

Daw Aung San Suu Kyi's Detention Should Be Added to the List of the SPDC's Crimes Against Humanity

- 1) On May 27, the SPDC extended Daw Aung San Suu Kyi's house arrest. She was originally detained in May 2003 pursuant to the 1975 State Protection Act, which has a maximum detention period of five years. The five-year period has expired and thus she must be released immediately. Continuing to detain her is a flagrant violation of the SDPC's own law. Moreover, there is no other applicable Burmese law under which the SPDC can continue to hold her, such as the Penal Code, because she has not committed any crime.
- 2) Daw Aung San Suu Kyi's detention should also be considered a crime against humanity because it is targeted not only at her, but at the entire Burmese population. She is no ordinary citizen. She is the embodiment of liberty, democracy and human rights in Burma. Her popularity among the people and her undying charisma won her the Nobel Peace Prize. If someone so distinguished and honored can be unlawfully detained, how can common people ever hope to oppose the regime without fearing for their own freedom and safety? The reality is, they cannot. The SPDC knows that the extended detention of Suu Kyi will continue to spread intimidation throughout the country, and fear strengthens their rule.
- 3) Daw Aung San Suu Kyi's detention fits the technical definition of crimes against humanity. These crimes include "imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law" (Rome Statute, Art. 7, § 1(e)). Suu Kyi's detention is clearly one that violates fundamental rules of international law because she was detained for purely political purposes, not for any wrongdoing.
- 4) From the legal perspective, some may argue that Suu Kyi's unlawful detention is a single, isolated crime, and therefore does not meet the requirement that it be part of a "widespread" or "systematic" attack. The BLC disagrees with this position. First, a single detention or other crime can qualify if it is meant to "intimidate the entire civilian population" (Jean Graven, *Les Crimes Contre Humanite*; see also, FRANCISCO FORREST MARTIN, ET AL., *International Human Rights & Humanitarian Law, Treaties, Cases, & Analysis* ("Although it is correct that isolated, random acts should not be included in the definition of crimes against humanity, ... an isolated attack can constitute a crime against humanity if it is the product of a political system based on terror or persecution.")). Moreover, her detention is a part of the long SDPC campaign to arrest, intimidate, torture and murder civilians. "As long as there is a link between the widespread or systematic attack against a civilian population, a single act could qualify as a crime against humanity" (*Prosecutor v. Mrksic and other*, International Criminal Tribunal for the Former Yugoslavia, 3 April 1996, IT-95-13-R61).
- 5) The BLC urges all supporters of peace and justice to continue pressuring the UN Security Council to refer the heinous crimes in Burma to the International Criminal Court.

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