



Tuesday, 5 December 2006

Vol. 1, No. 8

jynbē pīwī f t i f w m e u b w i f p m a p m i f u l t m & s / t c ō h t a & ; a u m f & s f u j r e f m e h i h t w ō f w & m ;
 Oya' pīn h a & ; E s h v t c ō h t a & ; q ū l l & m u p & y r s m ; u b & e h a p & e f w i j y x m ; j c i f j z p b o n ?

Pyithu Hittaing is a bilingual e-newsletter on rule of law issues and human rights in Burma, initiated by the Asian Human Rights Commission (AHRC)

Pyithu Hittaing online: <http://burma.ahrchk.net>
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"q i f & b m ; v l w e f p m ; a w l u l t " r k & r u O y a '
 v u l l i w w i y i y o n s f q h e w h i & a w l u l l
 w m o e b b t u b t u b w f o d / r m ; v m ; /
 o l s u b s u l u g j y k e ' g m ; q l l p o f p m ; r & v l
 j z p a e y w , ?"
 -- t a E s , m o l v y b o m ; r s m ; / 1 - 8 - 0 6 b l b p l l
 j y n b a w l u a j y m a e - u w , f t p i t p o f s

"Inseparable from the rule of law is the notion of parliamentary sovereignty. This means that an independent parliament alone has the power to pass acts, free from interference, with effect in law. Those acts may then fall within the exclusive purview of the courts. In this way the judiciary too is strengthened, and its role reaffirmed as the arbiter of the law."
 -- AHRC

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2. w & m ; p i t z e t p n i j z p a o m (&) w y z e s m o b x e i f r m ; t a - u m i f
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OPEN Vol. 1. No. 8 (PDF file): <http://burma.ahrchk.net/pdf/ph-v01n08.pdf>

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ac:aqmif oñ; chv/ uDi fu t m; zrf qDpOf t m%myll rsm; ul t c j c i f ES h
w&m; rOif c s x v m i f u p m; j c i f t r f r s m; j z i h w & m; p b j l z r f q D y D
, i f w l b a q m i f m o n i v l x b q E j y k v i n v u f r s v r s m; u l l o d f q n f c h y g o n ?



uDi fu t m; a t m u i w l b m 19 & u b e l w G f p p a q; p b i & e f
v u f y w e f w & m; & h r s & k c e a y; c h o n ? u D i f u t m N L D t z D i w O D
j z p o j z i h t r s t o m; ' P u a & p d t z e y f r S a & e O p c i a r m i & i u l x t r w G f
v l u y g q m u & u b e f v u f y w e f o t h a p v i w t o n ? o h a o m v n f a & e
E s h v u G t j c m; o h s m; v u f y w e f o t h t a & m u i w G f u D i f u t m;
18 & u b e l w G f p p a q; p b i j y p d a = u m i f E s h a x m i f % i 3 E p f c s r s v f
v l u a = u m i f u b m o & e & o n ?

zhæZmfvwv
(Phyoe Zaw Latt)
("gmyll- ±hr 3)

a t m u i w l b m v 25 & u b e l w G f u D i f u t m E s h a x m i f w G f a w G l q u e f
a & e u } u l p m; a o m v n f v u & s a x m i f s; r n t o p j z p o j z i h
a v l e t c h r & c h y g t u o f o p D x m e r s v t t y a o m p m & u f p m w r f r s m; u l
& o n e s h w y l l e u f u D i f u t m E s h a w G l c h a y; r n f [k u w a y; c h y g o n ?

x h t c e l w G f z h æ Z m f v w v r f n v u f y e l w e f & p c e f w G f r n o n f y p f E s h s w & m; p b j c i f r j y l a o; y l O y a ' r h
z r f q D x e f o t f x m; j c i f c h e & y g o n ? a t m u i w l b m 22 & u b e l w G f a u m i f r e p h a e x l l e f [h o m
u w t o e t s u j z i h v i w a y; c h o m v n f , i f . t d f t a & m u i w G f & p c e f r s j y e l v n f z r f q D y D v r f v n f E s h
p m & u p m w r f r s m; v r f v n f t w j y l c i f p o n i t r f r s m; j z i h w & m; p b j l c i f c t h o n ? , i f t m; w & m; & h r s
t j y p & b n f [l q h z w v s f a x m i f % i 16 E p f t x d u E l l y g o n ? E D i l b m v 3 & u b e l w G f t x t c h a y
t u s h a q m i f a & s a e r y p l w & m; p b i r n f [k o & y g o n ? t z r f p d c k m; & p o f r n b E s h s t q u i t o G f
j y l c h r & b n h t w l u f a & s a e u l p m; v p m r a = u m i f o & y g o n ?

o m; z h æ Z m f v w v t z r f c l a = u m i f u l l o & o n E s h w j y l l e u f t o u f 58 E p & d r c i f a ' ; O b a r f n
& k v i w & u f a e r a u m i f j z p i u m / a t m u i w l b m v 23 & u b e l h a e h v n i w p e m & v v f & k v i w & u f u G l e f
o h; c h y g o n ? a ' ; O b a r f n u s e r m a & ; a u m i f o l w p D j z p h y D o m; j z p o l . p w E s h c k u b e & k v i w & u f
a o q l o h; & j c i f j z p a = u m i f & i f E s o r s m; u a j m y g o n ? z h æ Z m f v w v r f n r d i f . t o b o t h v l u y g
y l a q m i t c h r & c h y g

w&m; Oya' rhæqmi&u f r s m; -

t x u f y g u D i f u t m E s h u z h æ Z m f v w v t m; z r f q D c s y a E b i f c i f r s m; E s h t j y p p b i f r s m; r f n
t j y n f y n q l l & m O y a ' r s m; u l l o m r u / j y n i w G f Y v u & v l u e m u s i t o h v s u & b n h O y a ' r s m; u l y i f
v l u e m c j c i f r & y g j y n i w G f O y a ' j y X m e f c s u f r s m; u l l a t m u l y g t w l l f c h a z g u t c h y g o n ?

