

March | 2010

2010 ELECTIONS: STEALING DEMOCRACY

The Problems of Burma's 2010 Elections and the 2008 Constitution and the Necessary Solutions to Bring National Reconciliation

Burma's upcoming 2010 election will not bring democracy, security, or national reconciliation to the country. The 2008 constitution was forged in an exclusive, undemocratic and non-reconciliatory manner and is only an institutional tool perpetuating military rule under the domination of *Tatmadaw* (armed forces). Democracy activists, ethnic communities, and a wide-spread public and civil society will not accept the 2008 constitution and will not support the 2010 election unless absolutely crucial benchmarks of democratic progress are met: 1) the release of all political prisoners, including Daw Aung San Suu Kyi 2) genuine and inclusive political dialogue, including a review of the 2008 Constitution and 3) cessation of attacks against ethnic communities and democracy activists.

Initiated by the major alliances:

- ❖ National Council of the Union of Burma (NCUB)
- ❖ Democratic Alliance of Burma (DAB)
- ❖ National Democratic Front (NDF)
- ❖ National League for Democracy – Liberated Area (NLD-LA)
- ❖ Members of Parliamentary Union (MPU)
- ❖ National Coalition Government of the Union of Burma (NCGUB)
- ❖ Forum for Democracy in Burma (FDB)
- ❖ Women's League of Burma (WLB)
- ❖ Students and Youth Congress of Burma (SYCB)
- ❖ Nationalities Youth Forum (NYF)

These alliances represent the most broad-based and multi-ethnic cooperation of political and civil society organizations from inside and in exile working for national reconciliation, peace and freedom of Burma.

A. SUMMARY

Burma's upcoming 2010 election will not bring democracy, security, or national reconciliation to the country. The 2008 constitution was forged in an exclusive, undemocratic and non-reconciliatory manner and is only an institutional tool perpetuating military rule under the domination of the armed forces. A constitution, especially one coming out of a conflict/post-conflict period not derived from negotiations, reconciliation and trust building leads to untenable and often volatile results, especially when it is forcibly implemented from the start.

Genuine political dialogue involving democracy organizations and ethnic nationality groups has never been realized and continues to be prohibited in the lead up to the election. The military is taking firm measures to ensure complete dominance over the election process, including pressuring ethnic ceasefire groups, attacking non-ceasefire ethnic communities, undermining the National League for Democracy (NLD) and other opposition groups, preparing to form proxy parties, harassing and imprisoning activists and lobbying the international community. Their latest announcements of election laws are evidence that the military regime's main concern is maintaining power and not opening democratic space.

Democracy activists, ethnic communities, a wide-spread civil society, and the majority of the general public will not accept the 2008 constitution and will not support the 2010 election unless crucial benchmarks of democratic progress are met: 1) the release of all political prisoners 2) genuine and inclusive political dialogue, including a review of the 2008 Constitution and 3) cessation of attacks against ethnic communities and political activists. These benchmarks are the minimum necessary solutions to begin the process of genuine democratization in Burma. However, since the release of the election law and an increase in hostilities against civilians, it seems as though there is meager likelihood that the military regime will make the effort.

This paper seeks to provide background and future possible scenarios around Burma's 2010 election. It also gives an overview of the flaws of the 2008 Constitution, the Election Laws, and why the 2010 election is problematic and far from the genuine democracy demanded by the people of Burma. It also presents key solutions and recommendations to the international community that will further sustainable peace and freedom in Burma.

B. BACKGROUND: Regime's Seven-Step Roadmap Towards Domination

Since it achieved independence, Burma has grappled with core questions relating to the role of ethnic communities and the role of the military in governance. Burma's most recent chapter of military interference can be traced back to 1988, when the Burma army staged a coup after months of anti-government protests in the entire country. Soon afterwards, the military generals formed the State Law and Order Restoration Council (SLORC), promising to conduct multiparty elections to achieve national reconciliation and build the foundation for a multi-ethnic, pluralist state.

