

# URGENT ACTION

## THREE ACTIVISTS FACE PRISON FOR PEACEFUL RALLY

Three activists are facing prison sentences for giving speeches criticizing the military and calling for constitutional reform at a peaceful rally in April 2019. If convicted, they face up to two years in prison. Two of the men are on bail, while one is already serving one year in prison and facing further charges for speaking at other peaceful rallies. The Myanmar authorities should release him immediately and unconditionally, quash his conviction, and drop all remaining charges against the three activists.

### TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Lt. Gen. Soe Htut

Minister of Home Affairs

Ministry of Home Affairs Office No. 10, Nay Pyi Taw

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Dear Minister,

I am writing to express my concern about the prosecution of lawyer **Kyee Myint**, poet **Saw Wai** and former military captain **Nay Myo Zin** who are facing charges in connection with their peaceful exercise of their right to freedom of expression and calling for constitutional reforms. Amnesty International believes the prosecution of the activists to be politically-motivated, and I urge you to immediately and unconditionally release Nay Myo Zin and drop all charges against the three men.

The Kawthaung Township Court began proceedings on 20 January 2020 against the three activists after a member of the Myanmar military filed a complaint against them for speeches criticising the military and calling for constitutional reforms at a rally in Kawthaung in April 2019. Kyee Myint, Saw Wai, and Nay Myo Zin are charged with “statements conducing to public mischief” under Section 505(a) of Myanmar’s Penal Code. If convicted, they each face up to two years in prison.

While I am pleased that Kyee Myint and Saw Wai have been granted bail, the fact remains that none of the three men should be facing prosecution in the first place. I am concerned that Nay Myo Zin remains in detention in Kawthaung prison, where he is serving a one-year prison sentence for another speech given at peaceful rally in Yangon Region in April. It is important that people in Myanmar are able to freely discuss constitutional reform issues – in particular as the government has established a specific committee to examine and propose amendments to the Constitution.

Finally, I remain concerned by the ongoing use of repressive laws, including Section 505(a) of the Penal Code, to arrest, prosecute, and imprison peaceful activists and human rights defenders in Myanmar. These laws arbitrarily and unlawfully restrict the right to freedom of expression. As Myanmar prepares for elections in late 2020, it is essential that the Myanmar authorities commit to respecting and protecting the right to freedom of expression and other human rights of everyone.

I therefore urge you to:

- Immediately and unconditionally release Nay Myo Zin, as he is being detained solely for peacefully exercising his right of freedom of expression;
- Drop all charges against Kyee Myint, Saw Wai, and Nay Myo Zin;
- Review and repeal or amend laws that unlawfully restrict the right to freedom of expression, including Section 505(a) of the Penal Code, to bring them in line with international human rights standards.

Yours sincerely,

## ADDITIONAL INFORMATION

On 3 April 2019 Kyee Myint, Saw Wai, and Nay Myo Zin attended a rally in Kawthaung town in Tanintharyi Region, southern Myanmar. At the rally, which was attended by about seven hundred people, they made speeches in which they criticised the Myanmar military and its role in politics and called for constitutional reforms. Kyee Myint called for the Constitution to be amended to protect the people of Myanmar and prevent the military from staging a coup, while Saw Wai – whose real name is Saw Win – recited a poem, asking the audience to chant “reject evil laws”.

More than six months later, on 17 October 2019, Lt. Col Zaw Zaw of the Myanmar military's Coastal Command filed charges against the three men under Section 505(a) of the Penal Code, which prohibits the circulation of statements and reports with “intent to cause, or which is likely to cause, any officer, soldier, sailor or airman, in the Army, Navy or Air Force to mutiny or otherwise disregard or fail in his duty”. The provision, which carries up to two years in prison, has been increasingly used by the Myanmar military to target critics in the last year.

Court proceedings began on 20 January 2020. At a court hearing on 3 February, the Kawthaung Township Court judge granted bail to Kyee Myint and Saw Wai on the grounds of their ill health – Kyee Myint suffers from diabetes, hypertension and kidney problems, while Saw Wai has serious heart problems. However, Nay Myo Zin, who is currently serving one year in prison for calling for constitutional reforms at a peaceful rally in Yangon on 1 April 2019, will remain in detention in Kawthaung prison while the trial is ongoing. First arrested on 19 April 2019 and detained in Yangon's Insein prison, Nay Myo Zin was sentenced to one year in prison on 20 September for violating Section 505(a) of the Penal Code. He is facing two additional charges under 505(a) for similar speeches at rallies in Ayeyarwaddy and Sagaing Regions. He was transferred to Kawthaung prison on 13 January 2020.

All three men have previously been imprisoned as a result of their peaceful activism. Kyee Myint has been imprisoned five times for his peaceful activities, including after being arrested during the 1988 student uprising. Saw Wai was arrested in January 2008 and later sentenced to two years in prison after penning a viral poem – disguised as a love poem – in which he described the then-head of the military government Senior General Than Shwe as power crazy. Nay Myo Zin has repeatedly been jailed for his peaceful activism. In August 2011, he was sentenced to ten years' imprisonment for writing articles criticizing the military; he was granted a presidential pardon in January 2012. In May 2015, he was sentenced to more than four years in prison after participating in a peaceful protest calling for an investigation into the killing of a farmer during a violent police crackdown on protesters against the controversial Letpadaung copper mine in central Myanmar in March that year.

The Myanmar military continues to wield significant economic and political power in the country. It operates independently of civilian oversight, effectively shielding members of the military from accountability. Under Myanmar's 2008 Constitution, the military also has a guaranteed 25 per cent of seats in Parliament, giving it an effective veto over key Constitutional amendments. It also controls the three key ministries of Defence, Border Affairs, and Home Affairs. On 6 February 2019, Myanmar's Union Parliament with the National League for Democracy (NLD) majority formed the Constitution Amendment Joint Committee, including military representatives, tasked with drafting amendments to the Constitution.

Amnesty International is concerned about the ongoing arrest and detention of activists and human rights defenders in Myanmar, merely for the peaceful exercise of their right to freedom of expression, a right enshrined in Article 19 of the Universal Declaration of Human Rights (UDHR). The Myanmar authorities must ensure respect for, and protection of, the right to freedom of expression, in particular as the country prepared to head to the polls in elections scheduled for November 2020.

**PREFERRED LANGUAGE TO ADDRESS TARGET:** English and Burmese/Myanmar  
You can also write in your own language.

**PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL:** 17 April 2020  
Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

**NAME AND PREFERRED PRONOUN:** Kyee Myint (he/him), Saw Wai (he/him), Nay Myo Zin (he/him)