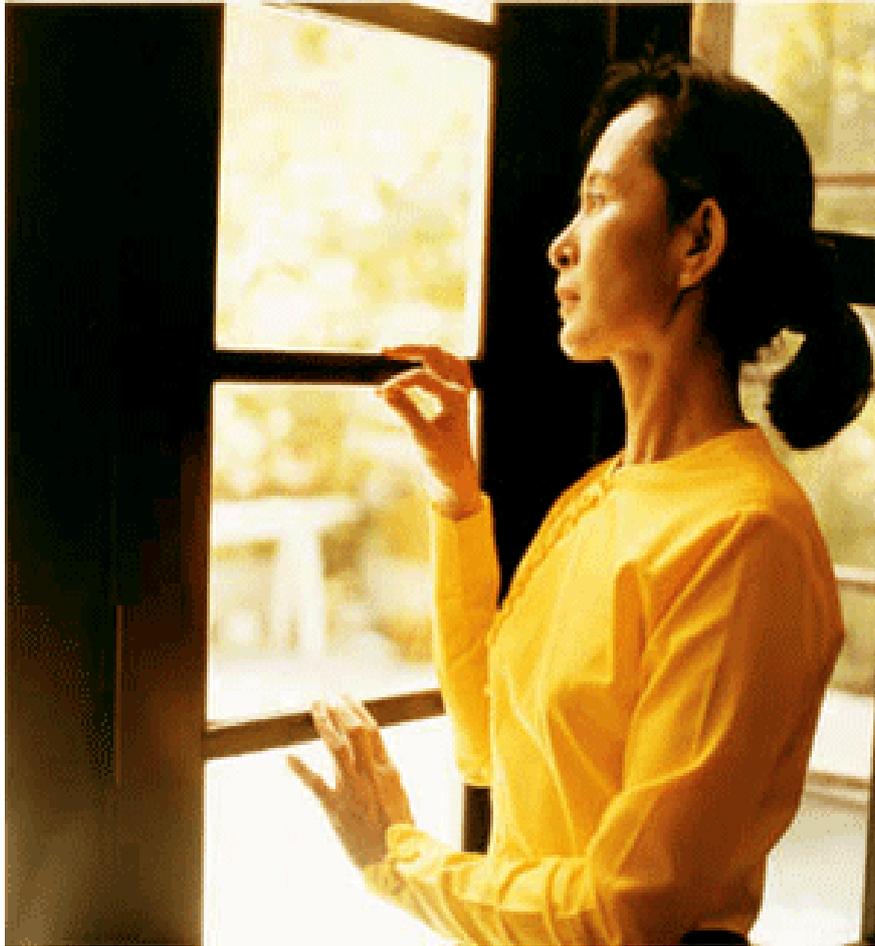


# **A Struggle between Truth and Injustice**



## **A Comprehensive Report on The Unfair Trial of Democracy Leader Daw Aung San Suu Kyi**

**National League for Democracy (Liberated Area)  
Research and Documentation Unit**



"Nowadays, a large number of my colleagues have been serving long prison terms without protection and leniency of law. Therefore, I allowed him temporary shelter due to my political conscience of which I cannot force anybody into being arrested.

I hereby state that I did not commit the crime that I have been charged with."

Daw Aung San Suu Kyi

(From Daw Aung San Suu Kyi's statement submitted to the Court on May 26, 2009)

## EXECUTIVE SUMMARY

Due to intrusion of an American citizen into her residence compound in May 2009, Daw Aung San Suu Kyi was taken into custody by the State Peace and Development Council. She, not her guards, was accused of violating terms of her house arrest, a sentence she began serving approximately six years ago. The recent trial of Daw Aung San Suu Kyi appears politically motivated and is a way for the SPDC to continue her custody from Insein prison. Since the beginning of her house arrest in 2003, the SPDC declared Daw Aung San Suu Kyi's detainment was a temporary 'protective custody.' Her original sentence was extended last year, although current laws in Burma suggest an extension was illegal. This year the SPDC is attempting to extend her detention under the pretext of a show trial in order to prevent her participation in the current political process and 2010 parliamentary election. The military regime may be attempting to permanently purge Daw Aung San Suu Kyi from Burma's political scene.

The National League for Democracy (Liberated Area) compiled data and information regarding Daw Aung San Suu Kyi's trial. This report demonstrates this trial is politically-motivated, procedures and sentencing do not follow existing Burmese law, highlights the weaknesses and injustices in the legal process of Daw Aung San Suu Kyi's trial, and shows how flawed the legal system in Burma is under the SPDC military rule. It also points out the 'crisis of Constitution', the term Daw Aung San Suu Kyi used to symbolize the trial.

This comprehensive report includes transcripts of the trial of Daw Aung San Suu Kyi and her two colleagues that reside in her residence. This report includes information from sources inside Burma and refers to articles printed in the state-run news paper *'New Light of Myanmar'*.

The National League for Democracy (Liberated Area) calls on the international community, including the United Nations, ASEAN member countries, China and India, to take urgent action to press for the immediate release of Daw Aung San Suu Kyi and to press for the resumption of politically meaningful dialogue by key stakeholders in Burma.

### **Call to the UN and International Community**

As it is obvious that the trial against Daw Aung San Suu Kyi is a trumped one and politically motivated, The National League for Democracy (Liberated Area) calls on:

- The UN Secretary General Ban Ki-moon must take active initiative and act to tailor and coordinate a collective strategic action plan. The international community has clearly stated the importance and urgency of the release of Daw Aung San Suu Kyi and all political prisoners and Ban Ki-moon must accept nothing less than the immediate realization of this key benchmark. This must also be followed up with efforts to secure genuine political dialogue and a review of the 2008 constitution.
- US should hasten efforts to appoint their envoy and dispatch immediately. The EU should attempt to send its Burma envoy. ASEAN should appoint and send an

envoy, and they should work in full coordination with each other, as well as with Secretary General Ban Ki-moon.

Unless Burma's military regime cooperates and meets the key benchmarks of 1) release of Daw Aung San Suu Kyi and all political prisoners and 2) inclusive political process towards national reconciliation, the National League for Democracy (Liberated Area) calls on the UN and the international community to impose the following measures against the regime:

- The UN Security Council should pass an arms embargo to hinder the military regime from its brutal offensive against civilians.
- The UN Security Council should begin a Commission of Inquiry to investigate crimes against humanity.
- To support a challenge of the regime's credentials at the United Nations.
- The US, UK and EU must impose stronger targeted sanctions.
- ASEAN must take firmer actions against the military regime that continues to violate key principles of the ASEAN Charter: human rights, good governance, and rule of law.

Central Executive Committee  
National League for Democracy (Liberated Area)

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## **BACKGROUND ON THE DETENTION OF DAW AUNG SAN SUU KYI**

On May 30, 2003, Daw Aung San Suu Kyi, the General Secretary of National League for Democracy (NLD), and her motorcade was attacked by an unidentified state-organized gang of thugs at Kyi Village, about two miles away from Depayin Town located in central Burma (Myanmar). The attack, which killed about a hundred of the NLD members and supporters, was a premeditated event systematically carried out by thugs who would not have the ability to orchestrate the attack without the help of the high-ranking authorities in the State Peace and Development Council (SPDC). Although Daw Aung San Suu Kyi fortunately escaped from the Depayin massacre, for the six years since she has been under house arrest. At the time, the SPDC responded to the demands of international community led by the United Nations, to release her immediately and unconditionally, saying that she was under “protective custody” because they were concerned about her security.

Although the Depayin attack was clearly premeditated, the SPDC failed to take a legal action against the perpetrators of the incident. No attempt was made, not even a commission of investigation, to bring to the court the thugs who attacked Daw Aung San Suu Kyi, NLD members and supporters. Instead, they arrested her and many of the NLD members who were victims of the attack. While giving a vague explanation such as “protective custody” to the inquiry of international community who expressed their grave concern on her security and health condition at the time, the SPDC detained her first at Insein Prison and later at her home under “the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts.”

According to the Subversive acts law, a person can be detained up to the maximum five years, but the SPDC extended the detention of Daw Aung San Suu Kyi into its sixth year. U Kyi Win, lawyer of Daw Aung San Suu Kyi, said that she must be released on May 27 when her detention was expired. The lawyer, on behalf of Daw Aung San Suu Kyi, exercised the legal right provided by the law and sent an appeal letter to the Chairman of the SPDC, Senior General Than Shwe, for her release in October 2008, based on nine reasons, including one asserting that she was never a threat to the security of the state. However, stating that “grounds for her appeal were not strong enough,” the SPDC rejected the appeal on May 1, 2008 without a proper and full hearing or any official explanation to her lawyers regarding why her detention was extended.

When Daw Aung San Suu Kyi was going to be released within a couple of weeks, the intrusion of Mr. John William Yettaw, an American citizen, into Daw Aung San Suu Kyi’s resident compound occurred in the early morning of May 4, 2009. The SPDC was provided an opportunity to further extend her detention. Doing so, it is believed, would help smooth the way for the SPDC’s planned election in 2010. The junta immediately took her to the courts within Insein prison to charge her with “breaching Section 22 of the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts.”

## INTRUSION OF MR JOHN WILLIAM YETTAW

On May 7, 2009, Burma's state-run newspaper *New Light of Myanmar* announced the arrest of Mr. John William Yettaw, a citizen of the United States, while he was swimming in the Inya Lake located in Rangoon (Yangon), a former capital of Burma. This news quickly spread locally and internationally because in the initial interrogation of the Burmese police. Mr. Yettaw confessed that he sneaked into Daw Aung San Suu Kyi's residence compound; this compound is a highly restricted area that has been guarded by the Burmese security forces during the six years of Suu Kyi's house arrest.

Mr. Yettaw, 54, who is holding the US Passport No. 4397677222, lives in 31158, Deta Road, Falcon, Missouri, United States. He applied for a tourist visa EVT (FTI) No. 847 from the Burmese Embassy in Bangkok of Thailand on April 27, and arrived at Rangoon International Airport by Bangkok Airway flight No PG 701 on May 2. He swam across Inya Lake with the help of two 5-litre empty plastic bottles and a pair of hand-made flippers during the night of May 3. He entered Daw Aung San Suu Kyi's residence compound at approximately 4:00 a.m. on May 4. He left her compound at midnight on May 5, swimming about 6 hours from southeast corner of the lake where Daw Aung San Suu Kyi's home is located to the northwest corner, as shown in Figure 2. He was arrested by the police at 5:30 a.m. on May 6 just before his landing near the International Business Center.

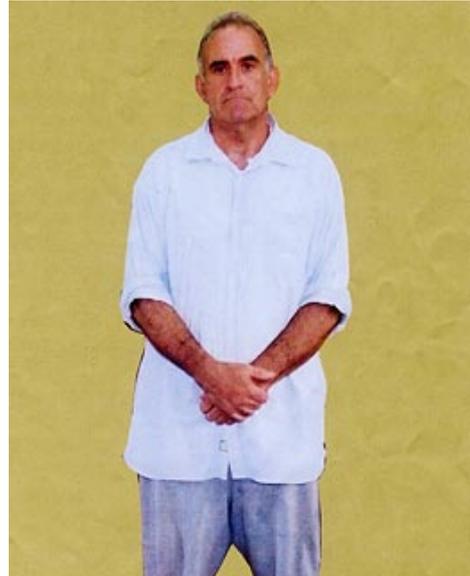


Figure 1: Mr. John William Yettaw



Figure 2: The locations of Daw Aung San Suu Kyi's residence and the arrest of Mr. Yettaw

## HEALTH CONDITION OF DAW AUNG SAN SUU KYI

Daw Aung San Suu Kyi has endured limited access to health care during her six years of house arrest. During Depayin attack on May 30, 2003, there were reports that Daw Aung San Suu Kyi sustained injuries, but for months there was no independent confirmation on her injury or where she was detained. Later it was discovered, she was directly placed in Rangoon's notorious Insein Prison after the SPDC authorities brought her back from Depayin to Rangoon.

