



## BURMA

### ***Political psychosis & legal dementia***

The defining characteristic of the crackdown on the largest protests in Burma in almost two decades this September 2007 was its patent illegality by all standards of law, including the country's own law. But how and why this happened cannot be properly understood unless placed against the backdrop of daily interactions between citizens and the state in Burma, particularly the police, courts and local councils.

### **A non-existent criminal justice system**

The existence of a justice system, in the true sense of the word, cannot be inferred from the existence of a building called a court or a person called a judge. A justice system derives from the extent to which that building stands independently from others, and the person referred to as the judge has authority to act with integrity. It derives from the confidence invested in the system by the public, and confidence of the judiciary in itself.

But in Burma the judiciary cannot be properly called an agency for the delivery of justice at all. As another arm of the executive, it is not a system upon which rights can be asserted and guarantees for participation in the ordinary affairs of the society obtained. This must be the starting point for any understanding of the conditions in Burma that prevail over the lives of millions there.

Another feature of Burma is that its law-enforcement officers are better understood as order-enforcement officers. The distinction is important. Law enforcement requires proper criminal investigations; order enforcement requires none. Law enforcement requires training; order enforcement is easier without it. Law enforcement depends upon rational behaviour through written rules and communications along a hierarchy; order enforcement can be arbitrary and undocumented. Law enforcers are themselves answerable to the law; order enforcers are not. Ultimately, order enforcement works with or without law, as suggested by historian Mary Callahan in an article on colonial-era policing and military force: “[The] failures to establish any kind of effective local policing established the pattern of order maintenance that exists to today: when local affairs get unruly, the state sends in the military”.

### **Complaints**

People in Burma who make complaints deemed to be “false” risk court and jail. The director-general of the police, Brig-Gen. Khin Yi, has given press conferences in which

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detailed rebuttals have been made of alleged extrajudicial killings and other gross abuses that have become widely known. But simultaneously other news reports have sought to reassure genuine complainants that they won't face reprisals, that investigations will be undertaken and that action will follow where investigations reveal wrongdoing, particularly concerning allegations of illegal forced labour.

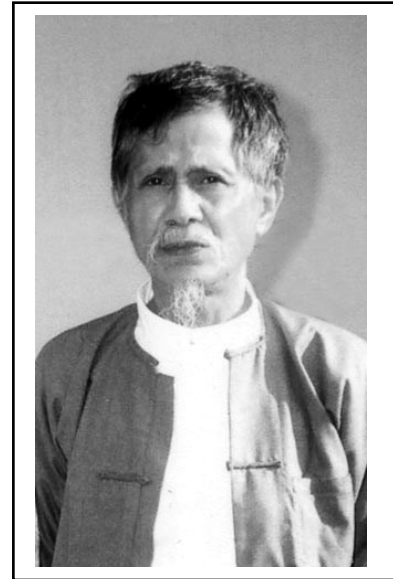
What actually happens to complainants in Burma has been documented by the Asian Human Rights Commission (AHRC) in literally hundreds of specific cases. Ma San San Aye and Ma Aye Mi San accused the chairman of a local council in Pyapon Township, Irrawaddy Division of rape in 2002 and were themselves jailed for making false accusations of grievous offences. The mother of Ko Aung Myint Oo withdrew a complaint against police officers of Myinchan Township, Mandalay who reportedly assaulted her son in 2006 after she struck a deal with one of the perpetrators; the mother of Maung Ne Zaw, a resident of Mohnyin in Kachin State, was forced to flee the country due to constant harassment by special anti-drug squad police against whom she lodged a complaint over the death of her son in custody the same year. After U Tin Nyein complained that the authorities in Bogalay Township, Irrawaddy Division, had negligently demolished an irrigation embankment and flooded his paddy crop he was himself imprisoned in 2006, but the Supreme Court upheld his appeal and he was released; the court rejected the appeal of U Aye Myint and U Win Nyunt against a two-year sentence for having complained of corrupt practices among village council authorities in the same township. The two men, one a school headmaster and the other a government mass organisation executive, were acting on behalf of a group of villagers. The township authorities accepted the complaint, reprimanded the officials and ordered them to return illegally collected monies. The irate officials lodged a counter-complaint with the district council, which reversed the earlier order and instructed that the two men be prosecuted.

Other cases that go to trial are decided without regards even to the domestic law and basic criminal procedure. Nyi Nyi Htun was in 2006 sentenced to three years' imprisonment for illegal gambling in a summary trial presided over by a magistrate without the requisite authority. U Aung Pe was sentenced to three years' imprisonment on a charge of giving unlicensed tuition, whereas his crime was described in the judgment as having "hung a t-shirt bearing an image of Daw Aung San Suu Kyi" in his classroom, which is not illegal. Maung Chan Thar Kyaw, a 15-year-old boy, was in 2004 convicted of obstructing the police in the course of their duties: he was detained and tried without regard to the Child Law 1993, which was passed after Burma joined the international Convention on the Rights of the Child, only to be freed after his case became the subject of high-profile campaigning by groups outside of the country. Ma Su Su Nwe and U Aye Myint were released from prison terms related to complaints made to the ILO only after the government was threatened with eviction from the world body and legal action in the International Court of Justice. U Thein Zan was charged with causing a public disturbance after posting defaced state propaganda articles on his suburban fence; initially denied bail at a hearing where a person presumed to be a police officer stood in the courtroom and took photographs of observers, he was later freed and the charge against him dropped after two strangers came to his house by Land Rover and said that



they would take care of things. Not long after, another court accepted two cases under the same section of law against assault victim U Myint Naing and five associates, who were blamed for aggravating villagers. Myint Naing alleged that the attack was planned and instigated by local authorities with the collusion of the police; the court accepted his complaint too, but only on one minor charge against three men on the bottom rung of the bureaucratic ladder (ten-household heads) and three other persons.

Together these cases speak to the key feature of both criminal justice in Burma and the state itself: that there is no predictable outcome of any discourse or exchange. If there were, even if coercive, it would allow citizens to plan their behaviour accordingly, with a reasonable expectation of a particular outcome. But for people in Burma, there are no objective criteria upon which to determine the consequences of a visit to a police station, a complaint to a ministry or a case before a court. This arbitrariness is the true indicator of the “un-rule of law”.



*U Thein Zan*

## Killings

Reports of deaths in custody for ordinary criminal offences are increasingly common in all parts of the country. For instance, according to the Oslo-based Democratic Voice of Burma (DVB) Radio, on 27 July 2007 a 58-year-old man died while being transferred from police detention to a prison in Mandalay Division, upper Burma. U Ohn Kyaing was among seven pagoda trustees from Pan-aing village arrested and charged over the theft of the historic Shwemawdhaw Pagoda’s diamond-topped umbrella. He had allegedly been tortured during interrogation at Meiktila Police Station No. 1 and not received medical attention. The court hearings continued against the other six.

Two days later, a young man accused of stealing a motorcycle also died in the custody of the same police. Ko Kyaw Htay, 36, was kept in the police lock-up after being arrested at his house late at night by a unit of ten officers from Meiktila Police Station No. 2 on July 27, who according to his mother began assaulting him from the moment that they slapped on handcuffs; he was later transferred to the same station as U Ohn Kyaing, where he allegedly died. Visitors were denied access to him just a few hours before his death.

Meanwhile, on July 30 special drug squad police operating in the capital of the northern Kachin State reportedly beat a young man to death. According to the Delhi-based Mizzima news service, 22-year-old Maran Seng Aung was sitting on the road in the vicinity of his home in Myitkyina around 9:30am when three officers on motorcycles came, bound his wrists and assaulted him in public before pulling him into an auto rickshaw. By 5:30pm his dead body was in the local hospital. His mother has reportedly been warned against pursuing a complaint in the local court. Mizzima reported that



people in Myitkyina claim that there is at least one death in the drug squad's custody every month.

At the start of August 2007, 38-year-old Ko Maung Myint also reportedly died in detention in the northeastern town of Muse having been stopped while illegally crossing the China border and not having enough money with which to pay off the police as demanded. When his wife came to the station on the third day of his custody, August 4, she was told that his body had been sent to hospital. When she went there she reportedly saw bruising and injuries suggestive of an assault.

The many accounts of bloody assaults by the police and other local security forces in Burma speak to the fearlessness with which these personnel operate and the lack of avenues for complaint, as described above.

But whereas the existing state institutions cannot themselves be called upon to offer redress to victims, in the past there was at least one other limited option. The International Committee of the Red Cross (ICRC) could earlier access prisons and other centres of detention and confidentially report on specific cases to higher authorities. It had been opening up new offices around the country and for some time had been making important interventions, in accordance with its global mandate, that must certainly have saved lives.

However, since late 2005 the ICRC has been stopped from visiting detainees, after the authorities refused to comply with its standard arrangements and procedures, including that it be entitled to talk with prisoners in private. At the end of June 2007 it issued a vigorous press release in which it roundly condemned the government for its attempts to thwart the committee's work in the country. Its president, Jacob Kellenberger, was quoted as saying that

“The organization uses confidential and bilateral dialogue as its preferred means of achieving results. However, this presupposes that parties to a conflict are willing to enter into a serious discussion and take into account the ICRC's recommendations. This has not been the case with the authorities of Myanmar and that is why the ICRC has decided to speak out publicly.”

In response, the government used one of its proxies to accuse the committee of relying on “wrong assessments” and “made-up exaggerated stories”. The wife of the junta's head, who doubles as the head of the Myanmar Women's Affairs Federation, in July observed Myanmar Women's Day by saying that the ICRC was to blame as its personnel “mostly met the prisoners who were in the list given by anti-government groups... [which] were followed by unrest and protests at the jails” and so “the authorities had to hold discussions to lay down new procedures”.

The belligerent response reinforced the ICRC's point. The government in Burma has long approached discussions with international organisations not with the intention of seriously taking into account their recommendations but in order to give the appearance



of dialogue while achieving nothing. In this manner the armed forces have remained in control for decades.

However, people in Burma need international groups to persist in their efforts to intervene, if for no other reason than that it will be many years before any credible domestic institutions may exist upon which citizens can rely to assert their rights and obtain even some limited form of redress. It is for this reason that the steady withdrawal of the ICRC from the country has been a great loss for people in Burma, and one felt especially during the days of mass detentions in the aftermath of the August and September 2007 protests.

## Thugs

One feature of the handling of the protests, about which the AHRC had expressed concern for some time, was the use of government-organised gangs as proxies for state security forces.

Reports of the use of these gangs, loosely known as Swan-arshin (“masters of force”) had become increasingly frequent throughout 2007, as thugs, apparently most under the direction of the Union Solidarity and Development Association (USDA), a mass-organising body, had repeatedly attacked human rights defenders and persons holding prayer vigils for the release of political prisoners. In some cases council officials, police officers and other state security personnel were known to have been among those carrying out or organising the attacks. The courts have then been used to add insult to injury through the laying of charges against the targets of the violence, rather than the perpetrators.

For instance, after a man in Mattaya, upper Burma, assaulted U Than Lwin on 15 June 2007, he ran for cover in the local USDA office. Police who came to the office were refused access, and they did not demand it, despite the fact that the law of criminal procedure gives them the right to enter any premises where an alleged criminal is believed to be hiding. Nine persons, including a number of Than Lwin’s children, were thereafter charged and jailed for periods of five to seven years while no action was taken against the assailant.

That it is easy for authorities in Burma to organise a gang to harass, assault and abduct anyone of their choosing speaks to the complicity of the state in systematic abuse there. And just how easy is it? According to a participant in the illegal arrest of rights defenders gathering at a pagoda in Rangoon’s northern suburbs during May, his gang was not even paid for the job but just taken to a teashop for a snack afterwards. The AHRC also has documents that



*U Than Lwin after the assault*





reveal unequivocally that the gangs are working as hierarchically organised muscle under township councils and USDA offices.

The use of violence through non-conventional forces has been a part of how Burma's military regime has got things done for many years. Thugs were used at the front of the brutal attack on a convoy carrying democracy leader Daw Aung San Suu Kyi and her supporters at Depayin in 2003. However, the extent to which they have now been incorporated into the routine monitoring and control of the population indicates a disturbing new phase in the country's downward slide, away from the "law and order" that the military junta claims to uphold and towards government by outright thuggery. It signifies a further diminishing and displacement of the police and courts, and a strengthening of arbitrary and extralegal institutions with no other agenda than to manipulate and brutalise.

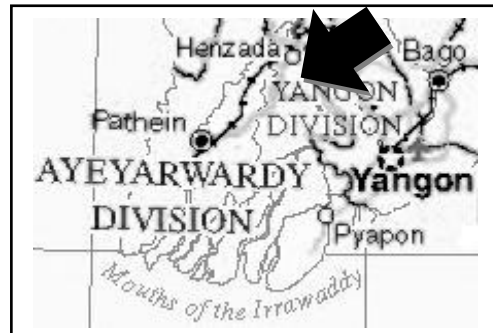
As the balance of power shifts, it will become increasingly difficult for even the most mundane and ordinary criminal procedures to be followed in Burma. That the police who came to look for Than Lwin's attacker did not bother to enter the USDA office speaks to where the real authority lies. USDA and local government officials also successfully covered up the murder of Ko Naing Oo inside a Rangoon council office during March 2007 after a petty family dispute. They even arranged for his prompt cremation, to prevent subsequent post-mortem inquiries. In 2006, a USDA executive in the delta region escaped investigation and prosecution after allegedly raping his 15-year-old neighbour.

The rising number of violent and coercive incidents involving USDA members, thugs, and un-uniformed police, army personnel and their affiliates—together with the manifest absence of institutions or channels for redress—presages growing lawlessness and fear in a country that has for decades been characterised by lawlessness and fear. Whereas the military regime in Burma promotes itself as a defender of law and order, its agencies and agents are in fact the greatest threats to these principles, not to mention the rule of law and human rights.

### **The Hinthada 6: Victims of a criminally insane system**

The case of the Human Rights Defenders and Promoters (HRDP) group in Hinthada (Henzada) is indicative of how Burma's criminally insane justice system plays out in the interests of those in power and against those of anyone else whose interests do not coincide with the former.

On 17 April 2007 four men travelled to Hinthada Township, about 30 miles west of Rangoon, for a human rights education session. They carried with them documents like the Universal Declaration of Human Rights and the Convention on the Rights of the Child, to which Burma is a signatory.





At about 12:30pm on April 18, the group set out from Oatpone to another nearby village on two motorcycles. As they were passing the Yatanathiri Monastery on the way to Taluttaw at the outskirts of the village, a gang of around 50 persons came on to the road with slingshots and sticks to assault them. The first motorcycle with Ko Tin Maung Oo and Ko Yin Kyi could escape, but the second motorcycle, carrying Ko Maung Maung Lay and Ko Myint Naing, was stopped and the two men encircled and beaten up.

A pick-up truck carrying some monks came and broke up the attack. The two injured men were put onto the vehicle and taken to Taluttaw police station, from where they were transferred to Hinthada Township Hospital. Myint Naing was seriously injured, with six incisions to his head, and suffering concussion. Maung Maung Lay had minor injuries to the head. Their bodies also had minor injuries all over them caused by the beating and slingshot pellets. The two victims were transferred for emergency treatment and x-rays at the intensive care unit in Rangoon around 10pm that night.



*Ko Myint Naing goes to hospital*

The attack was allegedly organised by USDA executives. During the night that the group stayed at Oatpone village, a USDA township official, local police officers and at least one officer from the police special branch also came to stay there. In the morning it was reported that an official from the township council came too. The attackers are alleged to have been USDA members, and police and security forces in plain clothes.

On April 20, the HRDP organiser, U Myint Aye, made a written complaint to the local police chief, in which he accused the local USDA secretary of having coordinated the attack. In the complaint he quotes the secretary, U Nyunt Oo, as having shouted to the group of attackers to “Strike, hit, kill them!” He said that in addition to the injuries to the two men who could not escape, the gang stole their possessions, including a digital camera, voice recorder, watch and cash.

On April 23, the state-run newspapers ran articles against the group in which they accused it of going to stir up trouble and that villagers had insisted that “there were no incidents of human rights abuse” in their area. It said that when the group had gone to Oatpone and the villagers had tried to have them leave a confrontation had followed, but that the authorities and local abbot had resolved it.

Two days later, the UN Special Rapporteur on Myanmar and the Special Representative on human rights defenders made a joint statement in which they said of the incident that “the level of violence and the absence of intervention by the local police to protect the victims... remind us of the circumstances surrounding the tragic incident of Depayin in 2003”.

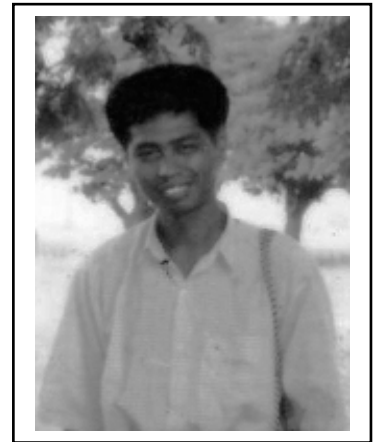


After the news reports, on April 24 the authorities sent notices to Ko Myint Naing and five other local men, all farmers—U Win, Ko Kyaw Lwin, U Myint, U Hla Shein and U Mya Sein—indicating that they would be charged with intent to cause a public disturbance. Two local village council chairmen lodged two separate complaints in the township court under the Penal Code that the accused had made statements “with intent to cause... fear or alarm to the public... whereby any person may be induced to commit an offence against the State or against the public tranquility” (section 505[b]) and “with intent to incite... any class or community of persons to commit any offence against any other class or community” (section 505[c]). Their accusations related not to the attack of April 18 itself but to a series of incidents in the lead-up to it, including that the men had been falsely alleging forced labour and creating local disputes among villagers, one concerning the alleged theft of a duck, another relating to a bicycle accident between a schoolteacher and a local resident.



*U Win*

On May 2, Ko Myint Naing himself lodged a criminal complaint in the Hinthada court against 12 persons, including the USDA secretary and another official, police chief and his deputy, and four ten-household heads under Penal Code sections 325, 326, 337, 350, 392 and 114, for causing grievous bodily harm with dangerous weapons and endangering life, criminal force, robbery, and aiding and abetting. In the complaint, he described how many local council members were among the attackers. He also described how as he tried to flee the assault he ran towards the local police chief and his head of security, standing and watching at one side. At that time, the latter himself pulled a slingshot out of his bag and fired a steel pellet into Myint Naing’s stomach. He was then again surrounded and had his possessions looted. By this time villagers had assembled to see what was happening, but the perpetrators blocked them from offering assistance. It was not until the abbot of the Buddhist monastery came in a pickup truck that the perpetrators dispersed and allowed the monk to ferry them to safety.



*Ko Kyaw Lwin*

The same day that he lodged his complaint the preliminary hearings in the two cases against him and the five others were heard in the same court. Judge Daw Myint Myint San ordered all six men to be kept in custody, including Myint Naing, who was still receiving treatment for the head injuries he suffered during the April assault.