1) & h a z p p a q; j c i f E s h z r f q l j c i f w l w G f j y p f q l l & m u s i t o h O y a ' j y X m e f c s u f r s m; u l l r v l u e m c l l

v l w O d w a , m u l u & h a z p p a q; & m w G f j u t e l l a & ; t z G D i f r s m; u w & m; O i f p p a q; & h a z E l l c h r & d
j y n b e l w y z D i f r s m; u o m & h a z p p a q; E l l o n ? O y a ' t & r s u f r i b u a o 2 a , m u a & s h w G f & h a z G
p p a q; & r n f j z p a o m v n f x O y a ' j y X m e f c s u f r s m; u l l r v l u e m c l l

2) w&m; p b i & m w G f w&m; c l e s O p v l l . t u s h a q m i f a & s a e r s m; v l u y g q m i & u t c h r & c h y ?

u D i f u t m; t r p p a q; p b i r n h a e u l l a j y m i f c j c i f r f n a & s a e j z i b x a c s c h r & e f & n & G c s u j z i h
a j y m i f c j c i f j z p o n f [k t r s m; u q u o n ? z h æ Z m f v w v t m; v n f t z r f c l o n h t c e r p l

a&e;ejzi vLuygqmi &u;tc f rjyck

3) zlaZmVwft m; aumi r e p n a e x l l r n f [h o m u w o e c t s u f z i f y x r t } u r f v i w f c i f r n
Oya' E s f r n h v y f

x b l h u w o e c t s u r f r n r = u m c % j y p r f u d ; v e l w w o r s m ; t a y : w f b o m w & m ; & h u c s y f q b n h
u w o e c t s u r f j z p l y / j y p r f u d ; v e e f w & m ; c h w f i n & g e s u f & a = u m i f o u t a o t a x m u f
t x m ; r s m ; j z i f w i f y E l l f r s m x b l h u w o e c t s u r f a w m i f y l l c o h & y g o n ?

4) zlaZmVwft x t c l l j z i p p a q ; p l i j c i f r n w & m ; Oya' j y X m e f c u r s m ; E s f r u l u n y f

x b l h o m t x t c l l r s m ; r n E l l f i h v h c l a & ; u l k c l u a p o n h u p r s m ; w f i t x l z l v p j y d p p a q ;
p l i a o m c l l r s m ; j z p l y / o m r m e i j y p r f r s m ; u l t x t c l l r s m ; w f i p p a q ; p l i f y l l c o h r & y f z l a Z m V w f r n
o m r m e i j y p r f r s m ; j z i b o m w & m ; p l i j c i f c l i j z p l y / Oya' t & t r s m ; j y n b l . a & e r n u l v o f p p a q ;
p l i r n h t r r s m ; j z p l y g o n ?

x t j y i f a t m u l v b m v 10 & u a e v o f t p l l y l f j r e m h t v i f o w i f p m w f u d i f u l t m ;
w & m ; r o i a o m c s x l v u r s v r s m ; v u D , a w e r j z i h w & m ; p l i a o m i f x l v a z : a & ; o m ; c l y g o n ?
x b l h o m o w i f a z ; j y c s u b o n f j r e m t p l l y l f o w i f p m w f a z ; j y a v r & a o m o w i f r s j z p b j z i f
u d i f u l t r t m ; p p a q ; p l i j c i f r j y k l u y i f t j y p l b n h v w o d t j z p a z ; j y o u l o j z p a e y g o n ?

xyrflawmi f q l t s u r s m ; -

t m & s / h t c o f i t a & ; a u m i r & s f r s j r e m j y n i w f w & m ; Oya' p l i j c i f r & e s h y g w b o u a o m u p p
a y g i r s m ; p n u l a z ; j y c l y g o n ? t j y n j y n b l l & m Oya' r s m ; u l r v l u e m , l b m r u j y n b l e r s m ; / t p l l
a & e r s m ; E s f w & m ; o j u d r s m ; u y i f w l f j y n a u m i f u d t w u l f l q l u m e l l f i h t w f v l u e m u s i b o k e f
j y X m e f x m ; o n Oya' j y X m e f c u r s m ; t m ; r x d j r i f j y l a e = u a = u m i f ; u l l a t m u f y g j z p o f r s m ; u l l
= u n f c i f t m ; j z i h o E l l y g o n ?

[UA-292-2006](#): t p l l t m & l r s m ; u l r x d j r i f y k o n f [h o m a u m v [m v r s m ; u l t r j y k u m /
t r p p a q ; p l i j y a x m i f % c s s v f c i f c k m ; & a o m O d w i f u n f . t a = u m i f ?

[UA-285-2006](#): w & m ; r o i f x l v u r s v r s m ; u l l a & m i f o n f [k o u b o t a x m u x m ; r & y j p e s u w i f y l /
w & m ; p l i f y l l c o h r & a o m w & m ; o j u d . v u a t m u l v o f a x m i f % c s s v f c i f c k m ; u l l o n h n d e f .
t a = u m i f ?

[UA-155-2006](#): t p l l t m % m y l l r s m ; . a y g r l a = u m i h r d a u m u y b o E l l r s m ; y s u f q d c l a = u m i f u l l
w l l u m ; o j i l v w & m ; p l i j c i f c l a o m u l l w i f i r f . t a = u m i f ?

