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BLC Supports the UN Credentials Challenge and Urges United Opposition to the SPDC Roadmap

1. On 9 September 2008, Members of Parliament Union, National Council of the Union of Burma and International Burmese Monks Association submitted a petition to the United Nations challenging the right of the State Peace and Development Council (SPDC) to represent Burma in the UN General Assembly. If successful, the challenge could replace the SPDC representatives at the UN with democratically elected representatives of MPU.
2. The Burma Lawyers' Council wholeheartedly supports the credentials challenge, which is an important step in undermining the SPDC's plan to gain legitimacy. We must not let the passage of time and the frustration over a lack of progress lull us into accepting the SPDC's unlawful seizure of power through military coup and their refusal to acknowledge the results of the free and fair elections held in 1990.
3. Through its seven-step "road map" to democracy, the SPDC has been attempting to legitimize its rule in the eyes of the Burmese people and the international community. All of its so-called "progress", however, has been achieved through deception, coercion and oppression. The first step, the National Convention, was attended primarily by handpicked lackeys of the regime. Major opposition ethnic groups and political parties such as the National League for Democracy refused to participate. The Convention was characterized by a complete lack of dialogue and free exchange of ideas. In fact, the SPDC issued a law prohibiting criticism of the National Convention, by which many activists have been imprisoned. Participants in the Convention who escaped to Thailand have related how, during "discussions", they had to follow a government script provided in advance. They rightfully called the process a "sham National Convention". The National Convention was a clear maneuver by the SPDC to create a façade of democratic dialogue.



4. The Constitution that resulted from the Convention also creates an appearance of democracy. After peeling away its surface, however, it becomes obvious that at the heart of the Constitution is continued military dominance. At a minimum, the military will control 25% of the Parliament, which will allow it to automatically veto major decisions such as constitutional amendments. The judiciary will be appointed and removed at the whim of the executive, which will also be controlled by the military. Basic rights are completely undermined by exception clauses that permit the government to suspend rights in the name of national security or to enforce currently existing oppressive laws. The Constitution even provides legal amnesty for SPDC officials for crimes they have committed. Like the National Convention, the Constitution is a military ploy to lend the regime legitimacy. We must not fall into this trap.

5. Similarly, the constitutional referendum held in May 2008 was characterized by a complete lack of respect for democratic principles, rule of law and fairness. First, the constitution was not released until about one month before the referendum, giving people no time to actually study it – in a survey of 2,000 voters, 69% said they were not aware of the details in the constitution. (*“Burma News International: Release of nationwide voters survey on the Burmese referendum”*, BURMANET NEWS, May 7, 2008). Even today many people inside Burma have not seen the constitution and it has not been made available in ethnic languages. Moreover, the SPDC refused to delay the voting when the country was reeling from Cyclone Nargis. Before and during the voting, the SPDC implemented a number of strategies to coerce or trick people into voting "yes". For instance, SPDC agents pointed to the "yes" box when giving voting instructions, forced families to vote together, and threatened to imprison individual voters or cut off water to villages that did not achieve an 80% "yes" vote. (*“Burmese Constitutional Referendum: Neither Free Nor Fair”*, The Public International Law & Policy Group, May 2008). Other reports told of destruction of “no” ballots and ballots prefilled with names and “yes” votes.

6. The planned election in 2010 is the latest of the SPDC’s attempts to legalize its rule. To finally nullify the 1990 election results and legitimize its own rule, the SPDC is trying to convince the people of Burma and the international community that it genuinely intends to hand over the government to democratically elected bodies. In reality, though, the SPDC continues its manipulation of hopeful people and nations around the world. Based on the experiences with the National Convention, referendum and constitution, there is no possibility that the 2010 elections will be free and



fair. UN Special Envoy Ibrahim Gambari has urged participation in the elections. This is a dangerous statement that must be challenged.

7. The SPDC's manipulation of the judiciary is an additional tactic used to create the impression that the SPDC's actions are lawful and legitimate. To justify their imprisonment of political opponents, oppression of monks, and widespread murder of ethnic minorities, the SPDC argues that it has the right to create laws, the laws must be enforced, and the judiciary has the duty to apply the existing laws. This argument completely ignores crucial facts: first, the SPDC does not have the right to pass laws because it is not a legitimate government; second, the SPDC laws violate international laws and norms, with which Burma as a member state of the United Nations must comply; and third, the existing, valid laws must be applied fairly and correctly. The BLC's work over the last 14 years clearly shows that the SPDC laws are patently inconsistent with universally accepted international norms and in all cases in which the SPDC has an interest, the judiciary ignores or misapplies laws to favor the regime. Using the judiciary to rubber stamp convictions does not make those convictions valid.

8. The BLC urges the people of Burma, democratic opposition groups and the international community to boycott the 2010 elections. There should be no cooperation with the 2008 constitution. While the fight for positive change should continue, it must take place outside the framework of the current constitution. The sham National Convention and Referendum were clear evidence that working from within the SPDC guidelines leaves no room for dialogue and constructive cooperation.

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