

URGENT ACTION

MEDIA WORKERS FACE ADDITIONAL CHARGES

While newspaper editor Kyaw Min Swe has been released on bail, he remains on trial for “online defamation” for a satirical article mocking the Myanmar Army. In addition, he and his colleague Kyaw Zwar Naing are now also facing additional charges in connection with the article. They have been charged solely for peacefully exercising their right to freedom of expression.

Kyaw Min Swe, chief editor of *The Voice* newspaper was released on bail on 4 August 2017, after spending two months in detention. However, he remains on trial for the charge of “online defamation” under Section 66(d) of the 2013 Telecommunications Law for a satirical article written by Kyaw Zwar Naing, a writer and regular contributor to *The Voice Daily*, which was published on 26 March 2017 and later posted on the newspaper’s Facebook page. The article, entitled “Oath of the Nation of Bullets” mocked a military-produced propaganda film, translated as “Union Oath”. The court proceedings remain ongoing and Kyaw Min Swe could face up to three years’ imprisonment if found guilty.

Kyaw Zwar Naing, who was arrested with Kyaw Min Swe on 2 June 2017, was released on 16 June after the court decided to drop the charge of “online defamation” against him. However, both men have now been charged under Article 25(b) of the 2014 Media Law for “a writing style which deliberately affects the reputation” of a person or organization. The wording of this provision is vague and overly broad, opening the law up to arbitrary or abusive application. Both men could be fined up to 1 million kyats (approx. 717 USD) each if found guilty.

There are numerous repressive laws in Myanmar, including the 2013 Telecommunications Law and the 2014 Media Law, which impose arbitrary and sweeping restrictions on the right to freedom of expression. These laws leave human rights defenders, peaceful activists, journalists and ordinary members of the public at risk of arrest and imprisonment for their peaceful activities.

Please write immediately in English, Burmese or your own language urging the Myanmar authorities to:

- Immediately drop all charges against Kyaw Min Swe and Kyaw Zwar Naing as they have been charged solely for peacefully exercising their right to freedom of expression;
- Amend the 2013 Telecommunications Law and the 2014 Media Law to ensure that they comply with international human rights law and standards; and
- Ensure that journalists and other media workers are able to carry out their right to freedom of expression without fear of surveillance, intimidation, harassment, arrest, prosecution or retribution, and guarantee the integrity of journalists and media workers.

PLEASE SEND APPEALS BEFORE 19 SEPTEMBER 2017 TO:

Attorney General
U Tun Tun Oo
Union Attorney General
Office No. 25, Nay Pyi Taw
Republic of the Union of Myanmar
Fax: + 95 67 404 106
Email: ago.h.o@mptmail.net.mm
Salutation: Dear Attorney General

Minister of Home Affairs
Lt. Gen. Kyaw Swe
Ministry of Home Affairs
Office No. 10
Nay Pyi Taw
Republic of the Union of Myanmar
Fax: +95 67 412 439
Email: mohamyanmar@gmail.com
Salutation: Dear Minister

And copies to:
Speaker of the Pyidaungsu Hluttaw
Mahn Win Khaing Than
Pyidaungsu Hluttaw
Yaza Htarni Road
Nay Pyi Taw
Republic of the Union of Myanmar

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the second update of UA 137/17. Further information:

<https://www.amnesty.org/en/documents/asa16/6658/2017/en/>

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ADDITIONAL INFORMATION

The Myanmar authorities continue to arrest and imprison individuals solely for the peaceful exercise of their right to freedom of expression. In the past two years, at least 71 activists and individuals have been prosecuted under Section 66(d) of the 2013 Telecommunications Law for “defamatory” Facebook posts. Section 66(d) provides up to three years’ imprisonment for “extorting, coercing, restraining wrongfully, defaming, disturbing, causing undue influence or threatening any person by using any Telecommunications Network”. People have been arrested and charged for Facebook posts critical of the Myanmar Army, the former government as well as members of the government led by the National League for Democracy (NLD).

In March 2014, a new Media Law was enacted. It aims to “*establish and develop responsibilities, ethics, rules and regulations and practices*” for media organizations. The law establishes a code of conduct under which media workers are obligated to avoid “*a writing style which deliberately affects the reputation of a specific person or/and organization or generates negative impact to the human right...*” and “*ways of writing which may inflame conflicts regarding nationality, religion and race*”. The wording of this provision is vague and overly broad, opening the law up to arbitrary or abusive application. For more information about the Media Law please see “*Caught between state-censorship and self-censorship: Prosecution and intimidation of media workers in Myanmar*” (Index: ASA 16/1743/2015), <https://www.amnesty.org/en/documents/asa16/1743/2015/en/>

The right to freedom of expression is enshrined in Article 19 of the Universal Declaration of Human Rights (UDHR). Under international human rights standards, the right to freedom of expression extends to “all forms of audio-visual as well as electronic and internet-based modes of expression”. In addition, the human right to freedom of expression extends to ideas of all kinds, including those that may be considered insulting or offensive. The mere fact that forms of expression are considered to be insulting to a public figure or institution, who are legitimately subject to criticism, is not sufficient to justify the imposition of penalties. In particular, states should not prohibit criticism of institutions, such as the army. Amnesty International opposes laws criminalizing defamation, whether of public figures or private individuals, and considers that defamation should be treated as a matter for civil litigation.

Name: Kyaw Min Swe and Kyaw Zwar Naing

Gender m/f: both male

Further Information UA: 137/17 Index: ASA 16/6898/2017 Issue Date: 8 August 2017