



General Assembly

Distr.
GENERAL

A/HRC/7/NGO/39
22 February 2008

ENGLISH ONLY

HUMAN RIGHTS COUNCIL
Seventh session
Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Written statement^{*} submitted by Asian Legal Resource Centre,
a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 February 2008]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

MYANMAR: Political psychosis, legal dementia and systemic abuses of human rights

1. In December 2007 the Asian Legal Resource Centre pointed out to the Sixth Session of the Human Rights Council (Resumed) that the manner of handling the September 2007 protests and subsequent detention without trial of large numbers of persons in Myanmar contrary to domestic as well as international law was not something exceptional in that country but rather a larger than usual manifestation of the long term decline in notions of legality and order that has occurred under successive military regimes there.

2. The ALRC in the same month had issued a special report describing this trajectory away from basic notions of legality and human rights as a consequence of “political psychosis and legal dementia”. The study approached lawlessness as a symptom of an administrative and judicial system gone mad; a condition that impinges daily not only on the lives of those persons that are the subjects of typical human rights interventions and media interest, such as political leaders and prisoners of conscience, but of all persons everywhere within its borders. In the introduction to that study, it wrote that

“Dementia is a condition characterised by memory failures, personality changes, and impaired reasoning. All of these are evident in the handling of criminal cases in [Myanmar], and indeed, in the management of the state as a whole. All affairs that should be conditioned by a degree of rationality are instead haphazard, the result of impaired reasoning, lost memory and unpredictable changes in temperament.” (*article 2*, vol. 6, no. 5-6)

3. Among those cases that the ALRC has documented in the months since the report that again speak to this condition are the following.

a. Paing Hpyo Aung was forcibly recruited into Light Infantry Battalion 346 based in Taunggut, Rakhine State, when he was 13, in violation of the Government of Myanmar’s commitments to eliminate the use of child soldiers. He was sent to serve in a frontline area, from where he absconded. He was tried by a military tribunal and sentenced to ten years’ imprisonment on 14 December 2005, when 15, violation of the Convention of the Rights of a Child, to which Myanmar is a State Party, and the country’s 1993 Child Law. He was held in Thandwe Prison and his family only found out about his whereabouts in late 2007, whereupon they lodged a complaint to seek his release. However, in response to their complaint, the local authorities have now intimidated the family and sought persons who helped them to make it. There is as yet no indication that Paing Hypo Aung will be released.

b. Htun Htun Naing, 31 (deceased), was jailed on a gambling offence and on 21 June 2006 taken from Insein Prison and sent to serve as a worker on a military operation under Infantry Battalion 250, based in Loikaw, Kayah State, in violation of domestic Order 1/99 and the Supplementary Order on forced labour. On 9 November 2006, Deputy Warrant Officer Aung Kyaw Htun visited his family and notified them that he had died of malaria on August 17. The officer did not give any documents to prove that he was dead or cause of death, such as a death certificate and medical report. However, he took the house register, victim’s national identity card and proof of residency document from the ward council office in order to process the case, and advised the family to go to the army battalion. But because of its distant location and the poverty of the family, they could not go. Thereafter,

the family was shocked when notified in a document from the Ministry of Defence of 30 January 2007 that it had decided to award the family with 7200 Kyat in compensation, or about USD 5.75, for Htun Htun Naing's death. Although the family has since requested that the case be reviewed and additional compensation be given, to date they are not known to have received anything further. Nor have they received documents to prove the death and circumstances of death.

4. These and numerous other cases documented by the ALRC are bound to one another by the systemic dementia in Myanmar's judicial and political administration. However, when it comes to international discussion and the devising of responses to such abuses, the problem is that they are often divided, for convenience and perhaps out of habit, into discrete conventional categories of human rights discourse—i.e. child soldiers and forced labour. They are seen more in terms of their differences rather than their similarities, not only in defiance of notions of the universality of human rights, but also contrary to the commonality of their causes.

5. It is for this reason among others that a new approach to Myanmar is needed and that the Asian Legal Resource Centre is on this occasion reiterating its call for the Human Rights Council to spearhead the establishing of a special study and strategy group on Myanmar that will bring together representatives of all key concerned United Nations agencies in order to make a both detailed and comprehensive assessment that can draw together the disparate elements of the human rights, humanitarian and political crises there. The ALRC sincerely believes that the establishment of such a group would be met with very positive responses from many quarters and could quickly obtain information and make critical analyses with which to devise directed and effective interventions in both the short and long term.

6. Correct diagnosis is the first requirement for effective intervention. Where legal dementia and political insanity are not taken seriously and are treated as if they will go away with some mild curatives and gentle words, the condition can only get worse, as it has over the last decade in Myanmar. But when this happens, it is not only the country suffering from the malaise but also the third party, in this case the Human Rights Council, which is acting irrationally. To work effectively we must acknowledge what we are dealing with. The only way to do this is through proper study, assessment and action, which cannot come from half-hearted measures. The Council must do more for Myanmar than what it has done so far. The proposed study and strategy group would be an important and necessary step in the right direction.

About the ALRC: *The Asian Legal Resource Centre is an independent regional non-governmental organisation holding general consultative status with the Economic and Social Council of the United Nations. It is the sister organisation of the Asian Human Rights Commission. The Hong Kong-based group seeks to strengthen and encourage positive action on legal and human rights issues at the local and national levels throughout Asia*