

URGENT ACTION

MAN FACES PRISON AFTER CALLING FOR JUSTICE

Shyam Brang Shawng (known as Brang Shawng), an ethnic Kachin man from Myanmar, is facing jail following his calls for the authorities to investigate the role of the Myanmar Army in the death of his daughter. Charges against him must be immediately dropped.

Brang Shawng's daughter, **Ja Seng Ing**, died on 13 September 2012 in Sut Ngai Yang village, Hpakant Township, Kachin State, northern Myanmar. She was 14 years old. According to eyewitnesses, Myanmar Army soldiers shot her dead. However, the Myanmar Army claims she was killed by a Kachin Independence Army (KIA) landmine, which exploded around the same time as she was shot.

On 25 September 2012, Brang Shawng sent a letter to the President, calling on him to take action on the case. This was followed on 1 October 2012 by a letter to the Myanmar National Human Rights Commission (MNHRC), in which Brang Shawng called on them to undertake an investigation into his daughter's death. He did not receive a response to either letter. Instead, on 25 February 2013, he was charged under Article 211 of Myanmar's Penal Code with making false allegations against the Myanmar Army in his letter to the MNHRC. The charges follow a complaint lodged by a Myanmar Army Major to the Hpakant Township police station. It is unclear how the Myanmar Army accessed Brang Shawng's letter to the MNHRC.

Brang Shawng is currently on trial before the Hpakant Township Court and is facing up to seven years' imprisonment. It is believed the charges against him are politically motivated and are solely in retaliation to his complaint against the Myanmar Army. Should he be convicted and imprisoned, Amnesty International would consider him to be a prisoner of conscience.

Please write immediately in English, Burmese or your own language:

- Demanding that the Myanmar authorities immediately drop the charges against Brang Shawng;
- Calling on them to undertake a prompt, impartial, independent and effective investigation into the death of Ja Seng Ing and bring those responsible to justice in independent, civilian courts in trials which meet international standards of fairness, and which do not impose the death penalty;
- Ensure that all those who make complaints about human rights violations – including to the MNHRC – are not subject to intimidation or retaliatory action and, instead, that adequate protection mechanisms are put in place for victims, witnesses and their families.

PLEASE SEND APPEALS BEFORE 28 JANUARY 2015 TO:

President

U Thein Sein
President's Office
Nay Pyi Taw
Republic of the Union of Myanmar
Fax: +95 1 652 624

Salutation: Your Excellency

Commander in Chief of the Myanmar

Armed Forces
Senior General Min Aung Hlaing
Building 24
Nay Pyi Taw
Republic of the Union of Myanmar

Salutation: Dear General

And copies to:

Chairman, Myanmar National Human Rights Commission
U Win Mra
27 Pyay Road, Hline Township
Yangon
Republic of the Union of Myanmar
Fax: +95 1 659 668
Email: winmra@mnhrc.org.mm

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.

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ADDITIONAL INFORMATION

The death of Ja Seng Ing came a year after the resumption of conflict between the Myanmar Army and the Kachin Independence Army (KIA) in Kachin and northern Shan States, northern Myanmar in June 2011. Since the resumption of conflict, Amnesty International has received consistent reports of human rights violations by members of the Myanmar Army. These reports include allegations of unlawful killings, torture and other ill-treatment, enforced disappearance and rape and other crimes of sexual violence. Independent and impartial investigations into such allegations are rare and suspected perpetrators are seldom held to account, contributing to a culture of impunity in the country. Myanmar is bound by rules of customary international law, which guarantees the right to an effective remedy for human rights violations, equality before the law and the right to a fair trial.

As a state party to the Convention on the Rights of the Child, Myanmar has a legal duty to protect and respect the inherent right to life of children such as Ja Seng Ing (Article 6), as well as protect them from any form of violence (Article 19). Having failed to do so in her case, the Myanmar authorities were under an obligation to investigate her death promptly, independently, impartially and efficiently with a view to bringing those responsible to justice. As the Committee on the Rights of the Child has stated, “for rights to have meaning, effective remedies must be available to redress violations”. Justice and remedy was all that Brang Shawng was seeking.

The fact that Brang Shawng has been charged as a result of lodging a complaint about the death of his daughter is inherently unfair and should never have happened. In addition, Amnesty International is concerned about reports that Brang Shawng is being subjected to an unfair trial. Among the concerns raised include lack of access to lawyers, the presence of armed soldiers outside the court, removal of judges and interference with witnesses.

The criminal case against Brang Shawng raises serious concerns about operational independence of the Myanmar National Human Rights Commission (MNHRC), as well as its ability to protect those who lodge complaints against it. The UN Principles relating to the Status of National Institutions (The Paris Principles), which set out international standards for the operations of national human rights institutions (NHRIs), call for such institutions to be independent and free from government interference. Furthermore, Article 42 of the Myanmar National Human Rights Commission Law (No. 21/2014) states that individuals should not “victimize, intimidate, threaten, harass or otherwise interfere with any person on the ground that that person, or any associate of that person, has given information or evidence in relation to any complaint, investigation or proceeding” by the MNHRC.

National and international organizations have raised concerns about the case against Brang Shwang and about the death of his daughter, Ja Seng Ing. On 18 December 2014, Amnesty International, Fortify Rights, the Harvard Law School International Human Rights Clinic, Human Rights Watch, the International Commission of Jurists, and Physicians for Human Rights sent a joint letter to the President of Myanmar calling for the charges against Brang Shwang to be dropped. The letter can be accessed here:

<http://www.amnesty.org/en/library/info/ASA16/030/2014/en>.

Name: Brang Shawng (m), Ja Seng Ing (f)

Gender m/f: both

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