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No. 311 /3-27/91

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Dear Sirs,

With reference to your letter No. UA MMR 10/2020 dated 22 July 2020, I wish to convey the information received from Ministries concerned in Myanmar regarding the as follow:

- U Kyaw Linn (a) Yaung Sone, aged 23 is a freelance reporter, residing in Min Gan Ward, Sittwe Township. The two cases are as follow:

Information on Case 1

- U Kyaw Linn (a) Yaung Sone and [REDACTED] aged 29, employee of a construction company, residing in Pyi Taw Thar ward, Sittwe Township, left their homes and went into the town by motorcycle at around 1200 hrs, on 20 December, 2017.
- Upon arrival at the [REDACTED] branch 3 on May Yi Road, they were followed by two unidentified men on a motorcycle. The pillion passenger stabbed U Kyaw Lin with a pointed iron rod twice. He was admitted to Sittwe General Hospital as an in-patient after receiving a (non-serious) stab wound in each of his shoulder blades.
- [REDACTED] aged 36, who works as goldsmith, residing in Min Gan ward, Sittwe Township filed a complaint at Sittwe Township Police Station which registered the case as FIR No. 998/2017 under Penal Code Sections 326/114 in accordance with Article 154 of Criminal Procedure Code.

Information on Case 2

- At around 0830 hours on 13 May 2020, U Kyaw Linn was attacked with an iron speared arrow fired by a slingshot by two unidentified men while standing along at the roadside near his house. He was admitted to Sittwe General Hospital with a slight wound in his chest.
- Once information was obtained, surveillance officer [REDACTED] [REDACTED] from Sittwe Township Police Station and [REDACTED], officer in charge of Min Gan Police Outpost, came over to his place and interviewed him. When asked if a criminal case would be filed against attackers, the victim replied that he would not make any complaint.

Measures taken by the Myanmar Police Force with regard to the case 1

- [REDACTED] officer in charge of Min Gan Police Outpost, conducted investigation into the case (FIR No. 998/2017) charged under Penal Code Section 326/114) in keeping with Article 156 of Criminal Procedure Code.
- The investigation officer interrogated the plaintiff [REDACTED] the victim, U Kyaw Linn and witnesses in accordance with provisions set forth in Criminal Procedure Code and Police Manual.
- U Kyaw Linn said that he had never seen the attacker before and only remembered the structures of perpetrators. Therefore, the structures/shapes were collected based on it.
- Notices with facial shape of the perpetrators were sent to related township police stations to investigate, enquire to find the perpetrator. Police Investigation Officer cooperate with police surveillance personnel from Sittwe Metropolitan Station and township area police Stations, Ward and village Tract Administrators to find out and investigate the perpetrators. Furthermore, officers performed to collect news from local people to find out the perpetrators and working with

complete police investigation procedure according to “Community Policing”

- As the case was investigated for more than 10 months and the perpetrators have not been able to identify, legal advice was sought to the Sittwe Township Law Office. The Law office responded on 29-10-2018 that due to lack of information to investigate it has decided to close the case according to the Union Attorney General Rules 95 (c), and to prosecute with relevant laws if the perpetrator has been identified in the future.
- In accordance with the legal advice, the case was closed by the Sittwe Police Station due to lack of intelligence to investigate.
- Although the case was close, the Sittwe police station and members of Min Gan police station are still investigation to find the perpetrators.

Measures taken by the Myanmar Police Force with regard to the case 2

- Regarding the case 2, Kyaw Lin said he did not want to file a case.
- Myanmar Police Force, article 1681 of the Second Handbook of the Police Manual states that if the injured person does not want to be investigated, if the injury is not serious, the case may not be investigated if the Police Station Officer deemed that there is no sufficient reason to investigate according to code of criminal procedures 157 (1)(b).
- Therefore, due to the request of U Kyaw Lin, Police Procedure code act 157 (1) (b) prohibition, Sittwe Metropolitan Police station did not open the first information report under the Police Procedure code act 154, and not investigate the case under the police procedure code 156.
- The Government’s implementation to protect Kyaw Lin, and to continue his work are as follow;

- Although the Sittwe Metropolitan Police Station closed the case, C.R.O Pol. Lt. Nay Soe and a police force are in procession to investigate in order to arrest the offenders.
- Even though security for individual persons are not being able to be provided, Sittwe downtown and Mingan village area were patrolled with patrolling squad, standby squad, watchout squad for peace and stability by the Plan of Sittwe township Metropolitan Police Commander Office, so the people, including U Kyaw Lin, are able to peacefully work their daily activities. However, in recent day, terrorist groups movements are in Rakhine State, therefore, the area has security restrictions.
- According to section 347 of the Constitution of the Republic of the Union of Myanmar, the Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection. In section 353, Nothing shall, except in accord with existing laws, be detrimental to the life and personal freedom of any person. In section 357, Union shall protect the privacy and security of home, property, correspondence and other communications of citizens under the law subject to the provisions of this constitution. In section 373, Any person who committed a crime, shall be convicted only in accord with the relevant law then in operation. Moreover, he shall not be penalized to a penalty greater than that is applicable under that law.
- Every citizen, who did not get the right of the constitution or due to violation of the law, they can apply the Application of Writ in line with the law relating to the Application of Writ, 2014, to Office of Writ which is the Supreme Court of the Union.
- The Office of the President of Myanmar issued the Directive No. 3/2020 on Prevention of incitement to hatred and violence (or) Prevention of

proliferation of hate speech on 20-4-2020. All journalists have to follow the directive.

- Pyidaungsu Hluttaw enacted the News Media Law (No.12/2014) on 14 March 2014, and media and journalists are protected by this law as follows;
 - In section (5), it is described that the publication text of news media industry has the right to be exempted from censor.
 - In section (7), Sub-section (A), it is described that a news media man, while taking the news in the area where war breaks out, areas where there is disturbance, riot, public demonstration occurs, in accord with the terms and conditions stipulated by the relevant responsible organization, shall be exempted from being arrested and detained, being seized or destroyed the instruments relating to acquiring of news such as news recorded by any security organization.
 - In section (8), Sub-section (B), it is described that a news media man shall have the right to be exempted from, in a case taken action under any provisions contained in this law, seizure, sealing and destruction of any instrument used for news media industry without the order of the Court.
 - In section (21), it is described that if a victimized department, organization or individual, considered that a journalists violates any duties and ethics provided in section 9, may complain to the council initially.
- Moreover, according to the Section (354) of Constitution of Myanmar, the Sub-section (A) describes that every citizen shall be at liberty in the exercise of the right; if not contrary to the laws, enacted for Union security, prevalence of law and order community peace and tranquility, or public order and morality to express and publish freely their convictions and opinions.

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



(Kyaw Moe Tun)

Ambassador/Permanent Representative

Special Rapporteur

Situation of Human Rights in Myanmar

Special Rapporteur

Promotion and protection of the rights to freedom of opinion and expression