

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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Friday, February 3, 2017

President U Htin Kyaw
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Minister of Home Affairs
Lt. Gen. Kyaw Swe
Ministry of Home Affairs, Office No. 10
Nay Pyi Taw, Republic of the Union of Myanmar
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Your Excellency and Minister of Home Affairs :

Re: Murder of U Ko Ni –Duty to ensure an effective investigation

Lawyers' Rights Watch Canada (LRWC) is a committee of Canadian lawyers and other human rights defenders who promote human rights and the rule of law through advocacy, education and research. LRWC is an NGO in Special Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations (UN).

Background

On January 29, 2017 prominent Burmese lawyer U Ko Ni was shot at the Yangon Airport as he was leaving the terminal after attending a meeting in Indonesia where they had discussed sectarian tensions in Rakine State.

Ko Ni was a legal adviser to the National League for Democracy and a constitutional expert. He had participated in the 1988 pro-democracy movement in Burma and was a former political prisoner. He had written 6 books on good governance and various human rights issues. His daughter, Yin New Khine, is reported as saying that he had often received threats for speaking out against continuing influence of the military on politics. He was a founding senior member of the Independent Lawyers Association of Myanmar and in 2016 was a founding member of the Myanmar Muslim Lawyers Association.

The alleged assailant 53 year old Kyi Linn was arrested near the scene of the shooting.

The monk, Ashin Wirathu, has led the 969 movement in Myanmar (formerly Burma), which is very hostile to Muslims in Burma. Unfortunately that movement has a significant following in Myanmar.

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In Arakan State (also known as Rakine State) in western Myanmar there has been significant hostility and mistreatment of the large Muslim segment of the population who identify themselves as Rohingya. Their treatment is under review by a group headed by former U.N. Secretary General Kofi Annan.

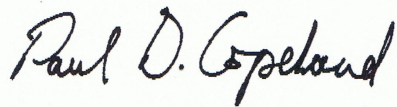
The State Duty to Investigate: Essential to Protect the Right to Life

The duty to investigate violations of the right to life is essential to protect the right to life, a non-derogable, *jus cogens* norm guaranteed by “international and regional treaties, customary international law, and by domestic legal systems globally.”¹ As a member of the United Nations (18 April 1948) Myanmar is bound by the twin legal obligations identified by the Universal Declaration of Human Rights (UDHR) to protect the right to life of all persons within its territory (Article 3) and to prevent, punish and remedy violations (Article 8). The duty to conduct thorough, prompt, and impartial investigations of all cases of extra-legal, arbitrary and summary executions is an essential component of the duty to protect the right to life. Such investigations must be effective to identify and apprehend all persons involved in and responsible for the death and to bring all suspected perpetrators before a competent court established by law² for prosecution and punishment in accordance with fair trial standards.

It is also critically important that the Government of Myanmar examine, and report as quickly as possible, on whether the murder of U Ko Ni was in some way motivated by anti Muslim views in Myanmar.

We thank you for your action to ensure a thorough investigation.

Sincerely,



LRWC Burma Monitor
Barrister and Solicitor

Copied to:

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¹ Minnesota Protocol on the Investigation of Potentially Unlawful Deaths: Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, A/HRC/32/39/Add.4, June 2016, para. 11, <http://www.ohchr.org/Documents/Issues/Executions/UNManual2015/A.HRC.32.39.Add.4.docx>. Also see UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, A/HRC/26/36, 1 April 2014, para. 42, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-36_en.doc.

² Minnesota Protocol, *infra* note 21, Section B.

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