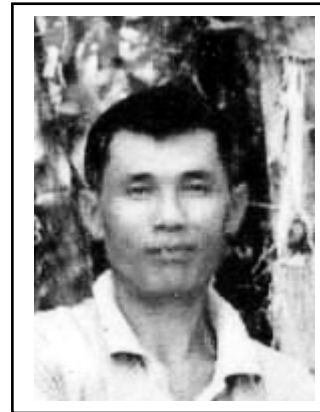




*U Myint (L) & U Hla Shein (R)*

On May 4 when hearings continued the defendants saw that someone allegedly from the Office of Military Affairs Security appeared to be secretly recording the proceedings in court. Their lawyer complained and the judge had the man taken from the court by the police, but nothing is known of what happened after that. There were around 200 persons in court to support the defendants; so, on May 11 when the hearings continued around 60 persons came to the court as observers on the side of the state, after the authorities had reportedly sent instructions that five persons should be sent from each ward in Hinthada town.

On May 24 the lawyers for the six again approached the court for bail on grounds that it was the time for planting rice and as the defendants are farmers if they could not go ahead with planting it would severely affect their families (who were already facing economic hardship due to the defendants being imprisoned); and, that Myint Naing needed to have medical consultations. But Township Law Officer U Myint Swe opposed granting of bail, claiming that Myint Naing had recovered, and next day the court again refused to grant bail. The doctor tending to Myint Naing was reportedly been refused access to the prison in Hinthada where he was being held.



*U Mya Sein*

The lawyers to six lodged petitions for charges to be dismissed on the grounds of lack of evidence and because the allegations against the accused didn't fit with the charges that have been lodged against them. In a lengthy submission with numerous citations of case law to support their assertions, they also questioned the authority of the local officials to lodge such charges and suggested that only township police commanders or above could lodge these charges, as per section 45 of the Criminal Procedure Code (CrPC).

On June 8 the township court reviewed the police report about the April 18 incident and accepted the complaint on just one relatively-minor charge of voluntarily causing hurt (a one-year jail term if found guilty), and only against six minor accused, namely three ten-household heads—Ko Soe Win, Ko Win Hlaing and Ko Sapu—and three ordinary villagers; it omitted the other six, including all of the primary accused: the local council chairman, USDA secretary and local police. The judge did not call the accused police or others to court to conduct his own inquiries as he is empowered to do, but just followed the police findings. Unlike the six human rights defenders, the six accused in this case were all given bail. A request by Myint Naing's lawyer to have the local council



chairman and police appear as witnesses in this trial was refused. The case is not known to have proceeded.

On July 24 the court found the six accused rights defenders guilty, despite a lack of any firm evidence concerning the series of random allegations against them: Myint Naing was sentenced to eight years, as he was a respondent to both criminal cases; the other four to four years each, two years under each offence. As in many other cases of this kind in Burma, the judge's main role was to summarize the parts of the hearings suited to his purposes, iterate the charge and give a sentence. Neither of the judgments contains anything approaching legal reasoning for the verdict. On the contrary, the decisions are summed up with a single line, that, "It is found that the defendants have violated Penal Code section 505(b)/(c) and the sentence is passed accordingly as follows..."

The lawyers for the six men have lodged appeals against the sentences and at time of writing they had proceeded to, and been refused a hearing in, the sub-divisional courts.

### **The Pakokku incident & Saffron Revolution**

On September 5 sporadic protests over a dramatic and unannounced rise in the cost of all basic fuels of the month before took a dramatic turn when about 500 Buddhist monks in Pakokku in upper Burma were met by uniformed soldiers who fired about 10 to 15 bullets before they dragged some monks away. At least one monk was tied to an electricity pole and beaten with rifle butts and bludgeons.

This was the first time that the military was directly used to suppress one of the protests since they began on August 21, and against monks at that. It drew a strong and swift response. On September 6 a group of officials, headed by the secretary of the Magwe Division Peace and Development Council and head of the divisional Department of Religious Affairs went to Mahavithutarama monastery at around 10am to ask the residents not to demonstrate. Some monks allegedly began throwing rocks at their cars. A standoff followed, and the group was held hostage for about another six hours before being released. The officials were let out at the back door, as there was a huge crowd in front of the monastery. Four cars were destroyed during the incident and according to further reports, groups of monks went to at least one house and one shop belonging to members of the Swan-arshin and USDA, and damaged property as well as writing slogans on the outside. The incident was condemned in the state media; however, only the destruction of the cars was mentioned, not the hostage-taking and other events.

Shortly thereafter, the Mandalay Monks Union called for a nationwide religious boycott, a "turning of the alms bowl" against the government, USDA and Swan-arshin.

The last time such a boycott was declared on any scale in Burma was in 1990, after an attack on monks at a ceremony to commemorate the 1988 uprising that left two of them dead, along with two members of the public; it was brutally suppressed, thousands of monks detained and disrobed, hundreds of monasteries blockaded and raided, and a series of orders issued to prohibit religious organisations not explicitly approved by the state.



These orders were again invoked during 2007, as was the language of sorting genuine from “bogus” monks.

But in the aftermath of the Pakokku incident, the view of monks in Burma was that such an extraordinary moment had again arrived. Beginning from September 17, in response to the failure of the regime to apologise for the violence, thousands took to the streets of cities and towns around the country, including Rangoon, Mandalay, Pegu, Sittwe, Kale, Pakokku, Kyaukpadaung, Tharrawaddy, Aunglan and Chauk. In many places the street marches were accompanied by special ceremonies in accordance with the disciplinary code of the Buddhist order, the Vinaya, to reject as a matter of moral and religious duty any offer of donations from the military or its supporters, or to preach before them.

On September 22, hundreds of monks marched towards Hledan along Pyi Road in Rangoon and approached the home of the democracy party leader Daw Aung San Suu Kyi on University Avenue. She came to the gate and paid respect to the protesting monks while the crowd shouted “Long Live Aung San Suu Kyi”. This was her first public appearance since May 2003; however, security forces blocked them on the following day. Meanwhile, thousands of monks marched in Mandalay, which together with its surrounds has the highest concentration of clergy in the entire country.



