



Part B: Constitutional Issues

(B.1)



April 14, 2008

FOR IMMEDIATE RELEASE

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INTERNATIONAL LAWYERS DENOUNCE ATTEMPT BY MYANMAR REGIME TO GIVE THEMSELVES IMMUNITY FROM CRIMINAL PROSECUTIONS AND RENEW CALL FOR CRIMINAL INVESTIGATION

The Myanmar regime, guilty of the most serious crimes of concern to the international community, has revealed that it is seeking to give itself constitutional immunity from prosecution for those crimes. The Burma Lawyers' Council, the Global Justice Center and the Burma Justice Committee denounce this attempt by the regime to avoid accountability. The recently distributed final version of the Constitution being put to a "referendum" on May 10th, 2008 now includes in Chapter XIV "Transitory Provisions," Article No. 445, stating, "No legal action shall be taken against those (either individuals or groups who are members of SLORC and SPDC) who officially carried out their duties according to their responsibilities." This immunity is invalid under international law and cannot be accepted by the international community.

There is ample evidence that the military regime has committed war crimes, crimes against humanity and potentially even genocide through forced relocation, torture, rape, enforced disappearances and extermination. Perpetrators of these, the most serious of crimes, are not eligible for amnesty under international law. Moreover, the global community has a commitment under the Responsibility to Protect Doctrine, Security Council Resolution 1325 on women, peace and



security and Resolution 1674 on the protection of civilians in armed conflict, to hold the regime accountable for the crimes committed against the people of Burma. In seeking an amnesty, the military regime recognizes that it has committed serious crimes and needs amnesty for what it has done and is doing. The regime cannot, however, simply give itself immunity as it is seeking to do.

The constitutional amnesty is another example of how the regime abuses the law as it seeks to solidify the military's rule of oppression through a façade of legality. As stated by U Aung Htoo, Secretary General of the Burma Lawyers' Council "Rule of law must replace military might. This Constitution and its illegal amnesty provision cannot bring sustainable peace to Burma."

The Burma Lawyers' Council, Global Justice Center and Burma Justice Committee therefore today make clear:

1. The military regime must immediately desist from committing further crimes against the people of Burma;
2. The military regime's constitutional process and intended amnesty fails to comply with any of the applicable international legal norms and will not have any force as a matter of law either internationally or for the future within Burma; and
3. As a matter of international law, the U.N. Security Council should create an Independent Commission of Inquiry to investigate the crimes and pursue criminal accountability of those members of the military regime who have committed international crimes.

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