

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on the situation of human rights defenders.**

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (56-23) G/SO 214 (107-9) G/SO 214/62-11  
MMR 16/2013

27 November 2013

Excellency,

We have the honour to address you in our capacity as 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 rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 22/14, 16/4, 24/5, 22/20 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding alleged physical attacks against civil society activist and human rights defender **Aung Zaw Oo**, who is a 33 year old Muslim man from Taunggyi in Shan State, and the alleged failure of State authorities to respond adequately.

According to information received:

On 22 October 2013, two military Special Branch officers came to Aung Zaw Oo's house at 3:45 p.m. They reportedly offered the removal of Aung Zaw Oo's name from a political activists watch list in exchange for his signature on a written statement committing him not engage in political activities. Aung Zaw Oo reportedly rejected this request. On 24 October 2013, as Aung Zaw Oo was leaving an internet café, a man on a motorbike ran into him. Aung Zaw Oo narrowly escaped serious injury. On 26 October 2013, a man on a motorbike again reportedly tried to run him over from behind. On 27 October 2013, as Aung Zaw Oo was on his way to a bus station a motorbike reportedly ran into his right

arm. Following this, Aung Zaw Oo informed the police special branch of these three incidents.

On 3 November 2013, while Aung Zaw Oo was driving his motorbike home from work, another motorbike reportedly intentionally crashed into him. Aung Zaw Oo was reportedly left unconscious by the impact, with his motorbike badly damaged. He woke up two hours after the incident with severe head pain, and received five days of treatment in Taungyi Sissan Tun Hospital. He is reported to still be experiencing head pain, backbone pain, and pain from a rib injury. Aung Zaw Oo reportedly informed the police about the incident and was told that this was a case for the traffic police. He then went to the traffic police office and asked to file a case. On 8 November 2013, the traffic police reportedly told Aung Zaw Oo that his claims were false and that the location of the incident was incorrect. They subsequently asked Aung Zaw Oo for proof of ownership of his motorbike, which he was not able to provide, and was subsequently reportedly accused of receiving stolen property.

When Aung Zaw Oo went to the hospital to request his medical records, he was reportedly told by the hospital staff that the police had ordered them not to provide Aung Zaw Oo with his records.

One of the motorbikes that hit Aung Zaw Oo is reported to have had a 969 sticker and a sticker depicting a leaf on one of the knee guards of the driver, allegedly indicating that he was a youth member of the 969 movement.

We have serious concerns that Aung Zaw Oo is being targeted because of his past social and political activism exercising his legitimate right to freedom of opinion and expression, which includes advocating on human rights issues. Aung Zaw Oo is a former prisoner of conscience, who was imprisoned in December 2007 and released in October 2011 as part of President Thein Sein's second amnesty. Aung Zaw Oo has previously campaigned on issues including raising awareness of the dangers of the 969 Buddhist nationalist movement, peace dialogue campaigns, humanitarian relief work in Kachin State and Rakhine State, human rights defenders work in Shan State, advocacy campaigns concerning economic and social rights in Myanmar, campaigns for the release of prisoners of conscience, as well as involvement in the so-called 2007 Saffron Revolution.

The Special Rapporteur on the situation of human rights in Myanmar has consistently called upon the Government to ensure that special measures are taken to ensure that former prisoners of conscience do not suffer further human rights violations after their release, stated, *inter alia*, in his last report to the General Assembly (A/68/397, para. 5 & 7). In this report, the Special Rapporteur expressed particular concern over increasing attacks in 2013 against members of the minority Muslim community and the failure of state authorities, including the police, to fulfill their duty in protecting them from violent attack (para. 58 to 60).

We would like to refer your Excellency's Government to article 19 of the Universal Declaration of Human Rights which provides that "[e]veryone 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."

We would also like to refer your Excellency's Government to article 20 of the Universal Declaration of Human Rights, which provides that "Everyone has the right to freedom of peaceful assembly and association."

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

With regard to the allegations that Aung Zaw Oo is being targeted by military Special Branch officers and the 969 Buddhist nationalist movement's activists, we would like to draw your Government's attention to paragraph 11 (k) of the General Assembly's Resolution 64/164 (A/RES/64/164) on religious intolerance and discrimination in which the General Assembly urges states "To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based in religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all part of the world."

In this context, we would like to remind your Excellency's Government that article 18 of the Universal Declaration on Human Rights stipulates that "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

Furthermore, we would like to bring to the attention of your Excellency's Government that States have the responsibility to protect persons from human rights violations committed by non-State actors. In this regard, we would like to stress the positive obligations on States to ensure Universal Declaration's rights will only be fully discharged if individuals are protected by the State, not just against violations of human rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of human rights in so far as they are amenable to application between private persons or entities. There are circumstances in which a failure to ensure human rights would give rise to violations by States of those rights. This applies when a

State permits or fails to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.

Furthermore, we would like to remind your Excellency's Government paragraph 1 of Resolution 16/18 (A/HRC/RES/16/18), in which the United Nations Human Rights Council "expresses deep concern at the continued serious instances of derogatory stereotyping, negative profiling and stigmatization of persons based on their religion or belief, as well as programmes and agendas pursued by extremist organizations and groups aimed at creating and perpetuating negative stereotypes about religious groups, in particular when condoned by Governments." In this context the Human Rights Council calls upon all States to take effective measures to ensure that public functionaries in the conduct of their public duties do not discriminate against an individual on the basis of religion or belief." (paragraph 6(a) A/HRC/RES/16/18)

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Regarding the allegations received indicating that the perpetrators of the violations reported are non-State actors, we would like to call to the attention of your Excellency's Government the Human Rights Council Resolution A/HRC/RES/13/13 of 15 April 2010, which recognizes "the immediate need to put an end to and take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms for all" as well as to adopt the necessary measures to prevent such acts. In this Resolution the Human Rights Council also "urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity".

Furthermore, the Special Rapporteur on the situation of human rights defenders, in paragraphs 28 and 29 of her report to the General Assembly A/65/223 of 4 August 2010, stated that “the responsibility of non-State actors to respect the rights of human rights defenders does not relieve the State of its obligations under human rights law to respect, protect and fulfill human rights, including those of human rights defenders. (...)” The Special Rapporteur argued that the State’s obligation to protect “first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State’s responsibility. Secondly, States should provide defenders victims of human rights violations with an effective remedy. To that end, all violations of the rights of defenders should be investigated promptly and impartially and perpetrators prosecuted. Fighting impunity for violations committed against defenders is crucial in order to enable defenders to work in a safe and conducive environment.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of Aung Zaw Oo in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Aung Zaw Oo?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please provide information on the measures taken to ensure the protection and safety of Aung Zaw Oo.
6. Please provide information in details on measures taken to ensure the freedom of religion or belief of religious minorities, in particular implementation of paragraph 6(a) of the Human Rights Council’s Resolution 16/18 (A/HRC/RES/16/18) and paragraph 11 (k) of the General Assembly’s Resolution 64/164 (A/RES/64/164) by your Excellency’s Government.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Aung Zaw Oo are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Tomás Ojea Quintana  
Special Rapporteur on the situation of human rights in Myanmar

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

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of  
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