13 March 2020  ASA 16/1975/2020

MYANMAR: DROP CHARGES AGAINST ENVIRONMENTAL ACTIVIST

The Myanmar authorities should immediately drop charges against ethnic Karen environmental activist Saw Tha Phoe, who is facing politically-motivated charges in connection with his work raising awareness about social and environmental impacts of a cement factory in southeastern Myanmar. The charges are a clear attempt to suppress his activism and will seriously hinder his ability to support communities advocating for their rights. Instead of targeting him for arrest, Myanmar’s authorities should be addressing the serious concerns communities have about the factory.

On the evening of 6 March 2020, officers from the Myaing Ka Lay sub-district and Hpa-An Township police, Kayin State, arrived at Saw Tha Phoe’s house to arrest him. They did not show a warrant, however told Saw Tha Phoe’s relatives that an official from the Hpa-An General Administration Department had filed a complaint against him, accusing him of “incitement” under 505(b) in connection with a peaceful prayer ceremony he attended in January 2020. Saw Tha Phoe was not at home at the time and has since been forced into hiding, fearful for his safety.

The ceremony, which was held on 17 January 2020, was attended by around 1,000 people from villages close to a cement factory in Kayin State (also known as Karen State). Since September 2019, residents from thirty nearby villages have complained about negative environmental impacts of the factory, and have alleged that water in surrounding ponds, rivers, and lakes has become contaminated. An employee and member of several environmental civil society networks, Saw Tha Phoe had been helping villagers to document and raise awareness of the environmental and social impacts of the factory, and although he did not organize the prayer ceremony, he supported community leaders to highlight their concerns with national media.

Section 505(b) is a vaguely worded provision which has frequently been used to arrest and detain peaceful activists and human rights defenders in the country. It provides up to two years’ imprisonment for any person who makes, publishes, or circulates information which may 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 tranquility”.

Amnesty International calls on the Myanmar authorities to immediately drop the charges against Saw Tha Phoe, and to ensure he is able to continue his work without harassment, intimidation, or the threat of criminalization.

Almost four years since the transition to a civilian-led government, the Myanmar authorities continue to arrest and imprison activists and human rights defenders simply for peacefully exercising their rights to freedom of expression and peaceful assembly. Amnesty International has consistently raised concern about a number of laws in Myanmar which arbitrarily restrict these rights, including Section 505(b) of the Penal Code. The restrictions on the right to freedom of expression imposed by Section 505(b) are phrased in an excessively broad and vague manner, providing the means for both an overreach, and a discriminatory application, of the law.

Human rights defenders, including environmental activists, play a vital role in the protection and promotion of human rights, and it is crucial that they are able to speak out freely on human rights abuses, including those committed by companies and other non-state actors. Under Article 2 of the UN Declaration on Human Rights Defenders, each state has a duty to create the conditions necessary to defend human rights within their jurisdictions. Amnesty International, calls on the Myanmar government to ensure an environment in which it is possible to defend human rights without fear of reprisal or intimidation. In this regard, Amnesty International is especially concerned by reports that members of Saw Tha Phoe’s family, as well as colleagues, have been subjected to harassment and surveillance following the criminal complaint against him.

BACKGROUND

Saw Tha Phoe is a civil society activist who works primarily in southeast Myanmar to raise awareness of businesses and other industries which have negative environmental, social, and human rights impacts for surrounding communities. He is a staff member of Karen Rivers Network (KRW), and is also a member of the Myanmar Alliance for Transparency and Accountability (MATA), which advocates for greater for transparency and accountability of governance in Myanmar, in particular in extractive industries, and is a civil society representative within Myanmar’s Extractive Industries Transparency Initiative (EITI).