

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 rights to freedom of peaceful assembly and of association

REFERENCE:
UA MMR 1/2020

30 March 2020

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 rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 40/29, 34/18 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning a demonstration in Yangon calling for the internet in Rakhine State to be restored.

On 23 February, around 100 students and activists conducted a demonstration in Yangon calling for the internet in Rakhine State to be restored.

On 24 February, **Aung Pyae Sone Phyo**, and **Htet Htet Naing** were arrested at Yangon University, and later that day, **Ma Hnin** and **Aye Myat Mon Kyaw** were arrested at Yangon University of Education. Htet Tin Aung was arrested on 25 February. All the individuals have been charged with violating section 19 of the Law Relating to Peaceful Assembly and Peaceful Procession 2011, and were released that day following their arrest.

It is believed that the arrest of two other individuals is also sought.

Htet Tin Aung, Aung Pyae Sone Phyo, Ma Hnin, Aye Myat Tun Kyaw and Htet Htet Naing were required to attend court on 4 March 2020 and did not attend. On 5 March they were arrested and detained at Kamayut police station in Yangon. On 20 March 2020, Htet Tin Aung, Aung Pyae Sone Phyo, Ma Hnin, Aye Myat Tun Kyaw and Htet Htet Naing were convicted under section 19 of the Peaceful Assembly and Peaceful Procession Law.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to articles 9, 19, 20 and 21 of the Universal Declaration of Human Rights.

We express our concern over what appears to be undue restrictions to the rights to freedom of peaceful assembly. We wish to refer to report A/HRC/41/41, in which the Special Rapporteur on the right to freedom of peaceful assembly and association noted, that States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards. This means ensuring that the rights to freedom of peaceful assembly and of association are enjoyed by everyone, without discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The Special Rapporteurs have already sent your Excellency communications regarding the Internet shutdown in Rakhine State, such as MMR 6/2019. We would like to reiterate that shutdown severely impacts the human rights of the effected population in Rakhine State, including the right to safety, security, health, education, food, shelter, livelihood, freedom association and assembly, of expression, information and participation.

With particular regard to internet access, we reiterate once again that the Human Rights Council previously “condemn[ed] unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and call[ed] upon all States to refrain from and cease such measures.” (HRC resolution 32/13 para. 10).

Furthermore, internet shutdowns affect the capacity of human rights defenders to carry out their work and document human rights abuses. Shutdowns fail to meet the established test for restrictions on the right to freedom of expression under article 19 (3), and of peaceful assembly found in article 21 of the ICCPR. In most cases, network shutdown orders lack a legal basis. Where a legal basis does exist, shutdown orders are often coupled with broad and vague provisions and lack adequate independent oversight. While these measures are typically justified on grounds of national security and public order, they are a disproportionate – and generally ineffective – means of achieving those legitimate aims. (A/HRC/41/41, para. 51-52).

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(s) 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/or comments you may have on the above-mentioned allegations.
2. Please provide information about the charges against the above-mentioned individuals, including the factual and legal basis for the charges. Please explain how the charges are compatible with article 20 of the Universal Declaration of Human Rights.
3. Please explain how the arrest and detention of the above-mentioned individuals is compatible with articles 9, 10, 11 of the Universal Declaration of Human Rights.
4. Please indicate what measures have been taken to ensure that human rights defenders, students, activists and others can operate in an enabling environment and carry out their legitimate activities without fear of reprisals, threats, harassment 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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association