Burma human rights body is not all that is needed

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The Rangoon junta’s move to form a commission on human rights is a joke given that the military refuses to enforce current laws and is the perpetrator of gross violations.

The Australian government has decided to cooperate with the Burmese junta in providing human rights training courses for government officials. The decision was in response to the ruling State Peace and Development Council’s (SPDC) indication that it intends to establish a national Human Rights Commission. Canberra’s underlying philosophy is that engagement with the Burmese regime will help improve the human rights situation in Burma.

At the moment, the creation of a Human Rights Commission in Burma is an ethical issue. It is also an irony that the initiative would come from no other than the regime which has no legitimacy whatsoever to rule in the first place. Worse is that the SPDC is the culprit and perpetrator of human rights abuses which have been recorded annually by the United Nations.

One could argue that an improvement to human rights takes priority over the issue of political legitimacy. No one will reject the noble idea if it is the real beginning to help improve the human rights situation in Burma. But, there are other urgent matters requiring immediate attention, which should take precedence over the tactical move to create a national human rights watchdog.

Rule of law

Firstly, lack of rule of law encourages the many violations of human rights currently happening in Burma. Obvious examples of authorities’ abuse of power outside the due process of law include ignorance of electoral law that the junta itself promulgated; jailing political dissidents and human rights advocates under the so-called Emergency Pro-
vision Act 5 (j); and imposing restrictions upon the movement of elected representatives and the NLD members. Abuses of power by the army and the authorities extend to the innocent civilian population. Forced labour, forced relocation, rape, torture and murder take place on a large scale on a daily basis. All these violations exist because there is no due process of law.

The massive removal of Supreme Court judges, who were known as professional judges in 1998, clearly demonstrates the readiness of the junta to interfere and use judicial appointments as a manoeuvre to influence judges at all levels. No case involving military human rights violations can be independently tried. There is no doubt that Burma’s judiciary is totally influenced by the junta.

If the principles of rule of law and due process of law prevail in Burma, a high number of cases of human rights violations would never have occurred. There is no guarantee yet that the proposed Human Rights Commission would help to improve the principles of rule of law and restore due process.

What Burma needs to ease present human rights violations is not to introduce any new human rights mechanism, but to reinforce the due process of law. Burma’s legal system is adapted from the British common law system, which fairly guarantees the fundamental rights of people, therefore the basis for the rule of law and all its processes, already exists.

Military attitude

The second issue to address is that the junta, which is entirely composed of military generals, must change its attitude towards people. The SPDC and all its subordinates are busy with attempts to divide the society and create disunity among the diverse peoples of Burma. Giving some people special privileges in return for them not criticizing the government or any junta officials is a commonly used tactic by the junta. While all universities are closed to ordinary students, military universities and colleges are kept open for the military’s children. Accordingly, Burmese society has been divided into pro-military and ordinary people.

Discrimination that comes from aspects of religion, race, ethnicity and political belief reflects the attitude of the military junta towards the people. The practice of discrimination intensifies as the SPDC is attempting to conceptualise Burman, a major ethnic group to which most generals belong, as nationalism based on Buddhism, which most generals practice.

While most forced relocation of non-Burman ethnic villages is based on ethnicity, creating hostilities among Buddhist and non-Buddhist societies is due to discrimination on the grounds of religion. Rights, such as the right to obtain a passport, of those whose relatives are involved in the democracy movement are denied. Even worse, the SPDC views as enemies anyone considered to have the potential to challenge the SPDC’s power.

As long as this military attitude towards people is unchanged, human rights will not be
realised. To realise human rights in the long run, Burma needs to make the military change its attitude towards its own people.

**Basic fundamental freedoms**

The third matter to consider is the urgent need for basic fundamental freedoms. Discussion on, and dissemination of, human rights information must be a freedom. The Universal Declaration of Human Rights has never been translated into Burmese and disseminated among Burmese people officially. Those who disseminate unauthorised information and publications, including human rights information, may be punished under the 1962 Printers and Publishers Act. Discussions of a bill of rights, which is part of the national constitution in most countries, is a crime under Law No 5/96, that bans all citizens from discussing constitutional matters. Any citizen who searches for information, including human rights information, on the Internet can be punished under the SPDC's Computer Law.

Lack of basic fundamental freedom not only weakens the Burmese people's ability to protect their rights, but also encourages on-going human rights violations. What Burma needs to sustain human rights is to reinstall basic fundamental freedoms.

Improving human rights in Burma does not depend on the creation of a Human Rights Commission. Unless the plan for setting up a national Human Rights Commission is, at minimum, undertaken in conjunction with moves to improve the three areas outlined in this article, improving human rights of Burmese people will be merely a dream. So, a future Human Rights Commission can form part of a solution but, on its own, it is not the solution.

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**Endnotes**

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