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Statement on the SPDC Government Ministries' Offenses Relating to Elections

1) SPDC Foreign Minister U Nyan Win traveled to villages in eastern Zegon Township, Bago Division, where he distributed cash to villagers in exchange for them voting in his favor as a parliamentary representative in the 2010 elections.¹

2) Rangoon Mayor Brigadier General Aung Thein Lin distributed funds to citizens living in the countryside in exchange for their votes for him in the 2010 elections. The money with which he bribed them was taken from Rangoon municipal funds.²

3) The military Auditor General Lwin Maung traveled to villages in Banmaw Township, Kachin State, where he distributed money and gifts to villagers in exchange for votes in the 2010 elections.³

4) Minister of Industry U Aung Thaug also gave money and donations to individuals and social affairs organizations in an effort to influence them to vote in his favor in the 2010 elections.⁴

5) The SPDC government has nominated merchants and owners of military joint venture companies to stand in the 2010 elections. The SPDC provides money for their campaigns.⁵

6) The SPDC government, with the 2008 constitution approved and in hand, declared multi-party general elections for 2010. However, the SPDC has provided no new election law with the new constitution. Therefore, the SPDC must adhere to the previous SLORC law still in effect.

Legal Analysis

SLORC Law No.14/1998 Election Law Chapter XII Election Offenses and Penalties, Section 49(a) states:

A person's right to stand for election and to vote shall not be violated by force, threat, undue influence, cheating, taking or giving of bribes to any person.



Myanmar Penal Code Chapter IXA Offences Relating to Elections Sections 171B and 171C state:

171B.(1) Whoever—

- (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right: or
- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right commits the offence of bribery;

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

171B.(2) A person who offers, or agrees to give, or offers or attempts to procure a gratification shall be deemed to give a gratification.

171B.(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

171C.(1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section 1), whoever—

- a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind or
- b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section. Sections 171E and F state that bribery and undue influence, respectively, are punishable by up to one year in prison, or a fine, or both.



It is clear, given the examples above, that the commission of bribery and undue influence directly by, or on behalf of, SPDC officials and others in cooperation, is rampant. The practice of bribery and undue influence is so common that it has become the norm. The SPDC is acting in contravention to domestic Myanmar law. The rule of law is, once again, not being upheld.

We, the Burma Lawyers' Council, demand that the SPDC and all related parties immediately cease committing offenses relating to elections. We also demand that the people of Burma access media from outside Burma in an effort to understand the true nature of the government's actions and to stand up in protest against the SPDC's blatant disregard for the law.

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20.04.2009

(Endnotes)

¹ RFA 2009.04.03

² New Era Bulletins 2009.03.27

³ Myit Si Ma 2009.04.06

⁴ New Light of Myanmar

⁵ RFA 2009.03.03

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