*Crowds gather in Rangoon to await the arrival of protesting monks on September 19*



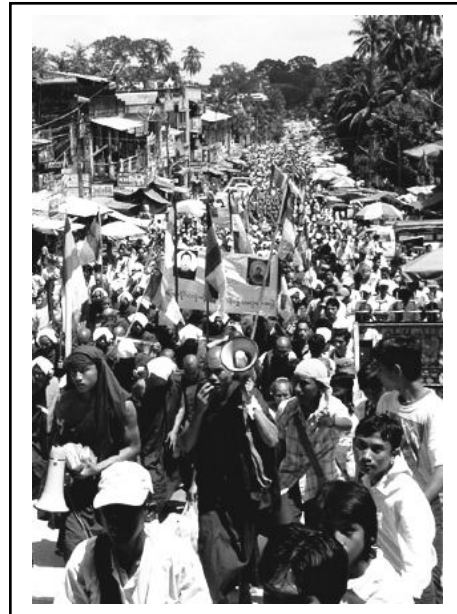
Within a few days, the monks were met by growing numbers of ordinary citizens, and the scale of the protests quickly escalated to the point that they captured global attention. By September 23, monks in the big cities and towns walking through flooded streets chanting verses of loving kindness were joined by human chains on either side of the road, and elsewhere around the country by crowds of delighted onlookers.



*Monks marching through heavy rain on September 23*

On September 24, thousands of monks in Rangoon headed for the two holiest Buddhist sites in the city, Shwedagon Pagoda and Sule Pagoda. The monks marched in five columns, stretching more than a kilometer. They were joined by thousands of civilians who locked their arms to protect the monks, cheering and chanting. The crowd occupied five blocks and some estimates put it at around 100,000. Protests also took place in at least 25 other towns in the country, including in Pegu, Mandalay, Sagaing and Magwe, as well as in towns in Mon, Arakan and Kachin states and Kawthaung in Tenasserim Division.

By September 25, the military regime was openly threatening people to get off the streets, but the numbers of protestors continued to grow. Prominent actor and social activist Kyaw Thu and famous comedian Zarganar led over 20 actors, artists and writers to give alms to the monks at the Shwedagon Pagoda. A column of thousands of monks left from there at 1pm and marched through Bahan Township together with members of the public. Some protestors waved red Fighting Peacock flags of the student groups that led the protests in 1988. Others carried banners calling for the release of political prisoners, national reconciliation, and saying that “this is a non-violent people’s action”. Meanwhile, in Taunggok, Arakan State and in Monywa, Sagaing Division tens of thousands of people also joined the monks.



*Crowds on the steps of Shwedagon Pagoda, September 25*





## Backlash & confrontation

On September 26, the military government ordered a 60-day 9pm to 5am curfew on Rangoon and Mandalay, and a prohibition on assemblies of more than five persons. Uniformed riot police and soldiers took to the streets and built barriers outside the main pagodas. When an estimated 10,000 protestors, among them 500 monks and some nuns, marched to Shwedagon Pagoda again around 11am they were hit with teargas and assaulted: dozens were taken away, and there were the first reports of many unconfirmed deaths. Swan-arshin thugs and other government heavies were also said to be among the attackers there, and in other parts of the city. Some were later rewarded with additional payments, sacks of rice, and permanent work with the city council, according to news reports.

However, protestors assembled and sat on the ground together around the Sule Pagoda at the city centre, chanting slogans like, “The people’s armed forces are our armed forces” and “The people’s army must not kill the people”. Around 3pm riot police again assaulted protestors and fired tear gas there. Unknown numbers—possibly hundreds—of monks and ordinary citizens were taken away in trucks to unconventional detention centres at a racetrack, the Mingalardone air force base and the Government Technical Institute (GTI) in Insein (all north of the Rangoon city centre).

Over ten thousand also marched in Mandalay, starting from the Dhammikarama and Taung-htilin monasteries, through the city. Although they were not met with violence as in Rangoon, there were army roadblocks in places with armed troops, including at the historic Phayagyi Pagoda. Some monasteries also reportedly had armed soldiers outside. Protests also continued in Sittwe and Pakokku.

On the morning of September 27 people around the world were wondering if the protestors in Burma would quietly stay indoors after the threats of the day before. They did not. Throughout the day, tens of thousands again gathered in Rangoon, Mandalay and Sittwe, and smaller groups came together elsewhere.



*Riot police deployed in Rangoon, September 26*

In Rangoon, crowds assembled on the road to Sule Pagoda in the city centre were soon met with gas, gunfire and baton charges from assembled troops, riot police and auxiliary forces. They repeatedly retreated and reformed. By nightfall thousands had still not dispersed; the voice of an eyewitness speaking to the Democratic Voice of Burma (DVB) radio from Pansodan, in





the downtown area, was punctuated by the sound of gunfire from near and far.

By the admission of the military regime alone nine died in Rangoon—among them four monks, a high school student, university student and a Japanese journalist. (In November it acknowledged 15 deaths.) But by all accounts there were many other casualties.

At least seven persons died outside High School No. 3 in Tamwe Township when troops pursuing protestors from Pansodan opened fire and drove a truck into the crowd before assaulting people with truncheons; however, security forces took the bodies away. Others who were beaten allegedly had their money, jewellery and mobile telephones robbed by the troops. One dead person who was later identified was 16-year-old Maung Thet Paing Soe, a ninth grade student at the school. His family obtained permission to cremate his body, which was being kept at a government facility, but they could not invite anyone for the funeral. The corpse had reportedly been autopsied but no report was given to the family. According to family members, at the time they went they saw roughly six bodies in that mortuary.

Eight corpses were reportedly left on the road after security forces attacked a crowd in South Okkalapa, between the Punnam and Post Office intersections. Local residents knew some victims, and took them back to houses in the neighbourhood. But after a short time, security forces allegedly entered the area, searched and located the bodies and took them away. One was identified as 31-year-old Ko Htun Htun Lin, a local resident whom witnesses said police and troops beat to death with truncheons outside the township post office.

There were also many unconfirmed reports that from 80 to 200 bodies of monks and ordinary citizens, including some who were seriously injured but not yet dead, were taken from the Kyaikkasan interrogation centre and burned at Ye Wei crematorium outside of Rangoon around midnight on September 29. According to one person claiming to have quit the Rangoon city council hygiene department who was assigned there, drunken soldiers moved the bodies, which included at least one woman who looked to have come from a well-off family, and another who was pregnant.

Elsewhere, a young man who was closely involved in the protests in Taunggyi, Arakan State, was reportedly found dead in a creek on October 19. According to news reports, the police took and disposed of the body of Ko Nyi Pu Lay and did not inform his relatives; only when they filed a missing person report at the station on October 24 were they told of what had happened to him and they confirmed his identity from clothing.





In Mandalay, thousands of demonstrating monks and civilians were warned with gunfire from troops and riot police stationed at roadblocks all around the city. Hundreds were also assaulted and arrested, but they were joined for the first time by a column of over a hundred monks from the Buddhist University there.

