



Permanent Representative

*Permanent Mission of the Republic of the Union of Myanmar to
the United Nations Office and other International Organizations*

47 avenue Blanc, 1202 Geneva, Switzerland

Tel. (+41-22) 906 9870, 906 9871 / Fax: (+41-22) 732 8919

E-mail: mission@myanmargeneva.org

No. 146/3-27/91

25 March 2019

Dear Madam and Sir,

As follow up to my letter dated 4 March 2019, I wish to convey to you the following further information I have received from concerned authorities in Myanmar:

- Lieutenant Colonel Myo Myint Aung from Recruitment Centre in Yangon Command filed a complaint against Aung Ko Htwe under section 505 (b) of the Panel Code for defaming the dignity of the army in his interview with RFA on 10.8.2017.
- On 19.8.2017, Lieutenant Colonel Myo Myint Aung filed a direct complaint to the Dagon Myothit (Seikkan) Township Court to take action against Aung Ko Htwe under section 505 (b) of the Panel Code.
- The court accepted the case as Case No. 446/ 2017, examined five witnesses of the Plaintiff, and filed a charge against Aung Ko Htwe with section 505 (b) of the Panel Code. Aung Ko Htwe was sentenced to two years imprisonment with labour under section 505 (b) of the Panel Code after examining him and one defence witness on 28.3.2018.
- Again, U Chit Ko Ko, the Township Judge of Dagon Myothit (Seikkan) filed a direct complaint to take action against Aung Ko Htwe under section 228 of the panel Code for shouting and chanting in court during trial.
- The case was accepted as case No.82/ 2018 on 5.2.2018, and Aung Ko Htwe was sentenced to six months imprisonment with labour on 14.2.2018 after examining two witnesses of the Plaintiff and him.
- Criminal action was taken against Aung Ko Htwe under section 505 (b) of the Panel Code because his expression in the interview with RFA on 10.8.2017 defamed the government and affected the tranquillity of the State.
- During the trial, the lawyer of Aung Ko Htwe had the right to cross-examine the Plaintiff and Plaintiff's witnesses, and to present evidence. Aung Ko Htwe had the right to defence.
- Article 19 of the Universal Declaration on Human Rights states that "Everyone has the right to freedom of opinion and expression; this right includes freedom to

hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”. UNHCR resolution 12/16 states that everyone shall have the right to hold different opinion upon government policies and activities, and there is no law to restrict freedom of expression in international human rights standards.

- Also section 354 of the Constitution of the Republic of the Union of Myanmar states that every citizen shall be at liberty in the exercise of the right to express and publish freely their convictions and opinions if not contrary to the laws enacted for State security, prevalence of law and order, community peace and tranquillity or public order and morality.

- It was found that Aung Ko Htwe was convicted under the relevant law because of his violation of the existing laws of the land. Moreover, his case was examined before him in the respective courts and his lawyer was entitled to the right of defence. Therefore, the case was examined in accordance with sections 19 (c) and 375 of the Constitution, and section 3 (b) (c) of the Union Judiciary Law.

- Like other countries, all human rights defenders in Myanmar, need to conduct their activities in accordance with the Constitution and existing laws of the State. They can conduct peacefully and lawfully in a safe and secure environment, guaranteed by law.

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



(Kyaw Moe Tun)

Permanent Representative

Special Rapporteur on the situation of human rights in Myanmar

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Special Rapporteur on the situation of human rights defenders