

## Unofficial translation of the trial report

District Court of Eastern Rangoon  
Criminal Trial No. 6 of the Year 2004

February 20, 2004

Complainant: Police second lieutenant Ye Nyunt

Defendants: 1. Kyaw Soe Moe (alias Kyaw Moe)  
2. Nandar Sit Aung (alias Sit Ko Aung)  
3. Zaw Lin Tun (alias Hpo Zaw and Soe Win)  
4. Lwin Ko Latt (alias Win Ko)  
5. Kyaw Kyaw  
6. Han Win Aung (alias Narthi Maung)

### Emergency Provisions Act, Section 5 (J)

Lawyer for the complainant: U Hlaing Myint (Deputy District Law Officer)  
Lawyer for the defendant (2): U Thein Nyunt (higher grade pleader)  
For the defendants 1 to 5: The defendants

### Judgment

This case is based upon a complaint by police second lieutenant Ye Nyunt, of the Special Police Information Forces; he wants action to be taken against 6 people including Kyaw Soe Moe (alias Kyaw Moe) for trying to distribute political leaflets by the All Burma Federation of Student Unions (ABFSU) under the title "The Plea to the People and All Ethnic Minorities (1)". The leaflet attacks and criticizes the 7 step Road Map of the Prime Minister of the Union of Burma and hence harms the stability of the peace and development of the Union of Burma.

The police second lieutenant Ye Nyunt, (Prosecution Witness-PW 1) submitted evidence (1), a statement urging the court to take action upon his findings, and evidence (2), a letter from the Ministry of Home Affairs providing permission for the accused to be sued.

The police second lieutenant Kyaw Naing Soe (PW-2) stated that both he and the military intelligence personnel from MI unit (2) searched U Htay's house in Bo Ba Htoo Street, Hlaing Tharyar Township, on September 26, 2003, after tracing information back to this residence. They found and seized six different anti-government leaflets from Nandar Sit Aung. Quarter Master 1, U Chit Than (PW-9), and U Thant Zaw (PW-4) were witnesses to this case and U Htay signed for the documents - these leaflets were taken under a search warrant and shown as evidence (D). The political leaflets of the All Burma Federation of Student Unions (ABFSU) entitled "The Plea to the People and All Ethnic Minorities (1)" were seized under a search warrant and submitted as evidence (D) No. 1 - the search warrant itself was submitted as evidence (D-1). On the same day, near the video rental shop in No. 3 street, Hlaing Tharyar Township, the same people searched Nandar Sit Aung. They found upon his person, in a plastic bag, two round stamps from the Rangoon University Student Union and a yellow covered booklet about the 40 year memorial of the 7 July, named as "Plea to the Mother Peacock". They seized these in front of witness U Aye Win (PW-11) and witness U Thant Zaw (PW-4) and Nandar Sit Aung gave his signature for the search warrant - these were later submitted as evidence (E). Also, on the same day, at the bus station near 50th street, Botataung Township, they searched Zaw Lin Tun and found 150 copies of the ABFSU leaflet "The Plea to the People and All Ethnic Minorities (1)", stamped with the ABFSU round seal. They seized these leaflets in front of witnesses U Tint Lwin (PW-10) and U Than Nyunt; Zaw Lin Tun signed for these under the search warrant and they were later submitted as evidence (F). At the bottom of the Acacia tree, 50 yards distance from Bo Ba Htoo and Tapin Shwehtee streets, Hlaing Tharyar Township, they found an ABFSU white round seal and a pink plastic ink pad, both hidden by Zaw Lin Tun. They seized these items in front of witnesses, U Thant Zaw (PW-4) and U Aye Win (PW-11), and Zaw Lin Tun signed for them under the search warrant - they were later submitted as evidence (G). The MI searched Lwin Ko Latt's house, Tanyin Township, and, in the wallet at the top of the bureau, found a paper, with pencil writing on both sides, entitled "Saluting 19 July". They seized this item in front of witnesses, quarter master U Shwe Mya Tun (PW-5) and member of the quarter authority, U Than Tun Aung; Lwin Ko Latt signed for the item under the search warrant - this item was later submitted as evidence (H).

The police second lieutenant Aung Naing Moe (PW-3) stated that when he searched Kyaw Soe Moe's house in Mya Yadanar (5) Street, (B) quarter, North Okkalapa Township, he found 326 copies of the ABFSU leaflet "The Plea to the People and All Ethnic Minorities (1)". He went on to say that he seized these copies in front of witnesses, quarter master U Tin Win (PW-6) and member of the quarter authority, U Ohn Kyaw, and that Kyaw Soe Moe had signed for these under the search warrant - they were later submitted as evidence (C).

The police second lieutenant Maung Myo (PW-8) stated that when he searched Kyaw Kyaw's house in No (7) quarter, Shwe Pyithar Township, he found 12 materials in Kyaw Kyaw's backpack; he seized these items in front of the witnesses, members of the quarter authority U Win Tin (PW-7) and U Han Thein. He stated that Kyaw Kyaw signed for these items under the search warrant - were later submitted as evidence (I).

The police second lieutenant Zaw Moe (PW-12) explained the interrogation procedure in his statement and submitted the evidence (J) to (J-5).

According to the statements of the prosecution witnesses, the accused were to be found guilty under the 1950 Emergency Provisions Act, Section 5 (J). The court itself placed a charge upon the accused, explaining to them the charge procedure,

and asking them whether they were guilty or not. The accused replied firmly that they were not guilty. The accused, Han Win Aung, pleaded guilty, and demanded to be examined under the criminal procedure code 342 (2) as guilty. The rest of the accused were examined, after having taken an oath, and put forward eight defendant witnesses.

Kyaw Soe Moe (Defendant Witness-DW-1) admitted that he had been imprisoned under the 1950 Emergency Provisions Act, Section 5 (J) in 1991. He stated that Zaw Lin Tun, with whom he had lived in prison, had come to stay at his house. He declared that he knew nothing about the items which Zaw Lin Tun had left in his house whilst he was at work - evidence (C). Whilst he was working at his shop, the MI came to him and took him back to his house, in order to search for the items that Zaw Lin Tun had left. The MI searched for these items, knowing they were to be found upstairs. They found the political leaflets, the stamp and the ink pads under his mattress. He explained that these things were not his own belongings, but he was told to sign because these items were seized at his house, and therefore he had to sign as host.

Nandar Sit Aung, (alias Sit Ko Aung) (DW-2), stated that when the Prime Minister's seven step Road Map was broadcast on August 30, 2003, the facts about the new election to be held seemed to refute the result of the free and fair election of May 1990. He stated that he, as a statesman, wrote and published the political leaflets in order to protect the well being of the people and therefore the country. He argued that the followers who supported the road map were allowed to demonstrate and shout slogans expressing their support, so therefore he believed that he was not guilty in expressing, writing, and distributing his opinion against the road map. He argued that his activities were not a hindrance to the law and order of the state. He declared that when the MI seized these items, the witnesses U Aye Win and U Thant Zaw were absent - he cross-questioned U Thant Zaw's statement regarding their absence. He further declared that during the interrogation, the MI had ordered him to sign evidence (E) and thus he had had to sign. He argued that these anti-government leaflets were not distributed to people and that he did not know anything about the items that were seized and submitted as evidence (D); his father had signed for these items, declaring them to be his belongings. During the cross-examination, with regards to evidence (D-1), when asked whether his words within the leaflet meant that he did not approve of the prime minister's political road map, he answered "Correct".

Zaw Lin Tun (DW-3) admitted that he had been sentenced, in 1991, to seven years imprisonment under the 1950 Emergency Provisions Act, Section 5 (J). Whilst he was in prison he met U Htay, Kyaw Soe Moe and Kyaw Kyaw. After his release in 1997, while he was working in Kyaw Soe Moe's sandal business, located at his home, he met with U Htay once again, together with U Htay's son, Nandar Sit Aung. Nandar Sit Aung received a draft letter criticizing the prime minister's seven step road map to type out on computer. He then traveled across the border to see Min Naing, living in Mae Sot, Thailand, and typed it out on computer. He returned to Burma with yellow books and political leaflets (printed papers).

