

A Call for the Security Council to Refer the Situation in Burma to the International Criminal Court: Ending Impunity for Heinous Crimes in Burma

"A Cooperative Effort by National and International Organizations to Seek Criminal Accountability in Burma"

There is a growing international consensus that impunity for state perpetrators of heinous crimes threatens global peace and security. Yet, the SPDC, the military junta in Burma, routinely reigns by use of torture, gang rape of ethnic women, slavery, murder, mass imprisonment, and abduction of children to fill military quotas. These actions go far beyond a repudiation of democracy; they are criminal violations of international humanitarian law including genocide, crimes against humanity, and war crimes. The regime's impunity for these actions threatens to undermine the work of the International Criminal Court and the entire international framework for criminal accountability. ***This cooperative effort calls for a U.N. Security Council Resolution to refer the state-sponsored heinous crimes in Burma to the International Criminal Court.***

All efforts to engage with the junta at the regional or international levels over the last three decades have failed, including some 31 condemnatory resolutions by the General Assembly and Human Rights Council (formerly Commission on Human Rights), eight Independent Experts, Special Envoys or Special Rapporteurs since 1990, and a Security Council Presidential Statement of Concern; all of which have failed to effect any move to reconciliation or stem government tyranny. Razali Ismail, who served from 2000 to 2006, and made twelve visits to Burma, stated on his resignation, "It is best to conclude that I have failed."

The Security Council's Commitment to Act under Chapter VII

The Security Council's actions addressing state-sponsored international crimes began with the condemnation of Iraq's repression of civilians as a threat to international peace and security in 1991 and continues with the establishment of international criminal tribunals; the referral of the situation in Darfur, Sudan to the International Criminal Court; and its own agreement to work in cooperation with the ICC. Further, Resolutions 1325 and 1820 on women, peace and security support a Chapter VII resolution given the well documented ongoing sexual violence in Burma. An additional instrument attesting to the Security Council's commitment is Resolution 1674 on the Protection of Civilians in Armed Conflict endorsing the "Responsibility to Protect" Doctrine. These are accompanied by the recent advances in international law including the scope of crimes considered *jus cogens*, as well as enforcement of the Genocide Convention, to which Burma is a party.

A Security Council Resolution under Chapter VII addressing the criminal accountability of military perpetrators of crimes in Burma is a moral and legal obligation of the world community. Ending such impunity enforces the most fundamental rights of the people of Burma and represents to the world, of a constructive engagement with justice.