the ex-PPs were killed in this way during interrogation. As one ex-PP describes: “I felt scared because I thought I would be killed”.⁵⁸ Interrogators deliberately play on this fear of death by playing psychological games with political detainees, for instance, many of the ex-PPs had a gun held to their head during interrogation or were made to dig graves for themselves. After 48 hours of continuous interrogation, one ex-PP was taken outside, made to watch as a deep hole in the ground was dug, and then was instructed to get inside.⁵⁹

When an individual is immune to such threats, interrogators often threaten family members, friends and colleagues of the individual to extract information. Many of the ex-PPs revealed that during interrogation they were told if they did not give “correct” answers, action would be taken against their family members or friends. One ex-PP recalls how interrogators told him, “if your answer is not right, we will arrest your family”.⁶⁰ For many ex-PPs the threat to family and friends was more

immediate; for example, 29 percent of the ex-PPs were forced to hear the voices of family members during interrogation from an adjacent room during their interrogation. The threat is implied in that if the ex-PP does not give the interrogator the desired information, real harm may come to those family members. One ex-PP tortured in 2009 was made to listen to a recording of his young daughter crying on repeat during his interrogation, causing him great emotional distress.⁶¹ Other times, the threats made against loved ones were more direct – an ex-PP tortured in 2011 was told that if he failed to confess, his children would be killed as a result.⁶²

Poisonous Animals

The use of phobias is a common psychological method applied in interrogation. Two percent of the ex-PPs were subject to such torture with the use of poisonous and venomous animals, including scorpions and snakes, placed upon their bodies. The use of well-known deadly animals as a form of torture maximizes psychological suffering by inducing fear of death.

4.5 Torture as a Crime Against Humanity

According to the Rome Statute of the International Criminal Court, torture is defined as a crime against humanity when it is “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”.⁶³ It is worth noting here that to constitute

58. Ex-PP Survey: FPP/DC/00453 (February 2014)

59. Ex-PP Survey: FPP/DC/01505 (May 2014)

60. Ex-PP Survey: FPP/DC/01505 (May 2014)

61. Ex-PP Survey: FPP/DC/00903 (January 2014)

62. Ex-PP Survey: FPP/DC/00608 (February 2014)

63. Rome Statute of the International Criminal Court, Article 7 (f), (1988) UN Doc. A/CONF/.183/9 <<http://bit.ly/1d9UiAq>>

a crime against humanity, the torture can be either widespread or systematic and need not be both. Nonetheless, the data collection led by AAPP and FPPS provides robust evidence that the practice of torture in Burma over the last six decades has been both widespread and systematic. A widespread attack is defined as “on a large scale, meaning that the acts are directed against a multiplicity of victims”;⁶⁴ 72 percent of the ex-PPs reported having been subject to physical torture, whilst 75 percent reported having been subject to psychological torture, revealing the widespread nature of torture in Burma. A systematic act is one that occurs following a “preconceived plan or policy. The implementation of this plan or policy could result in the repeated or continuous commission of inhumane acts”.⁶⁵ In order for the attack to be systematic, it does not have to be

formally stated as state policy, and governmental action or inaction can demonstrate the policy.⁶⁶ It is clear that Burma’s successive military regimes have systematically arrested, detained and imprisoned civilians for their political affiliations, in particular members of the NLD, with the intention to torture its opposition. In fact, over one-third (38 percent) of the ex-PPs reported an affiliation with the NLD.

Moreover, there is ample evidence to suggest that the Thein Sein government continued the systematic and widespread use of torture against its opposition; 52 percent of those ex-PPs arrested since 2011 reported having been subject to physical torture, and 53 percent to psychological torture. The following case study reveals the continuation of torture under the Thein Sein government.

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64. International Law Commission, “Report on the International Law Commission to the General Assembly on its work of its 48th session, 51 UN GAOR Supplement No. 10” (1966) UN Doc A/51/10 <<http://bit.ly/1CqQ4Gs>>
65. International Law Commission, “Report on the International Law Commission to the General Assembly on its work of its 48th session, 51 UN GAOR Supplement No. 10” (1966) UN Doc A/51/10
66. AAPP, “The Darkness We See: Torture in Burma’s Interrogation Centers and Prisons” (December 2005) <<http://bit.ly/1CqJ4cH>>

Torture Case Study ⁶⁷

“I was arrested [by the Burma Army’s Light Infantry Battalion 37] in front of my house [in Kachin State] in December 2011 at around 7pm, and was beaten and punched brutally without questioning. I was tortured violently when I arrived at the monastery in the village where the army was stationed. They accused me of being an insurgent and tried to force me to confess. Even though I denied being an insurgent member and insisted I was a civilian, they slashed me with a dagger each time I denied it. They slashed my neck with the dagger six times in total. After this they tortured me to the point of disfiguration. They kept me tied up for five days and starved me.”

During his detention, the authorities refused to give his family any information of his whereabouts which caused his mother great grief, not knowing whether her son was dead or alive. After being held and tortured for a month in the monastery, he was then sent to Military Security Affairs where he was tortured further. During his interrogation he was both hooded and blindfolded, interrogated without sufficient sleep, made to stand in stress positions including the motorbike and airplane positions, subject to tick-tock torture and electric shock torture, burnt with lit cigarettes, and had verbal threats made to him and his family. He received no medical treatment for his injuries. In total he was interrogated for 41 days before being sentenced to two years imprisonment under the Unlawful Associations Act.

It is clear from the above case that political detainees have been subject to rigorous torture and mistreatment as recently as under the Thein Sein administration. In addition, there have been numerous reports of the torture of activists in Burma perpetrated by the authorities since 2011, ⁶⁸ further adding weight to the basis that the Thein Sein government continued to torture its opposition in a widespread and systematic manner.

67. Ex-PP Survey and Interview: FPP/DC/00259 (January 2014 and June 2015)

68. ND-Burma, “To Recognize and Repair” (June 2015) p36-39 <<http://bit.ly/1HuAiL9>> and AAPP, “AAPP Condemns the Use of Violence and Torture in Burma and Demands the Immediate Unconditional Release of all Political Prisoners” (March 2015) <<http://bit.ly/1LdzwRG>>

Chapter - 5

Mistreatment in Prison

5.1 Introduction

In addition to being subject to torture, political prisoners in Burma have been subject to a number of other abuses in prison which amount to mistreatment. Obscured from the public eye, prisons create an environment of increased impunity – as such, political prisoners have intentionally been targeted by the prison authorities and have endure ongoing mistreatment in prison, justified as official and unofficial punishment for breaking arbitrary prison rules. This has occurred in spite of the provisions that guard against the mistreatment of prisoners laid out in both international and domestic legislation.

This chapter outlines the legal framework that prohibits mistreatment of detainees, assesses prison conditions in Burma, and reveals how the prison authorities have systematically mistreated and dehumanized political prisoners, highlighting the urgent need for prison reform in Burma.

5.2 Legal Framework Prohibiting the Mistreatment of Prisoners

In theory, Burma's two major legislative texts relating to the prison system provide protection for detainees

against mistreatment. The Prisons Act, also known as the India Act of 1894, provides the framework for the establishment of a prison system in colonial era Burma.⁶⁹ The Manual of Rules for the Superintendence and Management of Jails in Burma ("Prison Manual"), revised most recently in 1950, expands upon the Prisons Act and remains the most pertinent document regarding prisons in Burma.⁷⁰ Both texts, originally written in colonial times, are severely outdated and fall far short of widely accepted international standards such as those outlined by the UN's Standard Minimum Rules for the Treatment of Prisoners⁷¹ ("SMRs"). The standards set out in the SMRs, although not legally binding, outline what is generally accepted as being good principle and practice in the treatment of prisoners and the management of penal institutions. Instead of offering a strict outline of the exact ways in which places of detention should be designed and operated, the SMRs provide a baseline standard that can be adapted to local conditions and specifications. Part I of the document outlines the minimum rules for a wide range of topics, including: prison registrars; separation of prisoners; prison accommodation; personal hygiene; clothing and bedding; food; exercise; medical services; discipline and punishment; instruments of restraint; information given to prisoners; complaints by prisoners; contact

69. The Prisons Act, 1894

70. Burma Government, Manual of Rules for the Superintendence and Management of Jails in Burma (revised edition) (Rangoon: Supdt., Govt. Printing and Stationary, 1950) (henceforth: Prison Manual).

71. United Nations, Standard Minimum Rules for the Treatment of Prisoners (adopted in August 1955) <<http://bit.ly/1aVcakb>>

“After release I had to restart my life from the beginning”

with the outside world; books; religion; retention of prisoner property; notification of death; illness; transfer etc.; removal of prisoners; prison personnel and prison inspection. Part II pertains to special categories of prisoners, such as juvenile prisoners, prisoners awaiting trial, civil prisoners, and persons imprisoned without charges. For the purpose of the report, mistreatment in prison is defined as what falls beneath the standards laid out by the SMRs.

In addition, both the UN Basic Principles for the Treatment of Prisoners, and the Body of Principles for the Protection of Persons Under any Form of Detention or Imprisonment are crucial international instruments in that they ensure the protection of prisoners’ fundamental human rights. Principle 1 of both texts states: “all prisoners shall be treated with respect due to their inherent dignity and value as human beings”.⁷² While both texts are again, not legally binding, they act as international guidelines by which States can be judged and held accountable.

5.3 Conditions in Burma’s Prisons

AAPP holds records of 42 prisons currently operating throughout Burma. Despite the aforementioned legal safeguards against mistreatment in prison, in reality poor conditions in Burma’s prisons amount to severe mistreatment and further, the prison authorities mistreat political prisoners routinely. This violates not only international standards for prisoners but also Burma’s own standards set out in domestic law. For example, the majority of the ex-PPs who answered the question (88 percent) felt they did not receive all of the provisions described in the Prison Manual, revealing that in practice the Prison Manual

is rarely adhered to. As has been previously noted, the Prison Manual itself falls far short of international standards and the SMRs.

5.4 Physical Conditions in Prisons

All prisoners in Burma, criminal and political, are subject to the poor physical conditions of Burma’s prisons, which amounts to mistreatment. In addition, despite existing legislation intended to prevent against prison overcrowding, persistent overcrowding in Burma’s prisons exacerbates these conditions, placing strains on the sanitation infrastructure, prison health systems, and the individual prisoners and staff themselves.⁷³ Below are some of the physical conditions in Burma’s prisons that political prisoners must endure.

Sanitation

Although the Prison Manual calls for weekly inspections of jails, adequate sanitation and proper water provisions,⁷⁴ political detainees have been held in cellblocks that are often overcrowded, squalid, and infested with animals and insects that act as vectors for disease. Prisoners have routinely been denied bedding, and prior to 2007 were made to sleep on the concrete floor (since 2007, prisoners are provided with wooden pallets to sleep on). Moreover, the cells do not have a sink or toilet - the political prisoners are provided only with a tray or pot to defecate, which they are not always allowed to empty – for example, if they are being punished. This can lead to foul conditions as the pots overflow and the cells become covered with urine and

72. UN General Assembly resolution 45/111, Basic Principles for the Treatment of Prisoners, A/RES/45/111 (14 December 1990) <<http://bit.ly/1J5QqyU>>

73. United States Department of State, “2013 Country Reports on Human Rights Practices – Burma” (2014) <<http://1.usa.gov/1fv2Reb>>

74. Prison Manual, Article 890

excrement, which attracts a number of insects, in particular maggots. Such infestations cause sleeping difficulties, as the prisoners have to continuously fight off the insects from biting their bodies throughout the night.

Whilst they are forced to inhabit cells with substandard levels of hygiene, political prisoners have also been denied access to basic personal hygiene such as the use of the toilet and bathing facilities. Sixty-seven percent of the ex-PPs reported that they were not given sufficient water for bathing. When they are permitted to bathe, political detainees are prescribed the amount of water they can use to wash themselves and their prison uniforms, completely dependent on the whims of the prison guards. The ex-PPs reported being permitted as little as four plates of water at a time for bathing. If a political prisoner uses more than the designated volume of water they risk facing punishment.

Provisions of Food and Water

The diets of political prisoners are provided for in the Prison Manual, which outlines food allowances, the prevention of misappropriation and inspections of food supplies.⁷⁵ In reality however, political prisoners have never been granted the allowances they are entitled to and are fed very little. This is particularly true during interrogation – during interrogation the ex-PPs were not fed for days on end, or fed as little as three spoons of rice per day. As one ex-PP recalls: “[They gave me] just enough food so I would not die.”⁷⁶ The limited food that political prisoners do receive is of terrible quality

and is often cause for illness. Ninety-five percent of the ex-PPs stated that they did not receive sufficient nutritious food during their incarceration. One ex-PP describes the food provided in prison: “we did not have breakfast, lunch was a watery bean soup, dinner was watery Talapaw.”⁷⁷ It was not good at all.”⁷⁸ When political prisoners do receive food, the curries are mostly watery and tasteless. In addition, many of the ex-PPs reported finding sand, stones and even earthworms in their food. Stones in particular were a source of dental problems amongst the ex-PPs.

As punishment, political prisoners have been given “glue” to eat instead of food – a thick paste made out of rice and water. Even if not being punished for a specific misdemeanor, political prisoners have been targeted and punished arbitrarily by the prison authorities merely due to their status as a political prisoner. One prominent political prisoner recalls how he was deliberately and consistently given less food than the other prisoners as punishment for his political prisoner status.⁷⁹ Since the food provided is of an insufficient amount and quality, political prisoners rely on their families to provide food, which they then try to share with their fellow political prisoners where possible. However, family visits have often been restricted for political prisoners, so this is not a reliable source of sustenance. Many of the ex-PPs suffered from malnutrition during their time in prison due to a lack of edible food.

Political prisoners have also often been denied clean drinking water although the Prison Manual stipulates that prisoners should be provided with adequate

75. Prison Manual, Articles 1076-1093

76. Ex-PP Survey: FPP/DC/00938 (February 2014)

77. Talapaw curry served in Burma’s prisons is a small amount of washed vegetables in a large amount of water, which is placed in a pot and boiled

78. Ex-PP Survey: FPP/DC/00760 (March 2014)

79. Ex-PP Survey: FPP/DC/01059 (March 2014)

“After release I had to restart my life from the beginning”

water provisions. Sixty-six percent of the ex-PPs stated that they did not have access to clean drinking water in prison. Many of the ex-PPs were denied drinking water for such extended periods of time that they described how they were forced to risk drinking the water from the pipes in the toilets when they were permitted to use the bathroom.

Healthcare

Ninety percent of the ex-PPs disclosed that they did not receive sufficient healthcare while in prison. As has been noted, many of the ex-PPs sustained injuries during their arrest and during interrogation, however never received treatment for these injuries. Left untreated, these injuries can lead to ongoing health issues. Arrested in 1990 for his leading role during the second anniversary of the 8888 Uprising, one ex-PP describes: “My hand was injured seriously during the arrest, but I was not allowed to have treatment. I suffered from that wound for over a year.”⁸⁰ Similarly, injuries acquired as a result of torture are often left untreated unless severe.

In addition to these untreated injuries, poor prison conditions - overcrowding, poor quality and insufficient food and improper hygiene – are a major cause of illnesses, disease and even death amongst political prisoners. Twenty-seven of the ex-PPs died in prison, largely from preventable and treatable diseases. Thus, these deaths could have been prevented if prison conditions were better, and if those ex-PPs had been given adequate medical treatment in a timely manner. The most frequently reported health issues the ex-PPs reported suffering from in prison were: various aches, pains and bruises

from harsh treatment and torture; nerve damage; hypertension and hypotension; scabies and other skin diseases; diarrhea and dysentery; fever; dizziness; malnutrition; heart disease; malaria; and forms of paralysis, numbness and tingling.

Political prisoners suffering from poor health are often unable to see a prison doctor or visit the prison hospitals, which are unsanitary, overcrowded, understaffed and lacking in adequate medical equipment and medication. Former prison doctor, Dr. Tint Swe, recently publically denounced the inadequate healthcare that political prisoners receive in Burma’s jails, concluding that “the health of... political prisoners is an emergency”.⁸¹ As of 2011, AAPP found that there was one doctor for every 7,314 prisoners and that at least 12 prisons were without a designated doctor.⁸² There have been occasions where political prisoners have been so repulsed by the conditions in the prison hospital that they discharged themselves, despite their illnesses.⁸³

While political prisoners are often denied medical assistance, 57 of the ex-PPs reported being admitted to hospital during their time in prison, suggesting the severity of their illnesses/injuries. Only in extreme circumstances are they admitted to an external hospital. One ex-PP was admitted to an external hospital in 2007 only after he was beaten so rigorously in Moulmein Prison that he lost consciousness for a long period of time. The prison officers, covering their actions, deceived the medical staff at the hospital by telling them that the ex-PP had acquired his injuries by falling out of a moving car. As soon as he regained consciousness the

80. Ex-PP Survey: FPP/DC/00406 (January 2014)

81. Dr. Tint Swe, “Political prisoners need health care too” Democratic Voice of Burma (July 6, 2015) <<http://bit.ly/1HGD9QF>>

82. AAPP, “Submission to the United Nations Periodic Review of Burma” (January 2011) <<http://bit.ly/1UXqo7a>>

83. AAPP, “The Darkness We See: Torture in Burma’s Interrogation Centers and Prisons” (December 2005) <<http://bit.ly/1CqJ4cH>>

prison officers discharged the ex-PP and returned him to the prison hospital where his treatment subsequently stopped.⁸⁴

In addition to the risk of contracting physical ailments, all political prisoners must contend with mental health issues as a result of unjust imprisonment, physical and psychological torture, squalid living conditions and extended periods of solitary confinement. In fact, even when political prisoners are kept in cells together, the near complete lack of mental stimulation ensures some degree of suffering – conversations between political prisoners are severely restricted and they are often denied reading materials. Seventy-one percent of the ex-PPs reported not being allowed reading materials in prison, despite provisions existing in the Prison Manual for prisoners who wish to read. Many of the ex-PPs reported suffering from mental illness in prison or symptoms typically associated with mental illness such as anxiety, nervousness and insomnia. In particular political prisoners subject to torture are prone to developing more severe forms of mental illness such as post-traumatic stress disorder (“PTSD”) and depression.⁸⁵

Limited medications of poor quality are made available to political prisoners, if they are made available at all. One ex-PP being held in Bassein Prison in 1990 requested medicine to treat a stomachache. The prison guard responded by punching him in the stomach. He never received the medicine.⁸⁶ In fact the ex-PPs were frequently denied medical treatment, even in circumstances where they had contracted grave illnesses such as

tuberculosis, malaria and pneumonia. As such, political prisoners often rely on family visits to receive medication to treat their illnesses. Thus, restrictions placed on family visits for political prisoners, in addition to prison transfers ensuring political prisoners are held far from their homes, severely compromises the health of political prisoners that rely on family and friends to provide them with their necessary medication.

From 1999 up until late 2005 when they were banned from visiting Burma’s prisons by the then military junta, the International Committee of the Red Cross (“ICRC”) provided prisons in Burma with several medicines. However political prisoners rarely benefitted from these provisions, as the authorities were prone to selling the medication on the market or to the political prisoners themselves.⁸⁷ The ICRC was permitted to resume its work in 2011, albeit in a limited capacity, and was granted approval to resume visits to places of detention in 2013. It has since begun conducting sanitation and health infrastructure projects in Burma’s prisons,⁸⁸ however it is premature to assess the extent of any improvements that political prisoners have seen as a result of the ICRC’s renewed access.

5.5 Mistreatment of Prisoners

In addition to facing poor prison conditions, political prisoners in Burma’s prisons have been treated in a systematically inhumane manner without respect or dignity by the prison authorities. In fact, 67 percent of the ex-PPs responded that they were treated rudely in prison, and 58 percent of the ex-PPs felt

84. Ex-PP Survey: FPP/DC/01598 (June 2014)

85. K. Alden & N. Murakami (eds), *Trauma and Recovery on War’s Border: A Guide for Global Health Workers* (2015) (Dartmouth College Press: New England)

86. Ex-PP Survey: FPP/DC/01560 (March 2014)

87. AAPP, “The Darkness We See: Torture in Burma’s Interrogation Centers and Prisons” (December 2005) <<http://bit.ly/1CqJ4cH>>

88. ICRC, “The ICRC in Myanmar” (2015) <<http://bit.ly/1SawKim>>

their human dignity had been violated during their imprisonment. Dehumanization by the prison authorities was identified by many of the ex-PPs as one of the major violations of human dignity that they suffered. This section outlines the major ways in which the prison authorities target and perpetrate human rights abuses against activists in prison.

Solitary Confinement

Before sentencing, most political activists have been placed in solitary confinement while awaiting trial. In prison however, solitary confinement is largely used as a punishment for breaking prison rules, which can include minor and vaguely defined misdemeanors such as “immoral or indecent or disorderly behavior” and being disrespectful to any prison guard or visitor,⁸⁹ or “making groundless complaints”.⁹⁰ It is also used for influential activists to keep them separate from the rest of the political prisoner population – for example, student leader Min Ko Naing spent nearly 16 years in solitary confinement for his role in the 8888 Uprising.

Solitary confinement entails the confinement of a prisoner alone in a cell for 22 to 24 hours a day.⁹¹ In Burma, political prisoners in solitary confinement are limited to their cell for the entire day, or only let out to bathe - usually for not more than 30 minutes a day. Conditions are more squalid than those in a regular cell, and the prisoners are often shackled during their time in solitary confinement. According to the Prison Manual, prisoners can be placed in solitary confinement for a period of maximum 14 days.⁹² After that the ex-PP should be returned to

a regular cell for at least the same amount of days, before being returned to solitary confinement when further punishment is deemed necessary. However the Burma’s prison authorities fail to obey their own regulations and many ex-PPs identified being kept in solitary confinement for prolonged periods of time - for example, one ex-PP was held in solitary confinement for one year and a half.⁹³ Thirty-two percent of the ex-PPs reported having been subject to solitary confinement at least once during their imprisonment, 73 percent of who report being in bad health during that time.

Solitary confinement cells are often smaller than regular cells, and poorly lit – although there have been circumstances where political prisoners have been kept in solitary confinement in complete darkness, something which the SMRs prohibit.⁹⁴ The iron bars of the cell door are covered so as to completely prevent the political prisoner from even seeing other people, serving to make the isolation stronger. Even when political prisoners are let out of their cell for bathing, wooden doors preventing communication close off the other cells. Meals are served by sliding the plates through the cell bars, which often causes food to spill and become inedible, although those in solitary confinement as punishment are often fed only “glue”.

The European Committee for the Prevention of Torture has noted that solitary confinement “can have very harmful consequences for the person concerned... [It] can, in certain circumstances, amount to inhuman and degrading treatment; in any event, all forms of solitary confinement should be

89. Prison Manual, Article 809 (4)

90. Prison Manual, Article 809 (5)

91. Shalev S., A Sourcebook On Solitary Confinement (London: Mannheim Center for Criminology) (2008) p.3

92. Prison Manual, Article 811 (8)

93. Ex-PP Survey: FPP/DC/00358 (January 2014)

94. SMRs, Rule 31 <<http://bit.ly/1LESAtI>>

as short as possible.”⁹⁵ In addition, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has called for the prohibition of prolonged solitary confinement and stated that it “can amount to torture”.⁹⁶ A prisoner subject to prolonged solitary confinement – a period in excess of 15 days – will experience changes in brain functions and harmful psychological effects which can become irreversible.

Research has shown that the restriction of environmental stimulation and social isolation of solitary confinement are hugely detrimental to mental functioning and, in more severe cases, can cause psychosis. Even those prisoners with a greater psychological resilience suffer severe psychological pain, especially when the confinement is prolonged and the confinement is a product of an arbitrary exercise of power and intimidation.⁹⁷ Strong-willed political prisoners are often identified by the prison guards and put in solitary confinement in order to break their spirit. As part of these exercises of power and intimidation ex-PPs have also reported having been placed in solitary confinement for even the slightest misdemeanors – given that the imprisonment of political prisoners is inherently arbitrary, being arbitrarily punished further is likely to be a cause of much psychological pain. Moreover, the long-term effects caused by solitary confinement, such as sleep disturbances, depression, anxiety, phobias and impaired memory, can have serious consequences for the prisoner’s reintegration into

society upon release.⁹⁸

Some of the ex-PPs revealed experiences of being placed in the dog cells during their time in prison – another type of punishment cell. Exclusive to Insein Prison, the dog cells refer to special punishment cells originally built as kennels for military dogs during British rule. Whilst dogs have not been kept with prisoners in these cells since 1988, the dog cells are still in use presently, often used to punish those who dare demand their rights in prison, or stage hunger strikes for example.⁹⁹ Often political prisoners are severely beaten and tortured as part of their punishment whilst being kept in the dog cells – as the cells are located far from the other cellblocks in Insein no one can hear what occurs there. Conditions in the dog cells are harsh, and more restrictive than the solitary confinement cells, measuring approximately ten by ten feet (or about three by three meters). The cells are dark with no natural light, dimly lit by a small light bulb. One ex-PP reports being kept shackled in a dog cell for six months without being allowed to shower or empty the cell of his feces, which led to a severe infestation of maggots.¹⁰⁰

Whilst punishment cells in Burma are intended for one prisoner at a time, often due to overcrowding ex-PPs facing punishment are made to share the cells, or are placed in punishment cells with hardened criminals. Although there is contention over whether this constitutes solitary confinement, a further 29 percent of the ex-PPs identified having been placed

95. Committee for the Prevention of Torture, “The CPT Standards: “Substantive” sections of the CPT’s General Reports” (2006) p.20 <<http://bit.ly/1JR026g>>

96. United Nations, General Assembly, “Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment” (August 2011) <<http://bit.ly/1iceeGf>>

97. Grassian S., “Psychiatric Effects of Solitary Confinement”, Washington University Journal of Law & Policy, Vol. 22 (January 2006) <<http://bit.ly/1gpHf5C>>

98. Ibid

99. Amnesty International, “Burma: prisoners kept in ‘dog cages’ after protests” (June 2011) <<http://bit.ly/1HhtXRr>>

100. Ex-PP Survey: FPP/DC/00908 (January 2014)

“After release I had to restart my life from the beginning”

in punishment cells with other prisoners. Thus, over half of the ex-PPs were placed in punishment cells at some point during their imprisonment.

Hard Labor

Fifty-three of the ex-PPs were sentenced to hard labor along with imprisonment, a punishment that is still handed down today. The nature of the hard labor political prisoners are forced to endure differs depending on the location of the prison, and whether the prisoner is able to afford to bribe the authorities to avoid the labor camps. If able to pay a bribe, the political prisoners are made to do work in the prison instead, for example carrying barrels of water or bags of rice, carpentry, gardening and disposing of other prisoners' waste.¹⁰¹

Prisoners sent to the labor camps are tasked with carrying out various State development projects which are often dangerous in nature, and face a situation in the camps where food, clothing, and medical supplies are scarce, making conditions “harsh and life threatening”.¹⁰² AAPP holds records of at least 103 labor camps currently operating in Burma under the Correctional Department; 33 agriculture and livestock camps (where prisoners are forced to work on plantations and construct irrigation canals); 26 quarry camps (where prisoners are forced to extract rocks and other materials for construction in rock quarries); and 44 camps for regional development projects (where prisoners are used to construct highways), and military service camps (where prisoners are utilized as military porters at the frontlines of the Burma Army's offensive

operations against armed ethnic groups throughout the country).¹⁰³

Although there are provisions laid out in the Prison Manual for working conditions and a limit on the number of working hours for prisoners, these are largely ignored and the prisoners are made to work long hours without rest, in bad weather and wearing iron chains. The harsh conditions under which political prisoners are forced to work in the labor camps are often dangerous leading to illness and injury, and even death. The quarry camps in particular are notoriously dangerous, as many deaths have occurred in accidents caused by falling rocks. One of the 53 ex-PPs that were sentenced to hard labor at Myitkyina Labor Camp, in Kachin State, died whilst being made to work on the Galai Jaung hydropower plant.¹⁰⁴ Another ex-PP, sentenced to ten years with hard labor in 1988, was seriously injured in Zin Kyaik Labor Camp in Mon State where he was forced to work in a quarry to extract rocks. Whilst carrying out his forced labor, an accident occurred and a rock fell onto his leg - as a result he was forced to have his leg amputated.¹⁰⁵ Forced military powers face an equally dangerous situation – they are deliberately alternated with soldiers, used as human shields by government soldiers, and forced to walk through mine fields in order to clear mines for government troops.¹⁰⁶

It was reported that if the prisoners failed to meet their work deadlines or dared to complain about their treatment, they were given severe punishments such as beating or additional work. One ex-PP sentenced to hard labor who opposed the harsh

101. AAPP, “Forced Labor of Prisoners in Burma” (2002) p. 1 <<http://bit.ly/1dNQkmY>>

102. US Department of State, “Burma 2012 Human Rights Report” (2012) <<http://1.usa.gov/1W52E3D>>

103. Ibid p.2

105. Ex-PP Survey: FPP/DC/01642 (March 2014)

105. Ex-PP Survey: FPP/DC/00688 (March 2014)

106. Karen Human Rights Group, “From Prison to the Frontlines: Analysis of Convict Porter Testimony 2009 – 2011” (July 2011)

working conditions he was forced to endure was consequently beaten until he fell unconscious as punishment, and then placed in solitary confinement.¹⁰⁷

Visitation

Both the Prisons Act and Prisons Manual ensure visitation rights for political prisoners, and the Prison Manual permits up to two family visits twice per month.¹⁰⁸ The SMRs also stipulate that prisoners should be allowed visits from family and reputable friends at regular intervals.¹⁰⁹ In contrast, over a third (37 percent) of the ex-PPs that responded stated that they were not permitted regular prison visits with their family. Prison authorities have been known to forbid prison visits for “security reasons”, and as a form of punishment.¹¹⁰ One ex-PP reported being denied family visits for a whole year whilst being held in Insein Prison.¹¹¹

Moreover, political prisoners are frequently transferred to prisons far from their hometown, thus the time and costs associated with traveling long distances make it difficult for family members to visit their incarcerated relatives regularly. Even when family visits are an option for political prisoners, often these visits are brief having been cut short, and are closely monitored by the prison guards. Ninety percent of the ex-PPs felt that when they were allowed visits with their families, they were not given sufficient prison visit time. Ninety-one percent were not allowed to freely communicate with their relatives during visitation.

In addition to the emotional effects of not seeing their relatives for long periods of time, the denial of family visitation also has physical consequences for political prisoners – as has previously been noted, political prisoners often rely on their families to provide extra food and medicines. The only other means families have of getting these essential items to the political prisoners is through prison parcels – however the prison authorities routinely confiscate and tamper with the parcels so even if the parcels are received, items are often damaged or missing. Sixty-six percent of the ex-PPs experienced confiscation or restriction of their prison parcels.

Mistreatment of Female Prisoners

While both male and female political prisoners face torture and other mistreatment after arrest, the lingering threat of sexual assault, embedded in explicit comments from interrogators, compounds women’s suffering and fear.¹¹² In addition to sexual harassment, female ex-PPs also face further dangers in prison such as reproductive health risks. Many of the 141 female ex-PPs revealed such difficulties in prison. Occasionally women have been detained among male prisoners despite the Prisons Act explicitly stating that male and female prisoners must be kept separate.¹¹³ One female NLD member describes how she was placed in a cell in an all-men’s cellblock in Insein Prison, which made her feel extremely uncomfortable as “men were always coming and going”.¹¹⁴

107. Ex-PP Survey: FPP/DC/00509 (January 2014)

108. The Prisons Act, Article 40; Prison Manual, Article 790, 790 (1), 781

109. SMRs, Rule 37 <<http://bit.ly/1LESAtI>>

110. AAPP, “Submission to the United Nations Periodic Review of Burma,” 5; AAPP, “The Situation of Political Prisoners In Burma: May to August 2011,” 3.

111. Ex-PP Survey: FPP/DC/00656 (March 2014)

112. AAPP, “Women Political Prisoners in Burma” (September 2004) <<http://bit.ly/1Mhbl5g>>

113. The Prisons Act, 1984, Section 27 <<http://bit.ly/1Hhx4ZG>>

114. Ex-PP Survey: FPP/DC/00656 (January 2014)

Prison authorities routinely neglect pregnant political prisoners. Female political detainees who were pregnant upon arrest and give birth in prison find their lives and the lives of their newborn babies at risk. After enduring the trauma of giving birth in prison without adequate medical assistance, female political prisoners are denied postnatal care and sufficient resources to care for their babies. In addition, malnutrition, which many political prisoners suffer from, causes problems after birth and can lead to an inability to breastfeed.¹¹⁵ When one ex-PP went into labor in Maubin Prison, the prison authorities refused to call a doctor to assist her with

the birth, thus, she was forced to give birth to her daughter without medical assistance. Even after delivering the baby she was still refused healthcare or additional food – all she was given were scraps of cloth to wrap her child with. She was released after serving 11 months in prison. Her baby, three months old at the time, died 15 days after her release.¹¹⁶ Although the exact cause of death is unknown, the consistent denial of medical treatment and additional provisions for her baby, coupled with poor prison conditions, certainly put her baby’s life at risk.

115. AAPP, “Women Political Prisoners in Burma” (September 2004)

116. Ex-PP Survey: FPP/DC/00267 (March 2014)

Chapter - 6

Barriers to Reintegration

6.1 Introduction

Even after political prisoners are released from prison, their hardships are far from over. Ex-PPs have been subject to close monitoring upon release, often harassed by the authorities, and as such live in constant fear of re-arrest. Political prisoners released under amnesty in particular face the risk of re-arrest, as often those granted amnesty in Burma are released conditionally under Article 401 of the Code of Criminal Procedure. Of those ex-PPs that revealed they were granted amnesty, 61 percent were released with conditions. These conditions are often detrimental to the lives and freedoms of released activists and undermine the notion of true freedom from imprisonment. Worryingly, Article 401 (3) states that if the authorities deem the ex-PP has violated the terms of their release they will be re-arrested “without warrant and remanded to complete the un-expired portion of the sentence”.¹¹⁷ The re-imprisonment of Nay Myo Zin, a charity worker

and coordinator of the Myanmar Social Development Network, in May 2013 sent a chilling warning to all freed political prisoners released conditionally about their constant risk of re-imprisonment.¹¹⁸ The former Special Rapporteur on the situation of human rights in Myanmar stated on several occasions that the release of political prisoners “must be without any conditions”,¹¹⁹ a sentiment reiterated by his successor.¹²⁰

In addition to the fear of re-arrest, and harassment from the authorities, ex-PPs are subject to severe restrictions that limit their education and employment opportunities. Fifty eight percent of the ex-PPs responded that they experienced harassment and limitations or restrictions by the authorities following their release.

This chapter is based on findings from the research on the 1,459 ex-PPs that were alive at the time the data was collected, and will discuss further how

117. The Code of Criminal Procedure, Article 401, <<http://bit.ly/1Hhy0xa>>

118. AAPP, “AAPP condemns the sentencing of former political prisoner under Article 401 (1)” (May 2013) <<http://bit.ly/1Krli1m>>

119. Human Rights Council, “Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomas Ojea Quintana” (March 2013) <<http://bit.ly/1RIVljk>>

120. United Nations, General Assembly, Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, (September 2014) <<http://bit.ly/1pnfR64>>

“After release I had to restart my life from the beginning”

harassment, restrictions placed upon ex-PPs, stigmatization, and lingering effects of imprisonment and torture act as serious barriers to reintegration. Having spent many years in prison, many ex-PPs find that society, as they knew it, has changed greatly - in the absence of government support and rehabilitation programs they struggle to pick up their lives where they left off. As one ex-PP soberly remarked: “After release I had to restart my life from the beginning.” ¹²¹

6.2 Forced into Exile

Many of the ex-PPs live in exile outside of Burma, either self-imposed due to fear of re-arrest or they wish to continue with their activism, or because they have been blacklisted, deemed by the State as a threat to national security and barred from entering or leaving the country. When blacklisted, many flee

illegally across the border into Thailand, where they either continue their political activities or go to refugee camps to await resettlement overseas. Although Thailand is not a signatory to the 1951 Refugee Convention or its 1967 Protocol, the Thai Government currently hosts 110,513 refugees from Burma in the nine camps along the Thailand-Burma border. ¹²² For those ex-PPs who live in the refugee camps, life is not without difficulty – it is illegal to leave the camps and find work, and overcrowding, insufficient rations, limited education and health facilities are all issues they must contend with. Despite this, many have faced such horrors in Burma that returning is not an option. The following case study exemplifies the horrific experiences that ex-PPs have endured which prevents them from leaving the safety of refugee camps and returning to Burma:

121. Ex-PP Survey: FPP/DC/00454 (March 2014)

122. The Border Consortium, “Refugee and IDP Camp Populations: March 2015” (March 2015) <<http://bit.ly/1KJA2sa>>

Exile Case Study ¹²³

Ko Htun, ¹²⁴ was arrested in 2005 for helping NLD members flee to Thailand following the 2003 Depayin Massacre, whereby at least 70 people associated with the NLD were killed by a government-sponsored mob in Burma's Sagaing Division. Following his arrest, Ko Htun spent over a month in interrogation and was subject to extensive torture and degrading treatment including beatings, made to stand on his knees on broken glass and stones, having his genitals burnt with lit cigarettes and forced to drink his own urine. During this time they also took members of his family into interrogation. Ko Htun was eventually sentenced to three years in prison and was released in 2008.

After his release, he and his family were routinely harassed, questioned and threatened by Special Branch and Military Intelligence. Fearful of re-arrest and for his family's safety Ko Htun took his family and fled to the border through the jungle, entering Thailand illegally in 2009. Once in Thailand the family made their way to Umpiem Mai Refugee Camp. Ko Htun has now been at the camp for six years. With a lack of adequate medical care, Ko Htun still suffers from lasting injuries obtained during his interrogation and notes that people in the camp are given insufficient food rations. His daughter has been resettled in the United States and his son moved to a neighboring camp, and he only has contact with them once a month.

Ko Htun sums up life in the camp: “I feel that a lifetime in the camp is the same as being in prison or under house arrest. It's like we lose our basic human needs and [are cut off] from the outside world. The situation in the camp is the same as the one in the prison in Burma.” Despite the fact that Ko Htun does not wish to remain in the camp long-term, asked if he would consider returning to Burma he stated: “I never think about going back to the place I lived before in Burma because I will lose my life”.

Since the 2010 elections and particularly during the early days of the reform process, the then President Thein Sein publicly invited exiles that had not committed “serious crimes” to return to Burma. In August 2012, over 2,000 people were removed from the blacklist, which included hundreds of exiled activists. In reality however, due to the lack of clear

policy and practical implementation procedures, those who have tried to return and resettle in Burma have faced many restrictions including deferral and denial of visas without justification, deportation, and restrictions on participating in political affairs. ¹²⁵ In the absence of clear policies for those who wish to return, many ex-PPs have decided to remain in

123. Ex-PP Survey and Interview: FPP/DC/02214 (February 2014 and June 2015)

124. Not his real name

125. For more on restrictions placed on activists returning to Burma formerly in exile see: AAPP, Burma Partnership & Equality Myanmar, “Statement on Government Policy on Return and Resettlement of Exiled Activists and Political Forced By Association for Political Prisoners, Equality Myanmar, Burma Partnership” (December 18, 2014) <<http://bit.ly/1H5Qtws>>

self-imposed exile, fearful of what may happen to them and their families if they return. Moreover, not all were removed from the blacklist and the Thein Sein government had begun placing former exiled activists back on the blacklist for continuing their political activities.¹²⁶ At the time of writing, it is unclear what the NLD-led government’s policy will be on the blacklist and they are yet to address the issue.

6.3 Travel Restrictions

Burma’s Ministry of Home Affairs has routinely refused to issue passports to many ex-PPs preventing them from traveling abroad to visit family, attending conferences, obtaining education or training, and receiving awards. Many of the ex-PPs surveyed have been denied passports. The ministry has been known to tell ex-PPs that they were ineligible to obtain a passport for a period of one year following their release, but failed to provide a legal basis for this decision.¹²⁷ The standard processing time for a passport in Burma is 10 days, however the Burma Passport Issuing Office announced in 2013 that ex-PPs, including political detainees, must present additional documents and may be subjected to longer waiting periods.

In order to obtain a passport in Burma a person must submit their national identity card along with their household registration papers, however many of the ex-PPs had their identity cards confiscated upon their arrest. As one ex-PP describes: “Military Intelligence confiscated my identity cards and books. When I was free from prison they did not give them

back.”¹²⁸ Moreover, as citizens must renew their national identity cards at the age of 30, those who were imprisoned before that age face difficulties as ex-PPs are often prevented from renewing them. Without identity cards it is impossible to obtain a passport, travel between towns is not permitted, and it is very difficult to find employment.

6.4 Denial of Educational Opportunities

Many of the ex-PPs have obtained a high level of education (see section 2.5 of this report for a breakdown of attainment). Although mandatory education in Burma finishes at grade five,¹²⁹ over half of the ex-PPs have attained at least a high school diploma (equivalent of successfully completing grade 11). Moreover, a third of the ex-PPs have gone onto some form of higher education; 22 percent are university graduates and a further one percent has completed a postgraduate degree.

Eight percent of the ex-PPs had started, but not completed an undergraduate degree - many of these ex-PPs were students at the time of arrest. For the majority of those ex-PPs that were imprisoned whilst in the process of obtaining further qualifications, post-release they have been denied the opportunity to continue their education by the authorities and thus have been unable to complete their studies. When attempting to resume their education, the ex-PPs have been prevented from doing so, either because the university officials are linked to the Ministry of Education, or because the authorities have put pressure on the university. Universities often instruct ex-PPs to obtain a letter from the local

126. For example, recently the Burma Government has refused to issue an entry visa to prominent activist and former exile Khin Omar, who frequently travels between Burma and Thailand, despite being allowed to enter Burma earlier this year.

127. Human Rights Watch, “Burma: Former Political Prisoners Persecuted, End Passport, Education Restrictions; Provide Support for Those Released” (September 17, 2012) <<http://bit.ly/1JLHrpt>>

128. Ex-PP Survey: FPP/DC/01484 (February 2014)

129. While this is the case, many children - especially those living in rural areas - do not stay in education until grade five

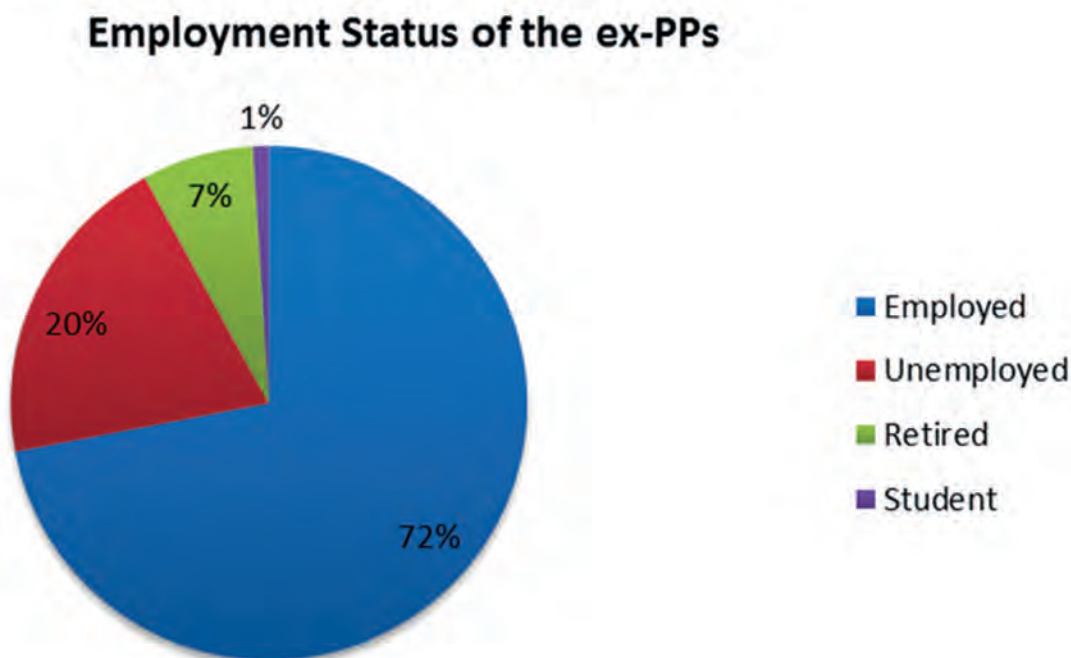
police before they will let them enter. Often this letter is not easy to obtain, but also many ex-PPs refuse to attempt to obtain this letter out of principle, as they feel the police should have no connection with the education authorities. One ex-PP was in his fifth year of studying medicine at university when he was arrested for joining the commemoration of the 100th birthday of Thakin Ko Taw Hmine, a prominent poet and anti-colonial activist in Rangoon. Barred from returning to university on his release, he explains, “I lost my education when I was imprisoned”. He is now unemployed and living in a refugee camp on the Thailand-Burma border.¹³⁰ The denial of education opportunities seriously affects ex-PPs chances of reintegration, as it impacts their employability and ability to enter into certain professions that require a certain level of qualification. As one ex-PP who was not permitted to resume his

studies after his release states: “I lost my chance to complete my education, so I lost job opportunities.”¹³¹