On September 17, 2003, Daw Aung San Suu Kyi was urgently brought from Insein Prison to Asia Royal Cardiac and Medical Center in Rangoon to receive a three-hour major operation for a gynecological issue. The operation team was headed by Dr. Tin Myo Win, her family doctor. Although the operation was successful, her overall physical health has required her to be closely monitored by her doctor. When she was discharged from the hospital on September 26, the SPDC sent her to her home on Inya Lake and continued to detain her under Section 10 (B) of the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts. The SPDC at that time promised her that she would be allowed to see her doctor for regular medical check-ups.

During her house arrest, Daw Aung San Suu Kyi has lived under two restrictions: (a) she is not allowed to meet and hold talks with diplomats or political organizations and (b) she is not allowed to leave her house. However, she encountered numerous unfair restrictions regarding her monthly medical check-up and the curtailed freedom of movement for her two female companions. After her last medical check-up with Dr. Tin Myo Win in January 2008, she was not allowed to see her doctor until August 2008. She was also disallowed from seeking legal advice from her lawyer when she attempted to ascertain whether the sixth extension of her detention done by the SPDC on May 27, 2008 was lawful. She asked the SPDC authorities to see her lawyer in order to resolve these issues, but her demand was not met. On August 15, 2008, as a protest against the SPDC's increasing restrictions, she started refusing to accept food supplies sent by the NLD to her home every Friday as long as her demands to meet her lawyer and doctor hadn't yet met.

On September 12, 2008, the SPDC made some official concessions on her demands, including access to information from international magazines such as *Time* and *Newsweek* and local newspapers, deliveries of private mail and a monthly medical check-up by her doctor. On August 17, The SPDC allowed Dr. Tin Myo Win to check her health, the first time visit in seven months, and agreed that her doctor can visit her once a month for medical check-up. During the month-long protest against the SPDC where she refused to receive a weekly food supply, Aung San Suu Kyi and her two companions shared the little amount of provisions stored at home, resulting in her significant loss of weight. Given her age and restricted living conditions during six years of detention, her health condition has become a serious concern for the NLD and her supporters in Burma and around the world.



Figure 3: *Dr. Tin Myo Win, Daw Suu's family physician*

On May 7, 2009, the authorities picked up Dr Tin Myo Win in the morning to visit Dr. Aung San Suu Kyi for the scheduled monthly medical checkup. After he waited a while to enter the residence, the authorities told him that he could not visit her. Instead, they allowed Dr. Pyone Mo Ei, an assistant of Dr. Tin Myo Win, to visit Daw Aung San Suu Kyi for the medical checkup. Dr. Pyone Mo Ei found that Daw Aung San Suu Kyi was suffering from low blood pressure, dehydration and couldn't eat meals at that time. The doctor gave an intravenous drip to her.

On May 11, Dr. Pyone Mo Ei again visited Daw Aung San Suu Kyi and spent four hours checking her health situation. According to the doctor, Daw Suu's health is improving, and she could now eat meals. The doctor said that regular long-term medical checkups are needed for her. On May 12, the NLD issued Statement 7/05/09 after Dr. Pyone Mo Ei treated her two times in the last few days and found that Daw Aung San Suu Kyi was not only suffering low blood pressure and dehydration symptoms, but also had difficulty eating in the prior week. The NLD was seriously concerned about the health condition of Daw Aung San Suu Kyi and demanded the SPDC provide her sufficient medical treatment which she is entitled to according to the law.

On May 14, Aung San Suu Kyi was moved from her residence and detained in a house located in the compound of Insein Prison. Since this time, she has not been allowed to see Dr. Tin Myo Win or Dr. Pyone Mo Ei. The SPDC stated they assigned a team of physicians to take care of her health. But the NLD issued a statement of "grave concern" regarding her health on May 29 because she cannot sleep well due to suffering from leg cramps. Later, the SPDC's physicians re-checked the medicines she was taking and instructed her not to continue to take two kinds of medicines, as these were the cause of her leg cramps.

At this time, the quality of health care received by Daw Aung San Suu Kyi is a very serious concern of her party members and supporters. Her health and safety is entirely in the hands of the authorities, which may have an interest in doing her harm.

### **THE LADY'S HUMANITARIAN REASON AND POLITICAL CONSCIENCE**

Daw Aung San Suu Kyi tried to solve her security problem after the first intrusion of Mr. Yettaw into her residence. On May 26, 2009, at the seventh day of the trial against her, Daw Aung San Suu Kyi submitted a statement to the court stating that she did not commit the crime that she has been charged with. In her statement, Daw Aung San Suu Kyi said that she knew the first arrival of Mr. John William at her house compound on 30 November 2008 and reported the incident to the authorities through Dr. Tin Myo Win who came to her house for regular medical check up on 4 December 2008.

However, the SPDC did not come to her to inquire about that event, nor had they taken any action against that event. No SPDC authority reminded her to report to them when someone intruded into her house compound. At Mr. Yettaw's second visit, she told him to leave as soon as she knew that he arrived. But on his request that he would leave her house at night time in order to avoid being arrested, she let him stay. When night arrived, he requested to stay overnight for health reasons. Daw Aung San Suu Kyi allowed him to stay for humanitarian reason and political conscience. She described her political conscience in her statement:

*“Nowadays, a large number of my colleagues have been serving long prison terms without protection and leniency of law. Therefore, I allowed him temporary shelter due to my political conscience of which I cannot force anybody into being arrested. ....I do not care who the intruder is and what his intentions are. I just did it according to my political conscience.”<sup>1</sup>*

She just could not force a person into being arrested when he could not leave her residence immediately for health reason. In her statement, she reiterated that on May 7, when Dr. Tin Myo Win, her family doctor, visited her for regular medical checkup, she intended to report the authorities concerned about the incident. However, as said in her statement, it was the police who came in her residence compound on that same day when Daw Aung San Suu Kyi was poised to inform the authorities about the second intrusion though Dr. Tin Myo Win. Her doctor had been waiting all morning to visit her but was taken into custody for ten days without any reason. The authorities clearly detained Dr. Tin Myo Win to prevent Daw Aung San Suu Kyi from informing authorities about that event.

Aung San Suu Kyi assumed authorities accepted this second visit as they had done before —which also helped the security personnel avoid unnecessary problems with their supervisors. They did not ask her questions then, or take any action at that time. However, when questioning a prosecution witness before the court, the witness testified that authorities and Daw Aung San Suu Kyi were jointly responsible for the security of her residence compound. She said “The statement is totally not true” as authorities are solely responsible for security surrounding her residence.

Although Aung San Suu Kyi was charged with violating the restrictions and prohibition order described in the article 22 of the “Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts,” she stated she has not violated any item of the orders that the prosecution witness testified before the Court regarding the contents of the restrictions and prohibition order.

Continuously, restrictions imposed upon Aung San Suu Kyi, or the deprivation of her rights, are according to the 1974 Constitution of the Socialist Republic of the Union of Burma. But the Constitution has been no longer in force since the military government assumed power. Therefore, the restrictions according to that Constitution is not lawful.

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<sup>1</sup> National League for Democracy's Statement No. 14/05/09 issued on 27<sup>th</sup> May 2009

The last point she made in her statement is that authorities have never taken any action on those who failed to perform proper security responsibility as authorities are solely responsible for security of her residence. She said in her statement:

*“Although the root cause of this case is based on the lack of security or breach of security, no action is taken against the responsible security personnel. But only I was taken charge. Therefore it is a biased act.”*

In conclusion, according to Daw Aung San Suu Kyi's statement submitted to the Court on May 26, 2009, authorities attempted to set up a case against her using their authority and power. The authorities selected the evidence that they want and neglected the evidence that was inconvenient for their position. Daw Aung San Suu Kyi clearly stated that she is not guilty in terms of legal, humanitarian and political grounds.

Daw Aung San Suu Kyi has no intension to commit any crime during her detention. The restreicitions imposed upon her by the SPDC make hardly any activity possible. The SPDC is solely responsible not only for her arrest or detention, but also for keeping visitors out of her residence compound. Therefore, as Daw Aung San Suu Kyi said, this arrest and trial is a biased and politically motivated act perpetrated by the SPDC.

### **LEGAL ANALYSIS OF DAW AUNG SAN SUU KYI'S TRIAL**

After five days of Court hearing, the Yangon North District Court accepted the lawsuit filed against Daw Aung San Suu Kyi under section-22 of the Law to Safeguard the State against the Dangers of those Desiring to Cause Subversive Acts according to the Criminal Case No 47/2009.

When the Court heard the statement of Deputy Commander of Myanmar Special Branch Police Col Win Naing Tun on fifth day of the trial, he said that Daw Aung San Suu Kyi before court was under restriction according to the Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts, restriction order and prohibition order; that as for the restriction order, out of the fundamental rights prescribed in the constitution, the ones prescribed in the sections 148 (c), 157, 158, 159 (A) (B) and 160 had been restricted. After the restriction order against Daw Aung San Suu Kyi, the prohibition order was issued. Daw Aung San Suu Kyi was charged that she violated the restrictions and prohibitions that were imposed upon her according to these aforesaid Laws.

#### **Crisis of Constitution**

On 28<sup>th</sup> May, Daw Aung San Suu Kyi said when she met with her lawyers that our country is facing not constitutional crisis but crisis of Constitution. Senior General Than Shwe signed to approve the 2008 Constitution after the referendum in which the Constitution had been approved by force and fraud. However, the Constitution that the fundamental rights in the restriction order are referred is the Constitution of the Union of Burma (1974). Therefore, there seem to be two Constitutions at the same time in the country.

In the last nation-wide conference, the NLD issued a 'Shwegondine Declaration' by which the NLD demanded:

(b) Review of the Draft Constitution (2008)<sup>2</sup>

A State Constitution based on the democratic principles is required to establish a democratic state. The not yet in force Constitution (2008) of the State Peace and Development Council contains provisions which are not accord with democratic principles. Therefore the emergence of the Constitution which is acceptable to all the people including the ethnic nationalities is urgently required.

Although the NLD attempts to amend the undemocratic Constitution and bring about National Reconciliation through meaningful dialogue, State Peace and Development Council is setting up a trumped up charge against Daw Aung San Suu Kyi using restrictions under the “State Protection Law” according to the 1974 Constitution.

### **Restrictions imposed on Daw Aung San Suu Kyi**

The section-22 of the Law to Safeguard the State against the Dangers of those Desiring to Cause Subversive Acts under which Daw Aung San Suu Kyi was filed against is as follows:

#### **Article 22**

Any person against whom action is taken, who opposes, resists or disobeys any order passed under this Law shall be liable to imprisonment for a period of up to three years, or a fine of up to five thousand kyats, or to both.

The Constitution that the fundamental rights are referred is the Constitution of the Union of Burma (1974) and the fundamental rights prescribed in the sections 148 (c), 157, 158, 159 (A) (B) and 160 of the Constitution are as follows:

#### **Article 148**

Every citizen shall have the right to –  
(c) settle a reside in any place within the State according to the law.

#### **Article 157**

Every citizen shall have freedom of speech, expression and publication to the extent that the enjoyment of such freedom is not contrary to the interests of the working people and of socialism.

#### **Article 158**

Every citizen shall have the right freely to take part in political, social, class and mass organizations permitted by law and to enjoy freedom of association, assembly and procession. The State shall provide necessary assistance to the people to enable them to enjoy fully these rights and freedoms.

#### **Article 159**

Personal freedom and security of every citizen shall be guaranteed.  
(b) No citizen shall be placed in custody for more than 24 hours without the sanction of a competent judicial organ.

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<sup>2</sup> 'Shwegondine Declaration' of National League for Democracy issued on 29<sup>th</sup> April, 2009

**Article 160**

The privacy and security of the home, property, correspondence and other communications of citizens shall be protected by law subject to the provisions of this Constitution.

According to the statement testified by U Kyi Win, a former Supreme Court advocate on 28<sup>th</sup> May, regarding the fact if the 1974 constitution was the existing one or the one still in force or it was null and void, he said that according to the Notification No 1/90 and the Declaration No 6/88 of State Law and Order Restoration Council,<sup>3</sup> the 1974 Constitution was no longer in force. In Notification No 1/90, it stated that Members of Parliament elect were responsible for drafting a new constitution as there was no constitution on which transfer of power process should be based on.

