Burma celebrated its 57th Independence Day on January 4, 2005. There was a lot of back-patting, mutual backscratching and "pride in race and country" talk by the ruling military junta. The Burmese people found nothing to celebrate. They live in a lawless land which has been struck by the tsunami of illegality since 1962 when the army took power. Many organisations and writers have documented the lawlessness. One of the most prominent bodies which strongly opposes unjust and oppressive laws in Burma is the Burma Lawyers' Council (BLC). It is headquartered in Thailand, with branches there and an overseas office in New Delhi, India.

BLC's major activities are legal research and documentation, providing a legal forum, giving legal assistance, trying to improve the Burmese legal system and advocacy. Its work is posted on the Net — and makes harrowing reading. BLC's study of Burma's State Protection Law (SPL, which BLC calls "the broadest law in the world") is a lesson for all those who suffer from State terrorism, whether in the East or West. It warns against such a law, exposes its inadequacies and tells people how to fight it. SPL (Pyithu Hluttaw Law No. 3 of 1975) consists of a Preamble and 24 Articles. The Burmese-language version does not give the exact date it was passed; it just says '1975.' It has many Kafkaesque clauses. The irony is that SPL is justified by the Burmese junta that it helps fighting global terrorism. "However," says the BLC study, "our analysis proves that there cannot be a single justification for the existence of such a draconian law."

In a foreword, H E U Thein Oo, who is Minister of Justice in the National Coalition Government of the Union of Burma (exile), says: "Now that the world is increasingly becoming entangled in the global war against terrorism, it seems as if 'state protection' is being put into a new legal perspective... but the question is whether this would justify the existence of overly broad laws that provide governments with martial-law-like powers."
BLC points out that any arrest without court order or detention without charge is illegal. But this is very much the way the ruthless military junta has been ruling Burma since 1962. "The junta's use of its laws to quash the principles of basic human rights in Burma is widely known," says the study. "The junta has enforced laws curtailing civil and political freedom. It abuses law to crush any political opposition. Current Burmese laws and regulations hamper and even criminalise freedom of thought, the dissemination of information and the right of association and assembly."

BLC gives a "roll-call of horror" stating the laws which ban civil and political rights in Burma: the Official Secrets Act (1923), the Emergency Provisions Act (1950), the Unlawful Association Act (1975), the Printers and Publishers Registration Law (1962), and, the harshest of all, the SPL (also called the Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts). Thousands of political prisoners currently remain in prison in Burma under this law, notes the study. Many of them have already served the terms to which they were sentenced, but are still under continued arbitrary detention. Prison conditions include cruel and inhuman treatment. Torture of political prisoners is frequently reported. There is lack of adequate food, water, sanitation and health care, while the Jail Manual gathers dust.

The junta, which calls itself SPDC or State Peace and Development Council, is one of the world's worst human rights violators. Even the United Nations, usually hesitant to criticise its members, has condemned the junta's abuses. The March 1998 resolution that was adopted unanimously by the United Nations Human Rights Commission described a deeply disturbing list of abuses committed by Burma's military junta, including torture, murders, rape, forced labour, and political imprisonment. The SPL has become the main power base for the junta which now rules by decree. "In reality," says BLC, "the only law in Burma is what the generals from day to day decide it to be."

According to BLC, SPL Article 3 is the real preamble of the Law. It speaks of the powers to declare Emergency. It is therefore conceived in the context of Emergency. But no Emergency has been declared! Article 3 bombastically provides for pre-emptive action in order "to protect the sovereignty and security of the State." But none of the detainees under the Law were involved in any public demonstrations or strikes. None of them were armed when they were arrested.

"This has nothing to do with law enforcement," says the BLC. "Only the fear that something might happen disturbs the junta. Fear led the generals to invoke this law. If this fear were well-founded, then surely the detainees would have been put for trial. But there has never been any evidence. The junta knew that every trial under this Law would be a farce. The judges in Burma are all selected on loyalty to the junta. So the only way to make the process watertight was to keep the detainees under protective custody."
SPL provides absolute immunity to the military for all atrocities. The members of the armed forces in the whole of Burma are protected from arrest for anything done "within the line of official duty." And the many instances of human rights abuses by the army have shown that without public accountability, there is no incentive for the army to change its conduct.

SPL’s Article 7, Chapter 3, says, "The (military) Cabinet is authorised to pass an order, as may be necessary, restricting any fundamental right of any person suspected of having committed or believed to be about to commit, any act which endangers the sovereignty and security of the state or public peace and tranquility." There is no standard to determine 'reason to believe' — it is the whim or wish of the punishment giver to decide it! The junta rules the country without a Constitution, BLC concludes.

As though overcome by the arbitrariness of the junta, BLC calls its type of justice "nonsense." This is a strong word. Especially as it comes from seasoned lawyers who make up BLC executive committee who are experienced in the legal field. Even the global war against terrorism cannot, in any way, justify sham legislation like SPL. The law does not deserve even to be amended. It should be abolished completely, right now, and all political prisoners detained under it, released.

* Yusuf/Reporter/The Gulf Today/Sharjah/UAE.