Mandate of the Special Rapporteur on the situation of human rights in Myanmar

REFERENCE: UA MMR 4/2020

7 April 2020

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights in Myanmar, pursuant to Human Rights Council resolution 40/29.

In this connection, I would like to bring to the attention of your Excellency’s Government information I have received concerning the arrest of Nay Lin also known as Nay Myo Lin, Editor in Chief and Chief Executive Officer of the Voice of Myanmar, and that Khaing Mrat Kyaw, Editor in Chief of Naranjara, Thar Lun Zaug Htet, Editor in Chief of Khit Thit Media, and Moe Myint, Editor of Radio Free Asia Burmese are sought for arrest.

According to information received:

Since December 2018, there has been an armed conflict in Rakhine State between the Tatmadaw and the Arakan Army (AA) and it has significantly escalated in the last few months. On 23 March 2020, the Anti-Terrorism Central Committee declared the AA a terrorist organization under section 6(e) of the Counter-Terrorism Law 2014. Local news outlets in Myanmar have been reporting on the armed conflict, including reporting interviews with members of the Arakan Army and the Tatmadaw.

Nay Lin also known as Nay Myo Lin

Nay Lin is the Editor in Chief of the Voice of Myanmar, a Myanmar language news outlet based in Mandalay that has reported on the armed conflict in Rakhine State. On 27 March, the Voice of Myanmar broadcast an interview with the spokesperson of the AA. At 9pm on 30 March, Nay Lin was arrested at his home in Mandalay by plain clothed men claiming that they were from the Criminal Investigation Division of the Myanmar Police. He was informed that he was charged under section 50(a) and 52(a) of the Counter-Terrorism Law and was detained in police station number 10. He was remanded at the Chan Myay Thar Si Township Court on 31 March and is to attend Court again on 9 April. He is currently in Ohbo Prison in Mandalay.

Khaing Mrat Kyaw

Khaing Mrat Kyaw is the Editor in Chief of Naranjara, a news outlet based in Sittwe, Rakhine State that has reported on the armed conflict in Rakhine State. In late March, Naranjara published an article including an interview with the spokesperson of the AA. On 31 March, Special Branch police filed charges under section 50(a) and 52(a) of the Counter-Terrorism Law against Khaing Mrat Kyaw at Sittwe police station. That
same day, plain clothed police, including Criminal Investigation Division police, Special Branch police and the Rupa Taung Ward Administrator searched the office of Naranjara in Sittwe. They seized two computers and took three journalists to Myoma police station where they were interrogated for seven hours. They were released at midnight. Khaing Mrat Kyaw is now in hiding as his arrest is sought.

_Thar Lun Zaung Htet_

Thar Lun Zaung Htet is the Editor in Chief of the Khit Thit news outlet based in Yangon. On 28 March, Khit Thit republished the Voice of Myanmar interview with the spokesperson of the AA. On 31 March and 1 April 2020, Thar Lun Zaung Htet’s house in Yangon was searched by police. His wife and children were home, and police pressed his wife to call them when he returned. Charges were filed under section 50(a) and 52(a) of the Counter-Terrorism Law at a Yangon police station. Thar Lun Zaung Htet is now in hiding as his arrest is sought.

_Moe Myint_

Moe Myint is an editor of Radio Free Asia (RFA) Burmese in Yangon. He conducted an online interview with the Chief of the AA on 25 March 2020 and published the interview online. Two days later, Criminal Investigation Division police approached the RFA’s Napyidaw office to inquire about his address and parents’ names. On 2 April 2020, Criminal Investigation Division police visited RFA’s Napyidaw office again and told a staff member that charges had been filed against Moe Myint under the Counter-Terrorism Law. He is now in hiding as his arrest is sought.

I express serious concern at the charges filed against each of Nay Lin, Khaing Mrat Kyaw, Thar Lun Zaung Htet and Moe Myint under the Counter-Terrorism Law. The charges appear to be laid in relation to them carrying out their professional duties as editors-in-chief of news outlets reporting information about the conflict in Rakhine State which is of high public interest value. My concern is particularly heightened in circumstances where media access to the conflict affected areas of Rakhine State is extremely restricted and independent reporting is especially important. I am additionally concerned that these charges come at a time when the Covid-19 pandemic is beginning to spread in Myanmar and access to information is enormously important. The charge under a problematic law, that I have recommended be amended, represents a criminalization of media freedom and Nay Lin, Khaing Mrat Kyaw, and Thar Lun Zaung Htet’s exercise of freedom of expression and association. The charge continues the worrying trend of declining freedom of expression in Myanmar, and what appears to be a crackdown on human rights defenders and media workers in the country.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, I 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 my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information you have on the above allegations.

2. Please provide information about the factual basis of the charge against each of Nay Lin, Khaing Mrat Kyaw, Thar Lun Zaung Htet and Moe Myint under sections 50(a) and 52(a) of the Counter-Terrorism Law, including their alleged conduct that is prohibited by sections 50(a) and 52(a).

3. Please provide information on how sections 50(a) and 52(a) of the Counter-Terrorism Law affords individuals protection in conformity with international standards, in particular with articles 19 and 20 of the Universal Declaration of Human Rights.

4. Please provide information about how you will ensure Nay Lin, Khaing Mrat Kyaw, Thar Lun Zaung Htet and Moe Myint’s right to a fair trial under articles 10 and 11 of the Universal Declaration of Human Rights.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence. It is imperative that journalists and other media workers be able to conduct their work in the public interest. I again highlight the need for the Counter-Terrorism Law to be amended to bring it in line with international human rights standards.

I call for the charges against Lin, Khaing Mrat Kyaw, and Thar Lun Zaung Htet to be dropped. I intend to issue a public statement on these cases in the near future.

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 my highest consideration.

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