In the trial, the prosecution lawyer said that, according to the Declaration No 6/88 of State Law and Order Restoration Council, all the existing laws were valid so long as the SLORC abolished and revoked them when it assumed State duties on 18 September 1988. However, U Kyi Win said that the constitution was not applicable in this case.

**Prohibition**

Together with restrictions, a prohibition order was issued. The prohibitions in the order are: not to contact embassies and political parties and those connected with the political parties, not to go outside except the house and not to contact outsiders by post, by telegram or by phone.

On 28<sup>th</sup> May, U Kyi Win, defense witness and a former Supreme Court advocate testifies before that Court that " 'not to communicate with outsiders by letter' manifested in paragraph (b) of the extended prohibition order of evidence (b-1) meant not to communicate with outsiders, and it was not concerned with an outsider who came and communicated with the person concerned because the phrase of Article 3 (a) of Chapter II definition of expressions law 1973 said that "the definition of the expressions stated in the provisions shall be the same as their everyday use."

Another point U Kyi Win made at his statement was that Mr John William Yettaw entered the restricted house twice and if security members allowed him they too could be considered to have violated the law; that if action was not taken in that case, it had to be considered that he was legally allowed to do so and he was innocent; and that the host who had allowed him to get into the house would be legally allowed to do so.

U Kyi Win continued his statement on the same day that according to the Article 456, although a person secretly enters a house, it does not mean that he commits a crime if his entry is approved by the host.

**Against international and domestic laws**

The United Nations Working Group on Arbitrary Detention has affirmed that the continued detentions of Aung San Suu Kyi was arbitrary and unjustified and in contravention of international Burma's own law. The authorities declared they had to detain Daw Aung San

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<sup>3</sup> 'The State Law and Order Restoration Council' was the name of the military government called themselves after the coup in 1988 and later changed to 'The State Peace and Development Council' in 1998

Suu Kyi under 'protective custody' to prevent her from being assassinated. In fact, the name of the law they used is ironically the 'Law to Safeguard the State against the Dangers of those Desiring to Cause Subversive Acts'.

### **SPDC POLITICAL CONSPIRACY BEHIND THE INCIDENT**

Since the military coup in 1988, Burma's legal system has been under the executive control of the SPDC. During the past 20 years, the military generals ruled the country without a constitution. They systemically abused the country's judiciary system by amending old laws or issued new orders, saying "an order practiced as a law," to repress the political activists who are against their rule. More than 2,200 political prisoners are currently detained in prisons across the country; none received the protection and leniency of law before the court. They did not receive legal assistance during the detention period nor before the court, which always denied a fair public trial.

The Depayin massacre was purely a criminal act; the ruling military generals acted above the law by giving the murderers the right to impunity and putting the victims into custody. Daw Aung San Suu Kyi, in fact, filed a lawsuit about the attack at the Depayin police station during the May 30, 2003. However, the SPDC abused their power and prevented the victims from seeking justice for their attackers. Also, the SPDC detained Daw Aung San Suu Kyi in Insein Prison. When the international community pressured the SPDC to explain what they did to her, they explained that she was under "protective custody" for her own safety—a very vague term for which they never gave legal explanation. In fact, a day after the Depayin attack, the SPDC took a legal action on Daw Aung San Suu Kyi and detained her under Section 10 (A) of the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts on May 31, 2003.

Throughout these six years, Daw Aung San Suu Kyi has sought justice to defend that her detention is unlawful. The United Nations Working Group on Arbitrary Detention examined and issued that her detention was unlawful according to Burma's legal code and international laws. However, Daw Aung San Suu Kyi has been arbitrarily under house arrest at her residence, which has been under a tight security network deployed by the SPDC.

While living under this unlawful detention, Daw Aung San Suu Kyi Mr. Yettaw twice intruded on her compound . Regarding Mr. Yettaw's second intrusion, she intended to inform the authorities concerned as she did in the first time. Every Thursday of the first week of a month is the day that Dr. Tin Myo Win has to visit to her residence to check her health situation. This is the agreement between Daw Aung San Suu Kyi and the SPDC for her health care. On May 7, the first Thursday of the month, the authorities picked up Dr. Tin Myo Win at his home for her monthly medical checkup. At the same morning, the state newspapers announced that Mr. Yettaw was arrested at 05:30 a.m. while swimming in the Inya Lake. Knowing that Daw Aung San Suu Kyi used Dr. Tin Myo Win as her messenger to report Mr. Yettaw's first intrusion to the authorities, the SPDC abruptly canceled the doctor's visit and arrested him in the evening of the same day.

In addition, the police led by Police Captain Tin Zaw Tun searched the residence of Daw Aung San Suu Kyi in the same day and confiscated 23 items from her house which included the book left by Mr. Yettaw in his first intrusion. On May 13, 2009, Special Branch

Police led by Police Colonel Win Myint Htun came to her residence and gave her a court summons to appear before the court to face the charges on May 14, 2009. The police officer also told her that she and two women companions will be relocated to a house nearby the Insein Prison during the trial period. Under the lawsuit No. 263/2009 filed by Bahan Police Station, on May 14, the police arrested Daw Aung San Suu Kyi and two of her party member, Daw Khin Khin Win, Ma Win Ma Ma, who have been living at her home.

## APPENDICES

## INJUSTICE TRIAL

### DAY 1 (MAY 14) – Lawsuit against Daw Aung San Suu Kyi in Insein Prison



Figure 4: Daw Suu living in the two-story detention house in the compound of Insein Prison

Burmese military junta set up a Rangoon North District Court in the compound of Insein Prison. Police Lt. Col Zaw Min Aung filed a lawsuit against Daw Aung San Suu Kyi under Section 22 of the “Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts” with the accusation that she breached the detention conditions. The police arrested Daw Aung San Suu Kyi at her home early in the morning of May 14 and detained her in a two-story detention house located in Insein Prison compound. The police also filed a lawsuit against Daw Khin Khin Win and Daw Win Ma Ma under Section 22 of the same act and Section 109 of Criminal Act for their role of accomplice to Daw Aung San Suu Kyi in the case.

At the same day, the police filed a lawsuit against Mr. Yettaw for violating Section 22 of the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts, Section 109 of Criminal Law for his role of accomplice to Daw Aung San Suu Kyi in breaching the restrictions and prohibitions of the detention. The immigration filed a lawsuit against him for violating the prescribed rules and regulations on a tourist visa under Section 13(1) of the Immigration Act (Emergency Provisions) and Section 28 of Yangon City Development Committee Law for breaching the restriction on swimming in Inya Lake.

District Judges U Thaung Nyunt and U Nyi Nyi Soe presided over Rangoon North District Court at Insein Prison and heard the cases filed by Bahan Township Police Station and the Executive Officer of Mayangon Township Development Affairs Committee under Criminal Case No. 47/2009, 48/2009 and 49/2009. During the court session, U Myint Kyaing, the SPDC’s Rangoon North District Law Officer, presented the arguments related to the cases to the court. After hearing the cases presented by the law officer, the judges adjourned the cases until 18 May after informing the defendants that they may defend through their lawyers.

### DAY 2 (MAY 18) – Daw Aung San Suu Kyi’s Demand for a Public Trial

The 2<sup>nd</sup> day of the trial started at 10:00 a.m. The court strictly barred the public from hearing the court process, except the five lawyers of the defendants, one interpreter and one diplomat from American Embassy in Rangoon. Lawyers of Daw Aung San Suu Kyi submitted to the judges a request of opening the court for the public to hear the court process, but the judges rejected it with security reason. Several foreign diplomats came to Insein

Prison to witness the court proceedings, but the authorities denied entering into the prison compound.

A law team composed of four lawyers—U Kyi Win, U Nyan Win, Daw Khin Htay Khwe and U Hla Myo Myint—presented legal documents as defendant lawyers for Daw Aung San Suu Kyi and two of her companions. As lawyers of Daw Aung San Suu Kyi, U Kyi Win, U Nyan Win and U Hla Myo Myint would defend on her behalf. As lawyers of Daw Khin Khin Win, U Nyan Win, U Hla Myo Myint and Daw Khin Htay Khwe would defend on her behalf. As lawyers of Daw Win Ma Ma, Daw Khin Htay Khwe and U Hla Myo Myint would defend on her behalf. Lawyer U Khin Maung Oo would defend on behalf of Mr. John William Yettaw.



Figure 5: U Win Tin-led NLD members waiting outside Insein Prison

Police Lt. Colonel Zaw Min Aung and another police officer presented charges against Daw Aung San Suu Kyi to the court. After that, U Kyi Win, lawyer of Daw Aung San Suu Kyi, asked the police officer about his accusations, but the officer can't properly answer to the lawyer's questions.

Despite the extensive road blockage around Insein Prison, U Win Tin, Secretary of the NLD and about one hundred members managed to approach to the front of Insein Prison compound. But the security forces didn't allowed them to enter into the prison compound. One NLD member, Htwe Thein, was arrested due to distributing black ribbons (a symbol of sadness for Daw Aung San Suu Kyi) to the public.

### **DAY 3 (MAY 19) – Lead the Party Decisively without Reluctance**

The 3<sup>rd</sup> of the trial started at 10:00 a.m. The two judges examined 5 prosecution witnesses who are Police Lt-Col Maung Maung Khin, Police Inspector Than Naing, Police Lance Corporal Myo Lwin, Police Captain Maung Maung Myint and U Tha Sein, Chairman of Ward 4 Peace and Development Council (WPDC). Lt. Col Maung Maung Khin is the police officer who investigated Mr. Yettaw. Police Inspector Than Naing and Lance Corporal Myo Lwin from Police Battalion 7 are the police who found Mr. Yettaw swimming at Inya Lake. Police Captin Maung Maung Myint from operation unit of the Special Branch accepted the handover of Mr. Yettaw for confiscating his properties and further interrogations. U Tha Sein is a witness of this handover.

Through his lawyer U Khin Maung Oo, Mr. John W. Yettaw told to the court that he saw a danger going to fall upon Daw Aung San Suu Kyi Suu's life through his mind. That's

why he came to Burma to tell both Daw Aung San Suu Kyi and the junta about that. No hearing from the side of Daw Aung San Suu Kyi has been taken place.



Figure 6: *The NLD members and supporters waiting outside Insein Prison, Rangoon*

During the trial, NLD members and supporters led by U Win Tin gathered in front of the Insein prison to show their support for Daw Aung San Suu Kyi. As the public gathering increased nearly one thousand, the authorities deployed more security personnel around Insein prison. The threats of the armed security forces to the public happened more than two times in front of the prison. In one incident, a truck carrying armed security forces drove to a group led by U Win Tin and abruptly stopped when the truck is going to hit them. Then, the armed forces run down from the truck and drove them away.

Daw Aung San Suu Kyi told her lawyers that the leaders and members of the NLD that the party's leadership and members should conduct their works decisively without reluctance. She wants her party members and supporter not to be arrested again as there have already been many political prisoners in prisons. For her part, she said she will say the truth and do the right things.

#### **DAY 4 (MAY 20) – A “Show Trial” for Foreign Diplomats and Journalists**

At the 4<sup>th</sup> day of the court trial, in a surprise move, the Burmese junta opened the court to more than two dozen foreign diplomats and ten journalists who were five local correspondents working for foreign media and another five local journalists for local journals and magazines. But the authorities prohibited the journalists from bringing cameras, recorders and mobile phones to the court. The authorities allowed them to witness the court proceedings just one hour before the court was going to end.