Elections were held on 27 May 1990. The National League for Democracy (NLD), Daw Aung San Suu Kyi's party, emerged victorious in terms of popular vote (60%) and the number of seats in Parliament (392 out of 485). Many other democratic parties of ethnic nationalities also won key seats. The National Unity Party (NUP), which was backed by the military, won only 10 seats. Despite the NLD's landslide victory, the SLORC refused to recognize the results. The regime arrested the main leaders of the NLD and other opposition figures, stifling political dialogue. The SLORC also maintained martial law, continuing to exercise legislative, executive, and judicial power.

In 1993, rather than cede power to the elected government, the SLORC commenced their National Convention to start the constitution drafting process. The junta initially claimed the delegates to the National Convention would be the elected representatives, but instead ensured over time that military leaders chose the vast majority of the delegates.

In 2003, the military government, now called the State Peace and Development Council (SPDC) announced its so-called seven-step roadmap to democracy.¹ Civic and political leaders have

¹ Seven-step roadmap: (1) Reconvening of the National Convention that has been adjourned since 1996. (2) After the successful holding of the National Convention, step by step implementation of the process necessary for the emergence of a genuine and disciplined democratic system. (3) Drafting of a new constitution in accordance with basic principles and detailed basic principles laid down by the National Convention. (4) Adoption of the constitution through national referendum. (5) Holding of free and fair elections for Pyithu Hluttaws (Legislative bodies) according to the new constitution. (6) Convening of Hlut-taws attended by Hluttaw members in accordance with the new constitution. (7) Building a modern, developed and democratic nation by the state leaders elected by the Hluttaw; and the government and other central organs formed by the Hluttaw.

made a good faith effort to participate in the Roadmap. However, the democratic transition plan has been flawed in process and substance from its onset.

Burma's military regime has confirmed that it will hold elections this year for the first time since the nullified 1990 elections, though the date has not been announced. The Election Law has now been released, and through various articles it is apparent that there will be little space for democratic parties, and genuine inclusion of ethnic groups. The Election Laws paint a picture of an election that will be anything but free and fair. Moreover, the military regime, the USDA, and its proxy parties have already begun 'electioneering' as well as harassing and restricting opposition before the election.

C. ELECTION SCENARIOS

The military regime has shown little evidence that it will concede to the demands of the people of Burma and the international community before the elections, in fact they have shown quite the opposite. It is impossible to say for certain what will happen this year in the lead up to the elections, but there are a few possible scenarios

- Scenario 1: Elections go ahead without any changes from the regime

The SPDC will go ahead and hold elections without any concession to NLD, democracy groups, ethnic communities or international requests. After the election law is announced it will force political parties to choose participation or deregistration. Most parties that will participate will be proxy parties of the regime. Any independent reporting, political activity, or expression will be suppressed resulting in no real opposition.

It is likely international election monitors will not be allowed, and if they are, will be highly restricted by the military regime. After the election fundamental problems will remain unchanged while the military role will be institutionalized through the constitution.

- Scenario 2: Elections go ahead with the regime making weak concessions

It has been a frequent move of the military regime that before a high profile UN visit that a few political prisoners are released in order to briefly appease international pressure. The SPDC could make surface-level concessions in the lead up to the elections, such as releasing a few political prisoners, making repeated public statements ensuring free and fair elections, or allow some regional election monitoring groups, etc. However, these acts will still be vastly inadequate to creating political atmosphere and election that will have enough democratic integrity.

- Scenario 3: Mass civil unrest happens and elections are postponed.

The military regime is pressuring ceasefire-armed groups to transform into border-guard forces and most of the larger armies are refusing. Moreover, most of the non-ceasefire armed groups have also dismissed the elections, while the military regime is increasing efforts to eradicate

opposition. There is a chance that civil war could break out. Moreover, many in the general public are disgruntled with the plunging economy and the difficulty of maintaining daily existence for their families. Mass civil unrest could occur, similar in size and scale to the Saffron Revolution, leading to the military regime to postpone elections.

