

TIME RECEIVED October 6, 2016 5:13:23 PM GMT+02:00	REMOTE CSID 0041227327377	DURATION 72	PAGES 2	STATUS Received
06/10 2016 5:29 PM FAX 0041227327377		MISSION OF MYANMAR		0001/0002



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No. 461 / 3-27/ 91

6 October 2016

Dear Madam and Sir,


Allow me to refer to your letter UA MMR 2/2016 dated 26 August 2016, concerning the detention and criminal prosecution of Khine Myo Htun.

I have received the following information from the authorities concerned on the aforementioned matter:

- On 24 April 2016, Arakan Liberation Party (ALP), issued a statement that accused Myanmar Tatmadaw of using civilian as forced labours and forced land relocation during the conflict in Rakhine state. Khine Myo Htun, Deputy Officer of Organization and Information Department from ALP, announced that he will take responsibility for the credibility of the facts mentioned in the statement.
- On 5 May 2016, Lieutenant-Colonel Tin Naing Tun filed a case against Khine Myo Htun in Sittwe Police Station, for publishing the statement with the intent to lead public's misconception, defamation against Myanmar Tamadaw and public intimidation by using false information.
- The case was transferred to Sittwe Township Court as it is not a cognizable offence by the police and has been hearing the court under article 505 (b) and (c) of the Penal Code.
- Under article 505 (b) and (c) of the Penal Code, Whoever makes, publishes or circulates any statement, rumour or report, 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; or with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

- However, it does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid.
- Cases, hearing by courts are executed by the judicial pillar. Therefore, additional information will be made available in due course when the responses from the Supreme Court of the Union have received.

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



(Ko Ko Shein)

Ambassador/ Charge de Affairs

Ms. Yanghee Lee

Special Rapporteur on the situation of human rights in Myanmar

Mr. Jose Guevara

Vice-Chair-Rapporteur of the Working Group on Arbitrary Detention