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HRC section: Item 6: Nepal UPR

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An Oral Statement to the 17th Session of the UN Human Rights Council from the Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status

MYANMAR: UPR outcome lacking substance and hopes for effective implementation

Thank you,

The ALRC is of the opinion that the Council need only look at the list of recommendations that the authorities in Myanmar have not accepted to understand the challenges that a mechanism such as the UPR faces in attempting to be relevant and effective concerning extreme human rights situations such as that present in this country. Myanmar has rejected repeated recommendations to end impunity, to reform its legal system in line with international standards, and improve cooperation with the Special Rapporteur on Myanmar, who, incidentally, was not able to conduct a country visit last month. On the other hand, it has accepted to end torture, but not accepted to ratify the Convention Against Torture or to launch effective investigations into allegations of torture.

But beyond this, it must be understood that there is little chance of Myanmar effectively implementing even those recommendations that it has formally accepted. Two major obstacles to implementation are the political perception that the rule of law is an executive function, and the profound level of corruption throughout the entire State apparatus, including the courts and police.

Myanmar lacks an independent and impartial judiciary and since the sitting of a new parliament in January, there has been no improvement in this situation. Despite so-called political change, gross human rights abuse remains systemic, with cases still being heard behind closed doors in prison. The police force operates as a paramilitary and intelligence agency under command of the armed forces. Avenues for redress as envisaged in international standards are absent. The State has practically no domestic normative framework for the protection of human rights, including through its 2008 Constitution. Rather, it has a framework for the denial of rights, under which the armed forces are placed outside of judicial authority, and all rights are qualified with ambiguous language that permits exemptions under circumstances of the State's choosing.

The ALRC reiterates its strong support for the mandate of the Special Rapporteur and calls on the Council to ensure an additional independent international inquiry into the grave and widespread human rights abuses in Myanmar. As Myanmar's UPR outcome report is about to be adopted, the ALRC expresses its grave concern that this remains an exercise that is divorced from reality and that will do little to prevent further widespread violations of rights in Myanmar, until realistic, relevant and substantive recommendations are accepted and implemented by the State.

