



**FREEDOM NOW – INDIVIDUAL SUBMISSION TO OFFICE OF HIGH
COMMISSIONER FOR HUMAN RIGHTS**

**UNIVERSAL PERIODIC REVIEW
BURMA/MYANMAR, 10TH SESSION
24 JANUARY - 4 FEBRUARY 2011**

I. Introduction

1. Freedom Now individually submits this report to assist the Human Rights Council (HRC) in the Universal Periodic Review (UPR) of Burma's (Myanmar's)¹ human rights policies and practices. Freedom Now is a non-governmental organization based in Washington, D.C. that seeks to free prisoners of conscience through focused legal, political, and public relations advocacy.² The Honorable Václav Havel, former President of the Czech Republic, and the Most Reverend Desmond M. Tutu, Archbishop Emeritus of Cape Town, serve as Freedom Now's honorary co-chairs.

2. Complementing other submissions that examine the broader picture of Burma's human rights abuses, this submission highlights the junta's ongoing detention and inhumane treatment of the emblematic case of Daw Aung San Suu Kyi, General Secretary of the National League for Democracy (NLD). The military junta has detained Ms. Suu Kyi under house arrest for some 15 of the past 21 years. In 2006, Freedom Now was retained to serve as international counsel to Ms. Suu Kyi by a member of her family.

3. On six separate occasions, the United Nations Working Group on Arbitrary Detention called on the Burmese junta to immediately remedy the situation of Ms. Suu Kyi. The last three calls for her release were based upon urgent action appeals filed by Freedom Now. In spite of such demands for Ms. Suu Kyi's release, she remains under house arrest. Ms. Suu Kyi is one of more than 2,150 political prisoners whom the junta detains arbitrarily and in violation of international

¹ The country of Burma's name was changed to "Myanmar" by the unelected military regime. Burma is the name preferred by the leaders of Burma's democracy movement, the legitimate winners of the 1990 parliamentary elections. They do not accept that the unelected military regime has the right to change the official name of the country to suit its own ends. In this submission, references to Burma relate to what the United Nations refers to as Myanmar.

² For more information on Freedom Now, please visit <http://www.freedom-now.org/home.php> or contact: Jared Genser, jgenser@freedom-now.org, +1 202 320 4135.

law. Given that her case is representative of these broader abuses, the UPR process should highlight Ms. Suu Kyi's name and case history in the summary of NGO submissions.

II. Burmese Junta Fails to Uphold its International Obligations to Respect Basic Human Rights

4. The Burmese junta regularly violates Article 9 of the UDHR, which specifically prohibits arbitrary detention. During the year 2009, the non-governmental organization Freedom House, which has monitored political rights and civil liberties in Burma since 1972, noted a severe increase in the number of political prisoners held in Burma and an intensified crackdown on those who might participate in the 2010 elections. The Burmese junta consistently ranks in the worst tier of the world's most repressive regimes.

5. The Burmese junta regularly violates Articles 10 of the UDHR, which states that "everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal." The junta violates Article 10 by conducting procedurally unsound trials and failing to allow an independent judiciary. The junta allows people to be held without charge, trial, or access to legal counsel for up to five years if it believes that they threaten the state's security or sovereignty, a practice that contradicts Articles 9 and 10 of the UDHR. Given that there is no functioning rule of law, trials in Burma, even when allowed, are seriously flawed.

6. The Burmese junta regularly violates Article 19 of the UDHR by systematically denying freedom of expression and opinion in the country. The military junta arbitrarily detains Ms. Suu Kyi because of her work with the NLD and outspoken opposition to the junta's repressive practices. The junta censors private periodicals, impedes the importation of foreign news sources, and cracks down on Internet cafés. Freedom of expression and opinion is non-existent in the country.

7. The Burmese junta regularly violates Article 20 of the UDHR by denying the right to freedom of peaceful assembly and association, particularly for members of pro-democracy oriented political parties such as the NLD and those of Burma's many ethnic groups.

8. The Burmese junta regularly violates Article 21 of the UDHR by maintaining tight control on the people's participation in government and rejecting any notion of national reconciliation. The junta has failed to allow its citizens access to government by refusing to hold elections for the past 20 years.

III. Burmese Junta's Abuses Exemplified: The Case of Daw Aung San Suu Kyi

9. As the face of the pro-democracy movement in Burma, Ms. Suu Kyi embodies the peaceful struggle of the Burmese people to speak out against the military autocracy. Ms. Suu Kyi is the world's only imprisoned Nobel Peace Prize Laureate and has won over 60 international awards for her efforts to promote peaceful change in her country.

a. Ms. Aung San Suu Kyi's Efforts to Peacefully Promote Human Rights and Democracy

10. Born in 1945 to Burma's independence hero, Aung San, Ms. Suu Kyi was educated in both Burma and India, and completed her studies at Oxford University in the United Kingdom. In 1988, Ms. Suu Kyi returned to Burma to take care of her mother and in the midst of economic upheaval gave numerous speeches calling for freedom and democracy, which eventually led to massive protests against the military government. Two years later, in 1990, her political party and its allies won more than 80 percent of the seats in the parliament, in what was Burma's last and only democratic election. The military junta, however, never recognized the results and kept Ms. Suu Kyi under house arrest whenever possible, in an effort to weaken her influence with the Burmese people.

b. Ms. Aung San Suu Kyi's Arbitrary Arrests and Detentions

11. Throughout Burma, on 8 August 1988, there were large-scale peaceful protests and demonstrations against the military junta to which the junta responded violently, killing thousands of people. On 20 July 1989, the military junta placed Ms. Suu Kyi under house arrest, without charge or trial. On 10 July 1995, Ms. Suu Kyi was released after six years of arbitrary detention. She continued her outspoken opposition to the military junta's practices and was again detained under house arrest from 2000 to 2002.

12. After Ms. Suu Kyi's release from house arrest in May 2002, she launched a 95-township tour to promote the activities of the NLD. However, on 30 May 2003, her convoy was attacked by the junta-created Union Solidarity Development Association, in an apparent assassination attempt. Ironically, then Burmese Foreign Minister Win Aung publicly claimed on 14 June 2003 that she had been placed in "protective custody" to thwart an assassination attempt:

"We have heard there were assassins coming in the country . . . We know that whatever happened to her will be real trouble to us. Because everything will be blamed [on] us and there will be attempts to create a situation where the country will be in deep anarchic situation . . . Don't press us to commit ourselves to a timeframe and date of releasing her . . . the important thing is that the will [to free her] is there."

The State Protection Law of Burma, however, only permits detention of anyone who might perform "any act endangering the sovereignty and security of the state or public peace and tranquility" and does not permit protective custody. And despite then Foreign Minister Win Aung's protestations of the junta's will to free her, she remains under house arrest more than seven years later.

13. While the State Protection Law only allows for a maximum of five years of detention without charge or trial, renewable at one-year increments, the junta argued it had the right to detain Ms. Suu Kyi for six years. On 11 August 2009, three months after she was due to be freed from house arrest, Ms. Suu Kyi was sentenced to an additional 18 months of house arrest for breaching the terms of her house arrest, by allegedly violating Article 22 of the 1975 State Protection Act. Governments and human rights groups consider the continued use of this "draconian law" an attempt by the ruling junta to prevent Ms. Suu Kyi from participating in the 2010 elections. The

alleged breach of her house arrest arose from a visit made by an uninvited person who was never welcome in her home. She was not able to expel the visitor from her home because it is the Burmese junta, and not Ms. Suu Kyi, that controls security at Ms. Suu Kyi's residence.

c. Ms. Aung San Suu Kyi's Treatment While Held in Arbitrary Detention

14. As established by six opinions of the UN Working Group on Arbitrary Detention, Ms. Suu Kyi has been and continues to be arbitrarily detained in violation of Article 9 of the UDHR. Further, she was never afforded a fair and public hearing by an independent and impartial tribunal in violation of Article 10 of the UDHR. Her rights to freedom of opinion and expression and peaceful assembly and association as guaranteed by Articles 19 and 20 of the UDHR respectively have also been violated.