Nandar Sit Aung asked him to keep possession of these books and leaflets, so he kept some of them in his backpack in Kyaw Kyaw's house - Kyaw Kyaw was unaware that these items were being kept in his house. Zaw Lin Tun kept the remaining books and leaflets under the mattress, upstairs in Kyaw Soe Moe's house - Kyaw Soe Moe was not there at this time. On September 25, 2003, at the teashop in Hlaing Tharyar 3 Street, Nandar Sit Aung asked him to stamp the ABFSU seals on anti-regime leaflets and so he later stamped 150 political leaflets. Nandar Sit Aung asked him to bring these leaflets, a yellow book and a RUSU badge to give to Aung Tun from Thanlyin. Zaw Lin Tun took these things and gave them to Aung Tun at the bus stop on 50th street. Immediately after this, on his way back, he was arrested and 7500 kyats, a photo of Alodaw Pyae pagoda, and his national ID were seized. The persons who arrested him said they had arrested him because they received information from Min Naing. The MI told him that there were many leaflets left unfound; after arresting him, they seized these, after telling him that they knew where the exact location was.

Zaw Lin Tun then went on to state that Nandar Sit Aung was arrested in front of the video rental shop, on the corner of No. 3 Street, and that they had seized a wallet from him without a search warrant. He declared that it was unfounded that a) they had found political leaflets, that he had supposedly hidden at the bottom of the acacia tree, b) they had seized books from his backpack in Kyaw Kyaw's house or c) that after giving the leaflets to Aung Tun at the bus stop on 50th street, they had seized political leaflets from him. He pleaded that he did not take any action to create unrest amongst anyone.

Lwin Ko Latt, (alias Win Ko) (DW-4), stated that the paper "Saluting 19 July" was only a document paper saluting assassinated martyrs. He said there were no words attacking the law and order of the state, or any words referring to any governmental organizations. As a result, he pleaded not guilty.

Kyaw Kyaw (DW-5) admitted that he had been sentenced in 1992, to 7 years imprisonment under the Unlawful Associations Act, Article 17 (1), and that he was released in 1997. In prison he came to know Zaw Lin Tun and after their release, when Zaw Lin Tun had no where to live, he had allowed him to live in his house. He stated that he was unaware of the political leaflets being kept in his house. The MI personnel took Zaw Lin Tun from work to his house in order to search the house for incriminating evidence. He pleaded that he had only signed as a witness.

Han Win Aung admitted that he had been sentenced to 7 years in prison under the Emergency Provisions Act, Section 5 (J) in 1994. After his release, he visited U Htay, whom he had been close to in prison and through him became close to U Htay's son, Nandar Sit Aung. Bo Ni Aung, with whom he had also been close to in prison, introduced him to Kyaw Kyaw (alias Nyi Nyi). Kyaw Kyaw asked Han Win Aung to introduce him to some politicians; Han Win Aung pleaded that this information was correct.

The accused signed and gave the anti-political leaflets, round seals and books to be shown as evidence (C, D, E, F, G, H and I). The leaflets, which were signed and presented under the search warrant, were the political leaflets entitled "The Plea to the People and All Ethnic Minorities (1) of the All Burma Federation of Student Unions". The accused, Nandar Sit Aung, had written the draft leaflet and Zaw Lin Tun had gone to Min Naing in Mae Sot to type it on computer, returning with typed papers and seals which he then kept in Kyaw Soe Moe's house and Kyaw Kyaw's house.

With relation to the accused Lwin Ko Latt (alias Win Ko), in Nandar Sit Aung's, interrogation form (evidence J-1), Nandar Sit Aung had previously appointed Win Ko as chairperson of ABFSU (Rangoon Division). According to Lwin Ko Latt's interrogation form (evidence J-4) he admitted that, with regards to the letter, seized under the search warrant (evidence H/No. 1), the following information was written: "To continue the independence battle after our fathers; to revolt against the maniacal State Peace and Development Committee members; to oppose against the extreme ideologies; peacock blood is still red and the peacock is still the strong father, we will achieve our goal at once if the situation is on our side - which will only be for a moment father - we will renew the peacock blood and strength and we will fly our peacock flag once again". The accused, Han Win Aung, declared in his statement (evidence J-5), that Nandar Sit Aung had planned to distribute ABFSU anti-regime leaflets criticizing the prime minister's Road Map. When Nandar Sit Aung urged him to distribute the

leaflets to politicians in upper Burma, he agreed. If the pleas, before the military intelligence, fail to provide any firm evidence of threat, temptation or promise, as stated in the Evidence Act, Article 24, there is no reason to reject the statement in front of the military intelligence personnel. If accused legitimately, with firm admittance of how the crimes were committed, in front of the military intelligence personnel, with regard to these admissions, the accused will be punished accordingly - as parallels the trial of "The Union of Burma versus U Ye Naung and two (1)". Thus, the accused, Lwin Ko Latt (alias Win Ko) and Han Win Aung, firmly stated in front of the military intelligence personnel that they had cooperated with Nandar Sit Aung in distributing the political leaflets which criticized the prime minister's political road map.

The accused, Nandar Sit Aung, pleaded that the seized items, shown as evidence (E), were not seized from him, and that there were no witnesses present at this time. Nandar Sit Aung cross-questioned the witness Ko Thant Zaw (PW-4) asking "Where were the round seal and the yellow book shown as evidence (E) seized from?" Ko Thant Zaw replied "All I know is that these things were seized from Nandar Sit Aung's house and also from the bottom of the Acacia tree nearby". The witness Thant Zaw (PW-4) did not argue with regards to the finding of the round seal and the yellow book from Nandar Sit Aung's house and from the bottom of the Acacia tree nearby.

Within the seized letter, it was written: "We would like to plea to monks, students and all people to oppose the prime minister's seven-step political road map; let us fight against the terrorist regime hand in hand together with people from around the world." On August 30, 2003, the Prime Minister Gen. Khin Nyunt made a speech and in that speech he clearly and thoroughly explained about the future policies for the seven-step political road map, for the modernization and development of the country. In order to establish this modernized and developed new democratic country step by step, the most important objectives stated were security of the state, stability of the state, and stability of the law and order of the state. After the 1988 uprisings, the military took responsibility to prevent the country from turning to chaos and set up three national policies. As all citizens are aware, under these three national policies, twelve objectives were set up and the military government is trying very hard to develop a modernized, new democratic country. Ignoring the national policies, the accused attempted to distribute these letters in order to encourage people to oppose the prime minister's political road map. The facts are clear that the anti-government leaflets were found and seized within their possession. If these anti-government letters were spread amongst people, it would encourage people to disrespect and misunderstand the government, and would harm or spoil the security of the state, law, order and restoration of the state. Therefore, it is clear that they attempted to distribute the anti-government leaflets in order to encourage people to misunderstand and oppose the government.

Thus, the accused were found guilty of the charged crime and their punishment is as follows:

### Order

Kyaw Soe Moe (alias Kyaw Moe), son of U Kyaw Win, residing at No. 235, Mya Yadanar 5 Street, (B) quarter, North Okkalapa Township;

Nandar Sit Aung (alias Sit Ko Aung), son of U Htay, residing at No. 135, Bo Ba Htoo Street, No. 2 quarter, Hlaing Tharyar Township;

Zaw Lin Tun (alias Hpo Zaw and Soe Win), son of U Tin Nyunt, residing at Nhinsi Street, North Kwin quarter, Kyauktakar Township;

Lwin Ko Latt (alias Win Ko), son of U Hla Win, residing at No. 9, Thant Zin Street, Service quarter, Thanlyin Township;

Kyaw Kyaw, son of U San Yin, residing at No. 103, Min Ye Kyawswa Street, No. 7 quarter, Shwe Pyithar Township; and

Han Win Aung (alias Narthi Maung), son of U Aung San, residing at No. 674, Bagan Street, No. 5 quarter, South Okkalapa Township are to be found guilty according to the 1950 Emergency Provisions Act, Section 5 (J) and shall each receive seven years imprisonment with hard labor.

Their detention time shall be included within their sentences.

All evidence and books shall be destroyed.

Daw Pike Pike Aye (Ta/ 1586)

Deputy District Judge (5)

District Court of Eastern Rangoon

Translated by AAPP