[UA-110-2005](#): u l t m i f v l l D i f r n t u o f a x m i f t w f E y p u h s f y e f j c i f a = u m i h a o q l e j c i f
j z p a = u m i f u l l q & m o e f r s m ; u a q ; t a x m u x m ; a y ; E l l v s u e s h a o r l a o c i f p l i r c o u l l e t e l r e d
w & m ; & h w p c k s u c t p p a q ; & e y , e c j c i f ?

[UA-021-2004](#): t & g h a m u b o r s m ; u l l o m p l i f y l l c o h o m Oya' r s m ; u l y t o h y k l t o u r j y n h
a o ; o n h a m i c s r f o m a u s m f t m ; a x m i f % c s s v f c i f ?

w & m ; r o i f c s x l v m i f u p m ; j c i f q l b n j y p r f z i v l t r s m ; u l l z r f q d c s y a E n i j c i f ? O y r m u p e D i f t m ;
z r f q d c s y a E n i c l y l [UA-175-2004](#).

v l h t c o f i t a & ; u l l b l u m u g b o n h r p p a e g t a = u m i f ? <http://campaigns.ahrchk.net/susunwe>

http://burma.ahrchk.net

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To support this appeal, please click:

Sample letter:

Dear _____,

MYANMAR: Illegal arrest, prosecution and imprisonment of two men in Bago Division

Details of victims:

- 1. Ko Win Ko, aged 38, resident of Yethabhyar village, Hteindaw village tract, Moenyo Township, Minhla District, Bago Division, an NLD member; imprisoned at Paungte Prison
- 2. Phyoe Zaw Latt (a.k.a. Ko Wa Toat), aged 23, resident of Yethabhyar village, Hteindaw village tract, Minhla District, Moenyo Township, Bago Division; detained awaiting trial in Tharawaddy Prison

Alleged perpetrators:

- 1. Personnel from Letpadan Township Police & Moenyo Township Police
- 2. U Than Myat Soe, Executive, Union Solidarity and Development Association (USDA), Letpadan Township
- 3. U Than Zaw Win, Member, USDA, Letpadan Township
- 4. Judge U Khin Maung, Letpadan Township Court

Date of arrest: 6 October 2006, 10am

Place of arrest: Letpadan Train Station

I am writing to express my grave concern about the violations in legal process in the arrest, prosecution and imprisonment of Ko Win Ko and Phyoe Zaw Latt, both of Yethabhyar village in Moenyo Township, Bago Division.

According to the information I have received, both men were stopped by members of the Letpadan Township Police and Union Solidarity and Development Association at Letpadan Train Station on 6 October 2006. While searching the two, the officials found over 400 signatures for a petition calling for the release of political prisoners. U Than Myat Soe, USDA Executive, and U Than Zaw Win, USDA Member, then produced stubs of illegal lottery tickets that they claimed to find in Ko Win Ko's bag. The allegation that the stubs had been produced was published in the Mirror and Light of Myanmar newspapers on October 10.

The two men were taken back to the Letpadan Township Police Station, where Ko Win Ko was charged under Penal Code section 353(2) and the Gambling Act sections 15(a) and 16(a). Phyoe Zaw Latt was apparently not charged immediately, but kept in illegal detention.

On October 19 when senior lawyer U Khin Maung Yin came to the Letpadan Township Court to represent Ko Win Ko, he was told that he had already been heard, convicted and sentenced to

three years' imprisonment on October 18 (Criminal Case Nos. 652/06, 653/06). On October 25 the lawyer tried to gain access to his client at Paungte Prison but was reportedly told by prison director U Myint Aung to wait some more days.

On October 22 Phyo Zaw Latt was reportedly released from police custody by the Letpadan Township Court on a six-month good behaviour bond on 22 October 2006 under section 5(1)(f)(g) of the 1961 Restriction and Bond Act. However, he was also reportedly rearrested by the Moenyo Township Police and charged under Penal Code sections 420, 465 and 468. He is now awaiting trial in Tharawaddy Prison.

The actions against these men are patently illegal under your own domestic law, to say nothing of international standards. Here are just a few of the evident illegalities and irregularities:

1. Police officers, not USDA officials, should have searched the men in the presence of two witnesses (Criminal Procedure Code section 103).
2. The defendants are entitled to lawyers and open trial (Judiciary Law 2000 section 2).
3. There were no grounds for applying a good behaviour bond to Phyo Zaw Latt, who was neither a habitual offender nor someone evidently about to commit a felony (Restriction and Bond Act 1961 section 5).

Sufficient time to study all of the details of the case would no doubt reveal many other grave irregularities. However, these men do not have the luxury of time. While Ko Win Ko is languishing in jail, Phyo Zaw Latt is reported to go before a special tribunal inside Tharawaddy Prison tomorrow. As his is an ordinary criminal case, I fail to understand the reason that such a tribunal would be convened, other than to thwart the dim prospects that he has right now for justice.

Accordingly, I urge you to do the following urgently:

1. Instruct the Letpadan Township Law Office to file for a review of the conviction of Ko Win Ko, and to review the placing of a good behaviour bond on Phyo Zaw Latt, in accordance with section 9(l) of the Attorney General Law 2001.
2. Instruct the Moenyo Township Law Office to investigate the case of Phyo Zaw Latt and ensure that he is prosecuted in an open court.
3. Ensure that both of the accused obtain access to a lawyer or lawyers and obtain a full legal defence in accordance with the law.
4. Urge the Ministry of Home Affairs to investigate the circumstances that led to the two men's illegal arrest and detention.