Daw Aung San Suu Kyi didn't know beforehand the fact that the diplomats were allowed to come into the court. When lawyer U Kyi Win suggested her to say some greeting words to the diplomats, she replied that she would be charged again with Section 22 of the State Protection Law due to her conversation with the diplomats. After that, Daw Aung San Suu Kyi asked her lawyer to seek permission from the authorities before she greeted the diplomats. U Kyi Win asked the authorities at the court to allow Daw Aung San Suu Kyi to talk to the diplomats. The authorities replied that they would inform her request to their superiors, but she received no reply from the authorities. Finally, Daw Aung San Suu Kyi sought her lawyer's legal advice on whether she could greet the diplomats from distance. Her lawyer suggested that she could do it. Only then, Daw Aung San Suu Kyi said to the diplomats:

*“I have been seeking permission to see you. I hope to meet you in better days and thank you for coming and for your support.”*

The judges examined Police Captain Sa Kyaw Win and Captain Tin Zaw Tun. Captain Sa Kyaw Win presented a detailed account of searching and confiscating 61 items that belong to Mr. Yettaw on May 6 at Beauty Land 2 Hotel located at No. 188/192 on 33rd Street, Kyauktada Township where the defendant stayed. Captain Tin Zaw Tun presented a detailed account of searching and confiscating 23 items from Daw Aung San Suu Kyi's residence on May 7. The state-run *New Light of Myanmar* stated what Captain Tin Zaw Tun said before the court as follows:

“...that she [Daw Aung San Suu Kyi] also said that Mr John William Yettaw left some of his belongings in the house; that then she showed the items one by one and he [Captain Tin Zaw Tun] listed them; that she also said that there also were some books Mr John William Yettaw left in his first visit and handed them and so he confiscated them; that when asked if there was anything else he had left, Daw Aung San Suu Kyi said that there were some letters Mr John William Yettaw's daughter had sent and they had been torn; that then she handed them all, and he listed them in the search form and confiscated them; that the seizures were two black chadors usually worn by Muslim women, two black scarves, two long skirts, one red torch light, six colour pencils in a plastic bag, three pairs of sunglasses, two signal lights, a pair of swimming glasses, one two-pin plug, two pieces of circuit wire, one recharger, a black bag with a zip in it that was used to keep the apparatuses, a plastic bag with a zip in it, two pairs of grey stockings, five parts of an English book, and a bag with pieces of torn paper sheets in it.”— (NLM May 21: p, 7)

It is very important to note that the investigation Captain Tin Zaw Tun did to Daw Aung San Suu Kyi during his search at her residence is different from the her testimony before the court (See it in Day 8).

In the afternoon of that day, the Central Executive Committee of the NLD called an urgent meeting and issued Statement No. 09/05/09 strongly protesting that the judicial system practicing on the case of Daw Aung San Suu Kyi is not in accordance with the laws and legal procedures. The NLD again demanded a just and open public trial.

## **DAY 5 (MAY 21) – Vision of Hardship Falling over Daw Aung San Suu Kyi**

At the 4<sup>th</sup> consecutive day of the court trial, Burmese junta stepped back to their usual practice by holding a closed-door trial over Daw Aung San Suu Kyi and prohibiting foreign diplomats and journalists from entering into the court. Although the junta allowed the diplomats to witness the court proceedings of the trial against Daw Aung San Suu Kyi only one day on May 20, they continued to ignore the NLD's call for an open public trial.

The junta brought four new prosecution witnesses to the court to testify their accounts related to the case. They are U Zaw Tin, Chairman of Ngahtetkyi WPDC in Bahan Township, U Khin Nyunt, Chairman of Kyaikkasan WPDC in Bahan Township, Manager U Kyaw Thu of Beauty Land Hotel and Police Major Aung Htut Kyaw, in charge of the computer section of overseas division. U Zaw Tin and U Khin Nyunt are the witnesses who the police assigned to be witnesses during their search of Daw Aung San Suu Kyi's residence. Manager U Kyaw Thu took the role of witness while the police searched the room of the hotel where Mr.

Yettaw stayed before swimming across the Inya Lake towards the residence of Daw Aung San Suu Kyi. Major Aung Htut Kyaw is responsible for examining 331 photos and one video file taken by Mr. Yettaw during his stay in the residence of Daw Aung San Suu Kyi.

Major Aung Htut Kyaw presented to the court a video footage and photos recorded by Mr. Yettaw who took them without permission from Daw Aung San Suu Kyi. No picture of Daw Aung San Suu Kyi, Daw Khin Khin Win and Daw Win Ma Ma appeared in the video footage and photos. Mr. Yettaw's intention of recording is just to record the evidence of his arrival to her house.

The state-run *New Light of Myanmar* stated what Mr. Yettaw said in the video file as follows:

*“In the video file, Mr John William Yettaw said that he was in Daw Aung San Suu Kyi’s house and asked for her permission to take her photos and to upload them on YouTube website; that he thought she refused because she was frightened; that he had caused her a lot of trouble on 30 November 2008; that he left his family behind; that he believed God was with him and protect him; that he admired Daw Aung San Suu Kyi; that he did not blame her for not allowing him to take her photos; that she would have to face lots of hardships in future; that he prayed that he might be able to help her; that he spent the previous night at the house; that today was 6 May; that he had been hoping the whole night to go back to Thailand; that he felt delighted and proud of staying there.”— (NLM May 22: p. 7)*

The National League for Democracy issued Statement 10/05/09 on May 21 to explain the situation of the trial on May 20. The statement said that the junta allowed the diplomats from foreign embassies and officials from the United Nations agencies in Rangoon to observe the court process for about one hour. While the court trial was proceeding in the afternoon, the diplomats and the UN officials entered into the court at about 13:15 p.m. The statement said that although Daw Aung San Suu Kyi sought permission from the authorities to say greeting words to each of the diplomats and the UN officials, she wasn't allowed to do so. Therefore, Daw Aung San Suu Kyi requested the diplomats and the UN officials to understand her for that incident.

## **DAY 6 (MAY 22) – Court’s Acceptance of Lawsuits against the Intruded Victims**

At the 6<sup>th</sup> day of the trial, after examined 12 of 22 prosecution witnesses, mostly the police officers, the judges of Rangoon North District Court setting up in the compound of Insein Prison accepted the lawsuit of Deputy Commander of the Special Branch Police Col Win Naing Tun against Daw Aung San Suu Kyi. Regarding Daw Aung San Suu Kyi's violation of the detention conditions, the police colonel explained to the court as follows:

*“Daw Aung San Suu Kyi before court was under restriction according to the Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts, restriction order and prohibition order; that as for the restriction order, out of the fundamental rights prescribed in the [1974 socialist] constitution, the ones prescribed in the sections 148 (c), 157, 158, 159 (A) (B) and 160 had been restricted; that according to those restrictions, Daw Aung San Suu Kyi was not allowed to receive, contact and talk to anyone and to give permission to anyone to*

*stay at her house; health and social needs were provided for her in accord with the directives; that in the matters permitted by the State, he himself had to make arrangements to contact Daw Aung San Suu Kyi. After the restriction order against Daw Aung San Suu Kyi, the prohibition order was issued. The prohibitions in the order are: not to contact embassies and political parties and those connected with the political parties, not to go outside except the house and not to contact outsiders by post, by telegram or by phone. The prohibition order was issued again after the order was expired. Though the prohibition order was issued again, the restriction order remained in force, he said.”— (NLM May 23: p. 2)*

It is noted that the lawyers of Daw Aung San Suu Kyi has consistently talked about what Colonel Win Naing Tun said as “prohibition order.” It was heard for the first time that the SPDC used the “restriction order” under the above-mentioned sections of the 1974 socialist constitution which was already abolished by themselves since the military coup in 1988. But it is also important to note that when Lawyer U Nyan Win asked Colonel Win Naing Tun about whether Daw Aung San Suu Kyi violated the “restriction order,” the colonel replied that she violated the “prohibition order.” His reply stated by the state-run *New Light of Myanmar* issued on May 23 is as follows:

*“When asked whether Daw Aung San Suu Kyi violated the restriction order by U Nyan Win, Lawyer of Daw Aung San Suu Kyi, he said she violated the fact that she was ordered not to contact outsiders by post or by phone. As she accepted books and documents from outside, she violated the prohibition.” — (NLM May 23: p. 2)*

After that, Police Colonel Win Naing Tun filed lawsuits against Daw Aung San Suu Kyi, Daw Khin Khin Win, Daw Win Ma Ma and Mr. John Yettaw as follows:

*“According to the Criminal Case No 47/2009, lawsuit was filed against Daw Aung San Suu Kyi under section-22 of the Law to Safeguard the State Against the Dangers of those Desiring to Cause Subversive Acts; against Daw Khin Khin Win under section-22 and section-109 of that law; against Ma Win Ma Ma (a) Ange Lay under section-22 and section-109 of that law and against Mr. John William Yettaw under section-22 and section-109 of that law.”— (NLM May 23: p. 7)*

Afterwards, lawsuit was filed against Mr. John William Yettaw under section 13 (1) of the 1947 Immigration Act (Emergency Provisions) in Criminal Case No 48/2009 and under section-28 of Yangon City Municipal Act in Criminal Case No 49/2009. All the defendants said that they were not guilty.

## **DAY 7 (MAY 25) – No Report on Mr. Yettaw’s Intrusion of the House, Say Police Colonel**

The Lawyers of Daw Aung San Suu Kyi re-called five prosecution witnesses to the court who have already testified before the court last week. The lawyers cross examined four prosecution witnesses about the facts that they submitted to the court and asked questions to them. But they rejected to cross examine the remaining one. These four prosecution witnesses

are Police Col Win Naing Tun, Police Lt. Col Zaw Min Aung, Police Captain Sa Kyaw Win and Police Captain Tin Zaw Tun.

The Lawyers of Daw Aung San Suu Kyi asked prosecution witnesses as follows:<sup>4</sup>

**Lawyer:** Do you know that the restriction order that you referred and that was applied upon Daw Aung San Suu Kyi was from the 1974 socialist constitution which was already abolished?

**Witness:** According to an order issued in 1988 by the State Law and Order Restoration Council, any laws which haven't formally been abolished by the government have still been in force to date.

**Lawyer:** Do you know whether former Senior General Saw Maung, Head of the State Law and Order Restoration Council—which was transformed in 1997 by Senior General Than Shwe into the State Peace and Development Council—declared at the 46th Anniversary of the Resistance Day that the 1974 socialist constitution was already abolished.

**Witness:** They don't know the fact.

**Lawyer:** Is it possible that a country has two constitutions because Senior General Than Shwe formally signed the adoption of the new constitution after the constitutional referendum in 2008?

**Witness:** The government's prosecutor rejected this question and the judges didn't allow the defendant lawyers to ask this question.

**Lawyer:** Although this house was owned by Daw Aung San Suu Kyi, it has been under the security control of the government. Breaking the security line, Mr. Yettaw secretly sneaked into the restricted area at night. According to the law, a lawsuit must be filed against this action committed by Mr. Yettaw. Did you made a lawsuit against Mr. Yettaw on entering into the restricted security line?

**Witness:** Police Col Win Naing Tun said: "*if there had not yet been any report about Mr John William Yettaw's intrusion of the house, he was being sued not for house intrusion but in accordance with an immigration act.*"— (NLM May 26: p 7)

**Lawyer:** Regarding Mr. Yettaw's entry into Daw Aung San Suu Kyi's house which is under tight security control of the government, was there any person who informed you, the security forces?

**Witness:** No.

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<sup>4</sup>These examination questions of the lawyers and the answers of the prosecution witnesses are directly and unofficially translated from Lawyer U Nyan Win's press conference held at NLD Headquarters in the evening of that day.

**Lawyer:** Then, you [the prosecution witnesses] have already made a lawsuit against Daw Aung San Suu Kyi, whose house was intruded by a person breaking the law. But you didn't make a lawsuit against that person himself.

After the section of asking four prosecution witnesses, the prosecution witness Police officer Than Soe, Registration Officer, was brought to the court to testify all the details that he recorded during the investigation throughout the case. After U Than Soe testified, in a surprise move, the judges announced that the court rejected the rest 9 of 23 prosecution witnesses from the witness list brought by the government. Then, the judges adjourned the court to 10 a.m. on May 26 and abruptly left the court.