The fundamental problem of the election isn't the state of polling booths around the day of the election, but the fact that the whole democratic transition process thus far has been dominated by the military regime and devoid of democratic integrity. The 2008 Constitution that the new government will be founded on is the main problem that will guarantee military supremacy. Whereas in the 1990 election, where the party that won the most votes could then create a new constitution, in this election, even if independent leaders are able to be elected they will have to work within an undemocratic constitution that holds little hope of being able to amend.

Below are the major flaws in the 2008 Constitution: procedural flaws in how it was created and content flaws in the constitution. Furthermore, outlined are the key problems of the Election Law.

C. PROCEDURAL FLAWS OF DRAFTING THE 2008 CONSTITUTION

1. The constitutional drafting process failed to meet minimum international standards.²

The constitutional drafting process excluded democratic participation, was conducted in secrecy and heavily manipulated by the military regime. First, the junta handpicked candidates in the National Conventions, ignoring the results of the 1990 elections and banning the participation of civil society, NLD members, and several ethnic minority leaders. Democratic political groups and ethnic nationalities created and submitted policy papers on constitutional principles, democracy, federal affairs, and rights of ethnic groups – but the efforts from non-military groups, or statements that did not fall in line with military objectives were never recognized. The SPDC also criminalized open criticism of the process. Moreover, until April 2008, a month before the referendum, it was illegal to even discuss constitutional matters outside of the National Convention.

² See Declaration for Human Rights; International Covenant for Civil and Political Rights; International Convention on the Elimination of All Forms of Racial Discrimination; International Convention on the Elimination of All forms of Discrimination Against Women; African Charter on Human and Peoples Rights; and American Convention on Human Rights (Organization of American States. See also The Public International Law & Policy Group, *Burmese Constitutional Referendum: Neither Free Nor Fair* (May 2008).

2. The constitutional referendum failed to meet minimum international standards.

There was widespread domestic and international condemnation of the constitutional referendum that failed to meet a single basic international standard³ for a free and fair referendum process. Violations of international standards include: a) the SPDC affirmatively violated Burmese citizens' right to vote on a broad and systematic basis; b) ballots in the constitutional referendum in Burma were not secret; c) citizens and the media reported that SPDC and its agents used threats, coercion, misinformation, deception, and violence to sway or force voters to approve the draft constitution; d) within Burma, many voters did not feel that they were provided adequate information to develop an informed opinion on the draft constitution; e) in the run up to the referendum, the SPDC systematically stifled all independent and opposition media coverage of the proposed referendum and the draft constitution; f) despite offers and appeals from Burmese pro- democracy leaders and the international community, the SPDC refused to allow independent electoral monitors to observe the referendum voting in Burma; and g) in contrast to international standards, electoral administration in Burma was not neutral or independent at any level.

Despite international pressure to cancel or postpone the referendum following the devastation of Cyclone Nargis, the regime claimed a 92% approval rate for the referendum, which took place on May 10 and 24. This figure is not credible based on both the scale of the humanitarian crisis following Cyclone Nargis,⁴ as well as the reports calling the integrity of the referendum process into question.

D. UNDEMOCRATIC CONTENT OF THE 2008 CONSTITUTION

In theory, creation of a new constitution leading to elections could form the basis of building security, national reconciliation and democracy. It is not unusual to adopt a new constitution in the context of civil conflict. Many civil disputes stem from the structure of the state, the distribution of power, and access to national resources—the very matters dealt with in a constitution.

³“A free and fair referendum process provides for universal, equal, free, and secret suffrage, with monitoring of the voting process and mechanisms for appeal should any concerns arise over the process or the results. In the specific case of a constitutional referendum, voters must have open access to the constitution, unbiased media coverage related to the constitution, and forums to discuss the constitution freely. Voters in a free and fair referendum are also provided adequate information so they may understand the question on the ballot and the implications of their vote.” Public International Law & Policy Group (May 2008), *Burmese Constitutional Referendum, Neither Free Nor Fair* (May 2008). See also footnote two.

