

Gen Min Aung Hlaing  
Chairman, State Administrative Council  
Naypyiddaw  
Myanmar

c/o Ambassador U Kyaw Zwar Min  
Embassy of the Republic of the Union of Myanmar  
19a Charles Street  
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Your Excellency,

**Myanmar: Arbitrary arrest, detention and alleged enforced disappearance of lawyers**

The Law Society of England and Wales (the “Law Society”) is the professional body representing more than 180,000 solicitors in England and Wales. Its concerns include upholding the independence of the legal profession, the rule of law and human rights throughout the world. The Law Society holds special consultative status with the Economic and Social Council of the United Nations since 2014.

The Law Society is gravely concerned about the military coup that took place in Myanmar and the violent repression of protesters, including the firing of live ammunition which resulted in numerous casualties. These actions represent serious human rights abuses. We are also alarmed by accounts of arbitrary arrests and detentions, as well as alleged enforced detention of lawyers. We would like to highlight the following cases, without prejudice to any other cases about which we have not yet received information:

- Since 1 February 2021, Saw Chit Myint Lay, Karen State Advocate General is under house arrest, allegedly without having been charged with any offence.
- On 1 February 2021, U Khin Maung Hla, Regional Advocate General for the Sagaing Region, was arrested and detained in Monywa prison, charged with Penal Code 505(b), which provides for the imprisonment for 3 years for anyone making any statement with the intent to cause public harm.
- On 1 February 2021, U Nyan Win, lawyer for Aung San Suu Kyi, was detained, whereabouts remain unknown.
- On 9 February 2021, lawyer U Kyaw Win Naing was detained in Taunggyi in the Shan State, whereabouts remain unknown.
- On the night of 10 February 2021, U Kyaw Hoe, member of the Legal Aid Committee for Yangon Region, was detained, whereabouts remain unknown.

The Law Society is also alarmed about reports of ongoing intimidation and harassment of lawyers, as well as lawyers being prevented from providing legal assistance to detained protesters. These actions deprive the citizens of Myanmar of access to justice, violate international fair trial guarantees - including the right to have legal representation of one's own choosing - and breach the principle of independence of the legal profession. These rights and principles are cornerstones of the rule of law and must be upheld.

Moreover, the Law Society is concerned about reports of amendments to several pieces of legislation, including amendments to the Penal Code 1860 (s124A) which criminalise anti-government protest with a possible sanction of imprisonment of 20 years, as well as the suspension of certain sections of the Law Protecting the Privacy and Security of Citizens (2017). These latter amendments, for example, remove obligations of state authorities to bring a detainee before a court within twenty-four hours. Such amendments seem aimed at facilitating the repression of civil dissent and peaceful protest and should be reversed.

The **Universal Declaration of Human Rights** provides that:

**Article 3.** Everyone has the right to life, liberty and security of person.

**Article 5.** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 9.** No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10.** Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

**Article 19.** Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The **UN Basic Principles Basic Principles on the Role of Lawyers** states:

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

The **UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms** provides:

**Article 9.3** [...] everyone has the right, individually and in association with others, inter alia: (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms”.

**Article 12**

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In view of the above, the Law Society respectfully urges the relevant authorities to:

- Immediately release lawyers U Khin Maung Hla, U Nyan Win, and U Kyaw to the extent these lawyers are being held by state authorities or third parties controlled by the state;
- Pending such release, immediately disclose the whereabouts of these lawyers and grant access to their legal representatives and family members, as well as comply with international standards on conditions of detention;
- Drop all charges against lawyers in Myanmar unless credible evidence is presented in proceedings that respect fair trial guarantees;
- Ensure compliance with fair trial guarantees for those currently arrested and in detention, including the right to have access to legal representation of one’s own choosing;
- Reverse any legislative or regulatory amendments whose existence or application violates international legal standards; and
- Guarantee that all lawyers in Myanmar can carry out their legitimate professional activities without intimidation, harassment, improper interference or reprisals.

The Law Society stands in solidarity with members of the legal profession in Myanmar. We will continue to monitor the cases of other lawyers and human rights defenders in Myanmar and look forward to receiving information regarding the implementation of the recommendations set out above.

Yours sincerely,



David Greene

President

The Law Society of England and Wales



CC.

**Mr. Diego García-Sayán**

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