The lawyers of Daw Aung San Suu Kyi immediately realized that it is time for Daw Aung San Suu Kyi and the other defendants to testify before the court in the next section of the trial. Throughout the court process, the defendant lawyers haven't had enough time to assist Daw Aung San Suu Kyi for the preparation of her defending before the court. Therefore, the lawyers followed and tried to inform the judges to give them enough time to discuss with Daw Aung San Suu Kyi, but they couldn't directly inform the judges who entered into a room behind the court. The lawyers and Daw Aung San Suu Kyi waited for the judge's reply for half an hour. Then, an official came out and informed the lawyers that the judges had already left.



Figure 7: U Nyan Win, Daw Suu's lawyer, holding a press conference at the NLD Headquarters

In his press conference in the evening of that day, U Nyan Win said that if the judges knew their request and if they intentionally ignored it, it would be a bad practice as the judges. The lawyers planned to submit a letter of request to the court to allow them to give enough time to discuss with Daw Aung San Suu Kyi before her defending before the court on May 26.

## DAY 8 (MAY 26) - Testimony of the Truth

At the 8<sup>th</sup> day of the trial, Daw Aung San Suu Kyi, for the first time, got a chance to defend against the charges of the prosecution witnesses. She chose to give testimony by herself before the court. As she said to her lawyers, she said the truths to the court. The state-run *New Light of Myanmar* (NLM May 27: p 7) stated the answers of Daw Aung San Suu Kyi to the questions of the judges as follows:

**Judge:** Do Daw Khin Khin Win and Daw Win Ma Ma (a) Ange Lay stay with Daw Aung San Suu Kyi?

**Daw Suu:** Yes, in my home.

- Judge:** Are the restriction order, prohibition order and the order for extension of the prohibition order issued?
- Daw Suu:** Yes, the orders are issued to me.
- Judge:** Did American citizen Mr. John William Yettaw come to your home on 30 November, 2008?
- Daw Suu:** I was told about his arrival, but I didn't see him.
- Judge:** Did American citizen Mr. John William Yettaw intruded into your house compound swimming across the Inya Lake on 3 May night.
- Daw Suu:** As far as I understand, he arrived at my home in the morning of 4 May.
- Judge:** What time did he arrive at your home?
- Daw Suu:** I don't know. I was reported on his arrival about 5 am.
- Judge:** Who reported to you?
- Daw Suu:** Daw Khin Khin Win reported to me that a person was in my home.
- Judge:** Who was that person?
- Daw Suu:** I didn't know who was that person then, but I knew him later on.
- Judge:** Is that person American citizen Mr. John William Yettaw?
- Daw Suu:** Yes.
- Judge:** Did you report to the authority concerned on his arrival at your home?
- Daw Suu:** No.
- Judge:** Is it true that you received Mr John William Yettaw, gave food to him and arranged accommodation for him?
- Daw Suu:** I permitted him to take shelter at my home temporarily.
- Judge:** Did you provide food and talk to Mr. John William Yettaw and accept letters and gifts from him?
- Daw Suu:** I talked to Mr. John William Yettaw. I am not sure whether letters and items remained or were left by Mr. John William Yettaw. Only Mr. John William Yettaw himself knows that matter.
- Judge:** Which date and time did Mr. John William Yettaw leave your home?

- Daw Suu:** Mr. John William Yettaw left my home between 11.45 pm and midnight on 5 May.
- Judge:** Which way did Mr. John William Yettaw take when he left your home?
- Daw Suu:** I only knew that Mr. John William Yettaw went to the lake. Because of the darkness, I don't know which way he took.
- Judge:** Did Police Captain Tin Zaw Tun come and confiscate the things Mr. John William Yettaw had left at the residence of Daw Aung San Suu Kyi?
- Daw Suu:** Yes, Police Captain Tin Zaw Tun came and confiscated the things Mr. John William Yettaw had left.
- Judge:** Were there members of security force at the surrounding of the residence while Mr. John William Yettaw was at the residence of Daw Aung San Suu Kyi?
- Daw Suu:** They were not in the compound. I don't know whether they were out of the compound or not.
- Judge:** Did American citizen Mr. John William Yettaw take photos and shoot video in the house of Daw Aung San Suu Kyi?
- Daw Suu:** I don't know whether he took photos and shot video while I was at my house. I only learnt that he took photos and shot video when I appeared in court.
- Judge:** Do Daw Aung San Suu Kyi know the facts prescribed in restriction order, prohibition order and order for extension of the prohibition order.
- Daw Suu:** Yes, I know the facts written in the orders.

## **DAY 9 (MAY 27) – Loyalty to the Truth**

At the 9<sup>th</sup> day of the trial, Daw Khin Khin Win, Daw Win Ma Ma and Mr. John W. Yettaw got chances to defend against the charges of the prosecution witnesses. Daw Khin Khin Win and Daw Win Ma Ma chose to give testimony by themselves before the court. The state-run *New Light of Myanmar* (NLM May 28: p 7) stated the testimonies of the three defendants in the following.

### **Daw Khin Khin Win's Testimony**

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- Judge:** How long have you been living with Daw Aung San Suu Kyi who is before the court at her house?
- Defendant:** For six years.
- Judge:** Do you know restriction order, prohibition order and extended prohibition order are put on her and the house?
- Defendant:** I don't know that. What I know is that she is prohibited from going outside the house.
- Judge:** Are you also prohibited from going outside the house like her?
- Defendant:** No, I am not. I was told that I could go out if I wanted to.
- Judge:** How many times have you gone out of your own accord in the six years?
- Defendant:** I have never done so. I let her know to show my due respect to her if I have to go outside.
- Judge:** Did you notice any signal before Mr John William Yettaw entered the house in the night of 30th November 2008?
- Defendant:** I saw him from inside the house. At that time it was dark, so I could not identify who was that.
- Judge:** What items did he leave in the house?
- Defendant:** I did not know what he left at that time. Some days later, I found them while I was doing the cleaning.
- Judge:** At what time did Mr John William Yettaw arrive at the house on 3rd May?
- Defendant:** I heard someone moaning at about half past three in the morning on 4th May.
- Judge:** How did Mr John William Yettaw communicate to enter the house?
- Defendant:** I found a man lying outside the house. So, I let her know. The next morning, he was allowed to enter and stay in the house.
- Judge:** How many days did he stay in the house?
- Defendant:** He left the house before the midnight of 5th May.
- Judge:** Which way did he take to leave the house?
- Defendant:** I saw him going to the lake, but I did not know which way he took.

- Judge:** How did you provide accommodation, serve meals, and communicate with him?
- Defendant:** I can't speak English, nor did I need to speak to him. I served him food when she asked me. We arranged accommodation for him.
- Judge:** Did Mr John William Yettaw give Daw Aung San Suu Kyi his daughter's letters through you?
- Defendant:** No.
- Judge:** How did he give her the letters, then?
- Defendant:** I don't know.
- Judge:** What sorts of things did Mr John William Yettaw leave in the house?
- Defendant:** They are not the things he left but the ones he missed to take and they were handed over to the police.
- Judge:** Did Mr John William Yettaw say that he would come again?
- Defendant:** I don't know.
- Judge:** Is it possible for him to get into the house without opening the door?
- Defendant:** No, it isn't. He can get into the house only if the door was opened.
- Judge:** Is it true that you are a retired Junior Assistant Teacher?
- Defendant:** No, I am not. I am a retired Primary Assistant Teacher.
- Judge:** Is it true that you yourself have to liaise with the officials concerned regarding the health conditions and social affairs of Daw Aung San Suu Kyi?
- Defendant:** Yes, it is.
- Judge:** Do you think that Mr John William Yettaw came for the second time because he had already made contact during his first visit?
- Defendant:** When he came for the first time, I didn't know who Mr John William Yettaw was. Only when he came for the second time did I know who he was.

**Daw Win Ma Ma's Testimony**

- Judge:** Do you always live with Daw Aung San Suu Kyi who is before the court at her house?
- Defendant:** For four years.
- Judge:** Is it true that Daw Aung San Suu Kyi and her house have been under restriction order, prohibition order and continued prohibition order?
- Defendant:** Not that I know of.
- Judge:** How often have you ever left the house of your own volition during your stay there?
- Defendant:** Never.
- Judge:** What signals did Mr John William Yettaw give when he came to Daw Aung San Suu Kyi's house on the night of 30 November, 2008?
- Defendant:** I have no idea.
- Judge:** What items did he leave at the house where you were living?
- Defendant:** I don't know.
- Judge:** At what time did Mr John William Yettaw arrive at the house you were living on the night of 3 May?
- Defendant:** I heard someone moaning early in the morning but I didn't go out. Only when it was light did Mr John William Yettaw come into the house.
- Judge:** Why did you let him come in?
- Defendant:** I don't know.
- Judge:** How long did he stay at the house?
- Defendant:** He left the house at about midnight on 5 May.
- Judge:** Which route did he take?
- Defendant:** He went in the direction of the lake but I didn't know which route he took.
- Judge:** How did you arrange with the food and accommodation for Mr John William Yettaw?

**Defendant:** We fed him when it was time for meals. But I don't know about the accommodation because it was the matter my elders took care of.

**Judge:** Did you give Daw Aung San Suu Kyi the letters which Mr John William Yettaw said were his daughter's?

**Defendant:** Not that I know of. I took them out and gave them to the police when they came.

**Judge:** What were the things Mr John William Yettaw left at your house?

**Defendant:** It was not that he left the things, but he missed to take them back.

**Judge:** Did Mr John William Yettaw tell Daw Aung San Suu Kyi that he would be coming again?

**Defendant:** Not that I know of.

**Judge:** Would it be possible to come into the house unless you opened the door?

**Defendant:** It would be possible only if the door was opened.

**Judge:** Did you have to liaise with the officials concerned regarding the health conditions and social affairs of Daw Aung San Suu Kyi?

**Defendant:** No, I didn't.

**Judge:** If it is said that Mr John William Yettaw came for the second time because he had already made contact during his first visit -

**Defendant:** I didn't know about this.

**Judge:** Did Mr John William Yettaw leave his clothes and personal items at the house of Daw Aung San Suu Kyi for a visit next time?

**Defendant:** I don't know it.

**Judge:** Did you prohibit the acts of Mr John William Yettaw for taking photos and making recording in the house?

**Defendant:** I don't know it.

**Judge:** Could Daw Aung San Suu Kyi accommodate a foreigner at the house if she did not have the help of you and your mother Daw Khin Khin Win?

**Defendant:** I don't know it.

**Judge:** Did you give accommodation and food to Mr John William Yettaw who arrived at the house?

**Defendant:** We did it as asked by Aunty Daw Aung San Suu Kyi.

### John William Yettaw's Testimony

Although the NLM stated details of the testimonies of Daw Khin Khin Win and Daw Win Ma Ma in a form of direct questions and answers, the newspaper didn't stated Mr. Yettaw's testimony directly. Rather, it stated indirectly as follows:

*"Mr John William Yettaw was examined. After taking oath at the court, Mr John William Yettaw was examined as the witness. He said that he had visited Yangon twice. He said that the first visit was on 7 November 2008. He continued to say that he arrived at the residence of Daw Aung San Suu Kyi for the first time on 30 November 2008 and it was at about 11 pm. He said that he went into the residence compound without entering the house and left the book entitled "Book of Mormon" at the back of the house. He added that on the first entry, he walked along the bund of Inya Lake through the drain. After that, he said that he stepped over the fence of the residence. On 2 May, he arrived in Yangon again, he said. At 4 am on 3 May, he entered the residence compound of Daw Aung San Suu Kyi, he said. He lied down near the back door of the house due to cramp in both legs and tiredness. He entered the residence easily as the back door was not locked. He stayed at the residence from the night of 3 May and left there about mid-night of 5 May. Though he took documentary photos and shot video during his stay in the residence, Daw Aung San Suu Kyi did not notice it at all. Neither Daw Khin Khin Win nor Ma Win Ma Ma noticed it. His belongings were left at the residence as he forgot to bring them when he left there in the darkness. He was in battle nearly two years during the war in Vietnam and he was a member of the US Army. During his stay in the residence of Daw Aung San Suu Kyi, he was provided with a helping of fried rice and bottles of purified water.*

*When cross-examined by the district law officer, he said he had been to Yangon for two times and he left Bangkok for Yangon by flight. He also entered Myanmar through Maesot and Maesai and visited Maetaw Clinic in Maesot for ten times. During the visit, he met with Bo Kyi of Assistance Association for Political Prisoners- AAPP. He signed and agreed that he would follow the disciplines in the visa during the visit to Myanmar. The proceedings are adjourned until 10 am on 28 May."— (NLM May 28, p. 7)*

Today's court proceedings, District Court judges rejected the three witnesses on the grounds that their testimony would be for the purpose of vexation or delay or for defeating the ends of justice. As the court's rejection to three of four defendants' witness requested by Daw Aung San Suu Kyi's legal team was totally unfair. Therefore, her legal team would file an appeal for the rejected three witnesses to Division Court.

