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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 Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214/62-11
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15 April 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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 19/21, 16/4 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding charges brought for alleged unauthorised teaching of political science under Penal Code section 172 (avoidance of an order by a legally competent public servant) against Mr. **Min Min, a.k.a. La Min Htun**, 36, resident of Yawbe Ward, Pyay, Bago Region, Myanmar and founder of the Olive Branch capacity building centre for community education.

According to information received:

The district administration of Pyay, in central Myanmar, on 27 January 2013 sent a letter to the Khetta Township administration head on the matter of "Permission to open political science instruction not granted" [Letter No. 5/95-1/Oo 6(0311)]. Under this heading, it refers to the community educator, Min Min, as a "so-called human rights activist" who had opened a political science class. The letter states that as no permission to open a course on political science had been granted, those persons responsible for the course ought to be prosecuted.

On the morning and the evening of January 28 the township administration called Min Min and notified him that as he was teaching political science without a permit he was to close the programme until he sought authorization [Letter No. 5/3-3/Oo 6(209)]. On January 29, as Min Min refused to comply, the administration opened a case in the township court [Letter No. 5/3-3/Oo 6(211)].

The township court opened a case against Min Min under section 172 of the Penal Code. Yet, the charge itself does not correspond with the supposed crime, since its intention is to deal with cases of persons who abscond from summonses or similar orders, whereas Min Min made no such attempt to abscond and merely continued giving instruction in a manner that he legitimately believed to be legal and consistent with his country's democratic transition. The case against Min Min is ongoing, and he has been released on bail.

The Olive Branch centre established by Min Min has as its aim the building of knowledge among local people so that they can defend their own rights. In addition to teaching political science, the centre holds courses on constitutionalism, human rights, environmental science, management, leadership skills, the United Nations system, international organizations, journalism, international law and domestic law. Hitherto, the centre taught political science as a unit together with other subjects, and attracted no attention or difficulties.

While we do not wish to prejudge the accuracy of these allegations, 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 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.
- 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.

We would also like to refer your Excellency's Government to article 26 of the Universal Declaration of Human Rights, which consecrate everyone's right to education, and in particular subsection 2, which provides that "[e]ducation shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace."

We would further request your Excellency's Government refer to the Convention on the Rights of the Child, acceded to on 15 July 1991, which requires in article 29 that the education of children shall be directed to "[t]he development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations,"; and "[t]he preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin."

We would also 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 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."

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 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 indicate the legal basis of any charges brought against Mr. Min Min for the teaching of political science, and please indicate how these are compatible with international norms and standards as contained, inter alia, in the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and the Declaration on Human Rights Defenders

4. Please provide the details on how the actions undertaken by public officials regarding this case are compatible with the international norms and standards of the right to freedom of opinion and expression.

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 the above mentioned person are respected. 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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders