

INTERNATIONAL COMMISSION OF JURISTS' (ICJ) SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW OF THE REPUBLIC OF THE UNION OF MYANMAR

Introduction

Between 2 and 13 November 2015, the **Working Group on the Universal Periodic Review (UPR)** will hold its 23rd session. A review of the Republic of the Union of Myanmar will be held on 6 November 2015.

In its UPR submission, the ICJ drew the attention of the Human Rights Council's (HRC) Working Group on the UPR and that of the HRC itself to the organization's concerns relating to:

- (1) the independence of the judiciary and legal profession;
- (2) lack of legislation adequately protecting human rights and the environment;
- (3) discriminatory laws targeting women and minorities; and
- (4) the writ of habeas corpus.

Recommendations

Concerning the independence of the judiciary

- (i) create a Judicial Code of Conduct in line with international standards on judicial independence and accountability;
- (ii) create a specialized, independent mechanism mandated to promptly and effectively investigate allegations of corruption. This body should also be mandated to make recommendations to combat systemic corruption;
- (iii) significantly reform the Bar Council to ensure its independence;
- (iv) commit resources to improving legal education and court facilities to tackle structural problems; and
- (v) strengthen cooperation with the Special Rapporteur on the situation of human rights in Myanmar and issue an open invitation to the Special Rapporteur on the Independence of Judges and Lawyers to visit Myanmar.

Concerning the lack of legislation adequately protecting human rights and the environment

- (i) pass the EIA Procedures without further delay;
- (ii) enact and enforce legislation that makes it compulsory for business enterprises to assess the environmental and social impacts of their activities on human rights and

to publicly disclose EIA results;

(iii) ensure public participation in environmental decision-making, including by protecting the rights of expression and association;

(iv) provide access to effective remedies for human rights violations and abuses resulting from environmental harm;

(v) draft the Foreign Investment Law in consultation with civil society organizations; and

(vi) ensure the draft Investment Law recognizes and complies with Myanmar's obligations under various legal regimes, including international human rights law, and environmental conservation and land laws.

Concerning discriminatory laws targeting women and minorities

(i) withdraw the Religious Conversion Bill, the Buddhist Women's Special Marriage Law, and the Monogamy Bill;

(ii) thoroughly review all family laws to ensure compliance with international human rights law and standards;

(iii) amend the 1982 Citizenship Law to reflect basic principles of human rights, including equality and non-discrimination.

Concerning the writ of habeas corpus

(i) revise the law and Constitution governing arrest, detention and the right to habeas corpus in a manner consistent with international standards;

(ii) clarify the practice and jurisprudence;

(iii) ensure that the law, as amended, is implemented in a manner consistent with international human rights standards;

(iv) ensure training for lawyers and judges; and

(v) raise awareness of the public, including the media, about the laws, jurisprudence and international standards related to arrest and detention and the right to habeas corpus.