

## **Recommendations for Reform to Promote the Rule of Law (For the Refugee People from Burma as well as the Kingdom of Thailand)**

### **Legal Reform:**

1. Within the framework of Thai legal system, a Camp Manual, in which rule making processes, administrative system and judicial autonomy are prescribed, may be drawn up and applied as force of law; the manual may also contain the provisions that may address the issues such as security, human dignity, human development, health and education, dispute resolution, settling grievances, remedying abuses, joint inspection by Thai authorities and NGO representatives and etc. To draw up Camp Manual, Thai authorities may initiate to hold a Community Conference in which the participation of the local civil society organizations and the international NGOs is also allowed.
2. In order to promote criminal justice system of refugee camps, from among the effective laws, those which are relevant to Camp society may be taken out and one abridged Law comprising criminal sections, criminal procedures and judicial processes may be drafted, approved and enforced.
3. The most serious cases, involving murder, rape, drug trafficking, timber, people and weapons smuggling should continue to be adjudicated by the Thai Court while judicial power to deal with the less serious criminal and civil cases should be apportioned to the camp judiciaries. It may be approved by the Ministry of Justice of Thailand or similar judicial institution, in written form.
4. Ministry of Justice of Thailand may try to find legal reform process so that in rape cases medical evaluations issued by qualified medics who are trained and appointed by the international NGOs may be formally accepted by the Thai courts, not necessarily qualified doctors or hospitals.

### **Institutional Reform:**

1. With the knowledgeable persons, appointed or selected by the local people's organizations, Camp Community Assembly may be instituted in order that it may function as a rule-making body for all refugee camps.
2. A newly established institution may be created as Refugee Administrative Committee (RAC) which will exercise central administrative power while dealing with all international organizations for promoting welfare of the camp residents. It may be formed only with the elected representatives from each camp.

3. In the joint meetings of members of the Camp Community Assembly and RAC, the persons may be selected, approved and appointed as judges for local courts of instances as well as appellate court, from among those who are not the members of Camp Community Assembly and KRAC, and those who are proposed by local peoples' organizations. This will prevent the local camp administrative bodies from getting rid of judges they find troublesome by dismantling or reorganizing the court on which they serve. Here, recommendation is made on appointment of judges given that the elected judge who faces the prospect of standing for reelection may be unduly influenced by that prospect.
4. In such a judiciary, power to take legal action on the administrative officials for some major power abuses may be bestowed to the highest court as similar as administrative courts existed in Thailand. Details may be mentioned in the Camp Manual. There, how should the judges who are incapable of discharging the responsibilities of judicial office be dealt with and impeachment of judges for those who abuse their judicial power may also be provided,
5. Offices of camps judiciary and trial venues may be separated from the offices of camp administrative bodies in order to avoid the implication that the judicial body and camp committee are one and the same and that independence of judiciary can be to a larger extent guaranteed.
6. Security forces in each and every camp may be reformed and they should be separated from the camp administrative committees. They may take responsibility mainly for policing and be accountable to the RAC, instead of local camp administrative committees. They may also have separate buildings to be used as offices and detention centers.
7. Judges and security officials should be provided with necessary and suitable facilities in accordance with the Camp Manual in order that they are able to focus on their responsibilities without partiality and, to some extent, without having concern for their economic survival.
8. UNHCR or an international organization may take responsibility to create a legal aid mechanism by which assistance can be provided to victims and perpetrators alike in some serious crimes which will be dealt with by Thai courts. Facilities including safe houses may be provided to ensure the victims' rights are upheld and protection from pressure of local authorities and perpetrators.
9. Public complaint procedures may be instituted to provide consumers of courts services some redress when judges fail to treat them in a polite, fair and efficient manner.

These issues need to be addressed in order to ensure that the camps adhere more closely to the principles of the rule of law. Promoting justice, fairness, impartiality, consistency and accountancy through education programs; training camp residents about their legal rights and the legal process; establishing agreed to protocols between the Thai authorities and the camp administrative bodies are necessary steps in ensuring a more just and fair system develops within the camps.

**Burma Lawyers' Council**

December 17, 2007

For more legal comments, please contact:

U Aung Htoo, General Secretary, Burma Lawyer's Council:

66- (0)81 533 0605