**DAY 10 (MAY 28) – No Constitutional Crisis, But Crisis of Constitutions**

Figure 8: U Kyi Win, Daw Suu's defendant witness

At the 10<sup>th</sup> day of the trial, defendant's witness U Kyi Win (not Daw Aung San Suu Kyi's lawyer U Kyi Win), a lawyer and Member of Parliament elected from Lattputa Constituency (2) in the 1990 election, testified before the court. Although the legal team of Daw Aung San Suu Kyi presented a list of 4 witnesses, the judges of Ragoon North District Court rejected 3 witnesses as they were disqualified. U Kyi Win was the only witness from the side of Daw Aung San Suu Kyi that the court allowed. The four defendant witnesses are U Tin Oo, Vice Chairperson of the NLD, U Win Tin, Secretary of the NLD, U Kyi Win, a lawyer and the NLD's MP from Laputta Constituency

(2) and Daw Khin Moe Moe, a lawyer. When the judges asked U Kyi Win about his role to testify before the court, he answered that he was a defendant witness of Daw Aung San Suu Kyi as well as a law expert to help bring about a fair trial. The state-run *New Light of Myanmar* stated detailed accounts of his testimony without the questions asked to him. These accounts are follows:

*"...because the phrase of Article 3 (a) of Chapter II definition of expressions law 1973 said that "the definition of the expressions stated in the provisions shall be the same as their everyday use"; that that was why he stated that the 1974 constitution was no longer effective; that Mr John William Yettaw entered the restricted house twice and if security members allowed him they too could be considered to have violated the law; that if action was not taken in that case, it had to be considered that he was legally allowed to do so and he was innocent; and that the host who had allowed him to get into the house would be legally allowed to do so."*— (NLM May 29: p. 7)

When lawyer U Khin Maung Oo cross-questioned U Kyi Win about whether which sections could be applied to take action against Mr John William Yettaw for his entering the restricted house at night, U Kyi Win gave the legal explanations on the case as follows:

*"Mr John William Yettaw's lawyer U Khin Maung Oo, cross-questioning defence witness U Kyi Win, said that if asked which sections could be applied to take action against Mr John William Yettaw for his entering the restricted house at night, action could be taken against him under Articles 451/452 of the Code of Criminal Procedure; that it would be right if action could be taken against him only under Article 456 of the Code of Criminal Procedure for his entering the house at night; that if it was said that the restricted building was Daw Aung San Suu Kyi's current property, it was the State's current property because the State had deployed security*

*members around it; and that if it was said that if asked whether the building belonged to Daw Aung San Suu Kyi, it could not be said that it was hers.”— (NLM May 29: p. 7)*

When Prosecutor District Law Officer cross-examined U Kyi Win, he answered as follows:

*“It was likely that he happened to reply to the questions of Mr John William Yettaw’s lawyer by referring to wrong article of law; that he did not know the fact that one who wants to enter the house compound of Daw Aung San Suu Kyi prohibited by authorities must do so only after asking permission from her; that it was true that once, the request of Mr Gambari himself to meet Daw Aung San Suu Kyi was turned down by her; that according to the Article 456, although a person secretly enters a house, it does not mean that he commits a crime if his entry is approved by the host; that whether the intruder Mr John William Yettaw committed the crime of intruding the house, it does not mean that he did so because he was given shelter by Daw Aung San Suu Kyi herself; that whether Mr John William Yettaw made contacts with her, according to the restrictions law, it does not mean that he did so as he gave her books and documents and left the house carrying photos and video documents with him on the way back; if the 1974 constitution was the existing one or the one still in force, it was null and void; that it was said so according to the Notification No 1/90; that according to the Declaration No 6/88 of State Law and Order Restoration Council, it was true that all the existing laws were valid so long as the SLORC abolished and revoked them when it assumed State duties on 18 September 1988; that the constitution was not applicable; that it was true that the Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts had not been abolished; that he did not know that Daw Aung San Suu Kyi’s lawyers U Kyi Win and U Hla Myo Myint claimed the right to defend in the appeal form dated 9 October 2008 submitted to the government referring to Article 23 and Article 167(B) of the 1974 constitution; that he did not know either that U Kyi Win wrote letters to the Special Branch requesting to hear the appeal form by referring to the 1974 constitution; that if he was examined as a defence witness or a law expert, he helped to ensure fair and justice both as a defence witness and a law expert.”— (NLM May 29: p. 7)*

Defendant witness U Kyi Win said that the residence of Daw Aung San Suu Kyi was currently not hers because it was controlled by the State and, in fact, it was the State’s property. Regarding this, Prosecutor District Law Officer seemed to cross-questioned him, according to U Kyi Win’s testimony, that Daw Aung San Suu Kyi’s residence was her property by pointing out that the incident in which Daw Aung San Suu Kyi denied accepting the visit of the United Nations Sepcial Envoy to Burma Mr. Ibrahim Gambari proved that the residence is her property.

*“In accordance with the Code of Criminal Procedure Article 539 b. (1) and provisions of the article 621 of court manual, members of the jury at Yangon North District Court, law officers and Lawyer U Khin Maung Oo, went to the residence of Daw Aung San Suu Kyi to inspect how Mr. John William Yettaw entered and left the residence.” — (NLM May 29: p. 7)*

However, after the court was adjourned on June 1, the judges, district law officers, lawyer U Khin Maung Oo and Mr. Yettaw went to the residence compound of Daw Aung San Suu Kyi without asking her permission. Although she was released from house arrest by the SPDC on May 26, the authorities still deployed security units around the residence.

After the court proceedings, Daw Aung San Suu Kyi had a brief discussion with her lawyers and commented that there is no constitutional crisis in Burma but crisis of Constitution indeed. She indicated that she was charged against restrictions imposed according to the former Constitution. There seems to be two Constitutions in Burma at the same time. National League for Democracy issued a Statement No. 15/05/09 and complained that the court's rejection to three out of four defendants' witnesses according to Criminal Procedure Code section 257 (1) was totally unfair. It also stated that the court accepted 15 prosecution witnesses out of 23 to be examined where as only one defendant witness was allowed to be examined.



Figure 9: *The District judges and police officers seeing Mr. Yettaw demonstrating his intrusion into Daw Suu's residence*

### **DAY 11 (JUNE 5) – Challenging District Judges' Decision**

Although adjourned to June 1, the trial was postponed by the judges first to June 5 without giving any reason and second to June 12 when the legal team of Daw Aung San Suu Kyi filed an appeal to Rangoon Division Court to hear the unfair decision of the district court that rejected 3 out of 4 defendants' witnesses. The three witnesses are the NLD's Vice Chairman Tin Oo, Secretary U Win Tin and lawyer Daw Khin Moe Moe. The division court decided to hear the appeal of Daw Aung San Suu Kyi's Lawyers on June 5. But the division court adjourned the hearing to June 9. The division court will decide whether the three rejected witnesses are allowed to testify before the court.

On June 3, The NLD Youth issued a statement calling for unconditional release of Daw Aung San Suu Kyi. They strongly rejected the unfair court trial over Daw Aung San Suu Kyi. On June 4, The Township Peace and Development Council in Bahan Township

called three responsible central youth leaders of the NLD to the TPDC office and warned that due to issuing this statement, the authorities can arrest the youths. On June 5, the authorities from Home Ministry again called three Central Executive Members of the NLD and three youth leaders and warned that the NLD Youth leaders can be arrested due to the statement they issued on May 3. The authorities forced one of the NLD Youth leaders to sign their warning. After that, all six CEC members and youth leaders were released.

### **DAY 12 (JUNE 9) – One More Defendant Witness Allowed**

Rangoon Division Court judges made a decision to allow only one of three rejected defendant's witnesses to testify before the Special Court set up in Insein Prison. Daw Khin Moe Moe, a lawyer, was allowed to testify before the court. However, the court continued to ban U Tin Oo and U Win Tin, Vice Chairman and Secretary of the National League for Democracy from testifying before the court. The judges didn't give a written document of the reasons why they rejected the two witnesses. Lawyer U Kyi Win said they will file another appeal to Supreme Court to allow the two NLD leaders to testify before the court on June 11.

The two rejected witnesses are likely to testify the political character of Daw Aung San Suu Kyi. Lawyer U Kyi Win said that U Tin Oo was a very important witness because he was alongside Daw Aung San Suu Kyi throughout her tour from Kachin States to Depayin where Daw Aung San Suu Kyi and her motorcade, including U Tin Oo, were attacked on May 30, 2003.

### **DAY 13 (JUNE 11) – Seeking Justice at Supreme Court for Politically-motivated Trial**

On May 10, lawyers of Daw Aung San Suu Kyi met her in the detention house of Insein Prison. Daw Aung San Suu Kyi said in the meeting that this trial is “**politically motivated.**” On May 11, Daw Aung San Suu Kyi's legal team filed an appeal with High Court for allowing U Tin Oo and U Win Tin to testify as defendants' witnesses before the court. High Court accepted the appeal and would hear the case on June 17.

Furthermore, regarding the two set of woman wears that Mr. John W. Yettaw took and left at her home, Daw Aung San Suu Kyi said that Mr. Yettaw gave a confession before the court that these clothes were a kind of clothes he saw in his vision and never mentioned that they are the Muslim woman's belongings. It is only the prosecution witnesses who defined the clothes as Muslim woman's belonging. She said it is an insult to Muslim tradition.

### **DAY 14 (JUNE 12) – Trial Postponed**

At the 14<sup>th</sup> day of the trial against Daw Aung San Suu Kyi and her two companions, the judges of Rangoon North District Court made no examination but adjourning the trial to June 26. Now, the legal team of Daw Aung San Suu Kyi was waiting for the decision made by Supreme Court on June 17.

## INTERNATIONAL COMMUNITY'S RESPONSE TO THE INCIDENT

### United Nation Security Council<sup>5</sup>

The following Security Council press statement on Myanmar was read out today by Council President Vitaly Churkin ( Russian Federation):

“The members of the Security Council express their concern about the political impact of recent developments relating to Daw Aung San Suu Kyi.

“The members of the Security Council reaffirm, in this context, their statements of 11 October 2007 and 2 May 2008 and, in this regard, reiterate the importance of the release of all political prisoners. The members of the Security Council reiterate the need for the Government of Myanmar to create the necessary conditions for a genuine dialogue with Daw Aung San Suu Kyi and all concerned parties and ethnic groups in order to achieve an inclusive national reconciliation with the support of the United Nations.

“The members of the Security Council affirm their commitment to the sovereignty and territorial integrity of Myanmar and, in that context, reiterate that the future of Myanmar lies in the hands of all of its people.

### United Nation Secretary General Ban Ki-moon

May 14, 2009<sup>6</sup>—The Secretary-General believes that Daw Aung San Suu Kyi is an essential partner for dialogue in Myanmar's national reconciliation and calls on the Government not to take any further action that could undermine this important process.

June 11, 2009<sup>7</sup>—Promoting democratization, including the release of Daw Aung San Suu Kyi and other political prisoners, has been one of my top priorities and it will continue to be my top priority. And I have been constantly engaging in dialogue with Myanmar authorities, and through my Special Advisor, Mr. [Ibrahim] Gambari. When the time is appropriate and conditions are ripe, as I said many times, I'm ready to visit Myanmar. I'm working on that now. When the time comes, I will let you know.

