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Crimes in Burma

**A Report From the International Human Rights Clinic,
Harvard University**

In May, 2009, five leading international jurists released an immensely thorough report on the numerous violations of international law that have been committed by Burma's ruling military junta, the State Peace and Development Council (SPDC). The report entitled *Crimes in Burma* was commissioned by five of the world's most renowned jurists (Justice Richard J. Goldstone (South Africa); Patricia M. Wald (United States); Sir Geoffrey Nice QC (United Kingdom); Judge Pedro Nikken (Venezuela); Hon. Ganzorig Gombosuren (Mongolia)), on behalf of the International Human Rights Clinic at Harvard University, the United States' wealthiest and most prestigious academic institution. The jurists each represent a different continent—Africa, Asia, Europe, and North and South America—and each has extensive experience in international human rights law. At the outset of the report, they write: “Each of us has dealt directly with severe human rights abuses in the international system, and we have seen the painful consequences of inaction.”

Inaction was indeed one of the principal focus of the report, as the report not only sought to document the abundance of human rights violations that have taken place in Burma, but moreover, it aimed to illustrate the extent to which these crimes are well-known to the international community. Toward this end, the report employed a unique methodology. The jurists restricted themselves exclusively to documents created by the United Nations in order to establish what the international organization can evidently be said to be aware of. Furthermore, they only focused on harms that have occurred after the signing of the Rome Statute and the founding of the International Criminal Court in 2002 so as to reveal violations of international law that have taken place after the establishment of a mechanism charged with the mandate of prosecuting them.

Their conclusions are startling and glaringly expose the shameful inaction of an international community that is fully aware of the human rights abuses that continue to plague the people of Burma. The report tells a grim story of life in Burma over the past decade and a half:

...epidemic levels of forced labor in the 1990s, the recruitment of tens of thousands of child soldiers, widespread sexual violence, extrajudicial killings and torture, and more than a million displaced persons. One statistic may stand out above all others, however: the destruction, displacement, or damage of over 3,000 ethnic nationality villages over the past twelve years, many burned to the



ground. This is comparable to the number of villages estimated to have been destroyed or damaged in Darfur.

Yet, for too many years, the world has done little to address these human rights abuses. Meanwhile, the ruling military junta, including its leader General Than Shwe, has avoided justice and accountability. The scale and severity of the violations require sustained effort—for the abuses continue.

Perhaps even the most appalling feature of the report is the extent of the United Nations' knowledge of these abuses that it reveals. They write:

We have been struck by the finding that for years the United Nations (UN) has been on notice of severe, indeed widespread and systematic abuses that appear to rise to the level of state policy. Over and over again, UN resolutions and Special Rapporteurs have spoken out about the abuses that have been reported to them. The UN Security Council, however, has not moved the process forward as it should and has in similar situations such as those in the former Yugoslavia and Darfur. In those cases, once aware of the severity of the problem, the UN Security Council established a Commission of Inquiry to investigate the gravity of the violations further. With Burma, there has been no such action despite being similarly aware (as demonstrated in UN documents) of the widespread and systematic nature of the violations.

The importance of the report being commissioned by such esteemed international human rights jurists cannot be overemphasized. They pay close attention to the lack of any rule of law in Burma and the absence of an independent judiciary, and thus they assert the international community's responsibility in seeking justice for the people of Burma. They state: "the UN has emphasized the culture of impunity and inoperability of the Burmese judiciary that benefits the perpetrators of the widespread and systematic violations, thus legitimatizing the intervention of the international community to seek redress."

Ultimately, the jurists resoundingly declare that it is high time that the Security Council take action. They declare: Based on this report's findings and recommendations, we call on the UN Security Council urgently to establish a Commission of Inquiry to investigate and report on crimes against humanity and war crimes in Burma. The world cannot wait while the military regime continues its atrocities against the people of Burma. The day may come for a referral of the situation in Burma to the International Criminal Court or the establishment of a special tribunal to deal with Burma. Member States of the United Nations should be prepared to support such action. The people of Burma deserve no less.

To read the full report, it can be found online at:

<http://www.law.harvard.edu/programs/hrp/documents/Crimes-in-Burma.pdf>

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