

Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the situation of human rights defenders

Ref.: UA MYS 1/2023
(Please use this reference in your reply)

21 July 2023

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in Myanmar; Working Group on Enforced or Involuntary Disappearances and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 49/23, 45/3 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged disappearance of Ms. Thu Zar Maung, a pro-democracy activist and refugee from Myanmar, and her family members from their residence in Ampang Jaya, Selangor, Malaysia on 4 July 2023.**

On 21 July 2023, the Working Group on Enforced or Involuntary Disappearances transmitted the case of **Ms. Thu Zar Maung, Mr. Saw Than Tin Win, and their three children, [REDACTED], [REDACTED] and Aung Myint Maung** to your Excellency's Government under its urgent procedure. We wish to note that the present communication is to be considered in addition to the urgent procedure of the Working Group. In this regard, we reiterate the call on the Malaysian authorities to take all necessary measures as soon as possible to investigate and conduct search activities¹ to ascertain their fate and whereabouts.

According to the information received:

On 4 July 2023 at approximately 6.30 p.m., unidentified men allegedly abducted Ms. Thu Zar Maung, 46 years; her husband Mr. Saw Than Tin Win, 43 years; their daughter [REDACTED], 16 years; and their sons Aung Myint Maung, 21 years, and [REDACTED] 17 years, from their residence in Ampang Jaya, Selangor, Malaysia. All five family members including Ms. Thu Zhar Maung are registered as refugees with UNHCR in Malaysia.

Ms. Thu Zar Maung is an outspoken human rights defender and activist for the pro-democracy movement in Myanmar, and she chairs the Myanmar Muslim Refugee Community and the Myanmar Migrant Workers Committee. Ms. Thu Zar Maung has worked closely with Myanmar's opposition National Unity Government. She is a Bamar Muslim. Concern has been voiced that Ms. Thu Zar Maung was targeted for her legitimate human rights work on behalf of refugees, migrants, and the democracy cause in Myanmar.

¹ [OHCHR | Guiding principles for the search for disappeared persons](#)

At the time of the abduction, Ms. Thu Zar Maung was on the phone with a friend, who heard her yell to her husband that unknown men were entering the house. The phone connection was then lost, and since then, numerous calls by colleagues and friends have gone unanswered.

Approximately two hours before the alleged abduction, at 4.30 p.m. on 4 July 2023, a man identified himself to security guards as “police” and drove a car into the gated community where Maung’s family lived. That car, and two cars owned by the family were seen leaving the gated community at approximately 7.10 p.m.

As the car entered the community, CCTV footage captured its license plate, which subsequently turned out to not be a registered plate. The driver of Ms. Thu Zar Maung’s car can be seen using a gloved hand to scan a gate card as they exited the community. Subsequent investigations by the chief of the security guards at the gated community revealed that the same car had entered the gated community on 19 June 2023. Considering the course of action and the methods used by the perpetrators, there are concerns that agents of one or more States may have been involved in the enforced disappearance of the members of the Maung family.

At the time of writing, the fate and whereabouts of Ms. Thu Zar Maung, her husband and three children remain unknown.

While we do not wish to prejudge the accuracy of these allegations, we are seriously concerned about **the alleged enforced disappearance of Ms. Thu Zar Maung and her family**. We are also alarmed at the imminent risk of persecution facing Ms. Thu Zar Maung and her family and at the harmful impact that their current situation might have on their physical and psychological integrity.

We are further concerned that Ms. Thu Zar Maung may have been targeted because of her human rights activities. The Special Rapporteur on the situation of human rights in Myanmar has previously raised concerns about the State Administration Council’s efforts to secure the return of exiled activists to Myanmar, as well as the Malaysian Government’s forcible repatriation of Myanmar nationals.²

We have reasonable grounds to believe that the alleged abduction of Ms. Thu Zar Maung and members of her family also carries the risk of their forcible return to Myanmar, and would put their personal safety, liberty, integrity and life in danger and expose her to the serious risk of arbitrary arrest, detention, torture, summary execution, and lack of a fair trial.

We strongly urge your Excellency’s Government to urgently advance an immediate, impartial, thorough, and transparent investigation of the alleged enforced disappearance of Ms. Thu Zar Maung and her family as well as to take all the necessary measures and corresponding search activities directed at establishing their fate and whereabouts, with all efforts focused on securing their safe return and

² Situation of human rights in Myanmar - Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews, 9 March 2023, UN Doc. A/HRC/52/66, paras. 51 and 52.

protection and preventing any irreparable damage to the life and personal integrity of Ms. Maung and her family members.

We would like to draw your attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances,³ which establishes that “all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness (article 4). No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance (article 6). Identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances (article 9). States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance (article 14). The Declaration also stipulates that the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts (article 16); not benefit from any amnesty law (article 18); and the victims or family relatives have the right to obtain redress, including adequate compensation (article 19).

We would also like to recall that the Guiding Principles for the Search for Disappeared Persons of the United Nations Committee on Enforced Disappearances establish that the search for the disappeared should be undertaken without delay (principle 2); should follow a differential approach, ensuring that the entities responsible for the search pay special attention to cases involving disappeared children and adolescents, and develop and carry out search actions and plans that take into account their extreme vulnerability. In addition, officials should respect the principle of the best interests of the child at all stages of the search (principle 4) and the search should be considered a continuing obligation (principle 7).

Finally, we remind your Excellency’s Government that *non-refoulement* prohibits all forms of removal and transfer of any individual, regardless of their status, when there are substantial grounds for believing that the individual would be at risk of irreparable harm, such as death, torture or cruel, inhuman, or degrading treatment or punishment, persecution, enforced disappearance or other serious human rights violations. In this case, UNHCR’s recognition of Ms. Muang and her family as refugees indicates that they face a well-founded fear of death or persecution in Myanmar.

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:

³ [Declaration on the Protection of all Persons from Enforced Disappearance | OHCHR](#)

1. Please provide any additional information and any comment(s) you may have on the above-mentioned allegations.
2. Please describe the steps taken to investigate the abduction and subsequent enforced disappearance of Ms. of Thu Zar Maung and her family, to search for them and establish their fate and whereabouts and to bring the perpetrators to justice.
3. Please explain what measures have been taken to ensure that all human rights defenders in Malaysia, in particular those advocating for the rights of refugees, can carry out their peaceful and legitimate activities without fear of harassment or other restrictions, in a safe and enabling environment.

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 would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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

Aua Baldé
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Mary Lawlor
Special Rapporteur on the situation of human rights defenders