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

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

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

**Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Working Group on Arbitrary Detention; 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; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214/62-11  
MMR 10/2013

20 June 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in Myanmar; Chair-Rapporteur of the Working Group on Arbitrary Detention; 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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 22/14, 15/18, 16/4, 15/21, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **the continuous targeting of human rights activists, including peaceful demonstrators, defending and promoting economic and social rights in Myanmar**.

Urgent appeals on this issue were sent to your Excellency's Government on 30 November 2012 and 2 May 2013 by the Special Rapporteur on the situation of human rights in Myanmar; the Chair-Rapporteur of the Working Group on Arbitrary Detention; 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; and the Special Rapporteur on the situation of human rights defenders. Responses from your Excellency's Government to these appeals are yet to be received.

According to the new information received:

On 1 June 2013, **U Aung Soe**, human rights activist from the Yangon People's Support Network, was sentenced to eighteen months' imprisonment for supporting protesting farmers who had their land confiscated because of mining activities. **Ko Soe Thu** and **U Maung San**, farmers from Hse Te, were sentenced to six months' imprisonment for having ploughed their confiscated fields. The

three men were held incommunicado for over a month, before being sentenced. Their trial reportedly took place behind closed doors, and none of them had access to a lawyer, nor enjoyed due process of law.

On 6 June 2013, **Myint Aung**, joint secretary of the Save Letpadaung Mountain Committee, was sentenced to one year's imprisonment by a Court in Monywa with hard labour, under Section 18 of the Peaceful Demonstration and Gathering Act, for organizing a protest without permission. **Ko Nway Oo Ko**, deputy chairman of All Burma Federation of Student Union, ABFSU (Upper Burma) and **Ko Hein Win Zaw**, a chairman of Monywa University Union, were fined 30,000 Kyat for taking part in a campaign against a copper mine project in the Letpadaung mountains, which has caused the forced displacement of several farmers without adequate compensation, as well as environmental damage.

On 11 June 2013, **Myint Myint Aye** and **Khin Mi Mi Khine**, members of the Meiktila Tsp People's Support Network, together with **Thant Zin Htet**, member of the Nattlin Tsp People's Support Network, were arrested by Nattlin police authorities after they showed support to farmers who ploughed land confiscated by the police and military in Pegu Division. At the time of this communication they were being detained at the Paungde prison, and were reportedly facing charges under the Unlawful Association Act, before the Nattlin Township Court.

On 12 June 2013, **Aye Thein**, **Win Swe Myint** and **Sein Aung** were sentenced to one year and three months in jail for organizing a peaceful protest against the relocation of Kinetan Market in Mandalay on 7 August 2012. The three protestors were charged under article 505 (b) of the Penal Code and Section 18 of the Peaceful Demonstration and Gathering Act. They were denied bail, and had spent 177 days in prison, including two days in solitary confinement. Their colleagues **Nyi Nyi Kyaw**, **Ni Ni Aung**, **Nwe Nwe Oo** and **Thal Thal** were sentenced to three months' imprisonment for the same offence.

On 13 June 2013, the Moywa court issued arrest warrants against **Moe Thway**, member of Generation Wave, as well as **Wai Lu** and **Wai Hmuu Thwin** from the Yangon People Service Network, following charges brought against section 505 (b) of the penal code because of their criticisms towards the use of the 144 emergency law by the authorities in relation to a conflict between the police and villagers in the Letpadaung copper mine project area.

In early June 2013, around 100 police officers stormed in Kan Bae village, around Inle Lake, and arrested **four villagers** without warrant, after locals had ploughed their lands which had previously been seized by hotel developers. It is reported that locals fled the village in fear of further arrests.

Serious concerns are expressed that the continuous targeting of human rights activists, including peaceful demonstrators, defending and promoting economic and social rights may be linked to their legitimate human rights activities, in the exercise of their rights to freedom of peaceful assembly, association and opinion and expression.

Further concerns are expressed for the physical and psychological integrity of those detained.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR).

We would also like to refer your Excellency's Government to article 19 of the UDHR 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."

Similarly, we would like to refer to article 20 of the UDHR which provides that "[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association."

In this connection, we would also like to mention 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."

In addition, regarding allegations received indicating that the situation of the mentioned activists is linked to their work in the defense and promotion of human rights, 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 the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;
- 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; and
- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

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 the above-mentioned persons in compliance with the above international instruments.

Moreover, since 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, we would be grateful for 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. Please indicate the legal basis for the arrest, charges, and sentencing of the abovementioned individuals, and how these measures are compatible with international human rights norms and standards as specified above.
3. Kindly indicate the measures taken to ensure that human rights defenders are able to carry out their legitimate activities, including expressing their claims through peaceful protests, without fear of criminalization, intimidation or harassment of any sort.

We undertake to ensure that your Excellency's Government's response is 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 the above mentioned persons 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

El Hadji Malick Sow  
Chair-Rapporteur of the Working Group on Arbitrary Detention

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