

URGENT ACTION

IMMEDIATELY RELEASE KACHIN PRISONER OF CONSCIENCE

Lahpai Gam has been discharged from hospital following some improvements to his health. Returned to a prison in Kachin State, he is a prisoner of conscience and must be immediately and unconditionally released and, in the meantime, provided with access to necessary health care and treatment.

Lahpai Gam's was sent back to Myitkyina prison, Kachin State northern Myanmar on 20 April 2017, after his anal bleeding stopped and it was decided that his health had sufficiently improved. Requiring several blood transfusions for anal bleeding and serious stomach problems, he had been hospitalised since March 2017. Lahpai Gam suffers from ongoing health concerns, some likely due to torture he was subjected to at the time of his arrest in 2012.

Lahpai Gam was arrested, along with six other people, by Myanmar army officials in June 2012 in Kachin State. Working as a herdsman tending cows at the time, he was held incommunicado for almost a month before being transferred to Myitkyina prison. Lahpai Gam was tortured by the military during interrogation. In addition to being beaten with an iron rod and having a bamboo stick rolled up and down his knees, he was forced into same-sex intercourse with another male inmate.

Lahpai Gam was charged in 2012 with being a member of the Kachin Independence Army (KIA) under Article 17(1) of the 1908 Unlawful Association Act and with four counts under the 1908 Explosive Substances Act. He was sentenced to a total of twenty years' imprisonment. However, due to insufficient evidence, the Supreme Court overturned the convictions for the Unlawful Association Act and two counts under the Explosive Substances Act.

The two remaining charges under the Explosive Substances Act which relate to bombs that were planted near different bridges in Kachin State were upheld on the basis of a confession letter dated from the time he was tortured and held incommunicado. Lahpai Gam was sentenced to eight years' imprisonment under these charges, however according to sources, he maintains that he is solely a farmer and not a member of the KIA and has never signed a confession letter nor planted the bombs.

Please write immediately in Burmese, English or your own language urging authorities to:

- Immediately and unconditionally release Lahpai Gam and all other prisoners of conscience in Myanmar;
- Pending his release, ensure Lahpai Gam has prompt access to necessary health care and treatment and ensure he has the right to access his medical records and request a second medical opinion; and
- Initiate an independent, impartial and effective investigation into allegations that Lahpai Gam was tortured in detention and bring those responsible to justice in trials which meet international fair trial standards without recourse to the death penalty.

PLEASE SEND APPEALS BEFORE 14 JUNE 2017 TO:

State Counsellor
Daw Aung San Suu Kyi
Ministry of Foreign Affairs, Office No. 9
Nay Pyi Taw,
Republic of the Union of Myanmar
Fax: + 95 67 412 396
Salutation: Your Excellency

Minister of Home Affairs
Lt. Gen. Kyaw Swe
Office No. 10, Nay Pyi Taw
Republic of the Union of Myanmar
Fax: +95 67 412 439
Email: mohamyanmar@gmail.com
Salutation: Dear Minister

And copies to:
Head of Myitkyina Prison
Myitkyina Prison
Myitkyina Township
Kachin State
Republic of the Union of Myanmar

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY KYAW ZWAR MINN, Embassy of the Republic of the Union of Myanmar, 19A Charles Street, London W1J 5DX, General Office 020 7148 0740 / 020 7499 4340, Ambassador's Office 020 7148 0749, ambassadoroffice@myanmarembassylondon.com, political@myanmarembassylondon.com, generalenquiries@myanmarembassylondon.com, salutation: Your Excellency

Please check with your section office if sending appeals after the above date. This is the first update of UA 83/17. Further information: <https://www.amnesty.org/en/documents/asa16/6029/2017/en/>

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ADDITIONAL INFORMATION

In November 2013, the UN Working Group on Arbitrary Detention (WGAD) declared Lahpai Gam's arrest and detention to be arbitrary on the grounds that it restricted his rights to freedom of movement and residence, to freedom of thought and conscience, to freedom of expression and opinion, and violated the principle of non-discrimination. These rights are enshrined in the Universal Declaration of Human Rights (UDHR). The WGAD also found that his arrest and detention were arbitrary because he had been subject to an unfair trial. Article 10 of the UDHR guarantees the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.

The Unlawful Associations Act has long been used by Myanmar authorities to arbitrarily arrest and detain people in Myanmar, in particular people in ethnic and religious minority areas. It grants authorities sweeping powers to arrest people considered to be part of an "unlawful association" – though it does not clearly define what an unlawful association is. Under Article 17(1) of the Act, "[w]hoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association or in any way assists the operations of any such association, shall be punished with imprisonment for a term which shall not be less than two years and more than three years and shall also be liable to fine." The fact that anyone in any way associated with an unlawful organization may be punished with imprisonment has allowed the authorities to use Section 17 for political ends.

Lahpai Gam and his family are from Npaw village in Northern Shan State, in northern Myanmar. They fled to an internally displaced people (IDP) camp in Waingmaw Township, Kachin State in 2011 when fighting broke out between the Myanmar military and the Kachin Independence Army (KIA), an armed ethnic organization. Almost six years later, over 100,000 people have been displaced by fighting in Kachin and northern Shan states. However, humanitarian access for UN and other humanitarian agencies and actors to people displaced in areas not under the control of the Myanmar Army is severely restricted.

Amnesty International continues to receive reports of human rights violations and abuses by both government and ethnic armed groups in areas of conflict. These include rape and other forms of sexual violence, kidnapping, arbitrary arrest and torture, forced labour, indiscriminate use of landmines, and recruitment of child soldiers. However, there remains a persistent culture of impunity, and most perpetrators of past and current violations, including crimes under international law, have not been brought to justice.

Further information on UA: 83/17 Index: ASA 16/6169/2017 Issue Date: 3 May 2017