



LAN's Statement on the ASEAN Leaders Meeting convened on April 24

1. The invitation of the coup leader Min Aung Hlaing to the April 24 meeting and treated him equally as other countries' leaders would legitimize the Military Council, by implication. The ASEAN has ignored the legitimacy of the National Unity Government by excluding it from the meeting and showing no serious attention to the result of the 2020 elections. As such, the ASEAN itself has denied the principles of democracy noted in paragraph (2) of the Chairman's Statement on the meeting.¹ Legal Aid Network, therefore, objects to the ASEAN summit as far as Burma/Myanmar is concerned.

2. Paragraph (8) of the same statement includes some optimistic points such as the release of all political prisoners including foreigners as well as the immediate cessation of violence. However, the exact timeframe for the release of all political prisoners is not specified nor does it include what action will be taken if the political prisoners are not released or the violence is not ceased. Hence, it is highly unlikely for the military council to comply with these recommendations. It would only allow the military council to buy time to repress the pro-democracy protests.

3. In the first point of the five-point consensus, "*immediate cessation of violence*" is mentioned, yet it does not indicate who is inflicting violence on whom. It does not exactly point out that the military council shall stop repressing the peaceful protestors using deadly forces. Therefore, the ASEAN has put the people of Myanmar and Ethnic Resistance Organizations, who are resisting the brutal repression of the military council in self-defence, on a par with the military council. It is the utmost denial of justice by the ASEAN.

4. Paragraph (2) of the Chairman's Statement affirms that the principle of rule of law is highly enshrined in the ASEAN Charter. The International Independent Fact-Finding Mission for Myanmar, chaired by Marzuki Darusman who served as Indonesia's attorney general, submitted a

¹ <https://asean.org/storage/Chairmans-Statement-on-ALM-Five-Point-Consensus-24-April-2021-FINAL-a-1.pdf>

comprehensive report,² covering the period 2011 to 2018, highlighting that the six senior military leaders including Min Aung Hlaing are allegedly responsible for the commission of heinous crimes.³

5. *Due to the grave nature of these crimes, and their **jus cogens status** – a peremptory norm, a fundamental principle of international law – from which no derogation is permitted, an amnesty or pardon purporting to immunise perpetrators of such crimes cannot be upheld under international law.*⁴ The ASEAN itself is undermining the principles of the rule of law by encouraging constructive dialogue with the military council led by Min Aung Hlaing to seek a solution for the current crisis. It is the utmost ignorance of the serious crimes against the people committed by the military council. In this regard, the National Unity Government should not follow the tread of ASEAN denying the rule of law norms.

6. In fact, the ethnic political forces and major Ethnic Resistance Organizations (EROs) have superficially expressed their support for the formation of National Unity Government; however, in practice, they have not yet joined the Government effectively or in the formation of Federal Army as they might still be skeptical about the CRPH/NUG. Additionally, the ethnic forces might doubt that the CRPH/NCU might reconcile with the military council again, ignoring all heinous crimes they committed and abandoning all the potentials for the emergence of a Federal Union in the event that the military council releases Aung San Su Kyi and other NLD senior leaders after negotiation.

Recommendations

1. The National Unity Government (NUG) should never enter into a negotiation with the military council led by Min Aung Hlaing, whom the Committee Representing the Union Parliament (CRPH) itself declared as a terrorist organization and being investigated by the ICC prosecutor for crimes against humanity.

² https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_CRP.2.pdf

³ Genocide, crimes against, war crimes and other violations of international humanitarian laws.

⁴ https://sas-space.sas.ac.uk/2563/1/Amicus79_Ahmed%26Quayle.pdf

2. The NUG should support and welcome the military leaders who would side with the CDM movement and surrender to NUG capturing Min Aung Hlaing and the coup leaders; shall commit to the emergence of a new Federal Army and replace the Myanmar Army.
3. The NUG should issue a daring statement affirming that it would never reconcile with the military council after the latter are pardoned, upon the release of Aung San Su Kyi and NLD senior leaders; and shall ensure that the perpetrators be held accountable for the grave crimes they committed.

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