### Statement of Chairman of Association of Southeast Asian Nations<sup>8</sup>

**Thailand, as the ASEAN Chair, expresses grave concern about recent developments relating to Daw Aung San Suu Kyi, given her fragile health. In this connection, the Government of the Union of Myanmar is reminded that the ASEAN Leaders had called for the immediate release of Daw Aung San Suu Kyi. Furthermore,**

<sup>5</sup> <http://www.un.org/News/Press/docs/2009/sc9662.doc.htm>

<sup>6</sup> <http://www.un.org/apps/news/story.asp?NewsID=30795&Cr=Myanmar&Cr1>

<sup>7</sup> <http://www.un.org/News/Press/docs/2009/sc9662.doc.htm>

<sup>8</sup> <http://www.aseansec.org/PR-ASEANChairmanStatementonMyanmar.pdf>

**the Government of the Union of Myanmar, as a responsible member of ASEAN, has the responsibility to protect and promote human rights. It is therefore called upon to provide timely and adequate medical care to Daw Aung San Suu Kyi as well as to accord her humane treatment with dignity. With the eyes of the international community on Myanmar at present, the honour and the credibility of the Government of the Union of Myanmar are at stake. Thailand, as the ASEAN Chair, reaffirms ASEAN's readiness to contribute constructively to the national reconciliation process and the peaceful transition of democracy in Myanmar.**

### **Declaration of the Presidency on behalf of the European Union<sup>9</sup>**

The EU deeply regrets that Daw Aung San Suu Kyi, leader of the National League of Democracy, and members of her household have been arrested and charged with breaching the terms of her detention, which the United Nations had determined violates international and national law. It is especially striking that these events practically coincide with the expiry of her house arrest.

The EU strongly urges Burma/Myanmar's authorities to release Aung San Suu Kyi and engage in an inclusive process of national reconciliation, which is essential for setting Burma/Myanmar on a genuine path to stability and prosperity and initiate a new phase in the development of the country.

The Candidate Countries Turkey, Croatia\* and the former Yugoslav Republic of Macedonia\*, the Countries of the Stabilisation and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro, and the EFTA countries Iceland, Liechtenstein and Norway, members of the European Economic Area, as well as Ukraine, the Republic of Moldova, and Georgia align themselves with this declaration.

(\*Croatia and the former Yugoslav Republic of Macedonia continue to be part of the Stabilization and Association Process.)

### **The United States President Barack Obama's Statement<sup>10</sup>**

I call on the Burmese government to release National League for Democracy Secretary General and Nobel Peace Prize winner Aung San Suu Kyi from detention immediately and unconditionally. I strongly condemn her house arrest and detention, which have also been condemned around the world. The United Nations Working Group on Arbitrary Detention has issued opinions affirming that the detention of Aung San Suu Kyi dating back to 2003 is arbitrary, unjustified, and in contravention of Burma's own law, and the United Nations Security Council reaffirmed on May 22 their concern about the situation and called for the release of all political prisoners.

Aung San Suu Kyi's continued detention, isolation, and show trial based on spurious charges cast serious doubt on the Burmese regime's willingness to be a responsible member of the international community. This is an important opportunity for the government in

<sup>9</sup> <http://www.delphi.ec.europa.eu/docs/Declaration>

<sup>10</sup> [http://www.whitehouse.gov/the\\_press\\_office/Statement-by-the-President-on-Aung-San-Suu-Kyis-House-Arrest-and-Detention/](http://www.whitehouse.gov/the_press_office/Statement-by-the-President-on-Aung-San-Suu-Kyis-House-Arrest-and-Detention/)

Burma to demonstrate that it respects its own laws and its own people, is ready to work with the National League for Democracy and other ethnic and opposition groups, and is prepared to move toward reconciliation.

By her actions, Aung San Suu Kyi has represented profound patriotism, sacrifice, and the vision of a democratic and prosperous Burma. It is time for the Burmese government to drop all charges against Aung San Suu Kyi and unconditionally release her and her fellow political prisoners. Such an action would be an affirmative and significant step on Burma's part to begin to restore its standing in the eyes of the United States and the world community and to move toward a better future for its people.

### **Secretary Hillary Clinton's Press Statement<sup>11</sup>**

I am deeply troubled by the Burmese Government's decision to charge Aung San Suu Kyi for a baseless crime. It comes just before the six-year anniversary of her house arrest, and it is not in keeping with the rule of law, the ASEAN charter, or efforts to promote national reconciliation and progress in Burma.

We oppose the regime's efforts to use this incident as a pretext to place further unjustified restrictions on her, and therefore we call on the Burmese authorities to release her immediately and unconditionally, along with her doctor and the more than 2,100 political prisoners currently being held.

I have a great admiration for Aung San Suu Kyi, for her sacrifices and her love of her country. There are certainly political differences that exist in any society. The minister [Malaysian Foreign Minister] and I understand that. But we all should be striving to enhance the rule of law. And the ASEAN charter, which the minister and I spoke about in our meeting, sets a very clear direction for all the countries in the region to be headed.

### **The Norwegian Nobel Committee<sup>12</sup>**

The Norwegian Nobel Committee protests strongly against the way in which the government of Myanmar (Burma) has treated Aung San Suu Kyi, the Nobel Peace Prize Laureate of 1991. Her recent detention in prison is totally unacceptable. She has done nothing wrong. The government's treatment of her is contrary to international rules and norms. We urge that she and other political prisoners be immediately and unconditionally released. Free elections should be held as soon as possible.

In the general election in 1990 Aung San Suu Kyi and her National League for Democracy triumphed. The results were, however, nullified and the military refused to hand over power. No free elections have since been held. For years Aung San Suu Kyi has lived under house arrest. The unacceptable treatment of her has to come to an immediate end.

Recent reports about Aung San Suu Kyi's health are of great concern. We demand that she be given the necessary medical assistance without delay.

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<sup>11</sup> <http://www.state.gov/secretary/rm/2009a/05/123505.htm>

<sup>12</sup> [http://nobelpeaceprize.org/uploads/documents/Aung\\_San\\_Suu\\_Kyi.pdf](http://nobelpeaceprize.org/uploads/documents/Aung_San_Suu_Kyi.pdf)

**National League for Democracy  
No. 97/b, West Shwegondine Street  
Bahan Township, Rangoon**

May 27, 2009

Statement No. 14/05/09  
(Unofficial Translation)

The following is the complete text of the statement of Daw Aung San Suu Kyi, leader and General Secretary of National League for Democracy submitted to the court according to the section 256 of the Criminal Procedure Code regarding the charge against Daw Aung San Suu Kyi.

“(Start)”

1. The case described above is the case filed by Lieutenant Colonel Zaw Min Aung from Police Special Branch to the Bahan Township Police Station on 11-5-2009 against Daw Aung San Suu Kyi in accord with the article 22 of the 'Law to safeguard the State against the dangers of those desiring to cause subversive acts' and against Daw Khin Khin Win (father) U Tin Ohn, Ma Win Ma Ma (father) U Nyan Linn and Mr. John William Yettaw who abetted her in committing this crime in accord with criminal code section 109 of the article 22 of the above mentioned law.

2. I heard that Mr. John William Yettaw arrived at my house compound for the first time on 30 November 2008, from Daw Khin Khin Win who is staying together with me.

I reported this incident to the authorities through Dr. Tin Myo Win who came to my house for regular medical check up on 4 December 2008. Authorities did not come to me to inquire about that event. I have never heard any action taken by authorities against that event. I have never been reminded to report authorities at once when some one intrudes into my house compound.

I found out Mr. John William Yettaw's second arrival at my house compound in the morning of 4-5-2009. I told him to leave my house compound. He told me that he would be arrested if he leaves in day light so he would like to go back at night time. However, at night he requested me to allow him to stay overnight for health reason.

3. Nowadays, a large number of my colleagues have been serving long prison terms without protection and leniency of law. Therefore, I allowed him temporary shelter due to my political conscience of which I cannot force anybody into being arrested.
4. I do not care who the intruder is and what his intentions are. I just did according to my political conscience. I intended to inform authorities about that intrusion on 7-5-2009 when Dr. Tin Myo Win visited me for monthly regular medical check up. However,

only policemen came into my house on 7-5-2009 and Dr. Tin Myo Win was not allowed to come in.

5. When I handled the incident happened on 30<sup>th</sup> November, I carefully did it in order not to affect the intruder and security personnel responsible for my house compound, with concept of diminishing the unnecessary problems. Regarding that case, it is assumed that authorities accept the way I handled it as they did not object or criticize or do something for it.

When questioning a recalled prosecution witness, he testified that authorities and I were jointly responsible for the security of my house compound. The statement is totally not true.

6. I am charged with breaking the restrictions and internment order described in the article 22 of the 'Law to safeguard the State against the dangers of those desiring to cause subversive acts'

- (a) It is very obvious that I did not breach any conditions according to the testified statements of the prosecution witnesses and evidence of the internment order.

- (b) Prosecutors testified that restrictions (or) deprivation of the fundamental rights were according to the fundamental rights of the 1974 Constitution of the Socialist Republic of the Union of Burma. That constitution has collapsed or has no longer been in force since the day of the military *coup d'état* in 1988. It is unlawful to make restrictions according to inactive constitution.

7. Although the root cause of this case is based on the lack of security or breach of security, no action is taken against the responsible security personnel. But only I was taken charge. Therefore it is a biased act.

8. I hereby state that I did not commit the crime that I have been charged with.

“(End)”

As per the decision of the joint meeting of the Central Executive Committee and Central Legal Aid Team held on 26<sup>th</sup> May 2009,

Central Executive Committee  
National League for Democracy

Rangoon

National League for Democracy  
No. 97/b, West Shwegondine Street  
Bahan Township, Rangoon

May 28, 2009

Statement No. 15/05/09  
(Unofficial Translation)

Authorities did not give Daw Aung San Suu Kyi, General Secretary of National League for Democracy, sufficient time to consult with her lawyers before the Court procedures regarding the charge against her.

Moreover, Daw Aung San Suu Kyi's lawyers nominated U Tin Oo, U Win Tin, U Kyi Win and Daw Khin Moe Moe as defense witnesses on 26<sup>th</sup> May, 2009. The Court rejected U Tin Oo, U Win Tin and Daw Khin Moe Moe according to Criminal Procedural Code – 257 (1) on 27<sup>th</sup> May, 2009. The Court allowed 15 prosecution witnesses to testify but only one defence witness was allowed. It is totally unfair. It can be said that the defendant has not right to defend.

Sufficient time must be allowed for a defendant to consult with one's lawyer in order to defend the case. And defendant's witnesses must be allowed to be testified. The Court has to hear both sides' arguments. Only then, it can be said that defendant has the right to defend.

Therefore, article 11(1) described as; 'Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence' in the 'Universal Declaration of Human Rights' and 'Right of defence in legal charges' described in article 2 (f) of the State Peace and Development Council's 'Year 2000 Judicial Law' were violated in this case.

As per the decision of the joint meeting of Central Executive Committee and Legal Aid Committee

Central Executive Committee  
National League for Democracy

Rangoon

National League for Democracy  
No. 97/b, West Shwegondine Street  
Bahan Township, Rangoon

May 29, 2009

Statement – 16/05/09  
(Unofficial Translation)

Regarding the charge against Daw Aung San Suu Kyi, leader and General Secretary of the National League for Democracy, only U Kyi Win, Member of Parliament elect from Constituency (1) of the Laputta Township, as a defense witness of Daw Aung San Suu Kyi, was allowed to testify in the court on 28<sup>th</sup> May, 2009.

The final argument for the charge upon Daw Aung San Suu Kyi from both side, will be heard by the court on 1<sup>st</sup> June, 2009.

However, it is reported that Daw Aung San Suu Kyi has been seriously suffering from cramp in her legs so she cannot sleep well at night.

Therefore, we declare that the National League for Democracy is now gravely concerned about Daw Aung San Suu Kyi's health and she needs urgent and effective medical care for her health.