6.5 Denial of Employment Opportunities

One of the greatest barriers to successful reintegration for ex-PPs in Burma is a lack of gainful employment opportunities due to legal, social and physical barriers. The majority of ex-PPs find themselves unemployed upon release, having been dismissed from their previous jobs at the time of their arrest. Not entitled to compensation for their unfair dismissal, unable to claim their pensions, and having missed out on their prime earning years while in prison, the ex-PPs struggle to find gainful employment opportunities, which they urgently need. Chart D reveals the employment status of the ex-PPs at the time of surveying:

Chart D:



130. Ex-PP Survey: FPP/DC/01785 (March 2014)

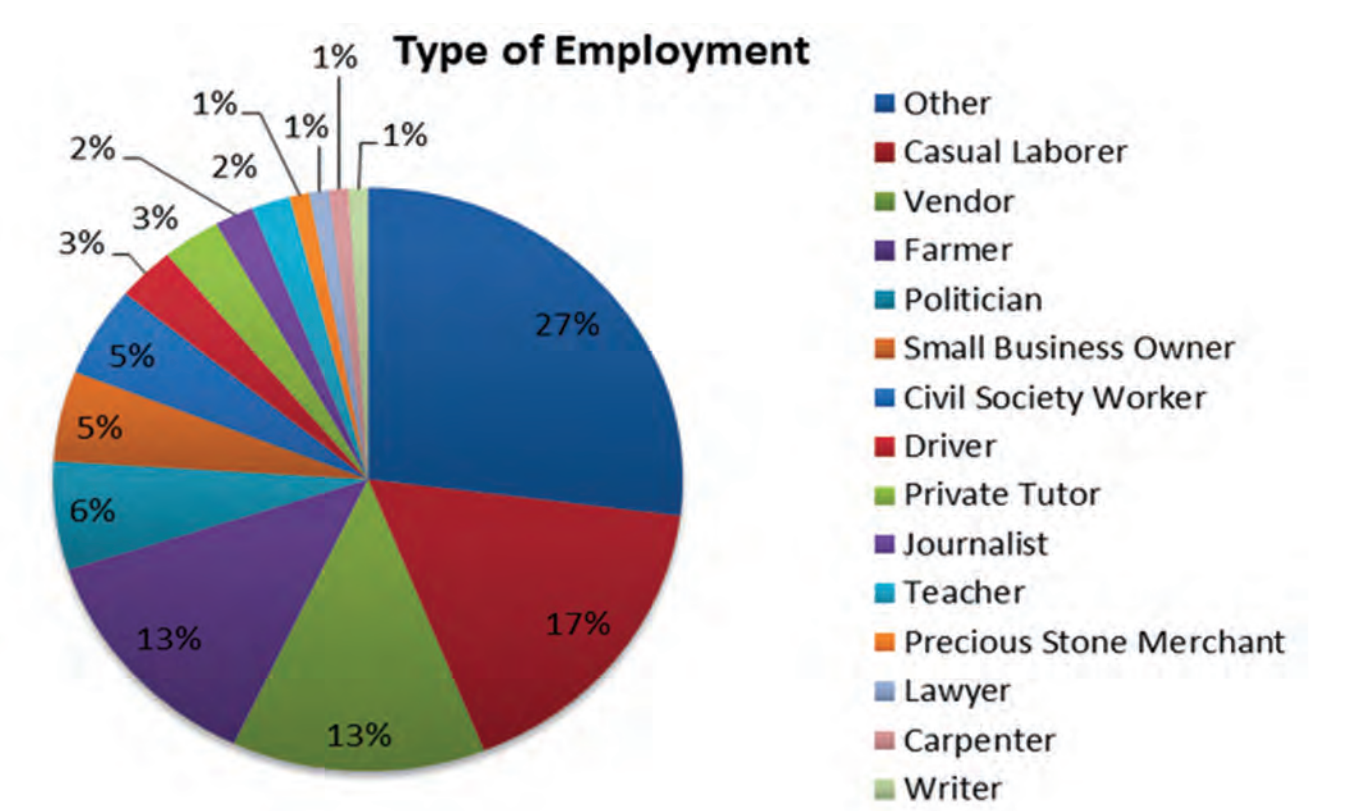
131. Ex-PP Survey: FPP/DC/00576 (March 2014)

“After release I had to restart my life from the beginning”

Highlighting the difficulties that ex-PPs face finding employment post-release is the fact that out of the 20 percent of ex-PPs that are currently unemployed, three quarters of those were in employment prior to their imprisonment. As is visible from Chart D, the majority of the ex-PPs are in some form of employment. Despite this however, 82 percent of the ex-PPs stated that they do not earn a

sufficient amount of income to support themselves and their families – this is largely due to underemployment, a phenomenon whereby, in the absence of gainful employment opportunities, ex-PPs have been forced to take low-paid and low-skilled jobs that they are overqualified for. Chart E displays a breakdown of the types of employment the ex-PPs were engaged in at the time of surveying.

Chart E:



Seventy-one percent of the ex-PPs responded that their prison confinement had affected their employability, while 10 percent felt it had partially affected their employability. Prior to their imprisonment, many of the ex-PPs reported having been in secure and well-paid professions, including

law, medicine, dentistry, accountancy, engineering and teaching, or at university studying to enter such lucrative professions. The overall high level of educational attainment of the ex-PPs supports this. Despite this however, the most common form of employment for the ex-PPs shown by Chart E is

unskilled casual labor, including manual and farm labor. Such casual jobs are often very lowly paid, and have no job security. The surveying also revealed other trends in the employment of the ex-PPs: business owners who had their business destroyed have become vendors; unable to find employment in schools or universities, teachers have had to become private tutors; and other skilled professionals have had to become taxi or trishaw drivers to make ends meet. For ex-PPs, low-paid employment is often all they can get due to the restrictions that prevent them from finding more meaningful and lucrative forms of employment.

Ex-PPs from rural areas in particular reported having been landowning farmers prior to their imprisonment; these ex-PPs would certainly have generated sufficient income from their land to provide for themselves and their families. However, many landowning ex-PPs who had their land confiscated by the authorities when they were imprisoned were released to discover that their livelihoods had been completely lost. Although there was no question specifically pertaining to land confiscations, four percent of the ex-PPs surveyed described how they had had their land or paddy fields confiscated by the authorities when they were imprisoned. One ex-PP living in Ayeyarwady Division had approximately 300 acres of land confiscated when he was imprisoned, in addition to three tractors and

a motorboat.¹³² In the absence of their land, many of these ex-PPs have been forced to become farm laborers, working on other farmers' lands for very low pay.

Many of the ex-PPs report having found employment post-release, but then due to pressure from Special Branch or Military Intelligence, their employers dismissed them. One ex-PP, who had his own business servicing and repairing refrigerators before he was imprisoned, attempted to restart his business upon his release in 2001. However every time a client would place an order with him the authorities disturbed them so eventually he lost all of his business. Currently he has no work and his family is struggling to support themselves.¹³³

In addition to restrictions created by the authorities, social barriers exist which prevent ex-PPs from entering employment that generates sufficient income. Their status as an ex-PP alone is a deterrent for potential employers who are often anxious of the ramifications of hiring or being associated with an ex-PP. As one unemployed ex-PP describes, “When employers learn about me being a former political prisoner, they do not dare to employ me”.¹³⁴ Employers that do employ ex-PPs may be subject to pressure and threats from the authorities to dismiss them, or face consequences detrimental to their business.

132. Ex-PP Survey: FPP/DC/00481 (March 2014)

133. Ex-PP Survey: FPP/DC/00971 (March 2014)

134. Ex-PP Survey: FPP/DC/00026 (January 2014)

“After release I had to restart my life from the beginning”

Post-release, many ex-PPs are legally barred from reentering their former professions – political prisoners have criminal records which prevent them from entering into certain types of professions, and the authorities often revoke licenses indefinitely for professionals such as lawyers and doctors, which they need to practice. There have also been cases where the authorities have withheld documents that the ex-PPs require to get a job, such as national registration cards, and recommendation letters from the police. One ex-PP who was dismissed from his job at the Education Department after he was arrested had the words “has committed a crime” written with a red permanent marker pen on his national registration card by the authorities upon his release, which has made it impossible for him to find a job. ¹³⁵

Ex-PPs who face legal barriers to employment are forced to take on any work that they can find, which they are often highly overqualified for. One ex-PP

describes how he only got back his lawyers license in 2013, after 20 years of revocation. During that time he was forced to work as a farm laborer and had difficulties with subsistence. ¹³⁶ Another ex-PP, imprisoned for giving free legal advice to political prisoners, had her law license revoked in 1996 and has still not received it back. She describes the consequences of her inability to practice: “My lawyer’s license was suspended, so I am unable to work and don’t have income, so I suffer from depression.” ¹³⁷ In fact, unemployment and underemployment can seriously affect the mental health of ex-PPs, causing feelings of shame and hopelessness – as one 35-year old ex-PP who holds a degree in economics yet is unemployed disclosed: “I feel inconsequential because I have no job and no income”. ¹³⁸

The following case study outlines the extent to which ex-PPs suffer from barriers to employment:

135. Ex-PP Survey: FPP/DC/00679 (January 2014)

136. Ex-PP Survey: FPP/DC/01072 (February 2014)

137. Ex-PP Survey: FPP/DC/01204 (Unknown)

138. Ex-PP Survey: FPP/DC/00312 (March 2014)

Employment Case Study: ¹³⁹

Ma Cho ¹⁴⁰ was 29 years old when Special Branch arrested her in 1995 for singing a song against the government at the funeral of U Nu, Burma’s first democracy leader. Ma Cho had decided to involve herself in political activities from an early age, after the Burma Army killed her friend’s brother with an axe whilst they were in fourth grade – she promised her friend at the time that they would avenge his death when they grew up. Student activists further inspired her while she was studying for her bachelor’s degree. At the time of her arrest she held a bachelor degree in Burmese Literature and a diploma in business administration, and was working as a secretary at a private company. She was sentenced to seven years in prison.

After being released early after five years and four months under Article 401 (1), because she was unwell, Ma Cho was unable to return to her former job but was determined to succeed. She recounts: “Back then, I thought the government wanted me to be a vagrant, but I did not want this. Therefore I sold my father’s motorcycle and attended university to get a diploma [in Computer Art]. If I succeeded in being outstanding in the course, I knew I could get a job. Therefore, I tried even harder.” After she completed her course, Ma Cho was offered an internship with the university as a tutor. After three months they promoted her to a lecturer. However after a year lecturing she was dismissed after Special Branch informed the university that she was an ex-PP. Despite her multiple qualifications, she has been unable to find work since and is under constant surveillance.

“I am under surveillance all the time. My main job search [has been] difficult because I had to get a recommendation letter from the police station. I saw other people who came to get the recommendation letter and got it. When I told my name at the police station for the recommendation letter, they changed their mind.”

Ideally Ma Cho would like to work as a secretary as she was before her imprisonment. When asked what her personal goals were for the future she replied: “I do not have any goals for the future. I cannot go back to my past life.”

139. Ex-PP Survey and Interview: FPP/DC/00319 (March 2014 and June 2015)

140. Not her real name

6.6 Financial Hardships

As has been noted in the previous section, the majority of the ex-PPs stated that they are not earning sufficient income, due to either unemployment or underemployment. Moreover, many of the ex-PPs lost the majority of their optimum earning years in prison. As one ex-PP explains: “I lost most of my time when I can work effectively because I was in prison... now I am too old to work properly.”¹⁴¹ In addition to losing their prime earning years, many ex-PPs had been left with no choice but to sell their land, businesses, and other assets to cover their extensive legal costs. While numerous ex-PPs were released to find that sources of income such as businesses and land had been confiscated, other ex-PPs who continue to possess their assets still face difficulty due to their absence in prison. One ex-PP who spent three years in prison had no one to tend his land in his absence and describes: “my paddy fields were abandoned during my prison confinement. So [now], my paddy fields are spoiled and haven’t got good harvests”.¹⁴² Another ex-PP had his own photocopying business before he was arrested, and had his siblings take over the business in his absence. However, his siblings, lacking the ex-PP’s business acumen, were unable to keep the business from failing. When the ex-PP was released

from prison the machines and equipment had aged and were inoperative. While the ex-PP was able to restart his business, in order to do so he had to take out a loan and is now struggling to pay back his debt and the accumulating interest.¹⁴³

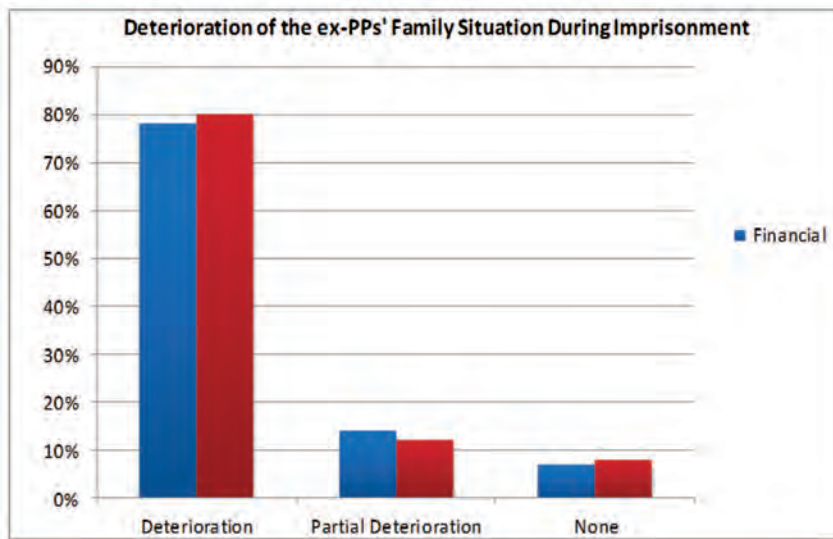
Considering the effects of imprisonment on the ex-PPs’ sources of income, it is no surprise that 85 percent of the ex-PPs responded that they were having difficulties with subsistence. Further compounding these hardships is that ex-PPs have families to support. Moreover, prior to their imprisonment, 67 percent of the ex-PPs responded that their families had full financial dependence on them, while 14 percent responded that their families were partially financially dependent on them. Not only did the ex-PPs’ families lose, for the large part, their main source of income and financial stability while the ex-PP was in prison, but a large number of the ex-PPs also reported that their family members were dismissed from their jobs due to association with the ex-PP, further worsening their financial situation. As Chart F exhibits, while the ex-PPs were in prison the majority of their families felt they experienced deterioration in their financial situation, in addition to their overall social, education and health situation.

