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No. 3 /3-27/91

2 January 2020

Dear Sir and Madams,

With reference to your letter AL MMR 8/2019 dated 26 September 2019, I wish to convey further information received from authorities concerned in Myanmar, in addition to the information provided to you in the letter no. 600/3-27/91 of 28 November 2019, regarding the detention of Su Yadanar Myint and Nyein Chan Soe as follows:

- Article 505 of the Penal Code is a provision that enable punishment with imprisonment for publishing and circulating statements conducing the Public Mischief. However, it does not amount to an offence when the published or circulated statements has a reasonable grounds for believing that such statement is true and that is no intention to cause a member of the Defence services to mutiny or otherwise disregard or fail in his duty as such.
- Those who are accused in accordance with the existing laws has the right to defense and appeal. They have the right to defense and appeal according to Myanmar Constitution's Section 19 (c), Section 375, Criminal Procedure Code's Section 349, Court Manual Para 455, Union Attorney General Rules Section 79, Legal Aid Law Section 3. Moreover, they have the right to receive independent and fair legal decision in accordance with Constitution's Section 381, 353, 19, 2010 Judiciary law Section 3 (b), Criminal Procedure Code's section 352. They can get equal protection of the Law, according to the Constitution's section 347, 348, 21 (a), 6 (c). There is immunity from illegal detention according to the Constitution's

section 376, 378, Criminal Procedure Code's section 67, 169, 81, 61, Court Manual 466.

- Penal Code section 505 is a provision to avoid statements conducting to public mischief and it is punishable if there is intent to cause, or which is likely to cause, a member of the Defence Service to munity or otherwise disregard or fail in his duty as such.
- According to Telecommunication Law's Section 66 (D), defaming and threatening with Telecommunication network is accusing, announcing with the intention to defame and defaming knowingly. If the charge is an act of public interest or announcement, it is not defamation according to this law.
- Universal Declaration of Human Rights's Article 19 and 27 describes freedom of opinion and freedom of expression. Myanmar's existing laws Penal Code's Section 505 and Telecommunication Law's section 66 (d) are prescribed for Public interest and individual's dignity. Therefore, one can enjoy freedom of expression with respect to the existing laws of Myanmar, it is in conformity with the Universal Declaration of Human Rights' article 19 and 27.

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



(Kyaw Moe Tun)

Ambassador/Permanent Representative

Special Rapporteur on the situation of human rights in Myanmar

Vice-Chair of the Working Group on Arbitrary Detention

Special Rapporteur in the field of cultural rights

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