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HRW.org

September 2, 2015

U Ye Myint
Chief Minister
Mandalay Region
Union of Myanmar

Re: Harassment of LGBT people in Mandalay

Dear U Ye Myint,

We write to express our alarm over a recent discussion in the Mandalay Regional Parliament that featured members of parliament making misinformed, discriminatory, and potentially inflammatory statements about gay and transgender people. The Burmese government should immediately condemn the statements made by a member of the regional parliament and a regional minister, and should pledge publicly to protect the fundamental rights of all people regardless of sexual orientation or gender identity.

Human Rights Watch is an international nongovernmental organization that investigates and reports on human rights abuses in over 90 countries, including Burma. We work on a range of human rights issues, including the rights of lesbian, gay, bisexual, and transgender (LGBT) people around the world.

The recent parliamentary debate is therefore of concern to Human Rights Watch, in that members seemed to suggest indifference to internationally recognized rights.

Daw Tin Tin Mar, a member of parliament from Chanayetharzan Township, asked the regional government during an August session about the action being taken against “gay people who assume they are women and who have been acting inappropriately.” Dr. Myint Kyu, the Border and Security Affairs Minister for Mandalay region, responded to the question by saying: “The existence of gay men who assume they are women is unacceptable and therefore we are constantly taking action to have the gays detained at police stations, educate them, then hand them back to their parents....

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[W]e will be including in our operations the area she mentioned as a special case.” Dr. Myint Kyu further said that, “Authorities have been to check on some gay people after being informed they were acting inappropriately with young men and detained nine of them. After finding out they did not commit any crime, the officials educated them and handed them back to their parents on a bond.”

Dr. Myint Kyu’s statements flaunt the very rule of law the government of Burma and the regional government of Mandalay are supposed to promote and uphold. Asserting that the very existence of “gay men who assume they are women” is “unacceptable” indicates extreme prejudice towards LGBT people, in particular transgender women who have the fundamental right to express their gender identity. Dr. Myint Kyu’s statement that authorities have “checked on” gay people and arrested nine of them before determining that they had committed no crime clearly indicates that the targeting of LGBT people by the authorities has nothing to do with enforcing Burma’s laws and instead appears to be an arbitrary and discriminatory targeting of a minority group. The fact that the authorities released the nine people they arrested on bond – instead of simply releasing them – contradicts the conclusion that they had committed no crime in the first place. That the authorities, according to Dr. Myint Kyu, then “educated” the gay people and “handed them back to their parents” demonstrates a harmful disregard for the freedom of LGBT people to express their identities and indifference on the part of authorities to their right to privacy.

Mandalay authorities have demonstrated disregard for the fundamental rights of LGBT people in the past. In July 2013, plainclothes police officers arrested a group of 10 gay men and transgender women in Mandalay. Nine of them were reportedly dragged, kicked, and handcuffed while being taken to the division police station for questioning, while one was able to escape. According to Burmese human rights groups, at the station police subjected them to further humiliation and abuse. The case was investigated by the Police Criminal Investigation Department, and the Myanmar National Human Rights Commission referred the case directly to the chief of police. However, the police never released any subsequent information about the investigation of these abuses.

Construing LGBT people as criminals and investigating them simply on the basis of their real or perceived sexual orientation or gender identity violates Burma’s international human rights obligations. Everyone has the right to liberty and security, which includes a prohibition on arbitrary arrest or detention. The Burmese government, including its regional governments, have an obligation to respect the rights to freedom of expression and assembly of LGBT people and ensure no one is subjected to arbitrary arrest or detention. If this happens, such as the incidents in 2013 or the planned police activities referenced in Dr. Myint Kyu’s remarks, the government should investigate and

appropriately punish officials responsible and make clear public statements that such targeting of LGBT people will not be tolerated.

Statements like those made by Dr. Myint Kyu appear to support discrimination, exclusion, and possibly outright abuse against LGBT people. This adds to the concerns of individuals who already live in a society where they face legal discrimination under section 377 of the penal code, a discriminatory British colonial-era law that criminalizes same-sex sexual behavior. The members of parliament, led by Dr. Myint Kyu, should retract their inflammatory and discriminatory statements, issue statements of support for the fundamental rights of LGBT people, and commit to investigating police abuse and reforming all wrongful and discriminatory practices.

I look forward to receiving your reply to this letter. Please send your reply to Kyle Knight, researcher, LGBT rights program: kyle.knight@hrw.org or

c/o Human Rights Watch
Neue Promenade 5
T10178 Berlin, Germany

Thank you for your attention to this matter.

Sincerely,



Graeme Reid
Director, Lesbian, Gay, Bisexual and Transgender Rights Program
Human Rights Watch