

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; the Special Rapporteur on the situation of human rights defenders

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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 25/26, 24/7, 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the case of Mr. **Sein Than**, a human rights defender and leader of the movement denouncing the confiscation and requesting the restitution of the Mi Chaung Kan land.

According to the information received:

Mr. Sein Than was arrested on the morning of 31 July 2014 near Hmyaw Sin Kyun, in Yangon by a group of 10 plain clothed people who allegedly acted without presenting an arrest warrant. It has been reported that violence was used in his arrest and that he was injured as a result.

Mr. Sein Than was reportedly on his way to the United Nations office at the time of the arrest, where he was planning to deliver documents intended for the Special Rapporteur on the situation of human rights in Myanmar, following a meeting he had with the Special Rapporteur during the latter's visit to the country from 17 to 26 July 2014. During the said meeting, Mr. Sein Than had raised with the Special Rapporteur issues relating to the confiscation of the Mi Chaung Kan land.

Reports further state that Mr. Sein Than was taken to Insein prison where he is being detained on remand pending trial, which is to take place a week from the arrest.

Mr. Sein Than has been allegedly charged under Section 18 of The Right to Peaceful Assembly and Peaceful Procession Act (The Pyidaungsu Hluttaw Law No. 15/2011) as amended by Law Amending the Law on the Right to Peaceful Assembly and Peaceful Procession - Pyidaungsu Hluttaw Law No. 26/2014 in the townships of Kyauktada, Latha, and Pabedan. This provision criminalizes the conduct of a peaceful assembly or a peaceful procession in the absence of consent from the authorities. While the maximum penalty under Section 18 is six months imprisonment and a fine of 30,000 thousand kyat, the bail reportedly set against Mr. Sein Than is 30,000,000 kyat. In the township of Pabedan he has also been charged under Section 68 of the Municipal Law, the details of which provisions are unable to be ascertained.

We would like to express serious concern that the arrest and detention of Mr. Sein Than may be linked to his legitimate human rights activities, in the exercise of his rights to freedom of association, peaceful assembly, and opinion and expression. Further concern is expressed that Mr. Sein Than may be suffering reprisals due to his cooperation with the United Nations human rights mechanisms and the Human Rights Council Special Procedures. Further concern is expressed for Mr. Sein Than's physical and psychological integrity while in detention, especially in light of the fact that he appears to suffer from pre-existing medical conditions.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Sein Than 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 arbitrarily deprived 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 refer to the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association, as set forth respectively in articles 19 and 20 of the UDHR.

We would like to further refer to Human Rights Council resolution 24/5, which highlights the obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely.

We would also like to refer to 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 and 12.

Furthermore, we would like to refer to resolution 24/24 of the Human Rights Council, which calls on States to refrain from and to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations human rights mechanisms, including the independent experts of the Human Rights Council.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 person in compliance with international instruments.

As 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:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information relating to the legal basis for the arrest and detention of Mr. Sein Than and how such measures are compatible with the aforementioned international human rights standards.
3. Please provide information relating to the circumstances of Mr. Sein Than's arrest, the conditions of his detention and whether he is receiving adequate medical assistance.
4. Please provide information of each stage of the judicial proceedings against Mr. Sein Than and indicate how they comply with the requirement and guarantees of a fair trial and due process guarantees as enshrined inter alia in Article 10 of the Universal Declaration of Human Rights.
5. Please indicate what measures have been taken to ensure that human rights defenders in Myanmar can carry out their legitimate activities in a safe and enabling environment, and can interact with the United Nations and its human rights mechanisms without fear of harassment, stigmatization or criminalization of any kind.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Yanghee Lee
Special Rapporteur on the situation of human rights in Myanmar

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

David Kaye
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 association

Michel Forst
Special Rapporteur on the situation of human rights defenders