

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

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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 rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders and pursuant to Human Rights Council resolutions 25/26, 24/7, 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 conviction of Mr. **Thein Aung Myint**, Mr. **Saw Hla Aung**, Mr. **Kyaw Myo Htun** and Ms. **Khet Khet Tin** under Article 18 of the Law on the Right to Peaceful Assembly and Peaceful Procession.

Mr. Thein Aung Myint and Mr. Saw Hla Aung are members of the Movement for Democracy Current Force, a community-based organization that campaigns against land confiscation. In addition, Mr. Thein Aung Myint is a former political prisoner currently facing a further charge also under article 18 for participating in another peaceful protest on 27 October 2014.

According to the information received:

On 27 March 2014, Mr. Thein Aung Myint and Mr. Saw Hla Aung led a candle light vigil attended by around 100 people outside the Diamond Plaza in Mandalay in protest of Parliament's decision to approve an increase in electricity prices. Mr. Thein Aung Myint had applied for a permit to hold the protest but it had been refused. Shortly after the protest started, police arrested Mr. Thein Aung Myint and Mr. Saw Hla Aung. They also arrested another individual, Mr. Kyaw Myo Htun, who allegedly did not participate in the protest but applauded the protesters while they gathered. The wife of Mr. Thein Aung Myint, Ms. Khet Khet Tin, was arrested on the same day after she approached police to request that they refrain from using excessive force while arresting her husband. The four individuals were charged under article 18 of the Law on the Right to Peaceful Assembly and

Peaceful Procession, which makes it a criminal offence to conduct a peaceful assembly or peaceful procession without obtaining the required consent from the authorities. They were later released on bail.

On 23 March 2015, Chanayethazan Township Court found all four individuals guilty of violating article 18 of the Peaceful Assembly Law and sentenced them to six months imprisonment, the maximum sentence for the charge. They are currently serving their sentences in Oh Bo prison in Mandalay.

We express concern about the arrests and convictions of Mr. Thein Aung Myint, Mr. Saw Hla Aung, Mr. Kyaw Myo Htun and Ms. Khet Khet Tin under the Law on the Right to Peaceful Assembly and Peaceful Procession (the Law). We highlight that the Law is not in line with international human rights standards in that it requires prior authorization for assemblies, does not provide a right of appeal against decisions to refuse permission for an assembly, subjects individuals conducting a peaceful assembly without consent to criminal sanctions including imprisonment and subjects assemblies to a broad range of restrictions.

Notwithstanding our concerns regarding the legislation, we also express further concerns about the convictions of Mr. Kyaw Myo Htun and Ms. Khet Khet Tin under article 18 of the Law as they were allegedly bystanders and it is therefore not clear how they could fall within the ambit of the law.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of the above-mentioned individuals is arbitrary, the allegations appear to be in contravention of the right of persons not to be arbitrarily deprived of their liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR).

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of peaceful assembly and association as set forth in article 20 of the UDHR.

We would 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 6.

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 persons 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. Are the facts alleged in the summary of the case accurate?
2. Please provide information on the compatibility of the Law on the Right to Peaceful Assembly and Peaceful Procession as amended in 2014, with international human rights law.
3. Please provide information concerning the legal grounds for the arrest and conviction of Mr. Thein Aung Myint, Mr. Saw Hla Aung, Mr. Kyaw Myo Htun and Ms. Khet Khet Tin. Please indicate how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights (UDHR).
4. Please provide detailed information on the measures in place to ensure that anyone in Myanmar can exercise the right to freedom of peacefully assembly and association as set forth in article 20 of the UDHR.

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.

We may publicly express our concerns on these cases in the future as we are of the view that the information upon which the press release would be based is sufficiently reliable. The press release would indicate that we have been in contact with your Excellency's Government to clarify the issue in question.

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

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