15. By continuing to detain her through its forthcoming elections, the Burmese junta is also violating Ms. Suu Kyi's right to participate in government as protected by Article 21 of the UDHR. Ms. Suu Kyi was illegally convicted in a court of law and arbitrarily detained because she is the leader of the country's political opposition. The "Political Parties Registration Law" excludes anyone convicted in a court of law from party membership, therefore making any former or current political prisoner ineligible for political office. By arbitrarily detaining her and thereby preventing her from participating in the upcoming elections, the junta violates Ms. Suu Kyi's right to participate in government.

16. The Burmese junta has isolated Ms. Suu Kyi from the outside world almost completely since her most recent term of house arrest began on 30 May 2003. Ms. Suu Kyi has been allowed only sporadic access to lawyers and her communications and visits are permitted at the junta's sole discretion. Additionally, Ms. Suu Kyi has also been allowed only sporadic visits from medical professionals during the past six years, which has resulted in a number of serious health ailments. Dr. Myo Win, who arrived at Ms. Suu Kyi's residence on 7 May 2009, for his scheduled visit, was denied entry and instead detained by authorities on unspecified charges. As of April 2010, Ms. Suu Kyi has shown signs that she is suffering from low blood pressure. Her poor condition also creates concern about the health of her heart. Ms. Suu Kyi has not been able to see her children for a decade and has never met her grandchildren. She has been repeatedly denied even the ability to communicate with her children through written correspondence. This denial is a violation of the UDHR's Article 5 prohibition against cruel, inhuman or degrading treatment, if not the prohibition against torture.

d. Contrary to the Demands of the UN Working Group on Arbitrary Detention, Ms. Aung San Suu Kyi Remains Under House Arrest

17. Over the past 18 years, the UN Working Group on Arbitrary Detention released six opinions declaring every term of Ms. Suu Kyi's house arrest to be arbitrary, each of which the Burmese junta ignored. Despite repeated grave concerns expressed by the United Nations Special Rapporteur on the Situation of Human Rights in Myanmar during his recent mission to the country concerning the arrest of Ms. Suu Kyi and other political prisoners, the Rapporteur did not receive any indication that the military junta is willing to release Ms. Suu Kyi or other political prisoners.

18. Since Ms. Suu Kyi's most recent detention, the Burmese regime has ignored four opinions from the United Nations Working Group on Arbitrary Detention calling for the situation to be remedied immediately. Following a 2007 petition, the Working Group declared that Burma was holding Ms. Suu Kyi in "contravention of Articles 9, 10, and 19 of the Universal Declaration of Human Rights." A second "urgent action appeal" filed by Freedom Now in 2008 resulted in yet another ignored request for the situation to be immediately remedied.

19. In its most recent opinion in June 2010, the UN Working Group on Arbitrary Detention reiterated its earlier opinions, finding that Ms. Suu Kyi was denied adequate access to counsel, a severe deprivation in violation of Article 10 of the UDHR. It also declared her ongoing detention arbitrary under Article 9 and that her rights to freedom of expression and freedom of peaceful assembly were violated under Articles 19 and 20, respectively.

IV. Freedom Now's Recommendations to the Burmese Junta

- Immediately and unconditionally release Ms. Suu Kyi. Allow Ms. Suu Kyi and other political prisoners to participate in a free and fair political process of national reconciliation and a restoration of democracy to Burma. Allow all citizens to peaceably promote the cause of democracy and human rights in accordance with their rights guaranteed in the UDHR.
- Urge Burma to take all necessary and immediate steps to follow the UDHR as well as ratify the International Covenant on Civil and Political Rights and bring its laws into accord with international standards.