Presentation by U Tin Oo and the Central Legal Committee of the National League for Democracy

Introduction

U Tin Oo, as Chairman of the National League for Democracy and Daw Aung San Suu Kyi. The General Secretary of the NLD, were placed under house arrest in July 1989 while actively campaigning for the restoration of democracy in Burma following the 1988 student uprising. In December of 1989 U Tin Oo was arrested by the military authorities arid sentenced to three years imprisonment, which was later extended to five years. Following U Tin Oo's imprisonment. U Aung Shwe became the Chairman of the NLD, a position he continues to hold today. While U Tin Oo was being held in Insein Prison, the NLD won a landslide victory in the May 1990 elections.

In March 1995, U Tin Oo was released from Prison and re-elected as the Vice Chairman of the NLD in October 1995. U Tin Oo later became Chairman of the Central Legal Committee of the NLD. The Central Legal Committee provides advice and assistance to NLD members who are arrested or harassed by SLORC/SPDC officials, and provides advice to the NLD leadership on compliance with Burmese law and international human, rights law.

In November 1997, a conference of the International Bar Association, was convened In New Delhi, India, which was attended by over two thousand lawyers, including representatives of numerous Bar Associations from all over the world. During the IBA conference, A message from U Tin Oo, on behalf of the of the NLD's Central Legal Committee, was presented to the Chairman of the IBA together with a legal analysis paper entitled "Rule of Law in Burma under SLORC". This message and paper highlights the situation in Burma from the perspective of the Rule of Law. The NLD is also seeking the assistance of the international legal

communities, especially the International Bar Association, to provide legal expertise to support the democratic movement of Burma.

Address by U Tin Oo to the International Bar Association

May I, on behalf of the Central Legal Committee of the National League for Democracy, say what a pleasure and an honour it is to have this opportunity to send this message to the International Bar Association.

I hope that through this statement I shall be able to contribute towards a better understanding of the sorry state of the rule of law, judicial independence and human tights in Burma today.

As Chairman of the Central Legal Committee of the National League for Democracy, the political party that received the unequivocal mandate of the people in the only democratic elections held in Burma within the last thirty seven years, I have a duty to inform you of the malfunction of the rule of law, of the repeated violation of human rights and of official practices detrimental to the independence of the judiciary. The people of Burma are by nature law abiding, peace loving and gentle but under the present military government, known as the State Peace and Development Council (formerly the State Law and Order Restoration Council), they have been subjected to deplorable treatment.

The present military regime took power in 1988 after a ruthless suppression of a nation-wide pro-democracy uprising. After two years of rule by martial law a general election was held. The National League for Democracy won an overwhelming eighty two per cent of the parliamentary seats contested. Today, the results of the elections remain unacknowledged by the military government which continues to rule the country through arbitrary and draconian ordinances and laws.

SLORC/SPDC promulgated a judicial law, 2/88, which sought to create a new hierarchy of civilian courts. Although the new law contained formal guarantees of independence for those courts, in practice they are subjected to tight control, by the authorities at all times. Judges do not enjoy tenure and are under clear instructions to take the lead from the military authorities in the discharge of their functions. Thus although martial law courts have been abolished, political prisoners still do not receive fair trials. As has already been noted in the 1991 report of the International Commission of Jurists, most cases are tried in an arbitrary manner and verdicts are determined in advance of the trials. The administration of justice at present has become a casualty of the military regime. Not only are democratic activists charged unjustly under various laws and military

decrees and denied fair trials and due process of law, the judicial system has been emasculated over the years. Court proceedings are not open to the public and defendants are very seldom allowed access to counsel. Moreover, they are presumed guilty in advance and not given a fair chance to prove their innocence. There is no effective right of appeal to an independent higher forum due to the systematic interference of the military intelligence authorities. There has not been a single case where a political prisoner has been acquitted or given a lesser sentence by higher courts. Trials are a mere mockery of justice and punishments are far in excess of the so-called crimes. Moreover, most of the legal action taken against political prisoners falls into the *ultra vires* category.

Members, Supporters and sympathizers of the National League for Democracy are kept under close surveillance as though they were habitual offenders. Intimidation, harassment, oppression, violation of basic rights and perpetual persecution are daily fare for us. Legitimate democratic activities are deemed to be against the law. Political prisoners are detained for indefinite periods before charges are brought against them and they are not given the dignity of a proper trial. They are kept in unhygienic, crowded cells without adequate water or food and medical care is almost non-existent. Due to lack of required treatment, the spread of HIV in the prisons is alarming. There have already been a number of deaths and all prisoners can be said to be endangered to some degree. Worst of all, political prisoners are at times beaten and tortured cruelly and made to languish in solitary confinement at the whims and fancies of the jailers, who usually operate in accordance with the instructions of the military authorities.

To sum up, the rule of law is in dire straits in Burma today. Ii, the attached statement I have given explicit instances of the ways in which the independence of the judiciary is eroded, human rights violated and justice rendered farcical under military rule. Our struggle for democracy is a struggle for a system which will ensure that the law is the protector and not the persecutor of the people. We shall continue in this struggle until democracy has been established and basic human rights guaranteed it, our county. May I urge all readers to do their utmost to promote the cause for democracy, without which the rule of law cannot be restored to Burma.

Thank you

U Tin Oo
Chairman
Central Legal Committee
National League for Democracy