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Human Rights Council, 31st session

Agenda Item 4: Interactive dialogue with the Special Rapporteur on the situation of human rights in Myanmar (14 March 2016)

Dear Ms Lee,

The International Bar Association's Human Rights Institute and the International Commission of Jurists welcome your report and strongly support renewal of your mandate.

We would like to recommend that, in the coming months, you benchmark Myanmar's justice system against the UN Basic Principles on the independence of the judiciary, the UN Basic Principles on the role of Lawyers and the UN Guidelines on the role of prosecutors. This will enable an objective measurement of progress, and set a time bound action plan for their implementation. Progress achieved in this respect has so far been limited.

The Independent Lawyers' Association of Myanmar, the first national, independent, professional organisation of lawyers, was launched in January this year and it will soon apply for registration, following legislative changes finally making registration possible.

However, the legal profession continues to be regulated by the government-controlled Bar Council. The Bar Council Act is among the many repressive laws, which continue to be applied arbitrarily by the authorities, with no clear rules and procedures.

In this environment, lawyers, particularly acting in human rights and criminal cases, continue to work in fear.

Prosecutors lack independence and fail to exercise their discretion in politically sensitive cases.

The Supreme Court has taken important steps towards asserting its independence and it is essential now that the legislative and executive branches respect and encourage this process.

There is no specialised mechanism to tackle corruption.

Finally, law reform is undermined by a legislative process that lacks transparency, inclusiveness and consistency - laws are often drafted in private and there is very limited scope for civil society input.

We would be glad to have the opportunity to assist you in addressing and monitoring these issues.

Thank you,

International Bar Association's Human Rights Institute
International Commission of Jurists