141. Ex-PP Survey: FPP/DC/00002 (January 2014)

142. Ex-PP Survey: FPP/DC/01276 (February 2014)

143. Ex-PP Survey and Interview: FPP/DC/00856 (February 2014 and July 2015)

Chart F:



The majority (87 percent) of the ex-PPs have children. However, during their imprisonment many of their children lost out on education opportunities due to financial difficulties within the family. One ex-PP explains, “My children have no education because I couldn’t provide them with it.” After his arrest, his children, who had completed their basic primary education (grade five) had to stop attending school, as the family could not afford to continue educating him without the ex-PP’s income. Formerly a tailor, post-release his family’s financial situation has not improved much as his eyesight is now deteriorating due to old age, and consequently he cannot continue with his profession. Earning 400,000 Kyat per year (approximately USD 300) as a farm laborer, he and his family are facing difficulties with subsistence.¹⁴⁴

6.7 Social and Familial Exclusion

Social reintegration refers to the process of

integrating socially and psychologically into one’s environment.¹⁴⁵ For ex-PPs, this can be challenging considering society is likely to have changed during their time in prison, coupled with their status as an ex-PP. Several of the ex-PPs surveyed reported experiences of social exclusion from family, friends, neighbors and ostracism by the wider community due to the pervasive culture of fear in Burma. Whilst in prison many claim neighbors, friends and even certain family members refused to assist or interact with their families due to fear of reprisal. Since their release, family and friends continued to maintain their distance from the ex-PP and their family due to fear. Arrested four times for his continued activism, one ex-PP and his family severely felt the effects of ostracism following his release - despite his position as a medical doctor, a well-respected profession in Burma. He sums up the situation: “As a political family, people did not want to associate with us. Even if they wanted to give us help, they were scared to give it.”¹⁴⁶

144. Ex-PP Survey: FPP/DC/00565 (Unknown 2014)

145. UNODC, “Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders” (2012) <<http://bit.ly/1M6cnB1>>

146. Ex-PP Survey: FPP/DC/01554 (Unknown 2014)

“After release I had to restart my life from the beginning”

Even if friends and family do maintain contact, many ex-PPs find it difficult to relate to others following their imprisonment as the ex-PP’s experience comes to define his or her life; many ex-PPs explain that once they are a political prisoner, they are always a political prisoner. Thus, only those who share similar experiences can fully understand them.¹⁴⁷ This inability to relate to non-ex-PPs can lead further to feelings of isolation.

Exclusion can also come from the family unit. Often family members harbor feelings of resentment towards the ex-PP over the difficult financial and social situations they faced while the ex-PP was in prison, which can further exacerbate tensions. Other ex-PPs reported a complete separation from the family unit after their release. A common finding was that spouses had remarried due to the ex-PPs’ imprisonment. One ex-PP comments: “After I was handed down the verdict my wife left me and had a second marriage. Therefore I am staying with my friend now”.¹⁴⁸ After long absences in prison, the children of ex-PPs may not wish to associate with them either.

In addition, many of the ex-PPs reported that their family situation changed drastically during their incarceration; 24 percent stated that their family experienced a breakdown during their prison confinement, and 32 percent that their family had a partial breakdown. After a long absence, relationships may be difficult to reestablish and reintegration into the family after a long period of absence can be highly stressful for all involved.

Ex-PPs ostracized from both their families and

friends are released into a situation where they are essentially homeless and must seek refuge with fellow ex-PPs or in monasteries. A lack of housing due to a breakdown of the family unit is an immediate and pressing issue for ex-PPs, and poses as a major barrier to successful reintegration into society.

6.8 Ongoing Health Issues

Largely denied access to healthcare while in prison, ex-PPs continue to suffer from injuries and illnesses attained in prison after their release. Although many of the ex-PPs were released years ago, 77 percent of the ex-PPs reported that they are still suffering from the wounds they obtained in detention today. With no government assistance, and scarce resources, many ex-PPs do not have access to healthcare at all. There are also numerous cases where the damage inflicted in prison was irreversible – these permanent injuries act as major barriers to rehabilitation as they prevent the ex-PPs from entering employment and carrying out daily tasks. This section will outline both the main physical and mental conditions that ex-PPs suffer from post-release.

Physical Health

The majority of the ex-PPs were physically tortured and subsequently denied medical treatment – as a consequence, many suffer from lasting and permanent injuries from the torture they endured. Studies have revealed that victims of blunt trauma, or beating of all parts of the body with blunt instruments, often experience persistent body pain, even years after the event.¹⁴⁹ Eleven percent of

147. AAPP, “The Role of Political Prisoners in the National Reconciliation Process” (March 2010) <<http://bit.ly/1izyibs>>

148. AAPP Survey, FPP/DC/00495 (January 2014)

149. Adam J, et al. “Chronic Pain in Torture Victims”, Current Pain and Headache Reports (March 2010) <<http://bit.ly/1HMCAXA>>

the ex-PPs continue to suffer from chronic aches and pains, three quarters of who were physically tortured while in detention or prison.

Three percent of the ex-PPs reported suffering from paralysis, or symptoms associated with paralysis, including numbness and tingling sensations in their limbs. Probable causes are loss of mobility from being shackled in often-awkward positions for extended periods of time, in addition to sleeping for prolonged periods on a cement floor in prison. Severely restricting mobility, paralysis presents a major barrier to reintegration – for example, after having his legs shackled for six months in prison, one ex-PP describes how he is now unable to work as he suffers from paralysis in both of his legs.¹⁵⁰

A number of older ex-PPs reported conditions linked to old age such as deterioration of eyesight, rheumatism, and arthritis, which is to be expected. However, a number of younger ex-PPs also reported suffering from arthritis – while we do not have diagnoses for the types of arthritis they suffer from, it is worth noting that arthritis has been linked to certain types of torture including blunt trauma and suspension.¹⁵¹

Other frequently reported health conditions among the ex-PPs included hypertension and hypotension, kidney disease, heart disease and cirrhosis. Many of these conditions are triggered or aggravated by stress, thus it comes as no surprise that they are common amongst the ex-PPs.

Mental Health

While ex-PPs no doubt suffer from lasting physical injuries as a result of torture, survivors of torture, ill treatment and unjust imprisonment suffer a range of mental health symptoms at varying levels of severity. In an extreme case, one ex-PP was tortured so severely during his interrogation that he became psychotic. He continues to experience psychosis and is unable to work or care for himself, now living under the care of his two younger sisters.¹⁵² Even in less severe cases, mental health issues can hinder the ex-PPs’ rehabilitation. As a result of the ex-PPs’ difficulties relating to others who do not share similar experiences to them, ex-PPs often experience feelings of isolation. Social exclusion, and heightened feelings of distrust and anger as a consequence of their unjust imprisonment further exacerbate feelings of detachment and marginalization. One ex-PP describes: “I felt always annoyed because of other people’s bad vision of me.”¹⁵³ In addition, feelings of guilt are not uncommon as family members may blame the ex-PP for continued economic hardships faced by the family during and after the ex-PP’s imprisonment. Feelings of guilt, hopelessness and worry over the future are a cause of sleeping difficulty as recurring thoughts or memories of the most hurtful or terrifying events can keep political prisoners awake, or manifest in recurring nightmares.

It is not uncommon for ex-PPs, especially those who were tortured, to exhibit symptoms of depression and anxiety, such as increased susceptibility to

150. Ex-PP Survey: FPP/DC/00011 (February 2015)

151. Adam J, et al. “Chronic Pain in Torture Victims”, Current Pain and Headache Reports (March 2010) <<http://bit.ly/1HMCAXA>>

152. Ex-PP Survey: FPP/DC/00887 (February 2015)

153. Ex-PP Survey: FPP/DC/02028 (January 2014)

feeling sad and crying, abusing alcohol and drugs, becoming easily angered and irritable, feeling isolated and hopeless about the future, being reserved, and losing concentration easily. These symptoms often manifest in prison, and left untreated, continue post-release. As one ex-PP stated: “I didn’t have access to medical treatment while they tortured my heart and mind in the interrogation camp and in prison. I still suffer now.”¹⁵⁴ Unsurprisingly, ex-PPs experiencing symptoms of depression and anxiety often have difficulty coping with daily life. One ex-PP who was severely tortured and mistreated during his time in prison reveals: “All my ambition has been destroyed because of my imprisonment.”¹⁵⁵

While only two percent of the ex-PPs revealed suffering from depression or anxiety post-release, it is important to note that mental health issues amongst victims of abuse in Burma are often overlooked, even by the victims themselves, due to a deep-seated stigma that many in Burma attach to anything directly related to mental health. Due to a history of political repression, fear, the belief that talking does not help, a lack of understanding about mental health, avoidance of symptoms, shame, and culture, discussing mental health in Burma is difficult.¹⁵⁶ For these reasons it is likely that many of the ex-PPs suffering from mental health issues as a result of their incarceration have not have

disclosed these issues on their surveys and it can be justifiably speculated that the incidence of these mental health issues is higher than indicated by the self-report surveys. Moreover, a high incidence of diseases commonly associated with alcoholism were reported by the ex-PPs, including cirrhosis and heart disease, suggesting that the ex-PPs may be using alcohol to deal with mental health issues in the absence of mental health assistance.

PTSD is the most common mental health condition observed among survivors of torture.¹⁵⁷ PTSD develops following a terrifying ordeal that involved physical harm or the threat of physical harm, and as such, political prisoners who have endured physical or psychological forms of torture are prone to developing PTSD. Ex-PPs suffering from PTSD may experience flashbacks, nightmares, feelings of fear, and angry outbursts. Re-experiencing symptoms triggered by words, objects, or situations that are reminders of the event can cause problems in the ex-PPs’ daily routines as sufferers often attempt to avoid places or events that may act as triggers. PTSD is often accompanied by depression, substance abuse or other anxiety disorders. Moreover, those that have close and loving relationships with the individual who experienced the traumatic event are also at risk of developing PTSD,¹⁵⁸ thus it is likely that family members of the ex-PPs may also suffer from PTSD.

154. Ex-PP Survey and Interview: FPP/DC/02214 (January 2014 and June 2015)

155. Ex-PP Survey: FPP/DC/00473 (March 2014)

156. Patricia J. Shannon, et al. “Beyond Stigma: Barriers to Discussing Mental Health in Refugee Populations” *Journal of Loss and Trauma: International Perspectives on Stress & Coping*, Vol. 20, No. 3 (2014) <<http://bit.ly/1NOmpXX>>

157. Adam J, et al. “Chronic Pain in Torture Victims”, *Current Pain and Headache Reports* (March 2010) <http://bit.ly/1HMCAXA>

158. National Institute of Mental Health, “Post-Traumatic Stress Disorder (PTSD)” (2015) <<http://1.usa.gov/19BJgRY>>

6.9 Continued Involvement in Politics

At least one fifth of the ex-PPs continued their political activities at great personal risk after their first stint in prison, evidenced by the multiple numbers of times they were arrested (see section 3.1). The experiences of abuse and unjust detention spurred many of the ex-PPs further in their commitment to ensuring a free and democratic Burma. Employed as an electrician but not earning sufficient income, one ex-PP declared his commitment: “I don’t put anything first other than politics”.¹⁵⁹ This sentiment was echoed throughout the surveys and interviews. Another ex-PP and NLD

member broke down in tears as he told the interviewer: “as long as my country is not free, I will continue in political movements”.¹⁶⁰ The ex-PPs’ continuation of political activities has acted as a barrier to reintegration, creating family tensions if the family did not wish the ex-PP to continue with his or her political actions. In addition, continued political activism has also exacerbated social exclusion; interfered with employment; and, ultimately led to re-arrest and imprisonment. These are risks the ex-PPs have been willing to take in order to realize their goals – as one ex-PP described: “The goal is to achieve real democracy, to keep fighting until we get it.”¹⁶¹

159. Ex-PP Survey: FPP/DC/01207 (January 2014)

160. Ex-PP Survey and Interview: FPP/DC/00766 (February 2014 and July 2015)

161. Ex-PP Survey and Interview: FPP/DC/00856 (January 2014 and July 2015)

Chapter - 7

Reparations

7.1 Introduction

In the wake of conflict or authoritarian rule, reparations programs – state sponsored initiatives that aim to contribute to repairing the material and moral impacts of past abuses by certain classes of victims – are an essential component of transitional justice. Defined by the UN as “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reparations,”¹⁶² transitional justice is essential to achieving genuine progress on peacebuilding, strengthening democratic institutions and economic development. This is particularly true for Burma, a country seemingly undergoing rapid political and social change, where grievances related to human rights violations continue to emerge and affect victims, yet the government has a lack of willingness or a strategy to deal with the past.¹⁶³

Civil society in Burma is providing a range of rehabilitation programs - on a small-scale - for ex-PPs and their families in an attempt to fill the gap in the absence of state provided welfare. However,

as part of transitional justice, ex-PPs who have suffered the devastating effects of unjust incarceration, abuse and torture, have the right to remedy and reparations from the government. In fact, the State has a duty to provide reparations to victims for acts which can be attributed to the State and constitute gross violations of international human rights law. This duty is outlined by the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (“Basic Principles”), adopted in 2005. The Basic Principles state that victims of gross violations of international human rights law should be provided with “full and effective reparation”, which include, “restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.”¹⁶⁴

This chapter will outline Burma’s legal obligation to provide reparations under international law; describe assistance programs currently available to ex-PPs and their families; examine reparations programs which have been conducted in other countries and highlight best practices; and finally, considers how best to implement reparations programs in Burma.

162. United Nations, “Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice” (March 2010) <<http://bit.ly/1NjJC9u>>

163. ICTJ, “Navigating Paths to Justice in Myanmar’s Transition” (June 2014) <<http://bit.ly/1M9ROqq>>

164. General Assembly resolution, 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147 (December 16, 2005) <<http://bit.ly/1zWTUzU>>

7.2 Burma's Legal Obligation to Provide Reparations

Strong international norms exist that require the Burma Government to provide ex-PPs with reparations and rehabilitation support. As the report has demonstrated, Burma's previous regimes have clearly violated the civil and political rights of political prisoners, and in many cases their right to freedom from torture. In light of such violations and in accordance with international norms derived from the ICCPR and the UNCAT, the Burma Government is obligated to provide redress to ex-PPs. Article 14 of the UNCAT explicitly articulates that States should ensure “that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible,” whilst, “in the event

of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation”.¹⁶⁵ Moreover, Article 9 of the ICCPR provides protection against arbitrary arrest or detention and stipulates: “anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation”.¹⁶⁶

Subsequently, bound by customary international law, the Burma Government is obligated to provide effective reparation for ex-PPs and their families, in accordance with the Basic Principles. The former Special Rapporteur on the situation of human rights in Myanmar has reiterated this obligation, stating that the State has a duty to provide adequate medical and rehabilitation support for ex-PPs, and consider ways to provide compensation.¹⁶⁷



School leaver's talk delivered by FPPS (roundtable discussion)

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165. UN General Assembly, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) <<http://bit.ly/1RxXCOI>>
166. International Covenant on Civil and Political Rights (1966) <<http://bit.ly/1eeGc40>>
167. Human Rights Council, “Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomas Ojea Quintana” (March 2014)

“After release I had to restart my life from the beginning”

7.3 Current Assistance Programs in Burma

Whilst it is clear that ex-PPs face many physical, social and economic obstacles to rebuilding their lives after their unjust incarceration, the government has yet to implement reparations programs to assist this process. In the absence of government led support, civil society organizations such as AAPP and the U Win Tin Foundation are implementing assistance programs for ex-PPs in an attempt to fill the welfare gap.

The U Win Tin Foundation, founded by the late democracy activist, NLD member and journalist Win

Tin, offers financial support in the form of cash donations, to current political prisoners and ex-PPs, as well as their families. As of March 2015, the foundation had provided more than 150 million Kyat (equivalent to approximately USD 14,000) in cash assistance since its inception in March 2012.¹⁶⁸ In addition, the foundation provides free medical assistance to ex-PPs and their family members.

Providing assistance to current political prisoners, ex-PPs and their families is a key component of AAPP's work in Burma. The following section outlines some of the activities that AAPP undertakes to assist ex-PPs and their families to facilitate rehabilitation.



Refreshment course for counselors (2015)

168. “Win Tin Foundation provides Ks 150 million in assistance”, Eleven Myanmar, (March 14, 2015) <<http://bit.ly/1NVMLHD>>



Message from Sky Age students

Medical Assistance

In order to address the harm caused as a result of their incarceration and mistreatment suffered, AAPP's Assistance Program provides vital medical checkups to political prisoners post-release, and basic medical services and ongoing health care if necessary. In 2015 medical checkups, emergency health and basic healthcare was provided for 45 ex-PPs.

The Mental Health Assistance Program

Mental health issues amongst victims of abuse are often overlooked due to a deep stigma that many

in Burma attach to anything directly related to mental health. Counseling is commonly associated with full psychosis or the human immunodeficiency virus (“HIV”), and differing forms of mental illness are not understood, thus discussing mental health in Burma is difficult. Since 2011, AAPP's Mental Health Assistance Program (“MHAP”) - in collaboration with John Hopkins University's Bloomberg School of Public Health, has attempted to address mental health needs of ex-PPs by providing free counseling to ex-PPs and their families utilizing the Common Elements Treatment Approach, a highly effective treatment for mental health disorders.¹⁶⁹ Since its inception, hundreds of ex-PPs and victims of torture have received treatment from trained local MHAP

169. Evidenced during a trial conducted in Mae Sot among participants from Burma. For more information see: P. Bolton et al, “A Transdiagnostic Community-Based Mental Health Treatment for Comorbid Disorders: Development and Outcomes of a Randomized Controlled Trial among Burmese Refugees in Thailand”, PLOS Medicine, Vol. 4, Issue 11 (November 2014) <<http://bit.ly/1RnXAbz>>

“After release I had to restart my life from the beginning”

counselors in Burma and on the Thailand-Burma border. Clients are identified through AAPP’s vast network of ex-PPs and supporters inside Burma. Each client receives counseling over eight to 12 regular sessions, usually over the course of two to three months. MHAP currently has six teams of counselors operating in Yangon, Mandalay and Mae Sot. In 2015, MHAP provided mental health services to 471 ex-PPs and their families.¹⁷⁰

Educational Assistance

In an attempt to address disrupted education, educational opportunities and academic support are offered to ex-PPs who wish to complete their studies or learn new skills. Academic scholarships and educational funding have been provided to ex-PPs, which allow them to achieve academic qualifications or continue an education interrupted by prison. In 2014, academic scholarships were provided for 22 ex-PPs to continue their education. Providing ex-PPs with further educational opportunities that have been denied to them not only allows them to have a greater impact on the

political future of Burma, but also affords them greater employment opportunities.

The effects of imprisonment on education are not limited to the prisoners themselves; the children and family members of political prisoners often lose access to educational opportunities due to insufficient household income. AAPP also provides scholarships to children of current and recently released political prisoners to continue their primary and high school education. These scholarships help to cover the cost of school uniforms, school fees, learning materials, and, in some cases, the cost of food and transport.

In addition, AAPP supports SKY AGE, a free mobile education project based in Rangoon that aims to improve the lives of disadvantaged young people in Burma, especially those from rural areas, by providing access to free education. A key focus of the program is to provide education to children of ex-PPs, who are at a disadvantage as many ex-PP families have problems finding employment. The program focuses on post-secondary education,



Participants of mushroom plantation training



Participants of mushroom plantation training

170. AAPP, “Annual Report 2014”, p.19 (March 2015) <<http://bit.ly/19NYrPj>>



Computer skills training delivered by FPPS

primarily English and computer skills, which greatly improve employability. Half of the allocated 30 spaces per program, which last for six months, are allocated to children of disadvantaged ex-PPs. SKY AGE covers students' board, meals and living and educational expenses for the duration of the program. The majority of SKY AGE alumni have gone on to gainful employment, and some have even gained scholarships to pursue further education.

Vocational Assistance

While ex-PPs face social, legal and physical barriers to re-entering employment, those that have served lengthy sentences have missed out on building valuable skills in the workplace. AAPP's vocational trainings and professional capacity building courses - such as English language courses, computer training, and driving courses - aim to provide ex-PPs with useful skills to continue their development and assist their entry into the workforce by affording

them with greater employment opportunities.

Financial Assistance

AAPP provides financial support to assist the families of deceased political prisoners with the cost of living following the loss of a family member. In 2016, AAPP provided financial support to the families of 60 deceased political prisoners at a ceremony to honor political prisoners who had died in prison, in interrogation centers and in detention.

7.4 Reparations Programs: Best Practices

In many post-conflict societies and societies in transition, specific commissions of inquiry – known as truth commissions – have been established in and authorized by the State in order to investigate and report on key periods of recent past abuse. Often, truth commissions are also entrusted with

making recommendations concerning reparations. For example, recommendations made by South Africa’s Truth and Reconciliation Commission, which documented human rights abuses in South Africa during the apartheid,¹⁷¹ have ensured progress in terms of symbolic reparations, although monetary reparations have largely yet to be paid to victims.¹⁷² Despite the fact that the Truth and Reconciliation Commission enjoyed mixed success, it does demonstrate the South African government’s willingness to deal with the past in a transparent manner. Another example are Chile’s National Truth and Reconciliation Commission, and National Commission on Political Imprisonment and Torture, which saw reparations implemented for family members of victims who were disappeared or executed during the Pinochet regime,¹⁷³ and ex-PPs and victims of torture. The Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence, has lauded Chile’s truth commissions for playing such a crucial part in transitional justice that they influenced other such commissions around the world.¹⁷⁴

While recommendations for reparations made by truth commissions may go unheeded, the design of reparations led by such commissions is advantageous for many reasons: they compile a

large amount of information about the potential beneficiaries which may be important in the design and implementation; they are highly regarded which may have a positive impact on how the recommendations on reparations are perceived; and it seems logical that recommendations stemming from a truth commission will be more credible than a plan developed solely by government.¹⁷⁵ Reparations aside, truth commissions are also an important factor in national reconciliation – in Northern Ireland, the Human Rights Commission has blamed the lack of truth process following the Good Friday Agreement¹⁷⁶ for unresolved senses of neglect and injustice, which have been responsible for triggering ongoing societal problems.¹⁷⁷

Thus, there is ample evidence to suggest that a truth commission in Burma is not only essential to reckon with the past and allow for healing, but also to prevent future abuses from occurring. The former Special Rapporteur on the situation of human rights in Myanmar has called for the creation of a truth commission in Burma to address human rights violations during the previous military governments, deeming it as “crucial for democratic transition and national reconciliation”.¹⁷⁸ Moreover, considering the high level of distrust of the Burma Government amongst ex-PPs, a truth commission should design

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171. Apartheid was a system of racial segregation in South Africa enforced through legislation by the National Party between 1948 and 1994. Under apartheid, non-white inhabitants had their rights and movements curtailed. Those that resisted the regime met violent repression and imprisonment at the hands of the authorities.
172. Amnesty International/Human Rights Watch “Truth and Justice: Unfinished Business in South Africa” (2003) <<http://bit.ly/1K8IkZv>>
173. From 1973 to 1989, General Pinochet’s military regime perpetrated a myriad of gross human rights violations against the citizens of Chile. Those suspected of opposing the regime were arrested, tortured, murdered, and disappeared.
174. Pablo De Greiff, “Addressing the Past: Reparations for Gross Human Rights Abuses” Paper presented at the Seventh Annual Gilder Lehrman Center International Conference at Yale University (October 2005) <<http://bit.ly/24q1Z4g>>
175. OHCHR, “Rule-of-Law Tools for Post-Conflict States: Reparations programmes” (2008) <<http://bit.ly/1gBA8qZ>>
176. The Good Friday Agreement of 1988 marked the end of the ethno-nationalist conflict in Northern Ireland, which began in the late 1960s. During this time, many nationalists were imprisoned without trial and subject to torture.
177. Northern Ireland Human Rights Commission, “Dealing with Northern Ireland’s Past, Towards a Transitional Justice Approach” (July 31, 2013) <<http://bit.ly/1TC7NyK>>
178. Tomás Ojea Quintana, “Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar” (August 4, 2012) <<http://bit.ly/1OgLB3q>>

any future reparations programs the government decides to implement. Reparations programs targeted at ex-PPs in Burma should address the needs of ex-PPs and their families as identified in the previous chapter.

This section will outline the most proven effective types of reparations for ex-PPs that have been implemented in Northern Ireland, South Africa, the Czech Republic and Chile, in accordance with the Basic Principles, and assess their relevance to Burma. In all of these countries, the respective governments provided, sponsored, or created the program as an acknowledgement of wrongdoing and responsibility to repair.

Restitution

Restitution aims to restore, as much as possible, the victim to the situation before the violation occurred. Restitution measures include restoration of liberty; enjoyment of human rights; restoration of identity, family life and citizenship; return to one's place of residence; restoration of employment; and return of property. For example, the Czech Republic implemented a reparations program in 1991 that aimed to return properties which were nationalized during the rule of the Communist Party, and which were in possession of the State, to the original

owners, or their heirs. While the program has not been entirely successful, the country's restitution program was one of the most ambitious in history.¹⁷⁹

As our research has revealed, restitution measures are vital for ex-PPs in Burma, as many have been dismissed from their jobs, had their professional licenses revoked, had their land or businesses destroyed or confiscated, and identity cards and other belongings confiscated upon arrest. All of these factors contribute to an inability to reintegrate into society, as even when they are released, the ex-PPs life is dramatically transformed from what it was before imprisonment.

Compensation

Regardless of the duration an ex-PP spends unjustly in detention, they will have incurred financial damages in terms of loss of earnings, lost opportunities and legal and medical costs. As such, they are entitled to monetary compensation as per the Basic Principles. Ex-PPs in Northern Ireland, South Africa, Chile and the Czech Republic have received financial compensation from their respective governments. The following case study examines compensation provided to ex-PPs in the Czech Republic.

179. R. David, “Twenty Years of Transitional Justice in the Czech Lands”, *Europe-Asia Studies*, Vol. 64, No.4 (June 2012)

Case Study: Compensation in the Czech Republic

Czechoslovakia - now the Czech Republic and Slovakia - saw the imprisonment of approximately 250,000 Czechoslovaks for political reasons¹⁸⁰ under the Communist Party of Czechoslovakia, from 1948 until 1989. Those that opposed and resisted the Communist regime were arbitrary arrested, interrogated and often tortured, put on trial, sentenced, and sent to both prisons and forced labor camps in appalling conditions.

The Czech Republic in particular has been commended for having one of the most comprehensive policies of dealing with the past amongst all post-socialist countries,¹⁸¹ which includes a number of material reparations policies that benefit ex-PPs. A number of laws were passed to provide material reparations following the end of the Communist era, including the 1991 Extrajudicial Rehabilitation Act and the 1993 Act on the Illegitimacy of the Communist Regime. Ex-PPs were eligible to receive financial compensation, which was given in two lump sums, of CZK 2,500 (approximately USD 83) for each month of imprisonment up until CZK 30,000 (USD 1,000). Ex-PPs were also entitled to compensation for damage to their health and legal fees, and their pensions were adjusted to compensate for lost years in detention. Relatives of deceased ex-PPs were entitled to CZK 15-20 (USD 0.50) per month of incarceration in addition to the deceased's pension; payments of which were capped at CZK 3,800 (USD 130).¹⁸² Other material support has been made available to ex-PPs, including free public transport, certain medical treatment and spa subsidies.

A survey of ex-PPs in the Czech Republic conducted in 2000 with members associated with the Confederation of Political Prisoners and the Association of Former Political Prisoners however, revealed that only 15 percent of respondents were satisfied with the financial compensation they had received. Seventy-four percent were dissatisfied; another 10 percent responded that they were unsure.¹⁸³ The ex-PPs were also critical of the fact that former secret police had received greater compensation payouts for forced retirement than many ex-PPs had received.¹⁸⁴

Whilst not all ex-PPs have been satisfied with the financial compensation they have received, financial compensation has only constituted one part of the Czech Republic's comprehensive reparations policy. It also holds symbolic significance for victims in that it acknowledges their suffering and resistance against the Communist regime.