⁴ Cyclone Nargis hit Irrawaddy and Rangoon Divisions on the evening of May 2 and morning of May 3, 2008. The storm devastated a huge swath of the Irrawaddy Delta region, wiping out entire villages and leaving an estimated 138,000 Burmese dead or missing. UN Office for the Coordination of Humanitarian Affairs (OCHA)

In the case of Burma, however, the manner in which the constitution was developed and the substantive provisions as approved diminishes the likelihood of reconciliation and democracy. The constitution, drafted and approved with military interference, is substantively problematic because it ensures the military maintains implicit and explicit control over all of Burma's institutions. Moreover, rather than reflecting the will of the people while protecting the vulnerable, the constitution exposes ethnic minorities and political opponents to considerable risk. Even if international monitors observed the elections to ensure fairness, this would still not bring national reconciliation, democracy and stability to Burma.

1. The structure of the legislature ensures the military maintains heavy control in parliament.

Twenty-five percent of all seats are allocated for the military, which will give the military veto power on any legislation process that needs more than 75% approval vote. Furthermore, army members do not have to resign when appointed to legislature or executive branch, as other public servants must.

2. Parliament appoints the president; therefore, the executive branch will also be subject to military influence.

Because the military makes up 25% of parliament, effectively, appointment to the presidency requires the support of the military. Once in office, the president yields enormous powers, including the power to appoint most positions of power. The relationship between the Commander in Chief and the President is also problematic and structured to ensure the military maintains control over Burma's institutions. The Commander in Chief can remove the President and some Presidential actions require approval of Commander in Chief. During periods of "state emergency" the Commander in Chief can supersede both President and Parliament. In addition, he is the only counteracting weight of the President, for the constitution states that he is "not answerable to any parliaments." The Commander in Chief is not appointed by parliament, has no period of tenure, and there is no procedure for removal. Moreover, the constitution calls for the formation of a National Defense and Security Council in the Executive Branch. It will exercise executive power in conjunction with the President. Selection of the eleven seats will guarantee the military always has a majority.

3. The judicial system is deeply flawed and under the influence of the armed forces. The Burmese judiciary consists of ordinary courts, the courts martial and the Constitutional Tribunal. Overall, the procedure for the appointment of judges is highly politicized. The constitution does not stipulate rules about the independence of the judiciary, and the Supreme Court does not have the power to interpret the Constitution. There is also no independent commission with the powers to organize and manage the courts. In addition, the Supreme Court lacks jurisdiction over the military forces.

4. Marginalizes ethnic nationalities

The ethnic conflicts that have been happening for decades stem from a constitutional crisis unable to deal with Burma's ethnic plurality. Ethnic minorities have long agitated for a truly federal system ever since they were persuaded to join Burma at the time of independence. The fact that the 2008 Constitution stipulates that all regional and self-administered areas are subject to the rule of the national executive and legislature effectively abolishes the vision of a federal government structure in Burma. The complex structure of territorial division of the country and a plethora of institutions at every level of government is merely a subterfuge to hide the highly centralized nature of the state and administration. In other words, the 2008 constitution will centralize control over ethnic minority areas further. In a country in which most ethnic-nationalities have been fighting for greater self-determination for decades, a constitution that ignores Burma's multi-cultural and multi-ethnic character and does not provide any adequate and proper recognition of its diversities is unsound and should be rejected.

On the issues of language, culture and religion, crucial to minorities, little authority is given to regional or self-administered communities. They will be prevented from using local languages in administration or education in their states. Moreover the ethnic communities will have little control over their traditional land, which is central to the culture of many communities. Furthermore, the regime's push for ceasefire armed groups to relinquish their power and become "border guards" is already creating tension between the military regime and ethnic armed forces.

