



Objection of Unlawful Indictment by the Myanmar Army Against a Christian Religious Leader from Burma for his Request to the President of the United State

In a meeting with Donald Trump, the President of the United States, at the White House, held on July 17, 2019, Dr. Khalam Samson, made the following request:¹

“I am the president of the Kachin Baptist Convention (KBC) from northern Burma. As Christians in Myanmar, we are very being oppressed and tortured by the Myanmar military government. we don’t have chance for religious freedom and also the ethnic armed groups fight against the central military government. So, please the American government focus on ethnic people and ethnic leaders to get genuine democracy and federalism and very important for your help and for your support. Thank you very much for your sanction yesterday. It is very helpful for us.”

The above statement does not constitute any crime but it was just the practice of his freedom of expression, accentuating the right to religious freedom. His statement on lack of religious freedom in Burma is undoubtedly valid and also a truth. For instance, it is evident, *inter alia*, that the two young female Kachin volunteer teachers, sent by the KBC, were raped, brutally tortured, and killed by the Myanmar army personnel at a mountainous Kachin village, known as the Kawng Kha Shabuk village, about 20 miles east of Muse town, in Northern Shan State, on January 19, 2015. The detailed case story and the legal analysis can be observed at the following link.² Unfortunately, the Myanmar military perpetrators are still enjoying impunity as no action was taken against them as of now. It constituted a war crime.

In connection with international crimes, being committed by the Myanmar Army in the Ethnic Provinces, Dr. Hkalam Samson’s statement has already been supported by the UN’s Independent International Fact-Finding Mission on Myanmar (IIFMM) in its public report, submitted on September 17, 2018.³

The term, *the Myanmar military government*, used by Dr. Khalam Samson, is also correct in accordance with the 2008 Constitution of Burma.⁴ As such, his recommendation for achieving genuine democracy and federalism focusing on the rights of all ethnic peoples, in addition to Kachin nationals, are totally reasonable and it does not constitute any crime.

¹ <https://www.facebook.com/ABCNews/videos/2586238071399957/>

² https://drive.google.com/file/d/15LW2_hq1tNBMiH36OrQPXT6pMrM_b5Md/view

³ <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E>

⁴ Articles 6 (f), 60, 74, 109 (b), 141 (b), 201, 232(b), 262 (b), 293 (c), 319, 338, 343 (b), 436 and Chapter 11.

The action of Dr. Khalam Samson in the US, criminalized by the Myanmar Army, is not an international crime, such as crime against humanity, genocide, war crimes and crime against torture, which might fall under the universal jurisdiction. Hence, it shall be dealt with from the aspect of the domestic law of Burma. Without mentioning any specific crime, he was indicted by the Myanmar Army in Kachin State, Burma, on August 26, 2019.

Section 177 of the Court of Criminal Procedure (CrPC), the effective law in Burma and also applicable in common law countries, provides: “Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.” The alleged criminal action occurred in the United States but not in territory of Myitkyina, the capital of the Kachin State, Burma. As such, the Myitkyina township court does not have any jurisdiction. We demand that the direct complaint submitted by Lieutenant Colonel Than Htike, an official of the Myanmar Army, against Dr. Hkalam Samson be dismissed by the Myitkyina township court right away invoking Section 203 of the CrPC.

Legal Aid Network humbly requests the international community and domestic ethnic organizations, legal associations and lawyers, CSOs, religious leaders, human rights activists, and politicians to impose pressure on the ruling military regime in Burma for immediate release of Dr. Hkalam Samson.

Legal Aid Network

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For more information, please contact:

Mr. Aung Htoo, Human Rights Lawyer and Founder of LAN
Tel: (46) (0) 76 1156 215
E.mail: legalaiddnetwork@gmail.com
Website: legalaiddnetwork.org