



Criminal Accountability for Heinous Crimes in Burma
A Joint Project of the Global Justice Center and the Burma Lawyers' Council

The Security Council should act under its Chapter 7 powers and end the impunity accorded the Burmese military junta for crimes perpetrated against the people of Burma. The junta uses torture, gang rape of ethnic women, slavery, murder, mass imprisonment, and abduction of children to fill military quotas in order to retain its power in what is a failed state. These acts go far beyond a repudiation of democracy; they are criminal violations of international humanitarian and human rights law, including violations of the Geneva Conventions. There is a growing international consensus that no safe harbor should exist for perpetrators of heinous crimes. **The Project on Criminal Accountability for Heinous Crimes in Burma seeks a Security Council resolution establishing an Independent Commission of Inquiry to investigate the commission in Burma of the most serious of crimes of concern to the international community as a whole, which threaten the peace, security and well being of the world.**

The Security Council's Obligation to Act under Chapter VII

Various Security Council resolutions acknowledge that state sponsored heinous crimes can constitute a threat to global peace and security. Protection of women and children during conflict is underscored by the unanimous passage of Security Council Resolution 1325 on women, peace and security, which buttresses the “Responsibility to Protect” Doctrine, under Security Council Resolution 1674. The Genocide Convention, to which Burma is a party, requires prosecution of perpetrators and the Security Council can be seized under Article 8 for enforcement. In addition, Burma has been in a state of internal armed conflict for over forty years, devoting nearly half of its budget to maintain a standing army; thus the crimes inflicted on civilians are also violations of Common Article 3 of the Geneva conventions.

All UN efforts to engage with the junta on any level have failed, including 28 resolutions by the General Assembly and Commission on Human Rights, such as those calling for an independent investigation of such crimes as the Depayin massacre and the detailed military rapes of ethnic women. Special Advisor to the Secretary General Ibrahim Gambari is on his fourth trip since 2006. There have been six previous envoys, with the first nearly 18 years ago, in 1990. The second Special Rapporteur, Mauritian Rajsoomer Lallah, who was not allowed to enter Burma, said, “We are faced with a country which is at war with its own people.” Razali Ismail, who served from 2000 to 2006, made twelve visits, stating on his resignation, “It is best to conclude that I have failed.”

Over the last two decades there has been a growing consensus, not only that lawless states are a threat to security, but also that the world community has a moral and legal duty to protect people held prisoners by their own leaders. The military junta in Burma has had unbridled license to use a country and destroy a people. A Security Council Resolution under Chapter VII setting up an international criminal investigation is not a political decision, but rather a legal obligation enforcing the most fundamental of rights of the people of Burma. We urge all countries, including Burma, to cooperate with this inquiry and be part of a constructive engagement with justice.