

**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 MMR 12/2020

9 September 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 situation of human rights defenders, pursuant to Human Rights Council resolutions 43/26, 43/4 and 43/16.

In this connection, we would like to refer to the situation of Mr. **Aung Marm Oo**, human rights defender and the editor-in-chief and executive director of the Development Media Group (DMG) in Rakhine State. DMG is a news organization that has reported extensively on the conflict between the Myanmar Defence Services and the Arakan Army in Rakhine State. The information publicized by DMG has generally been considered of high public interest.

Mr. Aung Marm Oo was the subject of a recent allegation letter (5/2019) following information received that charges brought against him under the Unlawful Associations Act appeared to be filed for his legitimate professional work as a journalist. The reported use of this Act to curtail freedom of expression has been referred to by several mandate-holders on different occasions; see MMR 3/2018, 4/2017, 4/2016, 15/2013, 3/2009, 5/2008, 10/2005, 5/2005.

We would like to thank you for the written response to the allegations brought to our attention regarding Mr. Aung Marm Oo. As mandate-holders of the Human Rights Council, we place high value in our engagement with concerned Governments. In this regard, we would like to bring to your Excellency's Government attention updated information we have received regarding his situation and the alleged ongoing harassment to DMG and its staff.

Moreover, we would also like to bring to your Excellency's Government attention allegations we have received of a politically motivated prosecution of human rights defender **Mr. Zaw Min Oo** for reporting on false information on the death of a Covid-19 patient in Myawaddy. Mr. Zaw Min Oo is a well-known journalist that has covered investigative stories about high-level officials in Myanmar.

According to the information received:

### *Case of Mr. Aung Marm Oo*

Mr. Aung Marm Oo is currently hiding due to fear of arbitrary detention and abuse by the authorities.

On 1 May 2019, Mr. Aung Marm Oo learned about a lawsuit filed against him by the Special Branch of the Ministry of Home Affairs after his organization interviewed members of the Arakan Army. In January 2019, Myanmar authorities designated the Arakan Army as a terrorist and unlawful association in accordance with the Anti-terrorism Law and the Unlawful Associations Act.

Close to 16 months later, prosecutorial authorities have failed to transmit officially the charges brought against him to him, his family or DMG. During this time, it is reported that police continued summoning DMG reporters and family members for questioning.

On 8 May 2019, DMG sent a letter to the Myanmar Press Council requesting an examination of his case by the adjudicating body, hoping for a preliminary review by this Council. No response has been received so far. Later in the month, DMG also attempted to reach out to the Union Minister for Information, H.E. Mr. Pe Myint, although no response has been received either.

In December 2019, DMG was forced to suspend the publication of its Development News Journal indefinitely due to delays in renewing its news agency license, which are allegedly unjustified. These delays caused DMG to lose its legal accreditation to work as a news organization in the country. As a result, DMG is currently unable to reach those who rely on it to provide important information on developments on the ground.

Additionally, it is also reported that the authorities instructed telecommunication companies in Myanmar to block access to DMG local media websites in English and Burmese ([www.dmgburmese.com](http://www.dmgburmese.com) and [www.dmediag.com](http://www.dmediag.com)).

### *Case of Mr. Zaw Min Oo*

On 13 March 2020, Mr Zaw Min Oo's news outlet, Dae Pyaw, made a Facebook post which stated that one person in Myawaddy had died from COVID-19. The post read: 'Breaking news: patient in Myawaddy died from COVID'. Later that day, Mr Zaw Min Oo was arrested at his home by Myanmar police on the basis that the information published was false. Authorities charged him under Section 27 of the Natural Disaster Management Law. Authorities later charged Mr Zaw Min Oo under Section 505(b) of the Penal Code, which prohibits the making of a statement 'with intent to cause, or which is likely to cause, fear or alarm to the public or to

any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity and carries a higher maximum sentence of two years' imprisonment and a fine. During his trial, Mr Zaw Min Oo presented some evidence of the information published, while protecting his sources.

On 5 May 2020, the Hpa-An Township Court sentenced Mr Zaw Min Oo to two years' imprisonment, despite the fact that his lawyers had argued that the posts had not frightened the public, nor could it be considered critical of the government. He is currently imprisoned in Hpa-An's Taung Kalay Prison.

While we do not wish to prejudice the accuracy of these allegations, we express our serious concern about the harm that these actions are having on the well-being of Mr. Aung Marm Oo, Mr Zaw Min Oo, DMG staff and their family members and acquaintances.

We note the Government's position that Mr. Aung Marm Oo and DMG allegedly published and distributed information in support of a terrorist organization. However, we are concerned that these allegations could be related to his journalistic activities and defense of human rights and the right to information, and amount to an infringement of their right to freedom of expression. Additionally, we note that authorities have failed to provide precise details on the charges against Mr. Marm Oo, as is required by the principle of legality. Moreover, blanket restrictions on reporting on the Arakan Army's activities could adversely impact legitimate forms of expression conducted by journalists and human rights organizations, in violation of the right to freedom of expression as protected under Article 19 of the Universal Declaration on human rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR). Such restrictions can also impair the ability of the people in Rakhine to access critical information on the conflict.

We also express our concern regarding the targeting of Mr. Marm Oo in a context of restricted media access in Rakhine State, and when such information is of great public interest and importance. Similarly, we express our concern for the targeting of Mr. Zaw Min Oo for his attempts to provide information on COVID-19 in the public interest. In this regard, 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.

Additionally, we are seriously concerned by the seemingly retaliatory prison sentence handed down to Mr Zaw Min Oo for a speech that seems, *prima facie*, in compliance with international human rights law. We note that charges were filed shortly after he submitted a complaint about a bribery case in Kayin State, and we are concerned that his prosecution may be directly related to his previous investigative work involving high-level government officials. Prosecuting a journalist for reporting on Covid-19 could create a dangerous chilling effect among other journalists seeking to perform their

professional duties. Mr. Zaw Min Oo's prosecution is of particular concern considering the critical importance of independent reporting on Covid-19

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, 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 comment(s) you may have on the above-mentioned allegations.
2. Please provide information about the factual basis of the charge against Mr. Aung Marm Oo under section 17(2) of the Unlawful Associations Act, including his alleged conduct that is prohibited by section 17(2), and how these charges are in line with the right to freedom of expression, as protected by UDHR Article 19.
3. Please provide information about the factual basis of the charge against Mr. Zaw Min Oo and how these charges are in line with the right to freedom of expression, as protected by UDHR Article 19.
4. Please provide information on the status of the reported outstanding license requests by DMG News Agency and Development News Journal, and the factual basis for allegedly blocking access to its English and Burmese websites.
5. Please provide information on any plans to amend the Unlawful Associations Act and the Anti-terrorist Law to ensure their conformity with international human rights norms and standards.
6. Please indicate what measures have been taken to ensure that human rights defenders and journalists in Myanmar are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation directed against them or their family members and harassment of any sort.

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.

Thomas Andrews  
Special Rapporteur on the situation of human rights in Myanmar

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders