



### Peace Statement 5:

#### Statement on Legal Issues Arising out of the 21 Century Pang Long Conference

According to Paragraph 20 (d) and (e) of the Nationwide Ceasefire Agreement (NCA), after convening the Union Peace Conference, a Pyidaungsu Accord or Union Accord will be signed. However, the following procedural flaws within the current process will negate the legality of any document which may emerge in the near future:

1. Lack of nexus between the previous Pang Long Accord and the new one;

Before the independence of Burma, the U.K., which colonized Burma, and the provisional Government of Burma agreed in a separate treaty<sup>1</sup> that the Provisional Government would inherit rights and obligations covered by international agreements<sup>2</sup> to which the U.K. was a party. This continued to bind the “permanent” Government of Burma, after its independence in accordance with international law. As such, the responsibility to implement the agreements made in the sole and legitimate Pang Long Accord, executed on February 12, 1947, has already been devolved on the NLD government. Unfortunately, it has not yet attempted to assume this historic responsibility, nor has it established a nexus between the two agreements in order that the legitimacy of the former one can be inherited by the new one -- which may have more detailed agreements in line with principles enshrined in the former one. So long as this is lacking, the new Union Accord will never become a legitimate one.

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<sup>1</sup>Treaty Series No. 16 (1948)

Treaty between the Government of the United Kingdom and the Provisional Government of Burma regarding the Recognition of Burmese Independence and Related Matters, London, 17th October, 1947:

#### Article 2

All obligations and responsibilities heretofore devolving on the Government of the United Kingdom which arise from any valid international instrument shall henceforth, in so far as such instrument may be held to have application to Burma, devolve upon the Provisional Government of Burma. The rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the Application of any such international instrument to Burma shall henceforth be enjoyed by the Provisional Government of Burma.

<sup>2</sup> Atlantic Charter and Aung San-Attlee Agreement: Pang Long Accord – notwithstanding national law - has come into existence arising out of the Aung San-Attlee agreement.

## 2. Incorrect Representation

In executing the former Pang Long Accord, the issue of representation did not arise. The ethnic leaders who signed that Accord are still regarded as genuine representatives of their respective frontier areas, now ethnic states, designated by Paragraph 8 of the Aung San-Attlee agreement.<sup>3</sup> At that time, they represented both ethnic territories as well as ethnic nationals. The former was mentioned in the first line of the Accord while the latter was reflected in their signatures. Currently, the issue of representation has arisen, as the signatories merely represent their own organizations, rather than their ethnic states and respective ethnic nationals.

To rectify this, before any new Union Accord is made, the representation issue should have been manifestly resolved by allowing a series of independent gatherings of all political forces – whether armed forces or non-violent organizations, registered or unregistered – and respective ethnic civil society organizations, without any restriction, in each and every ethnic state so that they could come up with their own common position, particularly for federalism principles, to be implemented and practiced both in respective ethnic states and in the entire federal union. Only after that, would they be able to elect or select their ethnic leaders in order to sign the new Union Accord on behalf of their respective ethnic state.

The leaders who will sign the emerging Union Accord, should be those who authentically represent their respective ethnic states. So long as incorrect representation is exercised, the new Union Accord will never become a legitimate one.

## 3. Practicing an Exclusive Policy

A genuine political dialogue should not be bound by any prior agreement, including the Nationwide Ceasefire Agreement. Signing of the NCA should not be a prior condition to take part in any political dialogue. In addition, discussions should be held freely, with very few limitations, in terms of freedom of expression, aiming for establishment of a future federal union, addressing historical lessons – in order to avoid future similar mistakes – and dealing with current contentious issues. Discussions should cover the three periods – past, present and future -- thereby leading to the emergence of reasonable solutions.

In terms of practicing an exclusive policy, the admission unavoidably made by the chairperson of the Karen National Union (KNU) even on the first day of the current Conference is worth observing. It is as follows:

Other EAOs which constitute important stakeholders in establishing a future federal union have remained absent from this Conference. With the participation of only the EAOs which signed the NCA, it will not be possible to solve the underlying problems taking place in the entire country. The agreements to be made in this conference

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<sup>3</sup>It is an agreed objective of both His Majesty's Government and the Burmese Delegates to achieve the early unification of the Frontier Areas and Ministerial Burma with the free consent of the inhabitants of those areas.

should facilitate the process so that those EAOs which have not yet taken part in this process can enjoy this situation.

So long as an exclusive policy is practiced, the new Union Accord will never become a legitimate one.

Unless the three abovementioned factors are simultaneously addressed and rectified, we request that the international community as well as various ethnic nationalities in each and every ethnic state object to any agreement under the so-called Union Accord to be signed by participants currently attending the 21 Century Pang Long Conference. Only then, it will prevent convening of such similar Conferences in future, which will create more human rights violations in addition to the extravagant use of time, energy, and human and material resources provided by the local people and the international community.

Legal Aid Network (LAN)

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