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**Special Announcement on the Fifth Anniversary of the Depayin
Massacre (30 May 2008)**

**Burma Lawyers' Council Urges the United Nations Security
Council to Refer the Heinous Crimes in Burma to
the International Criminal Court**

1. The Burmese people should pay gratitude to the United Nations Secretary-General, Mr. Ban Ki-moon, for visiting Burma, carrying out the task of aiding victims of the cyclone disaster, expressing regret for Daw Aung San Suu Kyi's extended detention, which began in connection with the Depayin Massacre, and insisting that she be released. But that alone is not enough. Her temporary release will only be the latest in the arrest and release cycle. Daw Aung San Suu Kyi has suffered from violations of laws of the International Criminal Court. She has also suffered from violations of United Nation Security Council Resolution 1325 establishing protections for women and girls. Based on these facts, the United Nations Security Council has the grounds and the responsibility to transfer the case of Daw Aung San Suu Kyi to the International Criminal Court to investigate the crimes and prosecute the perpetrators. The Burma Lawyers' Council urges the United Nations Security Council to do so.

2. It has been a full five years since the Depayin Massacre. No effective actions were ever taken on the authorities who committed this crime due to the following facts.

- (1) The inability to unanimously demand action on the Depayin Massacre for fear that it would affect the political dialogue.
- (2) The total absence of freedom in the judicial system and the total control of the system by the ruling military regime.

3. The International Criminal Court was formed on 1 July 2002. Even though the Depayin Massacre occurred on 30 May 2003, after the establishment of the International Criminal Court, actions were never taken due to the above mentioned facts. As a consequence, the offenders boldly and audaciously continued to commit crimes. Under the watchful eye of the world, they violated the existing laws by arresting, oppressing and killing the monks in September 2007. True National Reconciliation will not be achieved without prosecution of the crimes committed by the perpetrators. Sham meetings and superficial national reconciliation will gradually fade away.



4. The likelihood that action will be taken by the International Criminal Court on the heinous crimes that have occurred in Burma is improving. Although Sudan did not ratify the ICC statute, the ICC took action on Sudan through a 2005 referral from United Nations Security Council. On 29 May 2007, the Australian Labor Party (the present governing party) urged that action be taken on crimes in Burma. A similar decision was passed by European Union Parliament on 22 May 2008. These are good examples of taking action at the international level.

5. The present detention of Daw Aung San Suu Kyi is totally different from the previous detentions. She is the only victim of the Depayin Massacre that continues to be detained. Actually, she was not detained under 1975 State Protection Act but as a result of the Depayin Massacre. According to the 1975 State Protection Act, she should be freed after detention for five years but her continued detention would be a consequence of the Depayin Massacre. Her detention will continue year after year until her sentence expires, whether she is alive or dead. If she is freed based on international pressure, a few months after her release she will be detained again. The only way to completely stop the continuous arrests is to act on the matter using international law.

6. In Article 7, Section (1)(e) of the International Criminal Court statute, it is prescribed that crimes against humanity include “Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law”. The detention of Daw Aung San Suu Kyi cannot be considered ordinary. Detaining the National Leader and an internationally well-known person in violation of the existing laws frightens the people in the country and thus commits a great crime and reaches the threshold for invoking international law. There is international jurisdiction for this type of crime.

7. Therefore the Burma Lawyers’ Council urges the justice-loving people, organizations, human rights activists, political leaders and law academicians to mobilize for the release of Daw Aung San Suu Kyi and also to work together to end the cycle of release and arrest by pushing the heinous crimes committed by the SPDC to the International Criminal Court.

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