*Protests continue on September 27*

Large numbers of demonstrators chose to confront the military, despite obvious risks to life and liberty. While some were killed and more injured, far larger numbers were taken into illegal detention: in Mandalay virtually the entire National League for Democracy (NLD) leadership was been picked up. Hundreds of monks were rounded up and tens of thousands confined to their monasteries by troops. At the school in Tamwe, students and others also were driven off en masse.

By the most conservative estimates as of September 28 at least 700 monks and 500 ordinary citizens had been taken away by security forces in every part of the country. A few days later the authorities themselves acknowledged that over 2500 were in custody and being “investigated”. They included prominent persons, such as comedians Par Par Lay in Mandalay and Zarganar in Rangoon (both were later released with warnings), and staunch human rights defenders such as lawyer U Aye Myint in Pegu. But the vast majority consisted of ordinary persons who had joined the protests out of sheer frustration



*Government thugs take people into detention,  
September 28 (DVB)*

at the unbearable conditions in their country. Many were women. Many had left their houses in the morning and simply did not come home at night, among them 30-year-old Ma Ke Naing Zaw, a mother of two from Pazundaung Township in Rangoon who disappeared while coming home from a hospitality course at the Kandawgyi Palace Hotel on September 27. Similarly, 18-year-old Ma Po Po Pyi Sone and her two sisters, Ma Thida Aung and Ma Moe Moe Swe, both aged 23 (parents U Myint Win Maung and Daw Aye Aye Maw), left Batheinye Ward in Dawpone Township in the afternoon of the same day and did not come back; however, they were released from custody on October 3. By contrast, still missing at the start of October was Ma May Mi Oo, whose mother said in interviews that she had been taken from their house in Bahan Township, Rangoon,



on the night of September 19, three months' pregnant with her first child at the time. Local officials had denied any knowledge of her whereabouts.

Persons taken from their houses or neighbourhoods described a similar pattern of being called at night, being told that they would not be gone long and would not need to take anything with them, being blindfolded and not being told where they were being taken or by whom, and being assaulted for no reason. The experience of Par Par Lay, interviewed by the Burmese service of the Voice of America on November 1, was typical:

“They called for me on the night of September 25. Around 1am we had an annual donation ceremony going on at our ward’s religious hall and I was there for that programme. It was while that was going on that they came and immediately shoved me into a van. ‘Wait, I need to get my stuff,’ I said. ‘Never mind, you don’t need anything,’ they said. I didn’t have anything warm, just a light shirt and lengyi; not even slippers. ‘Get on the van,’ they said, so I got on and they blindfolded me and took me away. I didn’t know how come.

“Back at my house, my wife asked them, ‘Which organisation are you from? Tell me, why are you taking him? What are your names?’ ‘You don’t need to know,’ they said.

“There was another person on the van with face covered. I didn’t know him. At about 3am we reached the Shwesaryan riot police camp. It’s called the number 4 camp, riot police. After we got there, the story began. ‘So, we have some questions for you,’ they said and forced us to sit and began the interrogation. It was tough, because they hit us constantly. They kept changing the guy. One would interrogate, the other one would take a rest. Like that.”

Reports soon began filtering out about conditions for detainees. Witnesses at the GTI and Kyaikkasan camp told stories of disrobed monks being whipped and kicked in the head. At least three persons and one monk who were receiving emergency treatment at the Rangoon General Hospital were removed while still getting medical attention, and taken to undisclosed locations. Four detainees taken to Insein Prison after the protests in August were transferred to the jail hospital where they were kept isolated from other inmates, also having been seriously tortured. On September 27, a disrobed monk was brought to the Rangoon General Hospital for treatment of injuries to his feet that were apparently caused by torture.



Monks, monasteries and religious objects were not spared from the violence meted out on the rest of the population. After night-time raids on September 26 and 27, over 300 monks from the Ngwekyaryan and Meggin Monasteries in the northern suburbs of Rangoon were reportedly taken to the GTI and forcibly disrobed. At least two persons, 33-year-old Maung Kyaw Kyaw of



Shwebo Road and Maung Than Aung of Inwa Road, both in South Okkalapa, were killed during the raid on Ngwekyaryan. The monasteries were profaned, smashed and looted in the same manner in which troops have demolished villages in outlying civil war areas for years: money, electrical equipment and Buddha statues were carried off. In October, township council officials and Special Branch police came back to the Meggin Monastery, which is in Thingankyun, and searched for items to use in prosecuting its abbot, U Einda. The monastery had remained sealed off for some days after the raid, and when it was reopened only two monks were allowed to return and reside in it; but at the end of November the entire monastery was ordered closed.

Not only in Rangoon and Mandalay but elsewhere too soldiers stormed religious buildings and took away their occupants. For instance, according to The Irrawaddy news service troops raided monasteries in Bamaw, Irrawaddy Division and took away 108 monks. When they began reciting protective verses while in prison they were separated. Some 30 of them started a hunger strike. On September 27 they were sent from the prison to army lockups. Similarly, on September 27 soldiers raided the Pauk-myaing Monastery in Chanmyathazi Township, Mandalay and arrested most of the 50 monks who were praying at the time; a few managed to escape.

There were also many reports of troops walking across images of the Buddha and the Buddhist flag, dropped in the streets by fleeing monks at the start of the crackdown, and of troops entering religious premises with their boots on. Ironically, this behaviour closely resembles the actions of British colonial troops, which used pagodas, including the Shwedagon Pagoda, as military encampments, and also refused to remove their footwear on religious grounds, as required by custom. It was this behaviour that in part led many monks at that time to join and lead the anti-colonial movement around the country.

Back on the streets, smaller numbers of mostly male protestors continued to confront the security forces in Rangoon, shouting slogans such as “General [Aung San] did not give you training in order to kill the people!” “We don’t want military government” and “May the people who killed monks be struck down by lightning!” In Mandalay, on September 29 up to 1000 monks and over 10,000 people continued marches, closely watched by troops, police and government thugs. In Sittwe, about 50 monks and 300 civilians marched for around half an hour and were threatened by armed troops, and in Pakokku around 200



*Protestors in Rangoon on September 28 (DVB)*





monks led 2000 civilians in a peaceful two-hour march to Thihoshin Pagoda starting at 2:30pm that was not broken up by the authorities. During the march they also chanted slogans such as those in Rangoon. They prayed at the pagoda before dispersing. To the south of Pakokku, at Yenanchaung, around 200 monks followed by a few thousand supporters marched around the town chanting slogans. Many of the monks were from the Shwedaung Pali University, which is under the control of one of the 47 top government-approved monks of the Maha Sangha Nayaka Council, U Tezaniya.