5. There are no mechanisms to promote and protect fundamental human rights. The constitution infringes on the fundamental human rights of the people in the name of state security and public tranquility. Many provisions outlined in the 2008 constitution relating to human rights and freedoms are deeply flawed, and several important rights are missing. Nothing is said, for example, about rights of minorities, children, and the disabled. Most rights are also confined to citizens of Burma—the definition of citizen in the constitution is questionable and appears to be politically motivated to exclude opponents of the regime. This is again in stark contrast to international law, which usually allows such restriction only for rights regarding elections and participation in public affairs. A number of key rights (including rights and freedoms of expression, assembly, associations and union, language, and culture) may also be limited for reasons of 'state security, prevalence of law and order, community peace and tranquility or public order and morality'. For example, the ILO has stated concern that the constitution will allow for forced labor to continue.

Neither the process of constitution making nor the contents of the draft pay any heed to generally accepted human rights principles. It is likely that the judiciary—central to the maintenance of rights—will not be independent and will not be able to protect human rights. No other institutions, like a human rights commission or ombudsperson, is provided or envisaged. The actual terms in which rights are framed leave many possibilities of their derogation, and indeed suspension. Nor are the structures of state, dominated by the military, conducive to respect for rights.

6. Falls drastically below international standards of gender equality

Women are disqualified from holding many positions of power because many posts require prior military service. This includes the Presidency, Vice-Presidency, and key ministries. In addition, the most powerful position, the Commander in Chief, is solely reserved for those in active military service. Though the constitution says that there will not be discrimination based on sex in regards to appointments, the constitution also adds, “However, nothing in this Section shall prevent appointment of men to the positions that are suitable for men only.” It is contrary in guaranteeing equality regardless of sex difference and will fail to fulfill the obligation under Convention on the Elimination of all forms of Discrimination Against Women.

E. ELECTION LAW: NEITHER FREE NOR FAIR

“We can rightfully say that the Electoral Law does not aim at a democratic election. We have long predicted that this law will not guarantee a democratic election because the 2008 constitution itself is not of a democratic path. It is like the junta is trying in every way to continue their rule by giving up their military uniforms and putting on civilian dress.” – Aung Thein NLD Legal Advisor

On 8 March, the Burma’s military regime announced it had enacted the election law for this year’s polls, but did not set a date for the general election. Here are some notable points:

1. The Election Commission will be handpicked by the regime. The Commission will have the authority to convene the election, final decision-making power throughout, and the ability to administer and direct political parties. This means that the elections will unfold according to the junta’s wishes.
2. Most key political figures are barred from forming or participating in the elections. Articles 4 and 10 of the Political Parties Registration Law also bans democracy organizations or armed groups who oppose the junta, and those receiving support from outside Burma, as well as those who have served prison sentences or are appealing a sentence. Daw Aung San Suu Kyi and many democracy and ethnic leaders will be unable to participate.
3. All political parties must pledge to abide by and protect the 2008 Constitution, which has been criticized as being undemocratic and fundamentally flawed. This shows the regime does not envision the elections and the ensuing government to be a transformative step towards true democracy, but rather a means to maintain power.
4. Deadline of 60 days. Article 25 gives all political parties, including existing parties such as the National League for Democracy (NLD), 60 days to register with the Commission. If the NLD decides to re-register, it will be required to exclude Daw Aung San Suu Kyi and any other leaders and members who are in prisons. The Commission will have the authority to approve or reject any registration.

5. The elections may not be held in many ethnic areas. The Election Commission has the power to determine if the election should be held in those places that are affected by "natural catastrophe or security reasons". This may mean there will be no polling in areas controlled by armed ethnic organizations that have signed cease-fire agreements but failed to transform into the Border Guard Force under the control of the regime's Army, or in other ethnic areas.
6. In both houses of Parliament, military may take more than 25% of seats. In the Pyithu Hluttaw Election Law (House of Representatives) and the Amyotha Election Law (House of Nationalities) the actual seats for military personnel could be higher than the 25% allotted in the Constitution
7. Nullified 1990 Election results. The National League for Democracy won a landslide victory in 1990, and this order stands in direct contrast to the NLD's demand for recognition.

