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Permanent Mission of the Republic of the Union of Myanmar
to the United Nations Office and other International
Organizations in Geneva
Tel. (41-22) 906-9870, 906-9871. (41-22) Fax. 732-8919

No. 422/3-27/91

5 October 2013

Dear Sirs and Madam,

I would like to refer to your letter of 20 June 2013, with regard to the alleged targeting of human rights activists, including peaceful demonstrators, defending and promoting economic and social rights in Myanmar. Information we received in this regard has already been sent to you via the following email addresses on 16 August 2013 and the post copy has accordingly been hand delivered on 19 August 2013 to the Special Procedures Branch, Palais des Nations, CH-1211 Geneva 10;

registry@ohchr.org
dcollinge@ohchr.org

In this connection, I am pleased to attach herewith our letter dated 16 August 2013 for your ease of reference.

Please accept, Sirs and Madam, the assurances of our highest consideration.

(Kyaw Moe Tun)
Charge d' affaires

Mr. Tomas Ojea Quintana
Special Rapporteur on the situation of human rights in Myanmar

Mr. El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Mr. Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mr. Maina Kiai
Special Rapporteur on the rights to freedom of assembly and of association

Ms. Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Reply letter from Myanmar_activists

from: lynn lynn <lynnmalarlwin@gmail.com>

to: Registry OHCHR <registry@ohchr.org>

cc: Daniel Collinge <dcollinge@ohchr.org>

date: Fri, Aug 16, 2013 at 6:44 PM

subject: Reply letter from Myanmar_activists

mailed-by: gmail.com

Dear Sir/Madam,

Kindly see the attached file for the letter from Myanmar PR to five SRs with regard to the complaint on activists.

It would be highly appreciated if you could kindly acknowledge upon receipt of this email.

Best regards,

--

Lynn Malar Lwin (Ms.)

First Secretary

Permanent Mission of Myanmar in Geneva

Tel - 022 906 9870

Fax - 022 732 8919

 **activists.pdf**

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Organizations in Geneva
Tel. (41-22) 906-9870, 906-9871, (41-22) Fax. 732-8919

16 August 2013

Dear Sirs and Madam,

I would like to refer to your letter of 20 June 2013, with regard to the alleged targeting of human rights activists, including peaceful demonstrators, defending and promoting economic and social rights in Myanmar.

I have received the following information from the authorities about the aforementioned matter:

Aung Soe, Maung San and Soe Thu

- Aung Soe, Maung San and Soe Thu were arrested on 5 April 2013 for provoking a group to assault the security forces in the area of Latpadaungtaung Copper Project under section 144 of the Code of Criminal Procedure.
- They were charged under Section 333 of the Penal Code for voluntarily causing grievous hurt to deter public servant from his duty, Section 447 of the Penal Code for criminal – trespass to the project area, Section 143 of the Penal Code for involving in an unlawful assembly, Section 188 of the Penal Code for disobeying the order of the lawfully empowered public servant not to enter the restricted project area and Section 34 of the Penal Code for a criminal act is done by several persons, in furtherance of the common intention of all.
- Interrogation was carried out till 9 May 2013 by getting the remand in accordance with Section 167 of the Code of Criminal Procedure. They were prosecuted in Sarlingyi township court. The case was transferred to the Shwe Bo township court in accordance with Section 526 of the Code of Criminal Procedure.
- On 29 May 2013, the Shwe Bo township court sentenced Aung Soe to over 18 months' imprisonment, Maung San and Soe Thu to 18 months' imprisonment for the offences.
- Aung Soe was sentenced not because of his assisting farmers' demonstration but because of deterring the public servants from performing their duties and also because of inciting assaults.
- It is not true that they were held incommunicado for over a month and did not have access to lawyers. Preventing the rights to access to lawyers is not allowed in Myanmar. However, it depends solely on the desire of each and every individual whether or not to retain a lawyer. It is not true that they were not able to enjoy the due process of law. It

is the responsibility of each individual to make use of the rights to plead, argue, re-questioning, present offender's evidence. The trial was conducted transparently before the eyes of public.

- Section 19 of the State Constitution stipulates to dispense justice in open court unless otherwise prohibited by law and to guarantee in all cases the right to defence and the right to appeal under law.
- Section 374 of the State Constitution stipulates that the Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection.

Myint Aung, Nwe Oo Ko and Hein Zaw Win

- Assemblies, processions, documents distributing and role plays were taken place in Kan Nar Street, Aye Tharyar Quarter in Monywa from 1630 to 1800 hours, daily in 2012, without obtaining permission in accordance with the Peaceful Assembly and Procession Law.
- It was found out that Myint Aung, Nwe Oo Ko and Hein Zaw Win organized the assemblies and processions. On 5 June 2013, the Monywa township court decided that Nwe Oo Ko and Hein Zaw Win pay a fine of 30,000 kyats each (estimate 30 USD) or to serve a prison term of one month. They paid the fine. Myint Aung was sentenced to one year's imprisonment with hard labour. Applications for the permission of peaceful assemblies and processions are granted in accordance with law and protection is provided for such gatherings. However, the three individuals defaulted to obey the law.

Myint Myint Aye, Khin Mi Mi Khaing and Thant Zin Htet

- On 10 June 2013, at 0700 hours, a group of 30 people intruded upon and ploughed the land owned by the Myanmar Police Force in Paemakhan, Nattalin. The group was led by Daw Myint Myint Aye (Meiktila), Kaw Khin Mi Mi Khine (Yangon) and Thant Zin Htet (Ywartharkone village, Nattalin) under the name of Peoples' Support Network. They brought in 24 cattle and two groups of traditional folk orchestras with them. Officials of village administration and the police force did not confront them.
- The so-called Peoples' Support Network has no official registration. The group always provoked farmers. U Zaw Lwin lodged a complaint against the three individuals including Myint Myint Aye at the Nattalin township court. They were charged under section 6 of the Law Relating to Forming of Organizations. Remand can not be granted for the three individual in accordance with the section of the law they have been charged.

Aye Thein, Win Swe Myint and Sein Aung

- A group of people did not want to relocate the night bazaar, which is situated in the 30th Street (between Street no.84 and 85) in

Chanayetharsan Township, Mandalay, formed a procession on 6 August 2012 at 2230 hours. It was carried out without permission and led by Aye Thein, Win Swe Myint, Sein Aung and Nyi Nyi Kyaw. On 12 June 2013, Aye Thein, Win Swe Myint and Sein Aung were sentenced to one year and three months' imprisonment under Section 505(B) of the Penal Code and Section 18 of the Peaceful Assembly and Procession Law. Section 505(B) of the Penal Code stipulates that with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility shall be punished with imprisonment which may extend to two years, or with fine, or with both. Section 505(B) of the Penal Code does not allow to granting bail.

- Nyi Nyi Kyaw, Ni Ni Aung, Nweni Oo and Thae Thae were sentenced to three months' imprisonment under Section 18 of the Peaceful Assembly and Procession Law.

Moe Thway, Wai Lu and Wai Hmuu Thwin

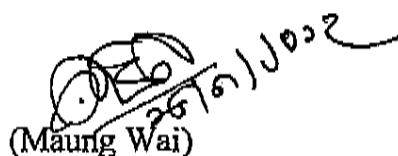
- On 13 June 2013, Moe Thway, a member of Generation Wave; Wai Lu and Wai Hmuu Thwin from Yangon People Service Network gave an interview to the journalists. During the interview, they made remarks conducive to public mischief. A complaint against the three individuals was made at the Monywa Township Court and they were charged under Section 505(B) of the Penal Code.
- Wai Lu has been charged under Section 295/295(B)/117 of the Penal code. He has been released on bail under the conditions of not entering the territory of Sagaing Division and living in peace outside that area in accordance with the law.

Four villagers from Kan Bae village, Inle Lake

- A hotel zone project is now under way on an area of 662 acres of forest area maintained and owned by the Ministry of Forestry and Environmental Conservation in Inle, Nyaung Shwe township, Shan State.
- 83 persons squatting in the area were negotiated and provided with compensation. From among them, 65 villagers accepts the compensation. However, 18 persons do not accept the compensation and has made several attempts to obstruct the project.
- The Nyaung Shwe Township Administrator issued an order reminding the public not to prevent/ disturb/destroy the activities being carried out in the project area in accordance with section 144 of the Code of Criminal Procedure on 31 January 2013.
- On 2 February 2013, the following persons caused disturbance to the activities of the project by ploughing the land, planting corn seeds and erecting the signboards;

- U Aung Kyaw Myo, 24 yrs, son of U Chit Maung,
- U Aung Myint, 45 yrs, son of U Chit Maung,
- U Shwe Khe, 44 yrs, son of U Nyo Seint,
- U Kyaw Sein, 58 yrs, son of U Than Htay,
- U Thein Tun Oo, 33 yrs, son of U Myint Maung,
- U Khin Maung Win, 36 yrs, son of U Than Kyaw,
- U Zaw Min, 30 yrs, son of U Kyu,
- U Ah Htwe, 48 yrs, son of U Sein
- On the same day, they spread rumors and misleading information around the area by gathering 100 villagers and carried out a procession without permission.
- Eight persons including U Aung Kyaw Myo have been charged under section 188 and 505(B) of the Penal Code and section 18 of the Peaceful Assembly and Procession Law.
- Permission for peaceful assembly and procession was granted upon the request of U Thar Doe to have a peaceful gathering on 15 February 2013 at Nan Pan village of Shwe Nyaung with 1,200 persons.
- On 6 June 2013, the Township Judge granted a warrant to arrest eighteen persons including U Aung Kyaw Myo and the police searched their homes. However, no arrest was made as they were not found.
- It is not true that the four persons were arrested without warrant.

Please accept, Sirs and Madam, the assurances of my highest consideration.



(Maung Wai)

Ambassador and Permanent Representative

Mr. Tomas Ojea Quintana
Special Rapporteur on the situation of human rights in Myanmar

Mr. El Hadji Malick Sow
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