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NATIONAL COUNCIL OF THE UNION OF BURMA

PRESS RELEASE

Burma's 2008 Constitution: An Obstacle to Free and Fair Elections in 2010?

On February 18, 2010, the National Council of the Union of Burma (NCUB) hosted an expert panel to address how the SPDC's 2008 Constitution will serve as an obstacle to free and fair elections in Burma, as well as to democratic reform. Panelists Meghan E. Stewart, Esq., Professor David C. Williams, and Myint Soe discussed how a free and fair election is presently unattainable because the 2008 Constitution is inherently anti-democratic.

Meghan E. Stewart, the Post-Conflict Constitution Expert and Burma Program Director for the Public International Law & Policy Group emphasized, separate from the 2008 Constitution's substance, how the very process of drafting and implementing it have set a tone negating the possibility of an open and democratic election. Ms. Stewart stated three significant ways the constitutional process failed the Burmese people: first, the National Convention, during which the 2008 Constitution was drafted, was held without the meaningful participation of any party other than the military junta. Second, the referendum adopting the 2008 Constitution was held mere days after Burma was devastated by Cyclone Nargis, which claimed the lives of hundreds of thousands of people. Finally, the voting process for the 2008 referendum was plagued with electoral intimidation and corruption. These three factors, combined with the SPDC's current repression of ethnic minorities and democratic leaders, have established a political environment in which free and fair elections are not possible.

Professor David C. Williams, the John S. Hastings Professor of Law and Founder and Executive Director of the Center for Constitutional Democracy at Maurer School of Law, Indiana University, detailed specific provisions of the 2008 Constitution that prevent civilian rule and the democratic transition of power in Burma. Professor Williams stated that even if the 2010 election is administered and declared free and fair by the international community, an unlikely case given the military regime's history of electoral misconduct in both the 1990 and 2008 elections, such an election would still not bring lasting democratic change as the 2008 Constitution empowers the military to do whatever it wishes whenever it deems proper. In particular, Professor Williams pointed out that the military retained the power to take control of the government when there is a threat to national solidarity, a power that potentially can be wielded should the Burmese citizens again gather in non-violent protest.

Finally, Myint Soe, the Secretary for the National League for Democracy (NLD) - Liberated Area, stated that the release of all political prisoners was a necessary precursor to the 2010 elections—most notably the release of Daw Aung San Suu Kyi, the leader of the National League for Democracy party that won the 1990 elections with more than 82% votes and has never been allowed to take power. Secretary Myint Soe emphasized also that in order to move forward with democratic reform, the full results of the 1990 elections, which placed a vast majority of seats in parliament in the hands of NLD members, must be resolved through either legal or political means. Secretary Myint Soe further stated that an open dialogue was the key to open elections, and there must be such dialogue between the military junta and the NLD before the 2010 elections.

The panel ended with an urgent call to action to the international community to ensure that constitutional reform occurs prior to the planned 2010 elections should there be any hope that such elections be considered free, fair and legitimate.

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