In conclusion, I bring to your attention the comments of the UN Special Rapporteur on Myanmar, Professor Paulo Sergio Pinheiro, to the Human Rights Council on September 27, in which he said that

"The capacity of law enforcement institutions and the independence and impartiality of the judiciary have been hampered by sustained practices of impunity. I am also very concerned by the continued misuse of the legal system, which denies the rule of law and represents a major obstacle for securing the effective and meaningful exercise of fundamental freedoms by citizens. Grave human rights violations are indulged not only with impunity but authorized by the sanction of laws. In that respect, I consider especially as a matter of grave concern the criminalization of the exercise of fundamental freedoms by political opponents, human rights defenders and victims of human rights abuses."

These views about your legal system are widely held abroad. The fact is that your courts and laws will continue to lack all credibility until you demonstrate a commitment to the basic principles of the rule of law, not merely the artifices of the law. I again urge you to do so in these two cases.

Yours sincerely

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Thank you.

tv#ftjre&mi&U&B&fawmi{qtsurm;
t m&S/lt c&h&aumr&sf (ahrchk@ahrchk.org)

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armawmylu, ul' lvll'awmifawmlol/ cmvwl' uav;awar&xm;w, P 'Bumilav;u
awmifae' jol um;orm;awvbae' yav? av;awluhy;vlu&iarmawmylu, ay;wmet wlylv
rsm;aomtm;jjihrifwll'aygur n trsm;qlaw&ygw, P aumilav;Epa, mu' avmuar&xm;w, P tJD
rlydl' nnaewluumilav;uvuvm' sfjyvlulw, P um;orm;uvrfay: cay;w, P vrfay: q'awmh
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&elulef u uelum;armiform;wOajymjyon;wmy? 'Dt a=umifeywbuufy&elulef, mOxef&Xmeul
ar;jref=un&mrn wmoeb&blutckvljzqlygw, P tJ' gaw&ygol? tu, fljzplw, ql' ilu'aemilw
q' n t m&&ygw, P t&m&v m' r' y; ci Asm? us'emlv utjyp&&izrtr, P cvljzwt a&; r, ayq
aem? oluqu' ajymjyon;wm uawmlt & i'waw' j' w' on; vlt pm; xla&mu' l' w' m' v' l' ygw, P
'gt jyi &elulef r' kawm' v' p' n' l' u; m' ae&ma w' f' n' awmhjri f- um; uru' l' ol' ul' mOxef & l' uztr' & i' f' %aiG
(2200) aqmi & yd) (200) ul' wmlzrfwlt z' l' uc' f' ygw, P ai f' sm; rsm; z' l' u; m; v' r' i' l' o' l' w' ul'
, mOxef&awlu t aij; t v' n; / t v' kt, uzrf' q' daewma=umihc & bn; aw& v' l' v' e' fae & y' l' ul'
um;orm; uyl' t' ck' v' l' qu' l' u' v' ul' ajymjyon; ygw, P

vrfnrlq' i' m' v' l' uzrf' v' k' u' aij; w' l' u' x' u' aij;? =un' l' v' u' m' i' f' w' may@ orsm; Ell' i' j' cm; om; awG
jri v' l' l' i' awmh t i' r' w' ef & y' q' l' w' may@ Ell' i' j' cm; om; aw' u' j' zw' aew, P z' r' f' w' l' u' v' l' uzrf' w, P
aj; w' l' u' aij; w, P w' c' d' Ell' i' j' cm; om; aw' u' a=umilun' aew, P b' m' j' z' p' l' v' l' w' r' y' a' y' v' / t' l' g' s' t' awG
r' l' e' r' n' & k' v' l' w' b' b' j' z' p' a' e' ygw, P?

3. jynbōē pīwīl ES hīwōuīl

jynbōē pīwīl f t i f w m e u b w i f p m a p m i f u l l t m & S / ē t c ō h t a & ; a u m f & S f u j r e f m E l l i h t w ō f w & m ;
 Oya' p h r l a & ; E s h i v ē t c ō h t a & ; q ū l & m u p & y f r m ; u l b & E l l h p & e f w i f y x m ; j c i f j z p ō n ? w & m ; Oya'
 p h r l r r & b n j r e f m E l l i h t a j c t a e u l t a o ; p l y a v h m E l l j c i f r & a o ; y g p p f t p l & . t l y c s y r a t m u l w ō f
 v ē t c ō h t a & ; c s t a z q u r r m ; E s h i w b o u b n h o w i f t c s u f t v u r m ; & E l l & e f w m ; j r p l u e f o w t s u r m ;
 & a e o n ? E l l i h & ; t u o f o r m ; r m ; / r h y a ' o E s h t v s f a o ; u h o n h a e & m r m ; w ō h e x l l f u o n h o m r e f
 j y n b m x k w ē t a y : v u l w q l y p m t m % m y l l f w k u v ē t c ō h t a & ; c s t a z q u r r m ; u l l v l y a q m i f v s u f
 & b n ? & j a ' o q ū l & m t m % m y l l f E s h v & m ; & h w k u o m r e f j y n b o w ē t a y : Oya' r l y l u s i f r m ; u l l i q ū l f u l
 a w & e o n ?

j r e f m E l l i h t w ō f v u l y z p l y s u b e o n h t a j c t a e S h t a = u m i f t & m r m ; p h u l l w l u & l u w i f y a q ſ a E ſ
 a j m q l r m ; r & a o ; y g O y r m t m ; j z i h & l u & l u E s u h s f y e f j c i f c b o l t a e j z i f r n i u b l y e v n f w & m ;
 p b l r n ē n f / w & m ; Oya' j y X m e f c s u r m ; E s h t n d u s ; v e b o l w & m ; c l u l w & m ; o j u d u r n i u b l p a q ;
 q ū z w i r n ē n f / w & m ; Oya' r l c s t a z q u r r m ; u l l j y n b o w k u & i q ū l f w & m ; p b l b n i u p & y f r m ; / a t m i j r i r
 r & b n h t c g v l t z ē t p n i t a y : w & m ; Oya' . t u s t o u a & m u f r n i u b l z p i v m r n ē n f /
 w & m ; p l i h & ; o n i p p f t m % m & S f r m ; . t m % m w n j r a & ; u l l t a x m u f t y l z p a p r n h t a j c c h t k v j r p f
 w & y u b l z p i w n & a e o v m ; p o n i w k u l j y n b o ē p i w i l u o k o y w i f y o ſ i ; r n j z p ō n ?

T o w i f p m a p m i b ō n j r e f m E l l i E S h t m & a ' o t w ō f j z p l y ſ i ; c l o n h v ē t c ō h t a & ; c s t a z q u r r m ; E s h
 w & m ; Oya' p h r l a & ; q ū l & m u p & y f r m ; u l l u s , l u s , j y e j y e l a v h m o & E l l h p & e f w i f y x m ; j c i f j z p ō n ?
 p m z w b r m ; t a e j z i f w & m ; Oya' p h r l a & ; E s h i v ē t c ō h t a & ; q ū l & m u p & y f r m ; u l l j y n b o ē p i w i l b o
 a y : y l l i y g n ? x l t w j y n b o ē p i w i l b o w i f p m a p m i f t m ; x y q i h r w l l u t , l l r n t E s h e p y o r m ;
 x l b l v n j z e l a O E l l i y g n ?

y x r t u r f k w a O o n h j y n b o ē p i w i l b o w i f p m a p m i b ō n f t m & S / ē t c ō h t a & ; a u m f & S E s h q u i f
 o ſ b ō n b r m ; x l a y : y l z e l a O o ſ i ; r n j z p l y g n / t u , l l r n d t a e j z i f p m a p m i f t m ; y l l e f v u c h
 & , M l y g a t m u l y g v y p m t w i l f q u b ſ & , E l l i y g n ?

1? t m & S / ē t c ō h t a & ; a u m f & S f . p m a p m i f r m ; & , E l l b ō n f m r s u E f n o b ſ i ; y g
<http://www.ahrchk.net/phplist/lists/?p=subscribe&id=16> o i f . t i f w m e u f v y p m u l l & l u x n h y l
 j r e f m E l l i H u l l & f c s , l u l y g

2? x l e m u f t l a r ; v z i h j y n b o ē p i w i l f t , f l w m o p m j z i h t a = u m i f = u m ; y g -- burma@ahrchk.net

r n w t a e j z i b i f a y ; x m ; o n h t i f w m e u p m y k v y p m t w i l f y l y ; & r n h v y p m t w n j z p l y g u p m a p m i f
 r m ; q u i v u a y ; y l l i ; r n j z p l y g n ?

4. TWO HUMAN RIGHTS DEFENDERS GIVEN LONG JAIL SENTENCES

-- AHRC Urgent Appeals desk

From: [UP-219-2006](#), 4 December 2006

[Send an Appeal Letter](#)

The Asian Human Rights Commission (AHRC) has received updated information from a number of sources on the jailing of two human rights defenders in Burma who were arrested with signatures as part of a petition to have the government release political prisoners ([UA-358-2006](#)). The two men, Ko Win Ko and Phyo Zaw Latt, were reportedly sentenced to 14 years in jail each on November 9. Up to now, neither of them has been allowed to meet with a lawyer and only one has met his family.

As we reported previously, on October 6, Ko Win Ko and Phyo Zaw Latt were arrested at Letpadan train station as they were carrying signatures for a petition to the military government calling for the release of a group of democracy activists who were arrested on September 27 ([UP-208-2006](#)). Ko Win Ko was charged with possession of illegal lottery tickets and on October 18 he was sentenced to three years in jail. The date of his trial was changed so that he could not have a lawyer present. Phyo Zaw Latt was kept in illegal detention at Letpadan without charge before being released on a good behaviour bond--an inapplicable legal measure on this case. He was rearrested before arriving home. His mother died of grief shortly thereafter.

On November 9 both Phyo Zaw Latt and Ko Win Ko were tried in Tharawaddy Township Court for deceit and forgery. Neither was represented by a lawyer and nor were families or friends informed of the hearing. Both were summarily sentenced to 14 years in prison.

After the sentencing, the two men were repeatedly moved. They had already been kept in Paungte Prison and were then being held at the Tharawaddy Prison. Subsequently, when the family members and lawyers went to the latter prison they were unable to obtain access to the two. It was later found out that they had again been transferred after the sentencing, on November 12 spending one night at Pyi Prison before again being moved, this time to Taungoo Prison, which is far from the residences of their families and friends. It is highly unusual for prisoners to be moved around with such frequency and the persons involved in the case have speculated that it was a method to prevent family and lawyers gaining access to the two men.

Finally, on November 29 family members of Phyo Zaw Latt were able to meet him and give him food inside the prison, for the first time since the men's arrest. The family of Ko Win Ko were refused entry on a technicality, while neither of the two has yet been able to meet with a lawyer.

Please see the original appeal for comments on the illegality of the case, under both domestic and international law, and also for additional comments on the "un-rule of law" in Burma: [UA-358-2006](#).

SUGGESTED ACTION:

Please write to the Attorney General to demand that the conviction of the two accused men be reviewed, and especially that they be given access to lawyers.

Please note that for the purpose of the letter, the country should be referred to by its official title of Myanmar, rather than Burma, and that some other place names also are changed.

