

## **Introduction**

1. This report is prepared by Justice Trust a legal non-profit working in Myanmar. We partner with local lawyers and activists to strengthen communities fighting for justice and human rights. Justice Trust pursues emblematic cases, prepare law and policy reports that highlight issues of importance, convene workshops for advocates and community leaders, supports communities and lawyers wishing to pursue justice and build a network of like-minded advocates to share strategies on cases, campaigns, and best practices.

2. Myanmar's transition from decades of absolute military rule to a nominally civilian regime has been herald as a global success story. The transition began with dramatic reforms: release of political prisoners, easing of censorship, pursuit of peace initiatives, and acceptance of multi-party elections. The international community responded by lifting sanctions, leading to an explosion of business interests in one of the world's last untapped markets. However, Myanmar's transition has stalled and government backsliding on democratic reforms, crackdown on activists and waves of communal violence are serious cause for concern.

3. In its first Universal Periodic Review (UPR) in 2011, the government of Myanmar stated that it protects and promotes human rights of its citizens including economic, civil and political right such as the right to peaceful assembly (para 42), freedom of religion (para 74-75) and women's rights (paragraph 51-58). Justice Trust's report will focus on two specific cases since the first cycle report that demonstrates a range of human rights violations. These two cases: Letpadaung copper mine crackdown and communal violence are emblematic of similar cases across the country that must be addressed by the Government of Myanmar as a matter of priority.

## **Letpadaung copper mine crackdown: violations of people's economic, civil, and political rights**

4. Since 2011, there has been an epidemic of forcible evictions associated with illegal land grabs throughout Myanmar, often by military-backed interests. The Government Committee on the Rule of Law and Tranquility and the Committee on Land Investigations have received over 10,000 complaints yet lack the mandate and resources to follow up and take remedial action. The law courts are subject to political influence and are not amenable to protecting people's rights. Therefore there is no recourse for affected communities other than self-help with the support of civil society organizations.

5. Villagers who seek to voice legitimate opposition to illegal land grabs are often violently put down by police and local authorities in violations of their human rights to free expression and peaceful assembly, which are also recognized in the Constitution of 2008 and Articles 19, 20, and 23 of the Universal Declaration of Human Rights (UDHR). The primary mechanism freedom of assembly is denied is through police denial of permits to demonstrate. When villagers seek to exercise their rights without permit, their leaders are arrested and charged with violating section 18 of the Peaceful Assemblies Act of 2012. Their trials are decided in perfunctory proceedings that usually last less than a few hours and lack any due process safeguards contravening Articles 9 and 10 of UDHR. They are often sentenced for up to two years prison. This use of police denial and administrative law to trump human rights and constitutional rights has resulted in a new class of political prisoners in Myanmar.

6. The case of Letpadaung copper mine – a joint venture between Wanbao Mining, a subsidiary of a Chinese military-owned defense company, and Union of Myanmar Economic Holdings Limited (UMEHL), the largest military-owned holding company in Myanmar – presents a clear example of this national trend. Villagers were forcibly evicted from their land, forced to sign away their rights, deprived of rights to livelihood and housing (including security of tenure), and denied their rights to free expression and assembly.

7. Civil society and community members at Letpadaung applied on 11 separate occasions to hold peaceful assemblies and voice opposition. They were denied and the police selectively arrested protestors for not having a permit. These patterns of behavior constitute an abuse of administrative procedures and police powers to punish citizens for seeking to exercise their fundamental constitutional and human rights.

8. The Minister for Home Affairs who is also the Chairman of Myanmar Human Rights Body called for protestors to disband and said that use of force would be authorized. A few days later, on November 29, 2012, riot police were deployed from the Wanbao company compound, to crackdown on peaceful protestor. The police used excessive unlawful force causing severe injury to more than 100 peaceful protesters. Justice Trust interviewed victims at hospitals in Mandalay and Bangkok and took photographic evidence that indicated the use of white phosphorus (WP) munitions, an extremely volatile military munitions prohibited under the Geneva Convention. Analysis by an independent laboratory of residue from an exploded grenade canister confirmed its phosphorus content.

9. It is unheard of for police to use incendiary WP munitions against peaceful protestors during a law enforcement operation. This action violated the protestors' rights to life, physical integrity, and freedom from torture. Authorities failed to provide remedies or compensation to injured monks and villagers. 57 monks suffered severe chemical burns that require ongoing medical treatment today, more than two years after the attack. A few of the injured monks have called for justice and are currently seeking to hold the Minister of Home Affairs accountable for his role in the Letpadaung crackdown.

10. The Government formed the Letpadaung Investigation Committee to examine the crackdown. Even though the Committee recommended that villagers be fairly compensate and police should follow legal protocols, Wangbao continues to seize land without villager's consent, and police continue to use excessive force. On December 24, 2014, Daw Khin Win, an elderly woman farmer, was shot in the head and killed during a demonstration against land seizures at Letpadaung.

11. The Government has committed itself to follow and respect human rights and the rule of law as the cornerstone of its transition from military rule to civilian democracy. The case of Letpadaung copper mine is the most high profile example of an illegal land grab in Myanmar, and raises a range of human rights concerns. The Government's failure to achieve justice in this case has sent a negative message to the rest of the country that human rights violations will not be remedied. Justice Trust's full report on human rights violations at Letpadaung can be accessed at: <http://www.justicetrust.net>

**Communal Violence in Myanmar: violations of freedom of religion and women's rights**

12. In its first cycle report, the government Myanmar quoted in its report that it is, "...a model society with regard to freedom of faith". This is far from accurate. Over the last two years, Myanmar has been racked with bouts of communal violence. The communal violence in Rakhine state burst onto the political scene in mid-2012 with a series of massacres committed by both sides. There has been a long history of tension between Buddhist and Muslim communities in Rakhine state. The events in Rakhine state soon fed into a wave of anti-Muslim sentiment that spread across the country, spearheaded by the 969 movement led by a radical monk: Wira Thu.

13. Wira Thu established the 969 movement launching a campaign to boycott Muslim businesses and build up Buddhist strength and pride, with the stated goal of protecting Myanmar's majority race and religion from the "threat" of Muslim domination. As the 969 movement, gained a higher profile and attracted mass support, the wave of anti-Muslim violence began to spread to areas of the country that, unlike Rakhine, had no history of communal conflict. Freedom of religion and right to non-discrimination is protected under both the Constitution of Myanmar (Section 362 and 348) and UDHR Articles 2 and 18. And yet these rights are threatened by the 969 movement and are violated by the government's inaction in dealing with the 969 movement and failure to protect its citizens from communal violence.

14. Justice Trust spent over six months interviewing eyewitnesses and analyzing the latest communal violence that shook Mandalay in July 2014. The riots in Mandalay resulted in the death of two men: U Soe Min Htwe (a Muslim) and U Tun Tun (a Buddhist) and caused damage to the Muslim neighborhoods including a cemetery. The major themes that emerged from these interviews are the complete failure of the police in intervening against a small armed gang of 25-30 outside agitators, from attacking Muslim neighborhoods. These outsiders tried to recruit local people to join in their mayhem and approached numerous monasteries but were unsuccessful in their attempts. People Justice Trust spoke to in Mandalay described the rioters as carrying out destruction in full view of the police. The eyewitnesses further stated that no arrests were made on the spot nor was there any action taken by police to stop them. It is only when the riots are over and curfew declared that people from Mandalay are arrested. In fact, the widow of both victims expressed doubts to Justice Trust as to whether the authorities had arrested the right individuals for their husbands' murders. Justice Trust's full report on the Mandalay riots can be found: <http://www.justicetrust.net>

15. It is jarring that the government of Myanmar so capable of forcefully cracking down on activists working to protect human rights is unable to investigate or curb anti-Muslim activities of the 969 movement or stopped a handful of rioters in Mandalay. 969 leaders are able to travel and deliver messages of hate freely throughout the country and hold mass rallies, despite being directly linked to the incitement of specific acts of criminal violence. For instance, the riots in Meiktila and Lashio, which resulted in deaths of civilians majority of whom were Muslims, were preceded by preaching tours from the 969 movement.

16. President Thein Sein has warned that "stern legal action" will be brought against those inciting hatred and violence but authorities have taken no concrete measures to limit or challenge the 969 movement's aggressive actions – not even a public statement, let alone a criminal investigation. On the contrary, authorities are working closely with religious ultra nationalists. The 969 movement is part of the Committee for the Protection of Nationality and Religion (*Ma Ba Tha*). The government of Myanmar has cooperated with *Ma Ba Tha*'s recent efforts by drafting the Race and Religion Protection Law (*Myo Saunt Upaday*).

17. *Myo Saunt Upaday* refers to a set of restrictive laws on inter-faith marriage, religious conversions, polygamy and population control. And while on its face the language is neutral regarding religion and gender, Justice Trust's campaign partners are certain the law is specifically aimed at preventing Buddhist women from marrying Muslim men. These laws confer a great deal of power to the authorities and various Ministries and Departments over women's reproductive rights and right to freely enter into a marriage of their choosing. *Myo Saunt U Pa Deh.* directly violates Article 16 of Convention on the Elimination of Discrimination Against Women (CEDAW) which Myanmar is party to. Over 100 groups and community organizations in Myanmar signed a joint petition to the government decrying the law, which had little to no effect. At the time of this report, two out of the four laws: inter-faith marriage law and population control law has already been passed in Parliament with overwhelming support from the government of Myanmar and its ruling party.

18. The communal violence and ultra nationalism has threatened and infringed freedom of religion and women's rights in Myanmar. And if the government of Myanmar is serious about upholding these rights, it must show serious commitment and take the necessary steps to safeguard them because so far it has not done so.

## **Recommendations**

1. Immediately halt on-going illegal land grabs;
2. Provide the Committee on the Rule of Law and Tranquility and the Committee on Land Investigations with a mandate and resources to investigate and take remedial action;
3. Cease the use of section 18 of Peaceful Assemblies Act of 2012, against activists as a means of preventing people from exercising their Constitutional right to freedom of assembly;
4. Provide remedies for victims in cases involving excessive use of force by the police and hold wrongdoers accountable

5. Uphold Myanmar citizens' right to freedom of religion by investigating and taking action against known actors like the 969 movement who violate these rights;
6. Provide effective law enforcement to protect communities from attacks regardless of their religious orientation;
7. Ensure that Myanmar citizens' economic, civil and political right, freedom of religion and women's rights enshrined under the Constitution of Myanmar and international law are not just formally enshrined but substantively applied;
8. Strike down *Myo Saunt Upaday* as it institutionalizes discrimination and will result in limiting the fundamental freedoms of women, ethnic and religious minorities.