

EXTERNAL (for general distribution)

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Death Penalty/Legal Concern

11 March 1991

MYANMAR (BURMA): Bo Htway Lwin alias Ba Oo, aged 26
Ba Min Thit alias Min Han alias Po Cho, aged 27
Aung Than, aged 30
Myo Aung Htwe, aged 17
Khin Zaw, aged 36

According to the official Burmese Broadcasting Service (BBS), the above-named five people were sentenced to death in a summary trial by a military tribunal on 6 March 1991 for involvement in an armed attack on a radio transmitter station. They were sentenced to death under Article 122.1 of the 1957 Penal Code and Article 17.2 of the Unlawful Association Act. The military tribunal sitting at Yangon Division Military Headquarters also sentenced 10 other people to 20 years' imprisonment for involvement in the incident. Amnesty International is concerned that all of those tried by military tribunal may have been unfairly tried and convicted. It opposes the death penalty in all cases.

The attack on the Yegu District radio relay station in Yangon (Rangoon, the capital) took place on 6 January 1991. In a news conference on 25 January, Major General Khin Nyunt, the First Secretary of Myanmar's ruling State Law and Order Restoration Council (SLORC), outlined the details of the incident. (The SLORC has controlled the country since it staged a coup on 18 September 1988.) Major General Khin Nyunt stated that an explosion took place near the Yegu transmitter station, and that after searching the area, security forces found a used rocket launcher shell nearby. He also said that the Police Special Branch arrested Khin Zaw and Myo Aung Htwe on 16 January 1991 at the Yangon Central Railway Station, for alleged involvement in the explosion. After questioning these two, the Special Branch arrested Min Han, Bo Htway Lwin, and Aung Than.

Major General Khin Nyunt alleged that in June and August 1990 Bo Htway Lwin had brought explosives into Yangon from the Karen National Union (KNU) at Manerplaw. The KNU is one of several ethnic insurgency groups which has been fighting for greater autonomy from the central Yangon authorities for the past 40 years. KNU leader Bo Mya had reportedly given orders to Bo Min Thit to bomb various places in Myanmar, and had instructed Bo Htway Lwin to bomb important buildings and other public places in Yangon. Major General Khin Nyunt asserted that Aung Than was responsible for attacking the transmission station with two rocket launchers.

Amnesty International is unable to evaluate the allegations against those tried, but is concerned that they did not receive a fair trial, and urges that those sentenced to death not be executed. Amnesty International is unconditionally opposed to the death penalty as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment, and works to ensure that all political prisoners receive fair trials.

BACKGROUND INFORMATION

On 17 and 18 July 1989 the SLORC announced martial law orders 1/89 and 2/89 bestowing judicial authority on the Military Commanders in Yangon and elsewhere and empowering them to conduct summary trials in military tribunals. They may "waive unnecessary witnesses", "indict an offender without hearing prosecution witnesses", "reject the recalling of witnesses who have already testified", and impose death sentences "regardless of the provisions under existing laws". Order Number 2/89 declares that "decisions and judgements passed by a

military tribunal shall be final". No judicial

appeal is allowed. Death sentences only have to be approved by the Military Commander, and the sole recourse of the condemned is to ask the army commander-in-chief within 30 days to "revise" the sentence. This denial of judicial appeal is contrary to international human rights standards. At least 100 death sentences had been handed down since the inception of martial law orders 1/89 and 2/89, but unofficial sources report that no executions have taken place.

Large-scale public unrest erupted in Myanmar in March 1988. Mass demonstrations led by students, Buddhist monks and others called for an end to 26 years of military one-party rule and its replacement by a civilian interim administration. The military reimposed control in a coup on 18 September 1988 and formed the SLORC. It proclaimed severe martial law restrictions on freedom of expression and assembly and instituted military courts to try political cases. Since then the SLORC has arrested thousands of people for their opposition to its continued rule. Although general elections were held in May 1990, the SLORC has not transferred power to the elected National Assembly.

RECOMMENDED ACTION: Telegrams/telexes/faxes/express and airmail letters:

- urging that Bo Htway Lwin, Ba Min Thit, Aung Than, Myo Aung Htwe, and Khin Zaw not be executed, and that their right to judicial appeal against their conviction and sentence be immediately restored;

- expressing concern at reports that they have been sentenced to death by summary procedures contrary to international human rights standards;

- pointing out that according to the United Nations, executions resulting from summary procedures denying the right of legal appeal and omitting other fair trial safeguards constitute "the arbitrary deprivation of life".

APPEALS TO

Brig Gen Myo Nyunt
Commander of the Yangon Division Military Command
Yangon (Rangoon)
Myanmar (Burma)

Telegrams: Commander Myo Nyunt, Commander, Yangon Division Military Command, Yangon, Myanmar

Telexes: 21316 MILPRO BM

Faxes: + 95 1 22950 (via Ministry of Foreign Affairs)

Maj Gen Khin Nyunt,
First Secretary
State Law and Order Restoration Council
Yangon (Rangoon)
Myanmar (Burma)

Telegrams: Maj Gen Khin Nyunt, SLORC, Yangon, Myanmar

Telexes: 21316 MILPRO BM

Faxes: + 95 1 22950 (via Ministry of Foreign Affairs)

COPIES TO: diplomatic representatives of Myanmar in your country

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 22 April 1991.