[Click to Send](#)

To support this appeal, please click:

Sample letter:

Dear _____,

MYANMAR: Illegal arrest, prosecution and imprisonment of two men in Bago Division

Details of victims:

1. Ko Win Ko, resident of Yethabhyar village, Hteindaw village tract, Moenyo Township, Minhla District, Bago Division, an NLD member; imprisoned at Paungte Prison
2. Phyo Zaw Latt (a.k.a. Ko Wa Toat), resident of Yethabhyar village, Hteindaw village tract, Minhla District, Moenyo Township, Bago Division; detained awaiting trial in Tharawaddy Prison

Alleged perpetrators:

1. Personnel from Letpadan Township Police & Moenyo Township Police
2. U Than Myat Soe, Executive, Union Solidarity and Development Association (USDA), Letpadan Township
3. U Than Zaw Win, Member, USDA, Letpadan Township
4. Judge U Khin Maung, Letpadan Township Court
5. Presiding judge at Tharawaddy Township Court

Date of arrest: 6 October 2006, 10am

Place of arrest: Letpadan Train Station

I am writing to express my grave concern about the violations in legal process in the arrest, prosecution and imprisonment of Ko Win Ko and Phyo Zaw Latt, both of Yethabhyar village in Moenyo Township, Bago Division.

According to the information I have received, both men were stopped by members of the Letpadan Township Police and Union Solidarity and Development Association at Letpadan Train Station on 6 October 2006. While searching the two, the officials found over 400 signatures for a petition calling for the release of political prisoners. U Than Myat Soe, USDA Executive, and U Than Zaw Win, USDA Member, then produced stubs of illegal lottery tickets that they claimed to find in Ko Win Ko's bag. The allegation that the stubs had been produced was published in the *Mirror* and *Light of Myanmar* newspapers on October 10.

The two men were taken back to the Letpadan Township Police Station, where Ko Win Ko was charged under Penal Code section 353(2) and the Gambling Act sections 15(a) and 16(a). Phyo Zaw Latt was apparently not charged immediately, but kept in illegal detention.

On October 19 when senior lawyer U Khin Maung Yin came to the Letpadan Township Court to represent Ko Win Ko, he was told that he had already been heard, convicted and sentenced to three years' imprisonment on October 18 (Criminal Case Nos. 652/06, 653/06). On October 25 the lawyer tried to gain access to his client at Paungte Prison but was reportedly told by prison director U Myint Aung to wait some more days.

On October 22 Phyo Zaw Latt was reportedly released from police custody by the Letpadan Township Court on a six-month good behaviour bond on 22 October 2006 under section 5(1)(f)(g) of the 1961 Restriction and Bond Act. However, he was also reportedly rearrested by the Moenyo Township Police and charged under Penal Code sections 420, 465 and 468. Subsequently Ko Win Ko was charged under the same sections.

On November 9 both Phyo Zaw Latt and Ko Win Ko were tried in Tharawaddy Township Court on the above charges. Neither was represented by a lawyer, to which they are legally entitled. Nor were families or friends informed of the hearing. Both were sentenced to 14 years in prison in what was patently an unfair trial.

I am also concerned that before and after sentencing the two men have been repeatedly moved. They had already been kept in Paungte Prison and were then being held at the Tharawaddy Prison at time of the trial. Subsequently, when the family members and lawyers went to the latter prison they were reportedly unable to obtain access to the two. It was later found that they had again been transferred after the sentencing, on November 12 spending one night at Pyay Prison before again being moved, this time to Taungoo Prison, which is far from the residences of their families and friends. I see no other reason for the constant transferring of the two men than an attempt by the authorities concerned to deny their families and lawyers the right to meet with

them. It was only on November 29 that family members of Phyoe Zaw Latt were able to meet him and give him food inside the prison, for the first time since the men's arrest. The family of Ko Win Ko was again apparently refused entry, while neither of the two has yet been able to meet with a lawyer.

The actions against these men are patently illegal under your own domestic law, to say nothing of international standards. Here are just a few of the evident illegalities and irregularities:

1. Police officers, not USDA officials, should have searched the men in the presence of two witnesses (Criminal Procedure Code section 103[1]).
2. The defendants are entitled to lawyers and open trial (Judiciary Law 2000 section 2[e][f]).
3. There were no grounds for applying a good behaviour bond to Phyoe Zaw Latt, who was neither a habitual offender nor someone evidently about to commit a felony (Restriction and Bond Act 1961 section 5[1][f][g]).

Accordingly, I urge you to do the following urgently:

1. Instruct the relevant township law offices to file for a review of the convictions, in accordance with section 9(l) of the Attorney General Law 2001.
2. Ensure that both of the accused obtain access to a lawyer or lawyers and obtain a full legal defence in accordance with the law.
3. Urge the Ministry of Home Affairs to investigate the circumstances that led to the two men's illegal arrest and detention.

I note with special concern the recent internationally-broadcast news that the Government of Myanmar has further restricted the activities of the International Committee of the Red Cross in Myanmar. This news bodes very ill for your country, and above all, for all of the persons in prisons in Myanmar who are currently denied the opportunity to meet with this very important international body. I trust that the Government of Myanmar will also take the time to review this decision, realise the extent of the negative repercussions that it will have for your country, and retract it immediately.