180. J. Kirchick, “Return of the Czech Communists”, *Foreign Policy*, (October 12, 2012) <<http://atfp.co/1L4bNXB>>

181. R. David & S. Y. P. Choi, “Retributive Desires of Former Political Prisoners in the Czech Republic”, Paper presented at the annual meeting of the American Political Science Association, Marriot, Loews Philadelphia, and the Pennsylvania Convention Center, Philadelphia (August 31, 2006) <<http://bit.ly/1DdAB7r>>

182. J. Elster (ed.), *Retribution and Reparation in the Transition to Democracy* (Cambridge University Press: 2006)

183. R. David & S. Y. P. Choi, “Retributive Desires of Former Political Prisoners in the Czech Republic”, Paper presented at the annual meeting of the American Political Science Association, Marriot, Loews Philadelphia, and the Pennsylvania Convention Center, Philadelphia (August 31, 2006) <<http://bit.ly/1DdAB7r>>

184. R. David & S. Y. P. Choi, “Victims on Transitional Justice: Lessons from the Reparation of Human Rights Abuses in the Czech Republic” *Human Rights Quarterly*, (2005)

In Burma, many ex-PPs struggle financially when they are released due to legal and medical costs, irreparable physical and mental harm that hinders employment, and the number of restrictions placed upon them. Financial compensation, would be beneficial in that it would assist the ex-PPs to overcome their financial difficulties, and act as recognition of their unjust incarceration. However, the ex-PPs that were interviewed did not identify monetary compensation as a type of reparation they would want or even consider to accept from the then Burma Government (the Thein Sein administration). The ex-PPs revealed reluctance to accept money from Thein Sein's government for a number of reasons: the high level of distrust of the government that existed amongst ex-PPs; the belief that the government would have viewed the money as a bribe in exchange for the ex-PP's silence; the belief that accepting the money would have been viewed as tacit approval of the government; the fact that money was never their motivation for engaging in political activities; and finally, the feeling that no amount of money could ever make up for the suffering the ex-PP endured. In any case, ex-PPs in Burma would never begin to consider accepting financial compensation without an apology beforehand, emphasizing further the importance of an official apology.

Rehabilitation

Rehabilitation for ex-PPs is a particularly important aspect of reparations, as without such assistance programs it is often impossible to successfully reintegrate into society. The Czech Republic, Northern Ireland, South Africa and Chile all provided reha-

bilitation programs for their ex-PPs as part of their reparations efforts. The ex-PPs interviewed in Burma showed an interest in rehabilitation programs, although had little trust in any future rehabilitation programs if they were to be solely implemented by the government, and without a prior apology.

Vocational training in particular is vital to assist ex-PPs' re-entry into society, and enables them to support themselves and their families. For many ex-PPs who have spent long periods of time incarcerated, they have lost out on their most profitable wage-earning years, and have been denied the opportunity to learn useful skills. The Good Friday Agreement recognized the importance of providing ex-PPs in Northern Ireland with opportunities for “re-training and/or re-skilling”, and ex-PPs were able to request such opportunities through the Northern Ireland Association for the Care and Resettlement of Offenders. However, many ex-PPs were reluctant to take advantage of such programs which they felt would be conforming to the label of “criminal”.¹⁸⁵

One of the most distressing impacts of human rights violations for victims is the inability to advance socially and economically – due to black-listing for jobs, restrictions and discrimination etc. – and the impact this has on the ability to educate their children. Thus, a component of reparations that victims of human rights abuses often value highly are educational opportunities, for themselves, but largely for their children.¹⁸⁶ It is often the case that political prisoners are imprisoned while pursuing their studies, denied access to education during their imprisonment, and/or de-

185. Democratic Progress Institute, “The Good Friday Agreement – Prisoner Release Process” (August 2013) <<http://bit.ly/1VyJrYI>>

186. C. Correa, “Integrating Development and Reparations for Victims of Massive Crimes” (July 2014) <<http://ntrda.me/1fPc7fZ>>

nied access to education by the government after their release. The poor financial status of many ex-PPs after their release means that they are often unable to afford to send their children to school, only perpetuating the difficult social and economic conditions of their family. Thus, free education programs for ex-PPs and their children are an invaluable reparation measure. In Northern Ireland, the government provides funding for ex-PPs to pursue further education to advance their studies through the Northern Ireland Association for the Care and Resettlement of Offenders.¹⁸⁷ In Burma, education programs are particularly important considering that many of the ex-PPs had their education disrupted by their imprisonment, and financial stress has meant that ex-PPs are unable to support their children through school.

Ex-PPs returning to the family unit may find their family situation has changed drastically or deteriorated in their absence. Providing counseling services as part of the rehabilitation process can help ease the transition back into the family unit. In Northern Ireland, for example, the government has provided funding for family-oriented counseling for ex-PPs and their families in an aim to ensure a smooth transition into domestic life.¹⁸⁸ Many ex-PPs in Burma revealed experiencing deterioration in their family situation due to their in-

carceration. The breakdown of the family unit can lead to many ex-PPs being homeless upon their release. One ex-PP stated: “Many former political prisoners have no place to live, that’s one of the main problems. Therefore, the government should take responsibility and provide a solution for that, it will be better for former political prisoners.”¹⁸⁹

Ex-PPs often suffered injuries prior to their incarceration and may have been subjected to poor treatment, poor nutrition, or torture while in prison. At a minimum, governments in Chile, South Africa, Northern Ireland, and the Czech Republic provided ex-PPs with health care or provided for funding that ensured they would receive health care. Similarly, the ex-PPs received mental health care and counseling services to help with the post-traumatic stress the ex-PPs may have been subjected to while in prison. Providing health care to ex-PPs is vital to ensure that they are able to re-enter society in a physical and mental state that will allow them to become productive members of society. The demand for health assistance from AAPP’s Assistance Program and MHAP evidence the need for healthcare and counseling for ex-PPs and their families in Burma, as well as the numerous lingering health effects the ex-PPs identified in the research.

187. Democratic Progress Institute, “The Good Friday Agreement – Prisoner Release Process” (August 2013) <<http://bit.ly/1VyJrYl>>

188. Kieran McEvoy, “Prisoners, the Agreement, and the Political Character of the Northern Ireland Conflict”, *Fordham International Law Journal*, Vol. 22, No.4 (1998) <<http://bit.ly/1Lmfp7p>>

189. Ex-PP Interview: FPP/DC/00703 (July 2015)

Case Study: Chile's Program for Reparation through Comprehensive Care and Human Rights

In September 1973, a military junta led by General Augusto Pinochet overthrew the elected government of Chile. The following year, Pinochet was appointed as president. From 1973 to 1989 the military regime perpetrated a myriad of gross human rights violations against the citizens of Chile. Those suspected of opposing the regime were arrested, tortured, murdered, and disappeared. It has been estimated that there were approximately 1,500 political prisoners under the military dictatorship.¹⁹⁰ Moreover, Chile's National Commission on Political Imprisonment and Torture has found that at least 35,000 people were arbitrarily detained and tortured between 1973 and 1990 by Pinochet's military regime.¹⁹¹

Following a 1988 referendum voting Pinochet out of government and subsequent elections in 1989, Chile underwent a peaceful transition to democracy. Based on recommendations from the first Chilean National Commission for Truth and Reconciliation Report in May 1991,¹⁹² the Chilean government launched the Program for Reparation through Comprehensive Care and Human Rights (“PRAIS”). PRAIS provides health services to victims of human rights violations and their families, including victims of torture, political prisoners, and families of those disappeared or arbitrarily executed. Incorporated into the national healthcare system and available to more than 190,000 beneficiaries,¹⁹³ PRAIS teams provide psychological and physical healthcare, and specialized rehabilitation programs free of charge. During its first 10 years, 51,065 people received healthcare assistance through PRAIS. The program has achieved full coverage of the country and cooperates with civil society organizations in its implementation, such as the International Rehabilitation Council for Torture Victims and the Center for Mental Health and Human Rights, also known as CINTRAS.

However, PRAIS has been subject to much criticism. Limited by budgetary and technical constraints, there is a high staff turnover and a shortage of specialized professionals. Thus, waiting times to see specialists are lengthy and implementation has been limited.¹⁹⁴ In addition, new cases of torture are not recognized or included under the program. Despite its flaws, PRAIS remains one of the most comprehensive health-centered reparations programs in the world.¹⁹⁵ Ultimately, PRAIS has been a significant step towards transitional justice in Chile in its acknowledgement that victims of the military regime are entitled to reparations from the Chilean state.

190. Pablo de Greiff (ed.), *The Handbook of Reparations*, (Oxford University Press: The International Center for Transitional Justice) (2006)

191. J. Franklin, “Chile identifies 35,000 victims of Pinochet”, *The Guardian*, (November 15, 2004) <<http://bit.ly/1LdjUzq>>

192. Report of the Chilean National Commission on Truth and Reconciliation (1991) (trans. by the United States Institute of Peace) <<http://bit.ly/1CTcJcV>>

193. OHCHR, “Rule-of-Law Tools for Post-Conflict States: Reparations Programmes” (2008) <<http://bit.ly/1eYkDrL>>

194. IRCT, “Country Factsheet: Torture in Chile” (2014) <<http://bit.ly/1K3nMnS>>

195. C. Buchanana (ed.), *Gun Violence, Disability and Recovery* (2014) (Sydney: Surviving Gun Violence Project)

Satisfaction

Reparations must be both material and symbolic, according to the Basic Principles.¹⁹⁶ Symbolic measures satisfy the “satisfaction” element of reparations, and include official declarations or judicial decisions restoring the dignity, the reputation and the rights of the victims; public apologies, including acknowledgement of the facts and acceptance of responsibility; and commemorations and tributes to the victims. Truth commissions themselves act as a satisfaction measure, as their very existence reveals that the government is willing to officially accept acknowledgement of the facts and is taking the first step towards an acceptance of responsibility. In Chile, victims even received a copy of the truth commission report in which they were individually listed, along with a letter from the President.¹⁹⁷ In the Czech Republic, some ex-PPs received State honors or were invited by President Havel to Prague Castle to acknowledge their past sacrifices, while others were awarded honorary citizenships by town halls.¹⁹⁸

Memorialization – efforts to keep the memory of the victims alive through the creation of museums, memorials, and other symbolic initiatives such as the renaming of public spaces, etc.¹⁹⁹ – can also satisfy the “satisfaction” element of reparations. As per the recommendations of the Truth and Reconciliation Commission, a national day of remembrance and reconciliation was identified in South Africa – the Day of Reconciliation – held annually

since 1994 on December 16. In addition, monuments were erected, and memorials and museums were established, such as the Gallows Memorial.

Our research has revealed that symbolic reparations hold more weight than material reparations among ex-PPs in Burma. An official apology made by the government, acknowledging their mistreatment and unjust incarceration was identified as most important to the ex-PPs. There was a general feeling that without an apology, the ex-PPs would not be willing to accept other forms of reparations, although in some cases the ex-PPs felt an apology was all they wanted. As one ex-PP states: “I want the government to give me an apology for my time in prison, other than that I don’t want anything.”²⁰⁰

Guarantees of non-repetition

Guarantees of non-repetition are broad reparations measures that contribute to the prevention of the re-occurrence of violations. Such measures can include ensuring effective civilian control of the military and security forces; the promotion of international human rights standards in public service, law enforcement, the media and social services; strengthening the independence of the judiciary; the protection of human rights workers; and human rights training. In Northern Ireland, a number of institutional reforms have taken place in an attempt to guarantee non-repetition. For instance, the Review of Criminal Justice System consultation process, the appointment of an At-

196. General Assembly resolution, 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147 (December 16, 2005) <<http://bit.ly/1zWTUzU>>

197. C. Correa, “Integrating Development and Reparations for Victims of Massive Crimes” (July 2014) <<http://ntrda.me/1fPc7fZ>>

198. R. David & S. Y. P. Choi, “Victims of Transitional Justice: Lessons from the Reparation of Human Rights Abuses in the Czech Republic”, *Human Rights Quarterly*, Vol. 27, No. 2 <<http://bit.ly/1V9M0An>>

199. International Center for Transitional Justice, “What is Transitional Justice?” (2009) <<http://bit.ly/1Q36RkU>>

200. Ex-PP Interview: FPP/DC/00766 (July 2015)

torney General for Northern Ireland, and the establishment of a Public Prosecution Service as opposed to a Crown Prosecution Service have all served to transform the judicial system.²⁰¹ In Burma activists continue to be arrested, arbitrarily detained and tortured for their political activities. Thus, guarantees of non-repetition are imperative, not only for ex-PPs, but to end the ongoing detention of activists in the country.

7.5 Implementation of Reparations Programs

The way in which reparations programs have been administered in other countries has been largely dependent on the relationship between the ex-PPs and the government. In South Africa, for example, the government gained the trust of many ex-PPs, which enabled the government to directly administer aid programs to the ex-PPs. Another part of the reason the government was able to engage in direct-aid programs was because the reparations programs were part of a broader transitional justice and reconciliation process that included forgiveness and building trust in governmental regimes.

In Northern Ireland, however, much of the relief that ex-PPs received came from civil society, such as NGOs and church groups, many of which received

funding from the government. Even after the Good Friday Agreement had ended the violent struggles and guaranteed the release of political prisoners, many ex-PPs were reticent to accept aid from the government. Because of this, the government began providing funding to NGOs, such as Abhaile Arís and Glencree Center for Peace and Reconciliation, to carry out services such as counseling, legal assistance, training and education courses, and conflict management skills. As of 2011, the government of Northern Ireland had allocated £36 million (approximately USD 56 million) for victims and survivors for a range of support including, social support, training and personal development, advocacy support, and funding to meet health and well-being needs.²⁰²

Unsurprisingly, there was a high level of distrust of the Thein Sein government among ex-PPs in Burma. Remarking on President Thein Sein’s administration one ex-PP declared: “I do not believe in their reforms”.²⁰³ At this time it is too early to establish whether this same distrust remains for the new NLD-led government. Considering this, any reparations programs should be implemented by a partnership of government and civil society groups supported by government funding in order for them to have any effect.

201. Commissioner for Victims and Survivors, “Reparations in Northern Ireland – A duty to victims?” (November 16, 2011) <<http://bit.ly/1Jm2AE8>>

202. Commissioner for Victims and Survivors, “Reparations in Northern Ireland – A duty to victims?” (November 2011) <<http://bit.ly/1Jm2AE8>>

203. Ex-PP Interview: FPP/DC/00856 (July 2015)

Chapter - 8

Conclusion

The findings of this report are of grave concern, evidencing the fact that over the last five decades in Burma, thousands of citizens have been systematically arrested, imprisoned, and subject to a number of gross human rights violations, simply for attempting to exercise their fundamental freedoms. Moreover, despite claims of reform made by the Thein Sein government, the findings provide evidence to the contrary; it is clear that while there was a move away from junta-era tactics to imprison activists during this time, new strategies were adopted to ensure activists ended up behind bars. Furthermore, the authorities continued to perpetrate human rights abuses against political detainees, subjecting them to harsh prison conditions, and both physical and psychological torture.

The stated intention of the current NLD-led government to release all political prisoners, along with the recent wave of political prisoner releases, is a positive signal that the new government is committed to finally addressing the political prisoner issue. While no specific time line has been given for the releases, and at the time of writing political prisoners remain in detention, it is with cautious optimism that we envision a Burma without political

prisoners in the very near future. However, as the research has clearly shown, even when political prisoners are released, their struggles are far from over. In the past they have continued to suffer from harassment by the authorities, restrictions placed upon them, stigmatization, and lingering effects of their incarceration, which act as major barriers to successful reintegration and have a knock-on impact on the ex-PPs' families. As such, ex-PPs in Burma face a number of problems, among which, poor health, underemployment and financial difficulties are the most pressing.

