



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

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**ICJ Intervention on the Report of the Special Rapporteur on the situation of
human rights in Myanmar, Paulo Sérgio Pinheiro, in follow-up to the resolution S-5/1 adopted
by the Human Rights Council at its 5th Special Session**

Mr. President,
Prof. Pinheiro,

The International Commission of Jurists (ICJ) welcomes the report of the Special Rapporteur on human rights in Myanmar, in particular on the crackdown on peaceful protest in August and September 2007. The ICJ expresses again its revulsion at the extent of human rights violations described in his report, including arbitrary killings, beatings, arbitrary detention resulting in death, torture and cruel and degrading treatment, enforced disappearance and numerous restrictions on civil and political rights.

Reliable sources have documented at least 30 deaths during the crackdown in Rangoon and at least seven deaths in detention facilities. Given the lack of access to information, the real numbers are likely to be much higher. Torture and ill-treatment are reported in regular places of detention. Conditions in informal detention facilities, used to detain persons including children and pregnant women, have not yet been fully documented. There has been no way to verify reports of gender-based violence against women protestors, however there are credible reports that female relatives of protest leaders in hiding have been arbitrarily arrested and detained, in effect as 'hostages', to secure the surrender of the activists.

The ICJ expresses serious concern that while it was facilitating Special Rapporteur's visit, the SPDC was, and continues, to commit further serious human rights violations. Hundreds of persons remain 'disappeared'; at least 19 of them are women. Human rights groups are still reporting daily arrests of monks and political activists. Such arrests were also reported during the visit of the Special Rapporteur. Approximately 500-1000 people remain in detention.

With such violations continuing, there does not appear to be any genuine intention to move towards democracy and the rule of law. The Information Minister announced on 3 December 2007 that the opposition leader Aung San Suu Kyi, whom the Special Rapporteur was not allowed to meet, and other opposition leaders and ethnic minority groups, will not be included in the process of drafting the new constitution. This constitutional drafting process, which has already been severely delayed and compromised, cannot be seen as a genuine process of change.

Mr. President,

The Special Rapporteur was able to carry out a useful, preliminary visit. It was not a thorough investigation. Yet knowing the truth about the crackdown in August and September and ensuring accountability are critical for the future. At the 5th Special Session the ICJ urged the Council to provide high-level political backing to any action it takes on Myanmar. The report of the Special Rapporteur only underscores even further this imperative.

The ICJ believes the Council should now establish an Investigation Commission, headed by the Special Rapporteur on Myanmar and comprising relevant Special Procedures and other experts. It should swiftly carry out a thorough investigation into the events of August/September. It should recommend next steps to ensure accountability and to prevent similar violations occurring in the future.

The Investigation Commission's mandate should include:

- Accessing records and premises of all detention facilities used during and after the crackdown including police stations, prisons, *ad hoc* detention facilities and hospitals;
- Gathering forensic evidence, including by inspecting and excavating any site where mass-graves or cremations have been reported, in particular the Ye Way Crematorium (under the control of the Police Controller and Central Department), where reports have indicated unusual night-time cremations during the crackdown;
- Operating with a support team on the ground to monitor the safety of persons and groups who assist the Commission.
- Liaising with the good office functions of the Special Envoy of the UN SG Pf. Ibrahim Gambari.
- Reporting its findings to the UN Security Council, as well as the Human Rights Council.

The Commission will need complete freedom of movement in the country and the right to speak in private to anyone, whether or not in detention.

The ICJ calls for such an Investigation Commission to visit Myanmar swiftly and to report back to the Council no later than March 2008.

I thank you.