Yours sincerely

PLEASE SEND YOUR LETTERS TO:

U Aye Maung
Attorney General
Office of the Attorney General
101 Pansodan Street
Kyauktada Township
Yangon
MYANMAR
Fax: + 95 1 371 028/ 282 449 / 282 990

PLEASE SEND COPIES TO:

1. Lt-Gen. Soe Win
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c/o Ministry of Defence
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2. Maj-Gen. Maung Oo
Minister for Home Affairs
Ministry of Home Affairs
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E-mail: ddg.gad@gad.gov.mm

3. Brig-Gen. Khin Yi
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4. Mr. Patrick Vial
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7. Mr. Leandro Despouy
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8. Ms Leila Zerrougui
Chairperson
Working Group on arbitrary detention
Attn: Mr Miguel de la Lama
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1211 Geneva 10
SWITZERLAND
Fax: +41 22 917 9006 (ATTENTION: WORKING GROUP ARBITRARY DETENTION)

9. Ms Leila Zerrougui
Chairperson
Working Group on arbitrary detention
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1211 Geneva 10
SWITZERLAND
Fax: +41 22 917 9006 (ATTENTION: WORKING GROUP ARBITRARY DETENTION)

10. Ms. Hina Jilani
Special Representative of the Secretary General for human rights defenders
Att: Melinda Ching Simon
Room 1-040
C/o OHCHR-UNOG
1211 Geneva 10
SWITZERLAND
Tel: +41 22 917 93 88
Fax: +41 22 917 9006 (ATTN: SPECIAL REPRESENTATIVE HUMAN RIGHTS DEFENDERS)

Thank you.

Urgent Appeals Programme
Asian Human Rights Commission (AHRC) (ahrchk@ahrchk.org)

5. THAILAND: MILITARY RULE MUST END BEFORE THE RULE OF LAW BEGINS

-- AHRC Statement, 9 November 2006, [AS-281-2006](#)

The interim prime minister of Thailand, General Surayud Chulanont, on November 7 told the Foreign Correspondents' Club in Bangkok that his government is committed to "restoring the rule of law". In his speech, he said that there had been a "rapid deterioration" in the rule of law under the preceding government of Pol. Lt. Col. Dr. Thaksin Shinawatra. He stressed that the rule of law means that "every citizen stands equal in the eyes of the law" and that his military-appointed administration would make necessary reforms to administration of justice, the police and anti-corruption agencies.

The Asian Human Rights Commission, along with many other groups and individuals, had long pointed to the deterioration of the rule of law under the Thaksin administration. There is no debate about the fact that under the former government the power of the police was expanded immensely, the principles and institutions of the 1997 Constitution greatly undermined, and the administration of justice severely threatened. The Asian Legal Resource Centre published a number of extensive reports during this time speaking to these issues, one aptly titled, "Rule of law vs. rule of lords in Thailand".

However, when it comes to the rule of law under his own administration, General Surayud is either very confused or a great storyteller. Either way, he has completely missed the point.

As the interim prime minister mentioned in his speech, one of the key features of the rule of law is that every person is equal before the law. This notion entails that no person is above the law. It implies that all persons, without regard to rank or other conditions, are subject to the ordinary law under the jurisdiction of the ordinary courts.

However, under section 37 of the interim constitution of Thailand, the September 19 coup leaders and all persons assigned or ordered by them--General Surayud included--are exempt from any form of legal sanction for any actions before, during or after the coup:

"All matters that the Leader and the Council for Democratic Reform, including any related persons who have been assigned by the Leader or the Council for Democratic Reform or who have obtained orders from the persons assigned by the Leader or the Council for Democratic Reform pursuant to the seizure of State administration on 19 September B.E. 2549 (2006) to take actions prior to or after said date for enforcement of legislative, executive, judicial purposes, including meting out punishment and other administrative acts, whether as principal, supporter, instigator or assigned person, which may be in breach of the law, shall be absolutely exempted from any wrongdoing, responsibility and liabilities."

Section 37 of the interim constitution is a direct contradiction to the rule of law. It places the coup group and its people beyond the reach of the ordinary laws and courts. Therefore, if the interim prime minister wishes to restore the rule of law to Thailand he must begin by approaching the courts to repeal this provision.

Another remark made by the interim prime minister apparently has an unintended meaning. He said that on the one hand, "I am not a politician and I am not bound by special interests." On the other, he added that, "I have the authority and the power that comes with being an appointed prime minister to act quickly and decisively." General Surayud has made a virtue out of a vice: the fact that he is unencumbered by any political parties and an elected parliament, he says, is a good thing.

Inseparable from the rule of law is the notion of parliamentary sovereignty. This means that an independent parliament alone has the power to pass acts, free from interference, with effect in law. Those acts may then fall within the exclusive purview of the courts. In this way the judiciary too is strengthened, and its role reaffirmed as the arbiter of the law.

The prime minister's assertion that he is free to do what he needs to do to uphold the rule of law is a non sequitur. Only a head of government bound by the institutions of the rule of law, among them a functioning parliament and courts, can uphold the rule of law. The prime minister's very position, and his assertion of his authority to act upon it, is itself a violation of the rule of law.

In the absence of a sovereign parliament, who is making the law in Thailand today? Certainly no one answerable to the people of Thailand: an unelected assembly of military and police officials, bureaucrats and academics is acting on their behalf. No evidence of the rule of law there, either. And nor can any be found in section 36 of the interim constitution, which gives orders by the coup group the force of acts of parliament:

"All announcements and orders of the Council for Democratic Reform or orders of the Leader of the Council for Democratic Reform issued as of 19 September B.E. 2549 (2006) until the date of promulgation of this Constitution, be they in any form or enforced in a legislative, executive, or judicial manner, shall continue to be in force. These announcements or orders as well as any actions taken under them, whether before or after the promulgation of the Constitution, shall be deemed lawful and constitutional."

