



June 12, 2008

Secretary Irene Kahn  
Secretary General Amnesty International  
International Secretariat  
1 Easton St.  
London WC1XODW UK  
VIA EMAIL AND PRIORITY

Re: **URGENT** Clarification Needed on Amnesty  
International's June 2008 Security Council  
Recommendations on Burma

Dear Secretary General Kahn:

Starting over two years ago the Global Justice Center began providing international law expertise to assist our in-country partners in their efforts to enforce key international human rights laws during times of transition. Currently we are working with the Burma Lawyers' Council to end the impunity long afforded Senior General Than Shwe and other high level perpetrators of heinous crimes in Burma. The centerpiece of our Burma Criminal Accountability Project is to obtain a Security Council Chapter VII Resolution referring the Burma situation to the Prosecutor of the International Criminal Court. (See attachment 1.)

First and foremost we are writing this letter to commend Amnesty International for its timely June 2008 report on Burma. This report is historic in its compilation of junta crimes between 2005-2007 and therefore invaluable as a resource to all of us seeking justice for the people of Burma. The Amnesty International report using the International Criminal Court Statute elements of crimes to detail both war crimes and crimes against humanity between 2005-2007 is also prescient since such crimes against the Karen people have surged over the past month.

“Amnesty International is concerned that these practices have been the result of official government and *tatmadaw* policy, and amount to crimes against humanity.” (Page 2) ...“Article 7 (of the ICC statute) lists 11 crimes, many of which have been committed against the Karen, as demonstrated in this report...” (Page 47) (See Page 5) (Page 25) (emphasis added).

The Global Justice Center and Burma Lawyers' Council now seek your help in clarifying the recommendations section in order to be able to utilize the report to its fullest and to avoid misrepresenting Amnesty International's position.

The report's call for an end to impunity is clearly directed to the Security Council.

“In light of the SPDC’s persistent lack of cooperation with international organizations, including the UN General Assembly and the Human Rights Council, Amnesty International urges the UN Security Council to keep the human rights and humanitarian situation in eastern Myanmar under close review, and to take further action to ensure that acts constituting crimes against humanity and all other violations of international law in the country are halted immediately. Amnesty International also calls on the Security Council and the international community to help ensure that the suspected perpetrators are brought to justice in accordance with international law and standards, and that those who have been subjected to such violations are provided with full reparation” (Page 50)<sup>1</sup>. (emphasis added).

Although as a rule of thumb report text governs any recommendations, in this case specific Amnesty International recommendations contradict this general text. (Pages 50 and 55). In §7.3 "To the UN Security Council" the omission of any call for Security Council action under Chapter VII to end impunity which is what is implicitly called for in the text, (Page 50) has raised questions to us by groups from Burma. This is the point on which we seek clarification.

There is a consensus that systematic and ongoing crimes such as those detailed in the Amnesty International report constitute a ‘threat to peace’ under Chapter VII. Both the written agreement between the United Nations and the ICC on the referral role of the Security Council, and the clear language mandating criminal accountability in SC 1325 dictate a referral to the Prosecutor of the ICC.

SC 1325 deliberately references the ICC and mandates criminal accountability for gender crimes during conflict. (Page 50)<sup>2</sup>. This use of SC 1325 is requested by the Karen Women Organization (see attachment 5) and supported by the statement of Amnesty International and others in October 2007, “1325 can only be successful if the Security Council is proactive in the use of the resolution in their work”.<sup>3</sup>

The Amnesty International call that “UN member states should exercise universal jurisdiction over persons suspected of involvement in crimes against humanity in Myanmar” (Page 55) could be supplemented by recalling to all member states that Burma ratified the Genocide Convention in 1956 and Geneva Convention in 1992 thereby agreeing that its sovereignty can be lifted when the Security Council acts in its role as

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<sup>1</sup>This is consistent with the AI call for members of the Security Council to refer similar crimes in Sudan to the ICC. August 8, 2005. (See attachment 4.)

<sup>2</sup> The Karen Women Organization specifically asked the SC to take actions to end gender crimes of junta under SC 1325 and SC 1674 on May 2008.

<sup>3</sup> See Check Against Delivery statement made on October 23, 2007 by NGO Working Group On Women, Peace and Security Coordinator, <http://www.womenpeacesecurity.org>

ultimate enforcer of Convention violations including failure to investigate. This Security Council action is also because the Karen themselves describe the crimes documented in the report as ones violating the Genocide Convention.<sup>4</sup>

Our Project to end the impunity of Senior General Than Shwe and other military officers in Burma is in collaboration with all the major pro-democracy Burma groups including the International Monk Association, the 88 Generation Student Group, various Burmese groups in the international diaspora including refugee groups and other international human rights organizations. (See attachment 2). It is on their behalf that we seek clarification of Amnesty International's recommendations to the Security Council and whether you support a referral to the ICC.

Your documentation of crimes in Eastern Burma and clear explanations of crimes against humanity and violations of international humanitarian law should provide a wake-up call to the global community. This latest report is just further evidence of how critical Amnesty International is to the future of the people of Burma.

Sincerely,

Janet Benshoof  
President, Global Justice Center

CC: Larry Cox, Executive Director of Amnesty International USA  
Members of the International Executive Committee for Amnesty International

Enclosures: 1. Model SC Resolution  
2. Joint Press Release  
3. Karen Human Rights Group Commentary dated May 26, 2006  
4. Amnesty International Press Release dated 8/26/05  
5. Karen Women Organization's letter to Kofi Anan dated May 30, 2006

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<sup>4</sup> See Karen Human Rights Group, Covering Up Genocide: Gambari's Betrayal (May 26, 2006). (See attachment 3.)