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Submission on the Union of Myanmar

A Joint UPR Submission by International PEN and Index on Censorship

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International PEN and Index on Censorship welcome the opportunity provided by the Office of the High Commissioner on Human Rights to comment on the human rights situation in the Union of Myanmar, about which it has had serious concerns for a number of years. This document provides an overview of the current situation of writers and journalists, and focuses on long term imprisonment and legislation used to suppress freedom of expression and other basic rights.

General Overview of the Free Expression Situation

Myanmar has been ruled by a military junta since 1988, when a popular uprising was forcibly crushed. The State Law and Order Restoration Council (SLORC) [re-named the State Peace and Development Council (SPDC) in 1997] seized power in a military coup on 18 September 1988, with the promise of elections the following year. In 1988 Aung San Suu Kyi established the National League for Democracy (NLD) in spite of severe restrictions, until she was placed under house arrest in July 1989 and still remains detained. On 27 May 1990, the NLD won a landslide victory in the general elections, but the military regime refused to accept the result. For nearly two decades the military government has continued to rule by oppression, and has remained apparently impervious to the considerable and sustained international pressure for its gross human rights violations. Multiparty general elections are scheduled to be held in 2010 but no date has yet been set and there is widespread scepticism that the junta will tolerate any meaningful political change. The NLD has decided to boycott the election due to stringent election laws which prevent many of its members, including NLD leader Daw Aung San Suu Kyi, from participating.

Freedom of speech and the press are not guaranteed by law, and every publication (including newspaper articles, cartoons, advertisements, and illustrations) is censored by the Press Scrutiny and Registration Division of the Ministry of Information. Other

copyright boards regulate the field of arts and culture, which are similarly subject to strict government control. The government also tightly controls internet access and broadcast media. There are no independent news outlets or publishers, and journalists and writers exercise a high level of self-censorship or face banning orders and imprisonment.

Long Term Imprisonment of Writers and Journalists

Long term imprisonment of writers and journalists has been a serious concern in Myanmar for many years, but the situation has sharply deteriorated since August 2007, when a string of protests about falling living standards led by monks and pro-democracy activists led to mass demonstrations which were violently suppressed by the government. The protests began on 19 August 2007 and gathered momentum throughout August and September of that year. Many of those who took part in these protests, including poet and comedian **Zargana**, musician **Win Maw**, and journalist **Zaw Thet Hwe** were sentenced in November 2008 to harsh sentences. According to the Special Rapporteur for Myanmar, the number of prisoners of conscience (over 2,000) has nearly doubled in the past two years, and includes at least ten writers and journalists.

Emblematic Case: Zargana

Maung Thura, best known by his stage name, "Zargana" (also transcribed as 'Zarganar'), a leading comedian, poet and opposition activist, was arrested on the evening of 4 June 2008 after leading a private relief effort to deliver aid to victims of Cyclone Nargis which struck on 2 May 2008. He is believed to be sentenced for his outspoken criticism of the government's slow response to the cyclone, and his opposition activities. Zargana is Burma's leading comedian, popular for his political satires. He spent several years in prison in the early 1990s for his opposition activities. Zargana, whose pseudonym means 'tweezers' and refers to his years spent training as a dentist, was first arrested in October 1988 after making fun of the government, but freed six months later. However, on 19 May 1990, he impersonated General Saw Maung, former head of the military government, to a crowd of thousands at the Yankin Teacher's Training College Stadium in Rangoon. He was arrested shortly afterwards, and sentenced to five years in prison. He was held in solitary confinement in a tiny cell in Rangoon's Insein Prison, where he began writing poetry.

After his release from prison in March 1994, Zargana was banned from performing in public, but continued to make tapes and videos which were strictly censored by the authorities. In May 1996, after speaking out against censorship to a foreign journalist, he was banned from performing his work altogether, and stripped of his freedom to write and publish. He was briefly detained from 25 September-18 October 2007 for his support to the monks demonstrating in the capital, Rangoon.

Zargana's trial began in August 2008 in closed proceedings at Insein prison. On 21 November 2008 he was sentenced to 45 years under sections 22(a) and 38 of the Electronic Transactions Law, and an additional 14 years under section 295(a) of the Penal Code, section 505(b) and sections 32(b) and 36 of the Television and Video Law, and section 17(2) of the Unlawful Associations Act. Evidence against him included giving

interviews to members of the foreign media and possessing video footage and photographs of the cyclone-affected areas and of the 2007 demonstrations. His sentence was reduced by 24 years in February 2009, to 35 years.

Zargana joins the ranks of political dissidents who have been transferred to isolated regional prisons with poor or nonexistent medical care and limited food. Many families of these prisoners have reportedly been prevented from visiting.

Legal Mechanisms used to Suppress Dissent

Myanmar is a State Party to a number of international treaties and conventions protecting freedom of expression, association and assembly, notably the Universal Declaration of Human Rights (UDHR), and it is also a Member State of the United Nations. However, many of Myanmar's domestic laws directly contravene the international standards to which it has an obligation, including several which are used to criminalise freedom of expression and association, notably:

- The Publishers and Printers Registration Act (1962), which has long been used to imprison writers (for example Ko Aung Tun, serving a 13-year sentence for writing a book of the history of the student movement in Burma).
- The Electronics Transactions Law (2004), which contains provisions for lengthy prison terms for disseminating news that is considered to tarnish the image of the government, and has been used increasingly to silence political voices since the protests in 2007.
- The Television and Video Law (1985).

The case of Zargana illustrates how these laws can be used in conjunction with one another to achieve staggeringly harsh sentences.

Final Comment and Recommendations

International PEN and Index on Censorship believe that in order to create the necessary conditions for free, fair, inclusive and transparent national elections to which it has committed itself this year, and to meet its obligations to the international treaties to which it is a State party, the Union of Myanmar must take immediate steps to protect the rights to freedom of expression, assembly and association which are currently lacking in the country. We therefore recommend that the Union of Myanmar to:

- Immediately and unconditionally release all those held for the peaceful exercise of their right to freedom of expression and opinion;
- End detentions, intimidation, and surveillance of all those who express dissenting views;

- Revoke all laws that allow for the arrest and imprisonment of writers, journalists and opposition activists solely for peacefully practicing his or her right to freedom of expression;
- Abolish laws that allow for censorship and restrictions on publications, broadcast media and the Internet.