F. POSSIBLE IMPLICATIONS OF THE REGIME'S SHAM DEMOCRATIZATION

The 2008 constitution and the upcoming election is not a step towards democratization of Burma's political process. While the military junta portrays the SPDC as a transitional body whose powers will cease to exist once the 2010 elections are over, the special privileges, representations, and immunities in state institutions and for the military as listed in the 2008 constitution will prevent any true transitional efforts. Various regulations adopted by the military show the junta's true intentions. The fact that it is very difficult to amend the 2008 constitution is only one sign of the determination of the military to prevent full democracy and participation and the protection of rights; moreover, in the Election Law the condition was set that all political parties must pledge to the Constitution.

The severe flaws in the 2008 constitution outlined above will have serious implications for the 2010 elections and beyond if not addressed immediately. As the recent history of ethnically diverse countries such as Burundi, Nigeria, Papua New Guinea, Sri Lanka or former Yugoslavia amply shows, a constitution that systematically entrenches injustice will eventually trigger chaos and unrest. There is a strong possibility that the unresolved conflicts within Burma will continue or even aggravate because of the blatant exclusion of ethnic nationalities in the constitution. The military has been increasing pressure against ceasefire and non-ceasefire armed groups, demanding that they become a 'Border Guard Force', essentially relinquishing their arms and subverting to SPDC control. Many large armed groups are still expressing a strong unwillingness to join the Border Guard Force unless there is more federalism and ethnic participation in the new government. The possibility for a resumption of conflict in these areas, particularly along the China-Burma border is high. The outbreak of conflict between the SPDC and the small Kokang forces was enough to send 30,000 refugees into China. The military regime refusing to hear the demands of Burma's ethnic nationalities could further deteriorate the stability of the region, bringing and eruption of fighting.

Towards non-ceasefire groups, the military regime has stepped up their attacks against ethnic communities, as well as armed forces, seeking to finally eradicate any opposition before the election. Forced labor, scorched campaigns, sexual violence, extrajudicial killings, and other human rights violations have been happening on a wide and systematic level. Recently, UN Special Rapporteur Quintana said, "According to consistent reports, the possibility exists that some of these human rights violations may entail categories of crimes against humanity or war crimes under the terms of the statute of the International Criminal Court."⁵ While the SPDC is not allowing political prisoners to participate in the elections, military officials who have been potentially complicit in crimes against humanity are leading the 'democratization' process.

Peace and stability cannot prosper in a climate of fear created by the political hegemony of a small military elite. With no strong measures of human rights promotion or protection, widespread human rights atrocities will continue – particularly against ethnic groups and women, perpetuating instability and insecurity. Grossly disregarding the fundamental rule of law, freedom of speech and association, and the continuing imprisonment of political activists will contribute to the further eradication of the legitimacy of Burma's political system. Furthermore, women must be able to have a strong voice in their communities, and their hindrance from being able to fully participate in a new government will be highly detrimental. Women's participation in peace building and national reconciliation is indispensable for a future democratic Burma. This is not only a matter of women's rights, but also of building a more stable society.

Burma's socio-economic situation has plummeted drastically under the control of the military regime, and there is no guarantee that Burma's collapsed healthcare, education, and other social services will improve under a false democratic system. A government still dominated by the same military will continue its disregard and violation of crucial development and stability issues of environmental sustainability, gender equality, refugees, migrants, and more.

F. SOLUTIONS: TOWARD THE CHANGE WE NEED

A solution to overcome the hardships besetting the nation can be found in a short time if all political stakeholders work together by showing goodwill and keeping national reconciliation in mind. A review and/or amendment of the 2008 Constitution will help overcome the present political and socioeconomic hardships as well as guide the nation onto the correct path of development. Furthermore, the *Tatmadaw*, the armed forces, has an important political role to play during the transition period when together with the pro-democracy and ethnic nationality forces of Burma, it will be jointly responsible for guiding the nation towards democracy and

⁵ Progress report of the Special Rapporteur on the situation of human rights in Myanmar, Mr. Tomas Ojea Quintana, A/HRC/13/48, 5 March 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-48.pdf>,

development. With this conviction, all organizations in the Movement held a series of consultations and prepared a Proposal for National Reconciliation so that it can be presented to the SPDC, the people, the *Tatmadaw* and the international community.

