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**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; and the Special Rapporteur on freedom of religion or belief**

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (56-23) G/SO 214/62-11  
MMR 7/2013

30 May 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 freedom of religion or belief; and pursuant to Human Rights Council resolutions 22/14, 15/18, 16/4, and 22/20.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the detention of **U Ottama**, a monk.

According to the information received:

U Ottama is imprisoned in Taunggyi Prison, Shan State, Myanmar for allegedly teaching the doctrine of an alternative Buddhist order known as Moepyar. In 2010, the state Buddhist religious council, the Maha Sangha Nayaka Committee, reportedly began action against Moepyar, deeming it in 2011 to be a schismatic and unorthodox sect that was not practising Buddhism, and subsequently prohibited it. Accordingly, the Ministry of Religious Affairs issued orders for action to be taken against the sect.

In May 2012, Dr. Htun Myint, resident of Aungpan, Kalaw Township, Shan State, in conjunction with local authorities in Aungpan, brought criminal allegations against U Ottama, claiming that he possessed books and a CD that he had been using to propagate the teachings of Moepyar.

On 28 September 2012, the Maha Sangha Nayaka reportedly found that U Ottama was not a member or proponent of the Moepyar sect. However, on 3 October 2012, the Kalaw Township Court found that he had propagated teachings of Moepyar and denied orthodox beliefs associated with karma and rebirth, charged him with violating Section 295A of the Penal Code for insulting religion, and

sentenced him to two years in prison. Then, on 7 January 2013 the Maha Sangha Nayaka overturned its previous decision and found that he was a member of Moepyar, consistent with the court ruling. The Taunggyi District Court and Shan State High Court on 19 February 2013 reportedly dismissed the appeal without a hearing, and the matter is now pending before the Supreme Court.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned person is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his 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 appeal to your Excellency's Government to ensure the right to freedom of religion or belief in accordance with article 18 of the Universal Declaration of Human Rights.

Furthermore, we would like to recall to your Excellency's Government the principles set forth in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief. Article 1 (1) of the Declaration provides that "[E]veryone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." Article 1 (2) emphasized that "[N]o one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice." Art. 6 (a) further provides that the right to freedom of thought, conscience, religion or belief includes the freedom to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes.

Furthermore, the General Assembly, in its resolution 65/211, "urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end: (a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one's religion, including the right to change one's religion or belief, is violated; (b) To ensure that existing legislation is not implemented in a discriminatory way or does not result in discrimination based on religion or belief, and that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights; g) To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief" (resolution 65/211, para.12).

In addition, Human Rights Council resolution 6/37 para.9 (g) urges States, "To ensure, in particular, the right of all persons to worship or assemble in connection with a

religion or belief.” Similarly, paragraph 9 (h) urges States “[t]o ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom for all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected.”

In addition, we would like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in 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.”

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 U Ottama 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 the alleged victim?
3. Please provide information concerning the legal grounds for the arrest and detention of U Ottama and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR.
4. Please provide detailed information and indicate the legal basis and reasons for the sentencing of U Ottama to two years of imprisonment? How is this sentence compatible with international human rights norms and standards?
5. Please provide information on measures taken to ensure the freedom of religion or belief and the rights of religious minorities in Myanmar are protected.

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 U Ottama 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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Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief