

Myanmar's prison system is an overt tool of repression

Wednesday 17 January 2024, by [JEFFERSON Andrew M](#) (Date first published: 12 January 2024).

Prisons in contemporary Myanmar carry the clear imprint of colonial practice - and after the 2021 military coup, the facade of reform pushed during the transitional, semi-democratic period has peeled away

On 23 July 2022, four men were executed in Insein Prison, marking the first use of the death penalty in Myanmar in over 30 years. The men were the veteran activist Kyaw Min Yu (Ko Jimmy), the former National League for Democracy lawmaker Phyo Zeya Thaw, and the activists Hla Myo Aung and Aung Thura Zaw. Three months later, when other political prisoners attempted to commemorate the date of their executions, they were beaten by prison staff and other inmates, while four organisers of the remembrance event were placed in solitary confinement. This instance reveals the extent to which Myanmar's political landscape shifted, almost overnight, after the military coup in February 2021. The dreams of those patiently holding out for liberalisation under the previous, hybrid government, and of those who had been hoping for reform of Myanmar's prison system, were crushed.

Myanmar's 2008 constitution allowed for power-sharing between the military and democratic forces as part of a strategic withdrawal from governance on the part of the military. There appeared to be willingness by the military to relinquish some control - at least on the surface level. This could be seen through the military's "Roadmap to Discipline-flourishing Democracy", with stated goals to restore some form of democracy in the country through a seven-step process that included drafting a new constitution and, eventually, holding an election. Given this and other measures, there was some faint hope that political prisoners could become a thing of the past in Myanmar - even though the military continued to wield considerable power and influence, as the 2008 constitution granted it significant parliamentary representation and veto power over constitutional amendments.

After the 2015 elections, in which the National League for Democracy gained a sweeping majority in Myanmar's parliament, external actors including United Nations bodies such as the UNDP and UNICEF, as well as the European Union, USAID and the Red Cross, began supporting activities related to penal-code reform, improved access to justice, better facilities for prisoners' visitors and so on. In conversations with our research team at the Danish Institute Against Torture, Myanmar's prisons department spoke of vocational training for prisoners - a contrast to the established practice of hard labour - as a means of preparing them better for post-prison life. But the ground reality was uglier than what was officially projected, at least according to former prisoners. What they described suggested that the hoped-for shifts in penal practice that the new semi-democratic dispensation appeared to herald were an illusion. The 2021 military coup has only exacerbated the inequities that have persisted in the country's prisons.

While accounts of the prison experience differ within and between countries, one thing is universally true - prisons reflect the dominant norms and values of the societies in which they are located. Prisons are not separate from society but rather integral to it, often reflecting colonial and post-

colonial histories as well as the impacts of more recent political transformations. In Myanmar, prisons existed before British colonial rule, but contemporary prisons carry the clear imprint of colonial practice. The Burma Jail Manual – a product of colonial rule – remains the go-to text governing everyday prison practice.

Given the state of the country's prisons before the coup, it did not take much to weaponise them after the coup. The facade of reform projected before the military takeover has peeled away. The law, the courts and the prisons have been turned into overt tools of oppression, through which the regime seeks to quash dissent and acquire control.

Constraint and control

Prisons in Myanmar belong to three main categories. There are eight so-called Central Prisons, the most well-known (or infamous) being Insein Prison in Yangon and Mandalay Central Prison. There are 27 category "A" prisons and 11 category "B" prisons. The essential difference between these types is their size, with category "A" prisons having a larger capacity than category "B". According to the World Prison Brief (the authoritative source for such figures), in May 2020 the Myanmar Prison Administration reported a prison population of over 100,000 people located in 96 sites (including around 50 labour camps). The reported official capacity of the whole system at the time was just under 90,000, giving an occupancy level of 111.5 percent.

Interviews conducted with former prisoners suggest that prisons in Myanmar between 2015 and 2019 were harsh, intimidating and degrading places where every aspect of a prisoner's life was subject to control – from the time they awoke to the time they slept, the time they used the toilet to the time they ate and so on. Order was violently maintained within the prisoner hierarchy, which was based on perceived worth and access to resources – and the classification into "deserving" or "undeserving" began on arrival. The poorest prisoners were treated the worst; they slept by the toilets and got the worst jobs. There were other forms of segregation too – men and women were separated into different sections – though people of different ethnicity and religion were mixed together.

Today, some groups of prisoners are treated differently if they have been detained in connection with protests, acts of civil disobedience, or under one of the new or amended pieces of legislation that criminalise dissent and opposition. Who counts as a political prisoner and who does not remains a subject of debate. As in most countries, there is no state-sanctioned definition. Organisations like the Assistance Association for Political Prisoners (AAPP) – founded by former political prisoners living in exile and one of the most widely quoted organisations on matters related to political prisoners in Myanmar – pushed in vain to have a definition recognised during the so-called transitional period prior to the coup. But even if a definition could ever be agreed upon or accepted, it would still be true that those labelled "political" would be a diverse group – comprising, for example, students, protesters, human-rights defenders, pro-democracy activists, farmers contesting land claims, celebrities posting critical material on Facebook, comedians satirising the regime, teachers, doctors, lawyers and ordinary people expressing their points of view in a climate where dissent is no longer tolerated.

Before the coup, much of the responsibility for violently maintaining order was delegated to specifically chosen prisoners, with prison staff often choosing to remain in the background. The organisation and regulation of everyday prison life were based on military-style logic whereby prisoners were seen as dangerous and suspect bodies to be subjugated. The most dominant emotion was, unsurprisingly, fear.

There were subtle differences between the experiences of men and women prisoners during this

period. The majority of prisoners are men, but Myanmar had a relatively high proportion of women prisoners before the coup, comprising around 12 percent of the prison population. After the coup, as of September 2023, around 20 percent of the political prisoners were women, according to the AAPP. The reasons for the high proportion of women prisoners in Myanmar include the criminalisation of poor women's caregiving and survival strategies, and the norms associated with being a "decent" and "moral" woman in a patriarchal society. Many women came into conflict with the law as they attempted to provide for their families under constrained circumstances or when they failed to conform to society's expectations of appropriate behaviour.

These norms are being questioned by the younger generation, through a women's rights movement that has a long history but has gained more visibility in recent years. After the military coup, it has become especially visible through acts of resistance led by women - from the banging of pots and pans to hanging *htamein* (undergarments) and *longyis* (sarongs) across roads or waving them as flags, rendering visible beliefs about women's impurity. The existing discrimination against women in Myanmar society also informs their treatment within the carceral system.

Women have also been targeted for arrest, abuse and detention because of their association with husbands or other male family members who are suspected of criminal activity or of opposing the military regime - as, for example, with women relatives of alleged members of the militarised opposition. Sometimes this is done as a means to get them to reveal the whereabouts of their relatives, on occasion accompanied by vengeful, punitive acts of patriarchal violence. Before the coup, women reported less overt violence in prison, but scolding, verbal abuse and standardised forms of humiliation were common.

This is not to say that there were no positive experiences in both the women's and men's sections in prisons. Prisoners do form alliances and even friendships during incarceration, but these mostly take the form of dependent, instrumental relationships designed to mitigate the pain of imprisonment and help prisoners survive. Prisoners adapt and learn to navigate the system. Old-timers are invariably better off than newcomers, but ultimately all are subject to the same controlling logic and even positions of relative privilege can be lost at a moment's notice. Like many prisons around the world, the prisons of Myanmar are tense, low-trust environments. Overseen by the military (including during the so-called transitional period before 2021), they bear the imprint of decades of civil conflict as well as militarised, authoritarian rule and coercive control.

"Never again"

Kyaw Zwa Moe, a former political prisoner and English-language editor of the news outlet *The Irrawaddy*, wrote in a book of essays from 2011 that the prison cell in Myanmar had "become an essential part of the country's political culture". He was writing based on his own experience of incarceration under an authoritarian regime, and reflecting on how the experience of imprisonment continued to reverberate in the lives of formerly incarcerated persons, their families and their communities. As I read them, his words are less a lament and more a gesture towards a political culture that no longer relies on the carceral and judicial apparatus to silence opposing voices but instead embraces democratic values such as political pluralism and the rule of law. The sentiment of his writing seemed to be, "Never again".

Tragically, today the prison has once again become a potent symbol of the worsening political climate in Myanmar. The prison and everything it symbolises - exclusion, isolation, pain and punishment - is embedded in the political culture of the military regime that chooses to see those who disagree with its actions as enemies worthy of harassment, intimidation, torture and death. Former prisoners report being beaten, hooded, refused food, forced to kneel on broken glass and exposed in stress positions to the scorching sun. Women have told of how their bodies were violated

and they were subject to demeaning, sexualised verbal abuse. State-sanctioned killing, as well as routine torture during interrogation, is utilised to instill terror in the population. Prisons are once more a means of political persecution, the justice system a travesty and misnomer.

Prisons are often thought about in starkly contrasting terms: you are either inside or outside, guilty or innocent, victim or perpetrator, prisoner or guard, political or ordinary. In fact, the prison experience is not reducible to such binaries. Where, who and what you are (or become) in prison is messier and murkier than these contrasts imply. Prisoners carry their pasts with them into the system and so carry the outside with them on the inside; they may or may not be guilty or innocent (especially in systems rigged in favour of ruling elites); they are (like most of us) likely both victims and perpetrators of harm. And, in Myanmar, prisoners fulfil many of the tasks that Western-based prison literature associates with the job of the prison guard - record-keeping, discipline, searches, and more.

Given this scenario, we cannot make generalisations about the experience of incarceration in Myanmar. Not all those who were arrested for their participation in the civil-disobedience movement and protests, or based on new laws criminalising formerly acceptable behaviour, are treated the same. Sometimes the presence of a particular group of prisoners can, paradoxically, enhance the quality of the prison's climate, at least for some members of the prison population. Prisoners perceived as important might be able to access books, for instance, and there are even reports of Starbucks deliveries. Even prisons under repressive regimes operate with simultaneously soft and hard forms of power, meaning particular prisoners might sometimes be favoured to avoid disturbances, while others are deliberately oppressed to keep them subdued.

Under circumstances where imprisonment becomes explicitly politicised, there are also knock-on effects for ordinary prisoners. For example, in Myanmar, political prisoners are not usually sent to labour camps, but stories circulate about other prisoners being transferred to labour camps to make space for them. It is important not to forget the plight of ordinary prisoners in the highly politicised "revolutionary situation". Given that imprisonment is essentially about the relationship between the state and its citizen-subjects, one lesson to draw might be that all prisoners are political prisoners, held at the mercy of the state, whether the state acts benignly or not.

Contemporary prisons in Myanmar are visibly malevolent institutions. Their occupants deserve our compassion, and their circumstances call for urgent and concerted efforts to promote justice, as well as a radically different political culture - one that refuses to accept prisons as tools of repression and instruments of injustice, and instead strives actively to enable lived experiences of justice for the whole of Myanmar's population.

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