- *From The Proposal for National Reconciliation (2009)*

The democracy movement inside and outside the country has stated on numerous occasions that they do not accept the military regime's roadmap to democracy. They eagerly welcome genuine political dialogue and hope that the military regime demonstrates a sincere desire for national reconciliation. While the democracy movement has stated its willingness to engage in dialogue, the military regime must meet crucial benchmarks to demonstrate sincerity.

1. Release of all political prisoners: Junta leaders have continually ignored calls from the opposition groups as well as the international community to release all political prisoners, including Daw Aung San Suu Kyi, Khun Htun Oo, and '88 generation students. Those imprisoned are crucial leaders whose role is vital for genuine national reconciliation.
2. Genuine inclusive political dialogue and a review of the 2008 constitution: Tripartite dialogue is critical for there to be a lasting genuine national reconciliation in Burma. Without meaningful dialogue between the military regime, democratic parties, and ethnic nationalities towards a mutually agreed upon national reconciliation, the people of Burma will continue to live in a fractured and oppressive system. Elections are meaningless as long as opposition groups are denied genuine involvement in the drafting of a democratic constitution. Moreover, after decades of armed conflict and struggle for ethnic minority rights, the only durable solution for the future of Burma, must include concrete constitutionally guaranteed rights for Burma's ethnic nationalities.
3. Cessation of attacks and human rights violations: Democracy and ethnic communities have also firmly demanded a cessation of systematic human rights violations committed by the regime against the populous; specifically ethnic and religious groups and as well as democracy activists. These attacks stand as crimes against humanity and must end. National reconciliation cannot truly happen as long as these atrocities continue.

For the democratic process to be sustainable and effective, the grievances of ethnic minorities must be addressed, fundamental human rights must be protected, and governmental accountability must be safeguarded. The inclusion of democratic opposition parties to the Constitutional process would not only assure political pluralism, it would offer a more effective representation of the people through an already drafted federal constitution. Burma's opposition forces, which include ethnic-nationalities leadership and pro-democratic forces based inside Burma, in Burma's border areas and diasporically in developed nations, has developed an alternative draft constitution based on a federal system of states that guarantees the protection of rights of all people in Burma, especially the ethnic nationalities. Through the process of drafting this federal democratic constitution, the opposition movement has

developed strategies to politically, not violently, address key factors that currently underlie the nation-state's security. The opposition movement is already addressing key constitutional concerns, as well as other fundamental factors of genuine democratic transition.

G. RECOMMENDATIONS

We ask the international community to continue to pressure the military regime to meet these crucial benchmarks in order to truly bring the country towards national reconciliation. Nevertheless, unless Burma's military regime cooperates and meets the key benchmarks the international community must be prepared to not recognize the 2010 elections and its results.

To the United Nations Security Council:

Pass an Arms Embargo to hinder the military regime from its brutal offensive against civilians.

The Security Council should begin a Commission of Inquiry to investigate crimes against humanity.

As it did with the South African Constitution in 1984, the UN Security Council should pass a resolution to declare Burma's racist 2008 Constitution null and void.

To ASEAN:

In light of Burma's serious breach of the principles of the ASEAN Charter, ASEAN leaders make serious measures to address the breach of principles,

ASEAN should suspend energy related resource extraction projects

The AICHR should conduct on-site investigation into crimes against humanity in Burma. ASEAN should support a UN Commission of Inquiry.

ASEAN should appoint an envoy that will work directly with other international envoys.

To United States and European Union:

The EU should immediately send its Burma envoy, US should hasten efforts to appoint their envoy and dispatch immediately. These envoys will work in coordination with each and in cooperation with UN Secretary General Ban Ki-moon

The US, UK and EU must impose stronger targeted sanctions.

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