These are but two among the many contradictions inherent in the prime minister's position. The opening remarks of his speech, on how free expression was restricted under the previous administration, were also particularly disingenuous, given the tight controls on outlets for free opinion in Thailand today. Rights to freedom of assembly and other basic civil liberties continue to be seriously curtailed. Nor are there any grounds under the interim constitution upon which basic human rights can today be asserted in the courts, unlike before September 19.

"Without the rule of law nothing else matters," General Surayud said. The Asian Human Rights Commission concurs. And it is this that makes his administration untenable.

Like the Cambodian government minister who once said of the courts that, "I will make them independent," the interim prime minister of Thailand has either thoroughly misunderstood or misrepresented his role and obligations. If he sincerely seeks to uphold the rule of law, he should find a way out of his post as fast and safely as possible, and leave the business of reform to others. If he is being dishonest and has made these remarks only to satisfy his audience then it will be up to others to remove him. Either way, his administration must end before the rule of law begins in Thailand.



<http://thailand.ahrchk.net/fiction-fact>

6. PHILIPPINES: "STOP THE KILLINGS NOW!" MARCHERS IN HONG KONG DEMAND

-- AHRC Press Release, 19 November 2006, [AHRC-PL-107-2006](#)

Hundreds of people on Sunday marched through Hong Kong as part of an international day of action to demand that the killings of human rights defenders and social activists in the Philippines be ended without delay, and the perpetrators of killings be brought to justice.

"Stop the killings now!" cried over 400 persons who walked from the central district to the Philippines consulate.

The marchers, from religious, labour and human rights organisations based in Hong Kong, including four major Filipino alliances, the Filipino Migrant Union, Philippine Independent Church, Helpers of Islam (Filipinas), Thai Regional Alliance, and the Association of Indonesian Migrant Workers, called on the Philippines government to stop denying the extent of the killings and start doing something about them.



"If the government spent as much time and effort to end the killings and investigate those that have already occurred as it does in trying to deny responsibility then many lives could already have been saved," Bruce Van Voorhis of the Asian Human Rights Commission (AHRC), a co-organiser of the event, told the gathering.

The participants carried banners and posters with the photographs of victims, including Archbishop Alberto Ramento of the Philippine Independent Church, who was stabbed to death at the start of October.

The hands of the military and other state agencies could be clearly seen in the pattern of killings, speakers said.

"Why is it that only peasant and union leaders, human rights activists and others working simply for the benefit of ordinary people are being murdered?" Rey Asis of the Asian Students Association said.

"We are outraged that not even one killing has been solved," Asis said.

Human rights groups have put the number of killings in recent years at over 750; however, police investigators and government officials in the Philippines have consistently played down the scale of violence.

"It is normal to be faced with denial and hostility when plainly stating that such barbaric acts are going on in a society almost daily," Basil Fernando, executive director of the AHRC, told the demonstrators.

"Some people, such as the president in the Philippines, will have their eyes and ears closed for as long as possible, until they are forced to open them," Fernando said.

"Shout louder and they must hear, they must see," he urged.

"End the killings now!" Fernando reiterated.

Angkhana Neelaphaijit, a human rights defender from Thailand whose husband was abducted by the police in 2004, also addressed the crowd.

"We have the same kind of injustices in Thailand and I want to assure the people of the Philippines that we share their experiences and their determination to fight," Angkhana said.

The marchers laid flowers at the front of the photographs of victims before dispersing.

Later a delegation from the march went to the consulate to present the findings of the report on the killings of the Hong Kong Mission for Human Rights and Peace in the Philippines.

The report is available online at: <http://www.pinoyhr.net/reports/missionreport.pdf>.

The mission's report, which was prepared after an investigation in July, has had to be updated due to the relentless killings that have occurred since.

The Hong Kong-based AHRC has issued appeals on the killings of at least six persons and attempted killing of three since the start of October alone.

The international campaign calling for an end to the killings has gained speed in recent months.

An online-petition demanding an end to the killings has so far attracted almost 6000 signatories from all around the globe.

The petition can be read and signed at www.pinoyhr.net.



7. ABOUT PYITHU HITTAING

The Pyithu Hittaing e-newsletter is being launched by the Asian Human Rights Commission (AHRC) to open serious discussion on the links between rule of law issues and human rights in Burma. While Burma has been described as under the "un-rule of law", this has not been explored in any detail. Much of the talk about human rights in Burma is restricted to references to its military regime, political prisoners, and the worst cases of abuse that persistently occur at the hands of troops operating in remote areas of the country. It is not gone deeply into the experiences of most ordinary people in the country who are daily obliged to deal with powerful local police, administrators and courts.

There are many things that are obvious to most people in Burma that have not yet been discussed directly. For instance, how is it that people who are beaten up by the police are the ones to be prosecuted? How can judges convict persons under ordinary criminal laws on grounds that have nothing to do with those laws? What are the effects on society when all attempts to lodge a complaint of abuse through the courts are unsuccessful? What happens when an administration system is staffed for generations with incompetents, and its foundations eroded by militarisation and patronage?

Each edition of Pyithu Hittaing will concentrate on and explore one or two relevant cases and incorporate some wider analysis on human rights and the rule of law in both Burma and Asia. It will do this in a straightforward way. Readers are especially encouraged to write non-technical articles on practical problems of the rule of law and human rights for Pyithu Hittaing. You may also send copies of the e-newsletter to others.

This first edition of Pyithu Hittaing is being sent to the entire AHRC mailing list. Subsequently it will go only to the Burma mailing list. If you wish to receive it but are not on the mailing list, you can

1. Go to the AHRC subscription page (<http://www.ahrchk.net/phplist/lists/?p=subscribe&id=16>), enter your email and put a tick in the box next to Country List - Burma.
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