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Activities conducted by the Burma Lawyers' Council on SPDC Constitution and Referendum

Introduction

In response to the SPDC's announcement of the May 10 constitutional referendum, the Burma Lawyers' Council undertook an intensive campaign to educate, prepare and energize eligible voters on why they should vote "no" to the constitution. This article summarizes some of the BLC's primary activities.

1) Booklets on Constitution and Referendum, with illustrations

The BLC wrote the text and hired an artist to draw illustrations for cartoon booklets regarding the constitution and referendum. These booklets were written in Burmese language and distributed to 108 democratic organizations and individuals, which then redistributed the cartoons inside Burma and along the Thai border. Booklets reached, for instance, Karen State, Shan State, Karen State, Phuket and Maha Chaing, Thailand, and Kachin State.

A total of 1,258 cartoon booklets on the constitution containing 61 pages were distributed. Some of the main themes were:

- The rights of the people and restrictions on the power of the government. The illustrations also show how the SPDC constitution restricts the rights of the people and gives more power to the government.
- The provisions in the SPDC constitution specifying the qualifications for the President, the 25% representation of the military persons in the parliament and the power of the President to appoint Ministers. As a result of these provisions, the army will always have a leading role in governing the country.
- The absence of rights for the ethnic nationalities and the lack of equal treatment in the SPDC constitution. The illustrations also show what genuine equality really looks like.
- How government civil servants cannot participate in politics or run for election but exceptions are made for SPDC officials and their favored civil servants.





- The continued use of laws to oppress the people and violate their human rights.
- The ability for the SPDC to choose members of the legislative bodies, such as USDA members and National Unity Party members. Also included is the army's ability to silence the voices of parliament members.
- The life of an ordinary peasant family will become miserable due to the exclusion of the people's participation in drafting the constitution.
- The army personnel use their followers in the Swan Arr Shin to forcibly prevent the people from expressing their opinions in the constitution.

The referendum booklets were 76 pages long. Some of the major points were:

- The necessity of forming the National Referendum Commission with persons unrelated to the authorities.
- The independence between the judiciary and the Referendum Commission.
- The rights of the public to complain about the cheating and other dishonest behavior by the Commission.
- Encouraging the people to convince the Commission members to support the public even though they are the subordinates of SPDC.
- The issuing of temporary registration cards by the authorities -- a person can have four or five temporary registration cards in hand and can cast supporting votes in different polling booths.
- The possible dishonesty of the polling booth authorities.
- Counting the votes -- no rules govern how and when the SPDC must announce the results.
- The public was warned about people changing 'No' ballots to 'Yes' ballots.
- Observation of the referendum by Burmese people, without relying on international groups to reveal the truth.

Examples of the cartoons are included in this *Lawka Pala*.

2) Educational program on the referendum and constitution broadcast on television by the Democratic Voice of Burma

The BLC produced a taped educational program on the referendum and constitution which was broadcast on television by the Democratic Voice of Burma. The DVB made five programs, each 15 minutes in duration, broadcast into Burma for 5 consecutive days before the referendum. The DVB program showed Burmese voters how to cast their ballot and how to identify SPDC tricks and methods to change the votes. Members of the BLC Board and some of the senior BLC staff held a discussion on matters such as the experience with the 1973 referendum and weaknesses of the SPDC draft constitution and referendum process. The BLC also conducted several interviews in which they discussed the effect of the constitutional provision granting amnesty for



crimes in connection with transitional justice, the Depayin Massacre, the September 2007 uprising, and the relocation of Karen villages.

3) Educational video-CDs regarding constitution and referendum

The video-CDs contained the DVB programs and an analysis on the constitution and referendum. 600 VCDs were produced and 592 were distributed, often with the cartoon booklets described above, both inside Burma and along the Thai-Burma border. The video-CDs were approximately 45 minutes long.

4) Training workshops regarding the referendum and constitution

Members of the BLC staff held two one-day trainings for Burmese migrant workers on May 4 and May 11 regarding the constitution and referendum. The



BLC trainers presented the characteristics of a constitution and referendum generally, the strengths and weaknesses of the SPDC draft Constitution and referendum, a film presentation on the referendum in East Timor, a study on other countries' referendums, and how to vote during the Burma referendum (during this last topic, the migrant workers practiced voting correctly).

A one-day workshop was held on April 23, 2008, led by BLC Board Members U Thein Oo, UAung Htoo, and U Myint Thein. They pointed out the weaknesses of the SPDC constitution, explaining how the constitution favored a group of leading military generals, not the people and army personnel. The workshop was videotaped, put on VCDs by the HREIB and distributed within Burma.

On April 10, the BLC General Secretary provided training on the constitution and referendum to eight journalists who left the country legally. U Aung Htoo elaborated on the flaws of the SPDC constitution and possible cheating methods by the military regime in its referendum.

BLC Executive Board Member U Myint Thein also provided trainings on the referendum and constitution in Chiang Mai, Thailand. These trainings focused on the ways in which the SPDC was using the constitutional process to legitimize their unlawful power, the flaws in the Constitution that could be exploited by the SPDC to infringe on people's rights, the dangers in voting "yes" in the Referendum, and the possible ways the SPDC would manipulate the Referendum results.



Briefly, as an extra activity, the BLC sent a staff lawyer inside Burma to closely observe the referendum process.

5) Radio Programs and Interviews

At the request of the BBC, the BLC General Secretary provided written legal suggestions for its special weekly program on the constitution for five consecutive weeks. These programs were broadcast in April and May 2008 under the following titles:

- (1) Provision of civil rights in the constitution
- (2) Rigid centralization and the checks and balances system in the constitution
- (3) The role of the army in the constitution
- (4) Protection of ethnic rights in the constitution
- (5) Amendment of the constitution

In program (1), the General Secretary highlighted that civil rights are not guaranteed in the SPDC's 2008 constitution (at that time, draft constitution) and compared the 2008 constitution with the 1947 constitution, in which basic



rights of people were guaranteed with the establishment of an independent judiciary. Program (2) elaborated on the practice of rigid centralization by the executive and also highlighted that out of three constitutions –1947, 1974 and the SPDC's 2008 constitution -- the last one created the most rigid centralization, which will negatively impact the practice of people's liberty.

Program (3) explained the civilian supremacy concept and criticized the military supremacy concept indoctrinated in the SPDC's 2008 constitution. Program (4) elaborated on the concept of equal rights and self-determination, which should be enjoyed by various ethnic nationalities in the union of Burma, and criticized this aspect of the SPDC's constitution. Program (5) highlighted the amendment section in the SPDC constitution, which implies that the constitution can never be amended by the people, as the amendment procedure is too difficult to apply practically.

The BLC General Secretary was invited to participate in a special edition interview by Voice of America on the SPDC Constitution and its effect on the 1990 elections. The General Secretary explained how the 1990 elections were not disputed, and thus must be honored and implemented. The elected officials are the ones who should be drafting the country's constitution, not the military regime. Announcement 1/90, paragraph 20, which established this right, is still effective law. Furthermore, the SDPC must invite international observers to the referendum to ensure that acceptable election procedures are used. If the constitution is approved and elections are held in 2010, the power of the SPDC



will be confirmed, legitimizing their rule and giving them extended life. This must not happen.

The General Secretary also participated in three radio interviews with Network Media, moderated by Ko Aung Naing and broadcast on Radio Free Asia. In these interviews, he expressed that the SPDC Constitution is a systematic arrangement used to extend SPDC power. He added that the Referendum was flawed because there was no regulation on how many votes were needed to approve the Constitution. A small number of "yes" votes could conceivably approve it; for example, if there are 100 eligible voters, 51 of them vote, and 26 support the Constitution, it is approved. This is true even though only 26% of all eligible voters approved.

6) Symposia and Statements on Constitution and Referendum

The BLC General Secretary also held symposiums on the Constitution and Referendum in Australia and Japan. Excerpts from his report are printed separately in this *Lawka Pala*. The BLC also published and distributed a large number of legal statements regarding the Constitution and Referendum. These have been reprinted in this and the previous *Lawka Pala*.

7) BLC's Participation in Referendum Watch activity with political alliances

The Director of the BLC Legal Aid Section is a member of the NCUB Referendum Watch team. He is responsible for legal matters on the team. He researches and analyzes whether the SPDC has violated an applicable government order or procedure, or an international legal principle. The Referendum Watch team has released statements that address, among other things, the ways in which the government forced people to vote early, how the SPDC Constitution is inconsistent with democratic principles, and how the cyclone created poor voting conditions, yet the SPDC still held the Referendum.

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