

## **March 23, National League for Democracy**

### **Special announcement 2/03/10 (unofficial translation)**

On 8 March 2010, the State Peace and Development Council announced the Union Election Commission Law, Political Parties Registration Law, Pyithu Hluttaw (Lower House) Election Law, the Amyotha Hluttaw ((Upper House)) Election Law, and the Region or State Hluttaw Election Law.

If these laws are studied, it becomes clearly evident that they are against democratic practices and there is nothing fair, free, about them. Some key examples to cite here are:

(1) Under Section 8(K) of the Union Election Commission Law, the Commission is given the authority to "Supervise, facilitate the supervision of, and guide political parties to act according to the Law". This means that the Commission is restricting the right of the political parties to freely organize, form, assembly, hold meeting, and carry out other activities in accordance with the practices of democracy.

(2) Under Section 4(E) of the Political Parties Registration Law, those who wish to establish political parties "must not be people being imprisoned". This amounts to rejecting the rights of a political party and also contravenes the practices of democracy. It also contradicts the provisions of "Formation of Political Parties" and "The right of Non-Existence of Political Parties" prescribed under Chapter X of the Constitution of the Republic of the Union of Burma.

Article 449 declares that "The Constitution is the Basic Law of all the laws of the Union." Hence, a law that contradicts the Constitution should not be enacted. Furthermore, the said law was enforced retroactively. A law can only come into force on the day it is enacted. Article 453 of the Constitution states, "In interpretation of expressions contained in this Constitution reference shall be made to the existing Interpretation Law". But, Section 3(C) of that Interpretation Law clearly stipulates that "Unless retroactivity of a law is specifically prescribed, that law shall not be retroactively enforced". It amounts to penalizing a person in prison once again.

3. The Election Commission is excessively intrusive in encroaching the rights of a political party with Section 10 of the Political Parties Registration Law stating that a political party can only recruit members with certain qualifications; Section 23 of that same law prescribes that "The Commission is authorized to direct parties to act in accordance with existing laws, rules, procedures, notifications, orders, and directives. It can delegate its authority to its sub-commissions at different levels"; and Section 24(B) states "Should the Commission receive a complaint about intra-party matters, it shall conduct necessary investigations and, in the interest of the nation, guide that party to follow its directive within the timeframe it has allocated."

4. Section 4 (D) of the Pyithu Hluttaw Election Law refers to "A Hluttaw representative being convicted under any prevailing law after being elected" which shows that the wish of the people is being ignored. Similar stipulations are also included in the Amyotha Hluttaw and the Region or State Election Laws.

5. Section 82 of the Pyithu Hluttaw Election Law only generally states that "Any person discharging duties in connection with the election including the Sub-Commission at different levels shall abide by the following provisions:" but it does not state what sort of penalty that said person would face if he / she does not adhere to the provisions. Section 87 even prescribed that "No civil or criminal action shall

be taken against the Commission and members of the Commission, Sub-Commissions at various levels and their members, Election Tribunals and members of the Election Tribunals, members of the polling booth teams including polling booth officers, who discharge their duties according to law in good faith and to the best of their ability." This means that the authorities are giving protection to the people they would choose and do anything they like to make the election neither free nor fair. Similar stipulations are also included in the Amyotha Hluttaw and the Region or State Election Laws.

6. Section 91 (A) of the Pyithu Hluttaw Election Law declares that "The Pyithu Hluttaw Election Law ((of 1989)) (The State Law and Order Restoration Council Law No 14/89) is repealed by this Law" and Section 91 (B) says, "The Multiparty Democracy General Elections held in accordance with the law repealed by this law is not relevant anymore with the Constitution and the results of the elections shall be considered automatically void." Both these stipulations totally contradict the Law. Article 446 of the Constitution stipulates that "Existing laws shall remain in operation in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Pyidaungsu ((Union)) Hluttaw." Therefore, the Pyithu Hluttaw Law ((1989)) -- Law No 14/89, and the Political Parties Registration Law (1988) -- Law No 4/88, are not repealed by the Pyidaungsu Hluttaw that will be established under the Constitution but by violators of the law who enacted the law and that is totally illegal. The Multiparty Democracy General Elections of 1990 was declared openly as fair and free and the Union of Burma Gazette officially published the names of the elected people's representatives. Since the Pyithu Hluttaw has not yet been convened in accord with Section 3 of the Pyithu Hluttaw Election Law, the results of the 1990 elections cannot be voided automatically.

7. The drafts of the Union Election Commission Law, the Political Parties Registration Law, the Pyithu Hluttaw Election Law, the Amyotha Hluttaw Election Law, and the Region and State Hluttaw Election Laws were not shown or explained to the people nor were their opinions and suggestions sought. The authorities had written them unilaterally and according to their own liking. It is, therefore, unfair.

Hence, in accordance with the decisions made at the meeting of the National League for Democracy Central Executive Committee, the chairman of the National League for Democracy filed a suit against the chairman of the State Peace and Development Council under Sections 5(A), (G) and (I) of the Code of Civil Procedure of 2000 and Sections 45 and 54 of the Specific Relief Act of 1887 at the Rangoon High Court on 23 March 2010.

We hereby announce that our case file was returned to us at 1230 when the person in charge at the Court said, "We do not have the authority to rule on the case."

As per the decision made at the Central Executive Committee meeting on 22 March 2010

Rangoon  
Central Executive Committee  
National League for Democracy