



Legal Aid Network

ဥပဒေ အထောက်အကူပြုကွန်ရက်

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Statement Condemning the Aerial Bombardment by the Military Council Causing Many Civilian Casualties, Blatantly Violating International Humanitarian Law and Human Rights Law

1. International Humanitarian Law, which also governs non-international armed conflict, forbids the belligerent parties to attack non-military objectives. International Law defines military objectives as follows:

Additional Protocol I of the Geneva Conventions

Article 52(2) of the 1977 Additional Protocol I provides:

In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

Hague Rules of Air Warfare

Article 24 (1) of the 1923 Hague Rules of Air Warfare provides: “Aerial bombardment is legitimate only when directed at a military objective, that is to say, an object of which the destruction or injury would constitute a distinct military advantage to the belligerent.”

2. In spite of the fact that whatever aerial bombing must be carried out strictly targeting only military objectives, the belligerent party must calculate the possible civilian casualties that are likely to result due to the attack. If there are civilians in the immediate vicinity, the belligerent party must refrain from such aerial attack since it could cause many casualties.

3. On October 23, 2022, the military council conducted an airstrike targeting an outdoor concert being held to celebrate the 62nd anniversary of KIO in A Nang Pa village in Kachin State, causing hundreds of casualties, mostly civilians. The military had a clear knowledge about

civilians¹ participating in the celebration since the access to the village was controlled by its check points. As such, the concert clearly wasn't military objective and thus the attack is a blatant war crime. Moreover, the patterns of the junta's aggressive operations clearly indicate the commission of crimes against humanity because the attack was widespread and systematic, inducing fear among the population.

4. Aerial attacks using fighter jets cannot be carried out without the authorization from the central command, Office of the Commander in Chief. Following the airstrike in A Nang Pa village, the junta's information team reported that the airstrike was conducted in compliance with the Rules of Engagement. Therefore, the command for carrying out the bombing came directly from the central command and is planned and systematic.² Min Aung Hlaing and his top generals³ are therefore directly responsible for war crimes and crimes against humanity.

5. Now is the time for all political and legal entities, ethnic resistance groups and CSOs, both at home and abroad, to unitedly put all efforts to seek justice for the victims by firmly adhering to the principle of substantive justice and to restore the rule of law in the country. The impunity, primarily enjoyed by successive military perpetrators, must be ended once and for all.

6. The responsibility for such brutal crimes also extends to those so-called ethnic resistance organizations that entered a ceasefire agreement with the junta under the failed NCA or, otherwise, to the political parties that are preparing to run for office in the announced junta-controlled elections, thereby knowingly supporting the resurgence of the 2008 Constitution and the military dictatorship. Also, the United Wa State Party should reconsider its position in relation to the junta's crimes.

¹ Myanmar Now: KIA spokesperson Col. Naw Bu's interview on junta airstrike (24 Oct, 2022)

<https://www.youtube.com/watch?v=8xtynN8ZmBo>.

² Tatmadaw Information Team, Security forces conducted military operation in Phakant Township in compliance with Rule of Engagement (24 Oct, 2022) <http://www.dsinfo.org/node/5381?d=1>

³ Min Aung Hlaing (Army – 14232/DSA-19), Soe Win (Army-16489/DSA-22), Coordination Commander (Army, Navy, Air Force) Maung Maung Aye (Army-18131/DSA-25), Commander in Chief (Air Force) Htun Aung (Air-1982), Tayza Kyaw, Bureau of Special Operation Command 1 (Army-20278/DSA-73)

မင်းအောင်လှိုင်(ကြည်း - ၁၄၂၃၂/စတသ-၁၉)၊ စိုးဝင်း (ကြည်း - ၁၆၄၈၉/စတသ-၂၂)၊ မောင်မောင်အေး (ကြည်း - ၁၈၁၃၁/စတသ-၂၅) - ညှိနှိုင်းကွပ်ကဲရေးမှူး (ကြည်း၊ ရေ၊ လေ)၊ ထွန်းအောင် (လေ - ၁၉၈၂/ - ကာကွယ်ရေးဦးစီးချုပ် (လေ)၊ တေဇကျော် (ကြည်း - ၂၀၂၇၈/ဗသက-၇၃) - အမှတ်(၁) စစ်ဆင်ရေးအထူးအဖွဲ့မှူးon။

7. Legal Aid Network calls on the above-mentioned organizations to review their political determinations and unanimously combine forces under the principle of the rule of law, so that the military perpetrators including Min Aung Hlaing and his top accomplices can be brought before international justice mechanisms and hold accountable for their evident and consistent commission of international crimes.

Legal Aid Network

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