Hospitals were ordered to refuse medical treatment for persons apparently injured due to the crackdown on the protestors and also persons receiving treatment were transferred into army custody. According to DVB, 48-year-old U Than Aung died after being taken into custody after protests in Rangoon on September 27; he was reportedly injured at the time he was taken to the interrogation centre, but was denied medical attention. Similarly, according to a released protestor, a young man from Thingankyun in Rangoon, Ko Mya Than Htaik, had been taken to the GTI where he was denied medical treatment although he had been shot. Armed security personnel were also patrolling hospitals, guarding the entrances to emergency treatment wards and obliging staff to inform them of persons being admitted with injuries. At the Rangoon General Hospital, six persons who had been receiving treatment for wounds, including Mya Than Htaik from Thingankyun, were taken away to an unknown location by soldiers on October 3; over a week later their families had still not found out their whereabouts. In some places, such as Myinchin and Taungthar townships in Mandalay, officials were rumoured to have sent orders to hospitals that they not treat monks who were continuing to boycott the military regime.

By October 1, while arrests continued there were also some persons being released, revealing something of the atrocious conditions in which protestors had been held: crammed into otherwise empty rooms with no washrooms or toilets and virtually no food. One detainee said that she had been kept with around 200 women in the GTI and that around 3000 people were kept there. Some had died in custody and monks had been forcibly disrobed and thrown in with everyone else, she said. Another, Daw Khin Mar Lar—an NLD member in Mandalay who had apparently been taken into custody in an attempt to get at her husband—said the conditions under which she had been kept, first at Police Battalion 4 and then at Ohboe Prison, were appalling. She described the little food given as consisting of nothing more than rice soup, which stank and was full of gravel and dirt and that “even dogs wouldn’t eat”. At least one of her co-inmates, Daw Thin Thin, was aged more than 70. Khin Mar Lar was released only having signed a pledge that she would not cause any trouble and having been threatened that she would receive a long compounded jail term and her family members also would be taken away if she did otherwise. As more persons were released they all indicated that they had been obliged to sign similar documents. Others said that they had been pressured to testify against monks and other detainees in exchange for being freed.

Another feature of the authorities’ response that emerged at the start of October was to take family members of wanted persons as hostages. Among them was almost the entire immediate family of U Gambira, one of the monks wanted in connection with the September protests. His younger brother Ko Aung Kyaw Kyaw was taken from a street in





Rangoon on October 17; another younger brother Ko Win Zaw was taken earlier. His mother and a sister were detained in Meikhtila, upper Burma, on October 16. At last report, his father and another sister were in hiding. The monk was finally captured in November. The abbot of the Thitsamandai monastery in Gontalabaung village was also reportedly arrested on October 2 and held to be exchanged for his brother, who is also a monk, whose monastery in Mingaladone, Rangoon, was raided during the crackdown on protests.

### **In accordance with which law?**

By mid-October the state was beginning to concoct court cases against persons accused of offences over the protests in order to pretend that there existed an element of its original “law and order” rationale in its agenda. According to a report in the *New Light of Myanmar* of 9 November 2007 on the latest visit of the United Nations special envoy to Burma, Ibrahim Gambari,

“During August and September when the nation saw protest marches, the government had to tackle in accordance with the law the incidents in which some people violated the law and the protest marches were turning to unrest and violence. Unavoidably, the government had to call in those who got involved in the marches, some of whom were artless people, for questioning. Now, all those who were not relevant to the violent acts and violation of law have been released. And those who are [suspected] of the violent and terrorist acts are being questioned...”



*Naw Ohn Hla*

Thus protestors such as Naw Ohn Hla resurfaced to be superficially treated “in accordance with the law”. Ohn Hla had earlier risen to prominence by virtue of her involvement in the “Tuesday Prayer Group”, which met every week at the Shwedagon Pagoda in Rangoon to pray silently for the release of political prisoners. Throughout 2007 security forces and others acting on their behalf, including pagoda trustees, constantly harassed her and the other women involved in the group. On one occasion the officials childishly doused the area where they customarily gathered (the Tuesday corner of the pagoda) with dirty soapy water. Ohn Hla was herself libelled in articles printed in private journals on the orders of the government, which alluded to her as a prostitute. Nonetheless, she and the other women kept coming to pray.

After the August 15 fuel price rise that precipitated the nationwide protests, Ohn Hla was among the first to protest and be taken into custody “for questioning”. Like everyone else, she was taken without regard to any provision of law or criminal procedure. And like most others, nobody knew where she was held, for how long she would be held or the conditions of her confinement.



At an October 12 court hearing in Hmawbi, just north of Rangoon, she was placed under a restricting order in accordance with the 1961 Restriction and Bond Act. She was denied a lawyer and the only witnesses were the township police chief, her village tract council chairman and an official underneath him. At the end of the brief trial, Judge Aye Aye Mu instructed that she cannot leave the township for the next year without seeking a permit, or reside in another part of the country, and must report to the local police station once every seven days.

Even leaving aside the process by which she was brought into the court and the most obvious procedural absurdities, the order itself was sheer nonsense; devoid of legality. The two subsections of the act under which Ohn Hla was charged were specifically for habitual offenders and their abettors or someone evidently about to commit a felony. But the judge's reasons for placing her under the order were that she has "no fixed address" in her village of registration and has "no fixed occupation". In fact, she had explained to the court how she had come to reside in another township and be placed on a guest register there, and two prosecution witnesses acknowledged that she works as a small goods vendor in her home village, and the register is both for the purposes of residency as well as trading—as if any of this was significant anyhow. Indeed, were these criteria applied evenly across the population of Burma, millions would probably have to be brought before courts for similar orders to be passed against them.

The treatment of Ohn Hla, although legally devoid of merit, was relatively benign. In many other cases those labelled as ringleaders of protests have been tried under the same provision of the antiquated Penal Code as the Hinthada 6, according to which,

"Whoever makes, publishes or circulates any statement, rumour or report... (b) with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility... shall be punished with imprisonment which may extend to two years, or with [a] fine, or with both." (Section 505)

It has been a characteristic of the criminal injustice system in Burma under the current administration that virtually anything can be found to fall within the parameters of section 505(b), from the making of complaints about forced labour to the watching of a wedding video of a general's daughter. But in the aftermath of the protests this section has been overused to the point of absurdity, suggesting a policy dictate rather than any kind of legal process, no matter how feigned.

For instance, on October 19, the township court in Katha, Sagaing Division, sentenced NLD members U Myint Kyi (son of U Ba Zaw) and U Zaw Lin (a.k.a. U Maung Maung) to two years with hard labour for their alleged part in the protests. According to Police Superintendent Myint Zaw, the two men held a meeting with others at Myint Kyi's house on September 25 to plan for a protest in the town the next day. The court heard that the march lasted for a half an hour and involved around 50 monks and over 400 residents who apparently went not in order to press for changes in their society but rather in order



“to cause alarm to the public”. The accused maintained that they were not organisers of the protest and anyway Zaw Lin did not even attend it, but Judge Ne Aung does not appear to have considered their testimony as like other such judgments in Burma’s courts, his lacks evidence of any specific reasoning behind the verdict.

In a related case, on October 18, the court in nearby Indaw sentenced Shwe Pein (a.k.a. Htay Naing Lin) and Chan Aung (a.k.a. Nyi Htay) also to two years with hard labour for allegedly having had contact with the defendants in Katha and having communicated to short wave radio stations abroad about goings on there. Interestingly, Deputy Police Chief Kyaw Htay used telephone records and called an official from the government communications department to testify against the two—who are members of the HRDP group. Others in that group have been targetted in similar legal actions throughout 2007. Judge Daw Khin Myat Tar concluded that the defendants had “sent news to foreign broadcasters with intent to injure State tranquility and the rule of law by causing alarm to the public” and passed her sentence accordingly.

U Min Aung, a father of three small children, was brought into the district court of Thandwe (upon the western seaboard) facing the same charge on October 17. Min Aung—who was apparently targetted for having worked on a number of forced labour cases in Arakan State and having had contact with the International Labour Organisation’s office in Rangoon—was sentenced for his alleged involvement in protests in his hometown of Taunggut on September 26 and 27, although in his defence he maintained that he had been away from the area until October 12, the day before he was arrested. When Min Aung complained that he had been denied a lawyer, in violation of his human rights, Judge Daw Hsaung Tin added another two years to his sentence for contempt of court, making it nine-and-a-half years in total. Later, it seems that a lawyer was able to get the case reviewed and the sentence brought back down to two-and-a-half years, despite having been refused permission to get copies of the court’s judgment.

Reports of identikit charges, investigations and convictions have come from all over the country. For instance, the Yoma 3 news service (Thailand) said that on November 7 Judge Maung Maung at a court in Pyi, lower Burma, sentenced two other HRDP members—Ko Zaw Htun and Ko Thet Oo—to two years each under 505(b), along with a disrobed monk, U Pandita. Similarly, according to the Burmese service of Radio Free Asia, courts in Kachin State, on the border with China, sentenced NLD members U Ba Myint of Banmaw and U Ne Win of Myitkyina (the state deputy chairman) to—yet again—two years apiece on November 9. Ba Myint was reportedly tried in a closed court, without the knowledge of his family, while Ne Win’s wife only learnt of the charge against him when she went to the court on the afternoon of November 8; the next morning he was given 15 minutes to hire a lawyer (without success), after which the judge tried the case and passed the judgment that evening.

Ko Kyauk Hke, an artist living in Aunglan, Magwe Division, was on September 30 watching satellite television footage of the crackdown on protests in Rangoon at a street-side video stall when he leapt up and yelled, “Long live Theravada Buddhism!” He was arrested shortly thereafter, likewise charged under 505(b), refused the right to a lawyer



and sentenced to two years after the prosecution accused him of also shouting anti-government slogans. Similarly, Ko Aye Cho in Pyawbwe township, Mandalay was reportedly sentenced to six years' imprisonment under the same section and others at the end of October for having accused USDA members in his area of plotting to kill activists.

Analagous cases have proceeded against two NLD party members in Monyin, U Kyaw Maung and U Hpe Sein, who are aged 60 and 74 respectively. And according to a human rights lawyer, others facing or having been sentenced in 505(b) cases include U Myint Oo, the NLD secretary in Magwe; U Thar Cho in Yenanchaung, Htun Htun Nyein in Chauk, and schoolteacher U Htay Win in Natmauk, all also in Magwe; and Ko Saw Win, an NLD organiser in Hinthada (Irrawaddy delta) and Maung Khaing Win, who offered water to protestors in the same township. The lawyer only came to learn of the last two by accident, as he was lodging papers concerning a separate case.

The fantastic irony of all of these cases is that while the military regime rails against neocolonialists and the supposed interference of others in its internal affairs, it is using a colonial-era law in its desperate attempts to crush opponents to its unsavoury rule in exactly the same manner as did the British officials who devised and implemented the law over a century ago. The provision is the same one that exists until today in the Indian Penal Code (1860), which can be found in one form or another throughout the Commonwealth; however, despite its persistence on the statute books, nowhere is the section so shamelessly and blatantly manipulated for purposes entirely contrary to notions of justice than in Burma today.

Some cases were retried or persons released despite having been given lengthy sentences. For instance, Ko Soe Win, a young man who had held a solo protest in Taunggut, Arakan State on September 11 was charged with insulting religion (Penal Code sn. 295A; by virtue of his calling for Snr-Gen. Than Shwe, the head of state, to be excommunicated) and under 505(b). He was not able to meet with a lawyer or family members and on October 11 was after a brief hearing sentenced to four years in jail. However, on October 25 he was reportedly retried and the conviction overturned.

## **Conclusion**

Every society has its threshold, the point after which it will no longer tolerate things going on as before. The threshold for people in Burma is much higher than that of many other societies today, and thus they have put up with a lot more for a lot longer than might otherwise have been expected. This does not mean that they have not in the past fought back, but rather that their forms of resistance have not attracted much outside interest, nor seriously threatened the army's hold on power.

But it is no longer possible for people there to use ordinary methods to alleviate their problems. Clearly, the conditions under which they are being forced to live have become intolerable. The protests of 2007 are a consequence of the threshold being reached.



The struggle for survival of Burma's people is by corollary a struggle for survival of its dictators, whose response to the protests has throughout been characterised by lawlessness: the complete departure from not only international law but also from those domestic standards to which they pretend to subscribe.

Against this backdrop, the struggle can also be seen as a struggle against the un-rule of law. The demands are for both rice and rationality: each depends upon an end to the arbitrary rule under which people in Burma have been needlessly obliged to subsist for over four decades.