AAPP and FPPS will continue to strive to meet the needs of ex-PPs in Burma, and will design future assistance programs based on the findings of the data collection to ensure relevance and effectiveness. However, it is important to remember that while civil society organizations try their best to assist ex-PPs in the absence of State-led services, with limited capacity the multitude of needs the ex-PPs have post-release cannot adequately be met.

The new NLD-led government has made very positive early steps in releasing political prisoners but with key ministries still effectively under the con-

trol of the military, serious obstacles remain. Until an official political prisoner definition is agreed upon, all political prisoners are released unconditionally, and human right abuses cease throughout the country, Burma is not ready for State-led reparations. Moving forward, it is important to note global efforts to address abuses against ex-PPs and recognize the need for reparations in Burma as essential for national reconciliation and transi-

tional justice. With the new government in place, it is time for Burma to address the past, acknowledge wrongdoing and begin a dialogue regarding reparations - the onus to assist ex-PPs is on the government. Although this will never rectify their wrongful incarceration, it will go a long way to assisting the rehabilitation process, so the ex-PPs and their families can begin to move forward with their lives.

Chapter - 9

Recommendations

9.1 Recommendations to the Burma Government and Parliament:

- To release all political prisoners unconditionally by recognizing them as political prisoners.
- Guarantee and contribute to reparations for ex-PPs and their family members by beginning a dialogue regarding reparations and considering implementing the following measures, in line with Chapter 7:

Satisfaction:

Before ex-PPs will even consider accepting reparations programs to remedy their mistreatment and unjust imprisonment, the Burma Government must accept wrongdoing and make a formal apology. This will not only build trust within the Burma Government among ex-PPs, but will also help to remove social stigma which fuels social and familial exclusion, and prevents ex-PPs from entering certain types of employment.

The existence of political prisoners must be formally acknowledged and the definition of a

political prisoner legally recognized, to further fulfill the “satisfaction” element of reparations. In addition, the government must immediately and unconditionally release all political prisoners. The committee entrusted to oversee the release of the political prisoners must have the will to fulfill its mandate. Without the release of all political prisoners in Burma, ex-PPs are unlikely to accept any other types of State-led reparations programs.

Memorialization efforts would also be a welcome step in Burma given the current situation. The creation of museums, memorials, and other symbolic initiatives such as the renaming of public spaces, etc. to honor the sacrifice political prisoners made for their country is likely to be widely approved by ex-PPs, and beneficial for healing.

Importantly, the Burma Government must authorize and establish a truth commission – to acknowledge and report on past abuse perpetrated by the previous governments. It would also be beneficial for such a truth commission to be entrusted to design reparations programs for ex-PPs and their families.

Restitution:

To restore the ex-PPs to the situation before they were unjustly imprisoned, a number of restitution measures must be implemented including: returning belongings confiscated on arrest; ensuring that they are able to renew their ID cards and obtain passports without difficulty; removing restrictions which prevents them from resuming their studies; restoring professional licenses; returning confiscated belongings, property and land; and remove criminal records of the ex-PPs so they can enter employment more easily. These urgent measures should be among the first steps the government takes to remedy the ex-PPs' unjust incarceration, which will allow them to begin their reintegration into society.

Rehabilitation:

To ensure the successful reintegration of ex-PPs into society, rehabilitation programs must be enacted as part of reparations. First and foremost, the provision of healthcare by the government to ex-PPs is crucial to overcome the multitude of health issues the ex-PPs identified as suffering from post-release, due to their imprisonment. Ensuring the physical and mental wellbeing of the ex-PPs will ease the reintegration process and enable them to become productive members of society. As a matter of priority, healthcare must be made available to victims of torture.

Vocational training will assist those ex-PPs denied the opportunity to learn useful skills in the workplace during incarceration. The provision of free education or scholarships for ex-PPs would also be particularly beneficial to make up for disrupted education and lost educational opportunities. In addition, free education or scholarships for the

children of ex-PPs should be made available given the poor financial status of many ex-PPs after their release.

Family counseling may be essential to assist the reintegration of ex-PPs returning to the family unit after prolonged absence. For those ex-PPs who are unable to return to the family unit, and have also been socially excluded, housing must be a priority.

Compensation:

While many ex-PPs revealed they would not consider receiving financial compensation from the previous government, as has been demonstrated by the report, many are in dire financial circumstances, thus the offer of financial compensation should be made if individuals wish to accept it. A formal apology must be made before the offer of financial compensation, if there is any likelihood of ex-PPs accepting. The offer of financial compensation may also serve as symbolic reparation.

Guarantees of non-repetition:

To guarantee the prevention of the re-occurrence of violations experienced by ex-PPs and their families, the government must review, revoke and redraft inappropriate laws purposefully enacted to oppress activists. In addition, the government must fulfill its commitment to sign and ratify the UNCAT, and implement the measures within this convention to end the systematic torture of people in Burma. Moreover, effective civilian control must be exercised over the military and security forces to ensure an end to the aggression, intimidation, oppression, and discrimination against FPPs, and family members of political prisoners and ex-PPs.

9.2 Recommendations to Political Parties and Civil Society Groups of Burma:

- Advocate and urge the Burma Government and Parliament to recognize the definition of a political prisoner;
- Provide political prisoners in Burma with all available assistance, raise awareness of their cases and actively campaign for their release; and Recognize the struggle of ex-PPs and their family members and support their rehabilitation and reintegration.

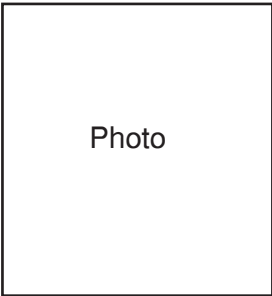
9.3 Recommendations to the International Community:

- Urge the Burma Government and Parliament to promptly implement the above recommendations made to them;

- Monitor the arbitrary arrest and imprisonment of political activists and urge the Burma Government to stop these arrests;
- Ensure there remains an active commitment to achieving freedom for basic human rights and civil liberties;
- Cooperate, support, and advocate for the release of all remaining political prisoners;
- Provide technical support and other necessary support for the rehabilitation and reintegration of ex-PPs; and
- Cooperate on humanitarian grounds with the groups working on the political prisoner issue, including the Burma Government.

Appendix - 1

Appendix 1: Survey



Biography

- Name..... Male ☐ Female ☐
- Place of Birth.....
- Father’s Name..... Mother’s Name.....
- Date of Birth (DD-MM-YYYY).....
- Identity Card Number.....
- Ethnicity.....Religion.....
- Education.....
- Skills.....
- Address (current).....
.....
.....
- Email/Phone No.....
- Current occupation.....
- Current health condition:
- Marital Status..... Spouse’s Name.....
- Children’s Name(s).....
- Date(s) of Arrest(s) (In chronological order).....
.....
- Organization(s) responsible for arrest(s) (State which organization).....
.....
- Place(s) of arrest(s) (In chronological order)
.....
- Detention center before sentencing (In chronological order).....
.....
.....
- Section/Act (In chronological order).....
.....
- The Court(s) that made the verdict (In chronological order)
.....
- Sentence (In chronological order)
.....

- Date of sentence (In chronological order)
- Prison ID number (In chronological order)
- Prisons you stayed in (Name of prison and length of stay)
- Prison term(s) (State exactly no. of times)
- Prison(s) you were released from & date(s)
- Released with any terms and conditions? Yes ☐ No ☐ Please describe
- Organization(s) that you were affiliated with.....
- Torture during interrogation & while in prison:
 - o Mentally? Yes ☐ No ☐
 - o Physically? Yes ☐ No ☐
- Duration of interrogation
- Summary of your case(s) (Please describe briefly).....

Family Conditions

- What is your approximate monthly income (in Burmese Kyat)?
 - Below 100,000 ☐
 - Between 100,000 and 150,000 ☐
 - Between 150,000 and 300,000 ☐
 - Above 300,000 ☐
- Children's Education Record (Highest level of attainment)

Name	Grade (highest level completed)	Name of School/University

Torture and Experiences in the Interrogation Center

Please specify whether you were interrogated by using the following interrogation methods:

- Blindfolding with black material: Yes ☐ No ☐
- Hooding: Yes ☐ No ☐
- Beating: Yes ☐ No ☐
- Punching: Yes ☐ No ☐
- Kicking: Yes ☐ No ☐
- Made to stand in a stress position: Yes ☐ No ☐
- Made to stand in a stress position with nails beneath your heels: Yes ☐ No ☐
- Forced to stand in a motorbike riding position: Yes ☐ No ☐
- Forced to stand as if driving a plane: Yes ☐ No ☐
- Forced to crouch down elbows and knees touching the ground, fingers and toes remaining untouched: Yes ☐ No ☐
- Burning the body with a lit cigarette: Yes ☐ No ☐
- Electric shocking (body/genitals): Yes ☐ No ☐
- Burning the body with an iron: Yes ☐ No ☐
- Covering the body with poisonous animals: Yes ☐ No ☐
- Rolling an iron pipe down the shins: Yes ☐ No ☐
- Tied upside down from the ceiling: Yes ☐ No ☐
- Dripping water onto the forehead: Yes ☐ No ☐
- Beating several times in the same place with an object: Yes ☐ No ☐
- Forced to hear voices of relatives from adjacent room: Yes ☐ No ☐
- Threatened and/or family members threatened: Yes ☐ No ☐

Other questions about experiences in the interrogation center:

- Were you staying in discomfort in detention? Yes ☐ No ☐
- Were you interrogated without sufficient sleep? Yes ☐ No ☐
- Were you treated rudely? Yes ☐ No ☐
- Is there anything you would like to add? (Human rights violations experienced).....
.....
.....
.....
- Did you receive treatment for the injuries you attained during interrogation?
Yes ☐ Some ☐ None ☐
- Are you still suffering now due to the injuries received in interrogation?
Yes ☐ Some ☐ No ☐

Trial Process

- Did you get a fair trial? Yes ☐ No ☐
- Which court processed your trial?

- o Civil Court ☐
- o Military Court ☐
- o Prison Court ☐
- Were you given access to a lawyer? Yes ☐ No ☐

Situation Inside Prison

- Beaten on arrival at the prison? Yes ☐ No ☐
- Treated rudely upon arrival in prison? Yes ☐ No ☐
- Experienced violations of your human dignity? Yes ☐ No ☐
- Experienced loss of your personal belongings? Yes ☐ No ☐
- Where did you stay for the majority of your confinement?
 - o Prison hall ☐
 - o Prison cell ☐
- Were you kept in solitary confinement?
Yes ☐ Occasionally ☐ No ☐
- When you were kept in solitary confinement, were you allowed outside?
Yes ☐ Occasionally ☐ No ☐
- While in solitary confinement, were you in good health? Yes ☐ No ☐
- Were you provided with sufficient water for bathing? Yes ☐ No ☐
- Were you allowed to communicate with prisoners in other cells? Yes ☐ No ☐
- Did you have enough nutritious food? Yes ☐ No ☐
- Did you have enough clean drinking water? Yes ☐ No ☐
- Were you allowed reading materials? Yes ☐ No ☐ Sometimes ☐
- Were you given the supplies and entitlements described in the Jail Manual? Yes ☐ No ☐
- Did you have access to medical treatment in prison? Yes ☐ Some ☐ No ☐
- Were you allowed to do health activities (sports)? Yes ☐ Some ☐ No ☐
- Were you allowed to practice your faith/religion? Yes ☐ Some ☐ No ☐
- Were your family allowed regular prison visits? Yes ☐ No ☐
- Did you have sufficient prison visit time? Yes ☐ No ☐
- Were you allowed to freely communicate during visits? Yes ☐ No ☐
- During visits were you/your family harassed? Yes ☐ No ☐
- Were prison parcels/packages confiscated or restricted? Yes ☐ No ☐
- Were you transferred to different prisons frequently? Yes ☐ No ☐
- Fill in if any other issues that are relevant (Human rights violations).....
.....
.....
.....
.....
.....
.....

“After release I had to restart my life from the beginning”

Release from Prison

- How were you released?
 - o Unconditional release
 - o Conditional release
 - o Expiration of sentence
- Did you get your sentence reduced according to the Jail Manual? Yes ☐ No ☐
- Did the authorities arrange for you to go home upon release? Yes ☐ No ☐
- Did you get back your confiscated belongings Yes ☐ No ☐
- While you were in prison, did your family or friends experience suffering or harassment?
Yes ☐ No ☐
- After your release, did you experience any harassment, limitations, or restrictions by the authorities? (For example, education, license, ID card, travel employment etc.) Yes ☐ No ☐
Please explain.....
.....
.....

Health

- Health situation in prison (please describe briefly)
.....
.....
.....
.....
- Health situation after release from prison (please describe briefly)
.....
.....
.....
.....

Rehabilitation

- Prior to imprisonment, did your family depend on you financially?
 - o Full dependence
 - o Partial dependence
 - o No dependence
- Did your family’s financial situation deteriorate due to your imprisonment?
 - o Yes
 - o Some
 - o No
- Did your family’s education, health and social situation deteriorate due to your imprisonment?
 - o Yes
 - o Some

- ☐ No
- Does your loss of business and possessions still have lasting effects today?
- ☐ Yes
- ☐ Some
- ☐ No
- Are you currently facing difficulties with your subsistence? Yes ☐ Some ☐ No ☐
- Did your family experience a breakdown while you were in prison? Yes ☐ No ☐
- Prior to your imprisonment, were you employed? Yes ☐ No ☐
- Do you earn sufficient income now? Yes ☐ No ☐

Please describe briefly.....

- Are you interested in potential employment? Yes ☐ No ☐
- What skills do you possess?
- Does prison affect your employability? Yes ☐ Some ☐ No ☐

Please describe

Signature

Name of Surveyor

Date of Survey

Signature

Name of Participant

Appendix - 2

Appendix 2: Interview Guidelines

Before Imprisonment

- What were you doing before you were imprisoned? Studying or in work?
- What made you become involved in your political activity?
- Where and when were you arrested?

Case Specific Questions

- Can you tell us more about the human rights violation you experienced?
- How long did it last?
- Has it had any impact on your life now? If so, how?
- How do you feel about having been subject to this human rights violation?

Post-release

- What are you doing now in terms of employment?
- Have you faced any harassment from the authorities since your release? If so, please can you describe?
- What, if any restrictions have you faced since your release?
- Have you received any counseling since your release? If no, is this something you would be interested in having?
- What would you want from the government of Burma to make up for your time spent in prison and the torture? (E.g. an apology, compensation, rehabilitation programs etc.)
- Do you continue with any political activities now?
- What sort of rehabilitation programs from civil society organizations such as AAPP would you like to see for ex-PPs and their families? (E.g. Vocational training, education, counseling etc.)
- Who would you prefer to implement any future reparations programs for former political prisoners – the government? Or civil society?
- What are your hopes and aspirations for the future?

Other

- Do you have any additional information you'd like to tell us about?

Appendix - 3

Appendix 3: Illustrations of Torture Methods



The Airplane



The Motorcycle



Poun-Zan



Simeekhwet Dance

