



The Law Society of
Upper Canada

Barreau
du Haut-Canada

February 4, 2016

President Thein Sein
President's Office
Nay Pyi Taw
Myanmar

Office of the Treasurer

Osgoode Hall
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Your Excellency:

Re: Persecution of human rights lawyer Khin Khin Kyaw

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the persecution of human rights lawyer Khin Khin Kyaw. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Khin Khin Kyaw is a member of a legal team that is representing more than 50 students who participated in the March 2015 protests to oppose Myanmar's National Education Law. The students have been detained and face charges related to unlawful assembly, rioting, harming public servants, and public mischief.

Reports indicate that while Khin Khin Kyaw was representing her clients in court on 1 September 2015, the judge refused to accept a minor amendment to the legal motion Khin Khin Kyaw submitted. Individuals in the courtroom loudly accused the judge of being biased. On 15 September 2015, Khin Khin Kyaw was charged with 'disrupting the court', and her trial began on 14 October 2015. It is our understanding that she is now facing up to six months in prison and the revocation of her licence to practice law.

Human rights organizations believe that the trial against Khin Khin Kyaw is an attempt to prevent her from representing the student protestors.

The Law Society of Upper Canada urges Your Excellency to consider Articles 16 and 23 of the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Myanmar to:

- a. drop the charges against Khin Khin Kyaw;
- b. put an end to all acts of harassment against Khin Khin Kyaw as well as other human rights lawyers and defenders in Myanmar;
- c. guarantee all the procedural rights that should be accorded to Khin Khin Kyaw;
- d. guarantee in all circumstances the physical and psychological integrity of Khin Khin Kyaw;
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor

Treasurer

**The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,400 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

H.E. U Hau Do Suan
Ambassador
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336 Island Park Drive
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Canada

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriela Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales