

Mandates of the Special Rapporteur on the situation of human rights in Myanmar and the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

REFERENCE: UA
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6 March 2015

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in Myanmar and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 25/26 and 25/2.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **situation near to Letpadan in northern Yangon Region and threats of excessive use of force in the context of a peaceful student assembly for amendments to the National Education Law.**

According to the information received:

The National Education Law was passed by Parliament on 30 September 2014. Students have argued that there was insufficient consultation during the drafting of the law, that it bans students from forming unions, and ignores calls for local languages to be used in instruction in ethnic states. The passing of the law has resulted in a series of protests by students. On 20 January 2015, a group of students started marching from Mandalay to Yangon to demand that Parliament amend the law. Talks have resulted in agreements for a number of amendments to the law; however the students are continuing their peaceful protest to ensure that Parliament passes the amendments.

On 2 March 2015, more than 300 security personnel gathered near Aung Myay Bateman monastery, close to Letpadan in northern Yangon Region in response to approximately 150 students peacefully protesting for amendments to the National Education law. The students have been joined by local citizens and Buddhist

monks. Student representatives met with security officials, after which they decided to continue their march the following morning.

According to the information received, on 3 March 2015 the protestors attempted to leave the monastery and continue their march, but were blocked by up to 1,000 members of the security forces, some reportedly carrying firearms. At 10 a.m. security forces demanded protestors disperse in six hours or face a crackdown. Police informers in civilian clothes allegedly infiltrated the protestors and provoked confrontations which resulted in the beating of one female student. Some protestors decided to hold a sit-in hunger strike until the security forces retreat.

On 4 March 2015, there continues to be concerns that the protestors have been infiltrated by agent-provocateurs and the situation remains extremely tense. This situation occurs in the context of previous incidents and allegations on excessive use of force by security forces in the context of peaceful demonstrations in Myanmar.

Serious concern is expressed about the presence of high numbers of security forces surrounding students peacefully protesting for amendments to the National Education Law, which appears to be disproportionate and could threaten their legitimate human rights activities, including the exercise of their rights to freedom of peaceful assembly, and expression. Further concern is expressed at the risks of excessive use of force to disperse the crowd.

In particular, concern is expressed in light of the response to peaceful demonstrators and human rights defenders opposing the Letpadaung Copper Mine project, on which several communications regarding allegations of excessive use of force have been addressed to your Excellency's Government on 30 November 2012, 2 May 2013, 20 June 2013 and 3 October 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.

While we do not wish to prejudice the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to these issues brought forth by the situation described above.

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 articles 19 and 20 of the Universal Declaration of

Human Rights on the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association.

In this context we would like to refer to Human Rights Council Resolution 24/5, which 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 those persons, inter alia, espousing dissenting views or beliefs and human rights defenders seeking to exercise or to promote these rights.

In addition, 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.

Moreover, we would like to refer to the 2006 report to the General Assembly (A/61/312) (of the Special Representative of the Secretary-General on the Situation of human rights defenders). In particular paragraph 98, which the Special Representative urges States to ensure law enforcement agencies and their members are aware of and trained in international standards for the policing of peaceful assemblies. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against responsible individuals.

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 to the initial steps taken by your Excellency's Government to safeguard the rights of the peaceful protestors 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 legal grounds for preventing the students from continuing their march.
3. Please provide detailed information on the measures in place to ensure that the student protesters, and more generally anyone in Myanmar, can exercise the right to freedom of peacefully assembly without fear of assault, arrest or other restrictions.

4. Please provide information on the legal grounds for the use of force against peaceful protestors.

5. Please indicate how these measures are compatible with international human rights norms and standards.

6. Please provide information on any measures that have been undertaken to ensure that security personnel act in conformity with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

While awaiting your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the protestors are respected.

Your Excellency's Government's response will be available in the report we will submit 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

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association