As per the decision of the meeting of the Central Executive Committee and Central Legal Aid Committee,

Central Executive Committee  
National League for Democracy

Rangoon

**STATE PROTECTION LAW**  
Pyithu Hluttaw Law No. 3, 1975

**PREAMBLE**

The People's Assembly enacts the following Law in order to prevent the infringement of the sovereignty and security of the Union of Burma against any threat to the peace of the people, and against the threat of those desiring to cause subversive acts causing the destruction of the country, without impeding citizens' fundamental rights.

**CHAPTER 1**

**Article 1**

This Law shall be called the Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts.

**Article 2**

"Commit", in the context of this Law, is to perform or about to perform, or to abet, or to assist in, any act that either directly or indirectly, in any manner, threatens any provision under Article 7 of this Law;

"Central Board", in the context of this Law, is the Board organized under Article 8 of this Law;

"Person Against Whom Action Is Taken", in the context of this Law, is any person whose fundamental rights are being restricted by any provision under this Law, or any person who is under arrest and detained following such restriction.

**CHAPTER 2**

**Article 3**

In order to be able to protect in advance against threats to the sovereignty and security of the State and the peace of the people, the State Council

- (a) may declare a State of Emergency for any territory in the country;
- (b) may, if necessary, restrict any citizen's fundamental rights in any territory in the Union of Burma.

**Article 4**

The declaration of the State of Emergency under Article 3 shall not exceed sixty days. The State Council shall submit and seek approval at the next session of the People's Assembly for any prolongation. If there is no such session within the next sixty days, an emergency People's Assembly session shall be held and approval secured. If the Assembly's approval cannot be secured, the State of Emergency ceases to be in force from the day it is not approved. Any measures officially implemented prior to the expiration of the State of Emergency shall be lawful.

**Article 5**

Immediately following the withdrawal of the declaration of the State of Emergency, restrictions mentioned under Article 3(b) shall cease to be in force.

**Article 6**

If the declaration of the State of Emergency mentioned under Article 3(b) is withdrawn within sixty days, the State Council shall submit and secure approval of its activities at the next session of the People's Assembly. If the Assembly's approval cannot be secured, the declaration of the State of Emergency shall cease to be in force from the day it is not approved. Any measures officially implemented prior to the annulment of the declaration shall be lawful.

**CHAPTER****3****Article 7**

The Cabinet is authorized to pass an order, as may be necessary, restricting any fundamental right of any person suspected of having committed or believed to be about to commit, any act which endangers the sovereignty and security of the state or public peace and tranquility.

**Article 8**

For the implementation of the authorization mentioned under Article 7, the Cabinet may form a Central Board on its behalf, chaired by the Minister of Home and Religious Affairs. The Minister of Defense and the Minister of Foreign Affairs shall be members of the Central Board.

**Article 9**

In restricting fundamental rights of citizens, the following principles shall be strictly adhered to:

- (a) The restriction order shall be laid down by the Central Board only;
- (b) Only necessary restriction of fundamental rights shall be decided;
- (c) The duration of such restriction shall be kept to a minimum;
- (d) In addition to regular review of the restriction order, earlier review of the order may be done as necessary;
- (e) If sufficient facts for filing a lawsuit have been gathered, the person against whom action is taken shall be handed over to the judicial authorities immediately;
- (f) The person against whom action is taken shall enjoy the fundamental rights as provided in the Constitution, in so far as these rights have not been restricted;
- (g) When any threat as described in Article 7 has ceased to exist, the restriction order shall be annulled immediately;
- (h) Any person detained under this Law shall, after being released, not again be arrested and imprisoned on the same charges.

**CHAPTER 4****Article 10**

The Central Board, in the protection of the State against dangers, has the right to implement the following measures through restrictive order:

- (a) A person against whom action is taken can be detained for a period of up to ninety days. This can be extended to a period not exceeding one hundred and eighty days;
- (b) If necessary, the movements of a person against whom action is taken can be restricted for a period of up to one year.

**Article 11**

The Central Board can implement the restrictions as described under Article 10(b) as follows:

- (a) Designation of the territory to which the movements of the person against whom action is taken can be restricted;
- (b) Designation of the place where the person against whom action is taken shall reside;
- (c) Denial, as may be necessary, of travel;
- (d) Denial of possession or use of specific materials.

**Article 12**

The Central Board shall obtain the approval of the Cabinet prior to the detention of a person against whom action is taken, in case such detention is considered necessary for a period longer than stipulated under Article 10(a).

**Article 13**

The Central Board shall obtain the prior approval of the Cabinet in case it is considered necessary to extend the restrictions mentioned under Article 10(b).

**Article 14**

The Cabinet may grant prior approval to continue the detention or restriction of rights of a person against whom action is taken for a period from one hundred and eighty days up to three years.

**Article 15**

The Central Board may, in case measures are necessary to arrest or detain a person or to restrict a person's rights, direct any Public Service to carry out such measures accordingly.

**CHAPTER 5****Article 16**

The Cabinet or the Central Board can review and implement, as may be necessary, any order for restriction, arrest, detention, or denial of rights:

- (a) There will be at least one regular review every sixty days;
- (b) Restriction orders may be altered or annulled if necessary;
- (c) Arrest and detention orders may be altered or annulled if necessary;
- (d) Denial orders may be altered or annulled if necessary.

**CHAPTER 6****Article 17**

The Central Board shall compile a regular report about its activities every ninety days.

**Article 18**

If necessary, the Cabinet can use the report mentioned in Article 17 to alter or annul any orders passed by the Central Board regarding restriction, arrest, detention, or denial of any rights of citizens.

**CHAPTER 7****Article 19**

Any person against whom action is taken has the right of appeal while action is being taken.

**Article 20**

Appeal can be made to the Cabinet regarding orders regulating restriction, arrest, detention or denial of rights laid down by the Central Board under this Law. The Cabinet can annul, alter or approve the order as may be necessary.

**Article 21**

If the Central Board considers it necessary to extend any orders passed under this Law with prior permission from the Cabinet, an appeal can be sent to the Council of People's Justices. The Council may alter, annul or approve the order as may be necessary.

**CHAPTER 8****Article 22**

Any person against whom action is taken, who opposes, resists or disobeys any order passed under this Law shall be liable to imprisonment for a period of up to three years, or a fine of up to five thousand kyats, or to both.

**Article 23**

Any provision under Article 7 shall be implemented only according to this Law.

**Article 24**

For the purpose of effective and successful implementation of the provisions contained in this Law, the Cabinet may issue notifications, orders, directives and procedures as may be necessary.

**AMENDMENTS**

State Law and Order Restoration Council (SLORC) Notification No. 11/91, dated 9 August 1991, amended the State Protection Law. The salient amendments were that the right of appeal under Article 21 was repealed, and that the maximum prison sentence under Articles 14 and 22 went up from three to five years. The amendments were made applicable retrospectively.

## BIOGRAPHY OF DAW AUNG SAN SUU KYI

**1945:** Daw Aung San Suu Kyi, one of the world's most renowned freedom fighters and advocates of nonviolence, was born to Burmese national hero General Aung San and Daw Khin Kyi on June 19, 1945 in Rangoon, Burma. She is the third and youngest child of Aung San family and was given Aung San Suu Kyi, representing “Aung San” for father, “Kyi” for mother, “Suu” for grandmother.

**1960:** Aung San Suu Kyi educated in Rangoon until 15 years old and moved to India following her mother’s appointment as Burmese Ambassador to India in 1960. She continued to study Lady Shri Ram College in New Delhi in 1960 – 64.

**1964-67:** She moved to the United Kingdom to study BA in philosophy, politics and economics at St. Hugh's College of Oxford University in 1964 - 67. She was later elected Honorary Fellow in 1990. Daw Aung San Suu Kyi first met Mr. Michael Aris, a scholar of Tibetan civilization, at the house of Lord Gore-Booth.

**1969:** In 1969, Daw Aung San Suu Kyi, after her graduation at Oxford, moved to New York for her graduate study. She chose to work as Assistant Secretary, Advisory Committee on Administrative and Budgetary Questions at the United Nations Secretariat in New York until 1971.

**1972:** On January 1, 1972, Daw Aung San Suu Kyi married Dr. Michael Aris. At this year, she worked as Research Officer, Royal Ministry of Foreign Affairs in Himalayan kingdom of Bhutan. She gave birth to her first son Alexander in London in 1973 and her second son Kim at Oxford in 1977. While raising her children, Daw Aung Suu Kyi began researching and writing her father biography entitled “*Aung San,*” which was published in Leaders of Asia series of University of Queensland Press in 1984.

**1985-86:** Daw Aung San Suu Kyi conducted a research about her father’s time in Japan as visiting scholar at Center for Southeast Asian Studies, Kyoto University. She was Fellow, Indian Institute of Advanced Studies in Simla, India in 1987. In the same year, Publishes “Socio-Political Currents in Burmese Literature, 1910-1940” written by Aung San Suu Kyi was published in journal of Tokyo University.

**1988:** Daw Aung San Suu Kyi went to Rangoon to help care for Daw Khin Kyi at their family home on University Avenue next to Inya Lake in Rangoon. She witnessed student demonstrations in Rangoon and nationwide, resulting in the resignation of General Ne Win, Burma’s military dictator, on July 23, 1988. On August 26, 1988, Daw Aung San Suu Kyi entered into Burmese politics by giving the first famous public speech to half a million Burmese people at the western gate of Shwedagon Pagoda and calling for a democratic change.

**18 September, 1988:** The military took power and formed State Law and Order Restoration Council (SLORC). On September 27, 1988, Daw Aung San Suu Kyi, together with well-known Burmese ex-military officers and politicians, formed National League for Democracy and became the party’s General Secretary. On December 27, 1988, Daw Khin Kyi, her mother, died at the age of seventy six.

**1989:** When Daw Aung San Suu Kyi became a famous democratic leader across the country in a short time, the military junta arrested her and put under house arrest on July 20, 1989. In 1990, the NLD won 392 parliamentary seats or more than 82 percent of the electoral votes in the general elections. But the SLORC denied handing power over the NLD.

**1991:** While she remained under house arrest, Daw Aung San Suu Kyi was awarded the world's prestigious Nobel Peace Prize on December 10, 1991.

**1995:** After six years of detention, she was released from house arrest on July 10, 1995. She continued her political activities as General Secretary of the NLD.

**1999:** On March 27, 1999, Aung San Suu Kyi's husband Michael Aris died of prostate cancer in London. His last request to visit Aung San Suu Kyi, whom he had last seen in 1995, was rejected by the military junta. The junta said if Aung San Suu Kyi wanted to leave the country she could do so. She refused the offer knowing that she would not be allowed to return to Burma.

**1996-2000:** During 1996 – 2000, Aung San Suu Kyi held a series of weekend public speech to the public and thousands of people gathered in front of her house. She defied the travel bans imposed against her by the junta and continually tried to leave Rangoon. In September 2000, around 200 riot police surrounded Daw Aung San Suu Kyi's motorcade near Dala Township in Rangoon Division and forced her to return to Rangoon after her nine-day non-violent protest in the car.

**2002:** After the incident, she was placed under house arrest as a second time on September 23. After 19 months of house arrest, she was again released on May 6, 2002. Before her release, Aung San Suu Kyi tried to reach "confident building" between her and the military generals through the facilitation of the United Nation Special Envoy to Burma Mr. Razali Ismail. However, the generals broke their promises later.

**2003:** On May 30, 2003, Daw Aung San Suu Kyi and her motorcade was ambushed by an unidentified state-organized gang of thugs at Kyi Village, about two miles away from Depayin Town located in central Burma. In the attack, an estimated hundred of the NLD members and supporter were killed and Daw Aung San Suu Kyi narrowly escaped from the killing field.

**May 31, 2003:** the SPDC arrested her under Section 10 (A) of the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts. The authorities brought her back to Rangoon and detained her in the notorious Insein Prison. After receiving operation from hospital, she was placed house arrest under Section 10 (B) of the same law.

**2009:** Daw Aung San Suu Kyi was going to be released on May 27, 2009. She is now charged accused of breaching condition of her detention under Section 22 of the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts on May 14. She is current detained in a detention house in the compound of Insein Prison during this unfair trial which could give her another 5-year prison sentence.