

**For Immediate Release**

## **Burma: Lawyer's Testimony Highlights Distorted Justice**

### *ASEAN Should Monitor Jailed Activists*

(New York, December 16, 2008) – Burma's military government has used the country's legal mechanisms to intimidate political prisoners and to deny them access to justice, Human Rights Watch said today, citing new testimony from a defense lawyer who has just fled the country. In a crackdown that started in October 2008, Burma's courts have sentenced over 200 political and labor activists, internet bloggers, journalists, and Buddhist monks and nuns to lengthy jail terms.

With the Association of Southeast Asian Nations (ASEAN) Charter having entered into force on December 15, Human Rights Watch urged ASEAN to dispatch an eminent independent legal team to monitor the trials and conditions of activists held in isolated prisons.

"The government locks up peaceful activists, sends them to remote prisons, and then intimidates or imprisons the lawyers who try to represent them," said Elaine Pearson, deputy Asia director at Human Rights Watch. "This abuse of the legal system shows the sorry state of the rule of law in Burma."

Saw Kyaw Kyaw Min, a 28-year-old lawyer from Rangoon, fled to Thailand several days ago after weeks in hiding. In late October 2008, a Rangoon court sentenced him to six months in prison under Section 228 of the Burmese Penal Code for contempt of court. He failed to intervene, on the judge's order, after his clients turned their backs on the judge to protest the way they were being questioned.

Saw Kyaw Kyaw Min had been defending 11 clients, all members of the National League for Democracy (NLD). Three other lawyers – Nyi Nyi Htwe, U Aung Thein, and U Khin Maung Shein – were arrested and sentenced to terms of four to six months in prison on the same charges. Saw Kyaw Kyaw Min learned of the charges in advance and went underground.

He described to Human Rights Watch the secretive workings of the Burmese legal system and the way in which political prisoners are denied access to fair trials. He said political activists awaiting sentencing in prison can meet with their defense lawyers only at police custody centers with police and intelligence officers present. Trials are often shrouded in secrecy, with lawyers not informed when their clients are to appear in court. Lawyers representing political prisoners face arbitrary delays when requesting assistance from authorities or documents such as case files, he said.

Human Rights Watch has already documented problems with the current unfair trials, including lack of legal representation for political prisoners (<http://www.hrw.org/en/content/burma-free-activists-sentenced-unfair-courts>). Among the hundreds sentenced in recent months, in late November a Rangoon court sentenced prominent comedian and social activist Zargana to 59 years in jail for disbursing relief aid and talking to the international media about his frustrations in assisting victims of Burma's devastating Cyclone Nargis.

Many political prisoners have recently been transferred to isolated regional prisons where medical assistance is poor or nonexistent and food is scarce. During the past few weeks, authorities sent Zargana to Mytkyina Prison, in the far-north Kachin State; the '88 Generation Students leader, Min Ko Naing, was transferred to the northeast Kentung jail of Shan State; and internet blogger Nay Phone Latt, who was sentenced to 20 years in prison for posting anti-government material on his website, was sent to the far-south prison at Kawthaung, across from Ranong in Thailand.

The newly-in-force ASEAN Charter sets out principles such as adhering to the rule of law and protecting and promoting human rights to which all members states, including Burma, should adhere. But compliance provisions are weak. ASEAN faces a considerable challenge in addressing Burma's lack of respect for human rights in the lead-up to multiparty elections in 2010.

Human Rights Watch urges Secretary-General Surin Pitsuwan of ASEAN to dispatch an independent legal assessment team to monitor the treatment of political prisoners in Burma's courts and prisons. Human Rights Watch said ASEAN should also address Burma's lack of respect for the rule of law when it holds its rescheduled ASEAN summit meeting in early 2009.

"This is a test for ASEAN," said Pearson. "If ASEAN lets Burma get away with this farce of justice, the ASEAN Charter really is worthless."

### **Saw Kyaw Kyaw Min's account to Human Rights Watch**

Saw Kyaw Kyaw Min was admitted to the Burmese Bar earlier in 2008. Since 2007, he has played a lead role in trying to represent activists charged under a raft of spurious laws, and he has been arrested several times for his political activities.

On October 23, he and another lawyer were defending 11 clients, members of the NLD, in Hlaingtharya Court, Rangoon on a range of charges related to peaceful political activities in 2007. Some of the defendants turned their back on the judge, U Thaug Nyunt of the Rangoon Northern District Court, to protest the unfair way defendants were being questioned by the prosecution. The judge instructed the lawyers to stop the defendants' behavior. According to Saw Kyaw Kyaw Min: "We both said to the judge, 'We don't want to forbid our clients from doing anything, because we are defense lawyers and we act according to our clients' instructions.' The judge stopped the proceedings and set another court hearing date."

The next day, court officials informed Saw Kyaw Kyaw Min that his contempt-of-court hearing was set for October 30. Days later, at the courthouse, he saw and overheard a police officer and an assistant judge conspiring to arrest him. He fled and went into hiding.

### **For more Human Rights Watch reporting on Burma, please see:**

- "Burma: Free Activists sentenced by Unfair Courts," November 2008 news release: <http://www.hrw.org/en/content/burma-free-activists-sentenced-unfair-courts>
- November 2007 letter from Human Rights Watch to ASEAN on their new Charter: <http://www.hrw.org/en/news/2007/11/14/letter-asean-secretary-general-ong-keng-yong>

- “Burma Crackdown: Repression of the 2007 Popular Protests in Burma,” November 2007 report: <http://www.hrw.org/en/reports/2007/12/06/crackdown>

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