



Part (A)

Seeking Criminal Accountability in Burma

(A . 1)

Seeking Criminal Accountability, the Rule of Law and Democratic Transition for Burma

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Introduction

The international community, as well as the majority of people in Burma, has an expectation to transform the country from the rule of dictatorship to democracy by peaceful means, including political dialogue.¹ The National League for Democracy (NLD) has repeatedly called for unconditional dialogue, based on principles of mutual respect and national reconciliation.² However, with reference to over two decades of experiences in Burma, it is time to scrutinize whether political dialogue, based on genuine national reconciliation that addresses previous human rights abuses effectively and properly, can become a reality under the current circumstances. More importantly, it is also time to observe how peaceful democratization of Burma can be achieved in a way that criminal accountability is sought while laying down a foundation for the rule of law, for long term protection of human rights.

Democratization of Burma: Through Political Dialogue or 2010 Election?

In regard to potentiality of dialogue, from the aspect of the ruling military regime, namely the State Law and Order Restoration Council (SPDC), the major issue is that, on one hand, genuine political dialogue by the regime with any other political forces never materializes, despite the call by the national³ and international community for almost two decades commencing from 1990⁴; instead, the regime created a sham dialogue between Daw Aung San Suu Kyi and Major General Aung Kyi⁵, which did not go anywhere, in the sense that it has totally and intentionally ignored the creation of a process that would bring about genuine national reconciliation.⁶

On the other hand, the regime has continued to implement its own political roadmap: its military dominated constitution⁷ was approved forcibly by vote



rigging and voter intimidation in the May 2008 referendum. In order to hold the referendum on its scheduled date, the regime reportedly ignored the devastation of Cyclone Nargis, which killed more than 150,000 people and affected about one-third of the country. Their actions may amount to a crime against humanity.⁸ Similar practices will assuredly be exercised in the forthcoming election to be held in 2010, legitimizing the military rule⁹ and prolonging military dictatorship in accordance with the constitution¹⁰.

So long as democratization of Burma is expected, centering on 2010 election to be possibly applied as an important process for gradual change¹¹, it will be in the trap of the Senior General Than Shwe.¹² From the aspect of militarization, 2008 constitution is much worse than 1974 constitution.¹³ In spite of participation in the 2010 election, the political party, which may win majority seats in the legislature, cannot form any government and rule the country.¹⁴

The international community which argues to take strategic advantage of 2010 election as a gradual transition argues that if politically aware sectors of the electorate stay away, this could further reduce the changes of candidates not aligned with regime.¹⁵ Actually, regardless of whether aligned with regime or not, sitting as elected representatives in legislature, arisen from 2008 Constitution after 2010 election, is nothing but to make rubber stamp to entrench the military dictatorship in accordance with the constitution.¹⁶

The UN Secretary General's effort to approach the 2010 election 'to be inclusive, free and fair'¹⁷ is generally acceptable but it is quite vague and it does not address the particular situation of Burma. The 2010 election in Burma may be relatively inclusive, free and fair like those held in some other under-developed countries across the world. However, so long as the 2010 election implements the SPDC's 2008 Constitution, long term stability will not be realized¹⁸, the actual democratization process¹⁹ will never happen, and more importantly, the rule of law which is a major foundation for seeking justice as well as economic development of the people will be perpetually denied.

The International Community and UN: Lack of Focus on SPDC's 2008 Constitution

From the aspect of the Rule of Law, major flaws of the SPDC's 2008 Constitution are found as follows:

(1) The Constitution does not guarantee equality. The military, as a privileged class, assumes state powers, in terms of the legislature²⁰, executive²¹ and judiciary²², which is contrary to the major concept of the rule of law, that is, every person is equal before the law.



(2) Independence of the judiciary, which is also a major component for the Rule of Law, will never become a reality. The chief executive²³ has power to appoint and dismiss the Supreme Court Justices at his or her own discretion²⁴ while judicial tenure is not guaranteed. The existing judicial system, which is subservient to the military,²⁵ will remain in place.

(3) People will never enjoy human rights. The Constitution deprives people of their basic human rights by stipulating 'exception clauses'²⁶²⁶ Article 3 54 of SPDC's 2008 Constitution:

Every citizen shall be at liberty in the exercise of the following rights, *if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality;*

- (a) to express freely their convictions and opinions;
- (b) to assemble peacefully without arms;

in the Chapter of fundamental rights and duties of Citizens. The effectively draconian laws²⁷, which strictly prohibit three basic freedoms of citizen - freedom of speech, association and assembly - will continue to exist; furthermore, additional oppressive laws, which will deprive people of their liberty, will come into existence. The Constitution also lacks a rights protection mechanism.

(4) Equal rights and self-determination²⁸, stipulated by the ethnic nationalities for some decades, is required for decentralization.²⁹ It will, however, be perpetually denied. Instead, the Constitution, inter alia, formulates rigid centralization by creating a permanent military institution that will exercise the executive power indefinitely under the name of the National Defense and Security Council³⁰.

(5) The military will be above the law. The Constitution has already established a permanent military court³¹, separated from the civilian justice mechanism, for which the military Commander-in-Chief will exercise appellate power.³²³² Article 343 of the SPDC's 2008 Constitution:

"In the adjudication of Military Justice:

(6) The Constitution provides blanket amnesty³³ to all members of the SLORC/ SPDC military regimes for their previous commission of heinous crimes³⁴; as such, impunity will continue to prevail in the country; efforts of victims of crime to seek justice would have been perennially renounced; and, heinous crimes such as violations of the Geneva Conventions³⁵, crimes against humanity³⁶ and war crimes will persist³⁷.



Seeking justice is the right of the victims of heinous crimes in any society or state. By articulating the term 'National Reconciliation', no political organization or leader, national or international, should enjoy any authority to approve the SPDC's ploy to achieve blanket amnesty in accordance with the 2008 Constitution, which is totally contrary to international law and international human rights laws.

Human rights trade-off for democratization should be the way forward?

The process for democratization of Burma should lay down a foundation for a genuine national reconciliation on the basis of the promotion and protection of human rights by properly dealing with previous abuses, as has occurred in many other countries across the world that have transformed from dictatorships to democracies. In this regard, there are two schools of thought: the first one is that this issue should not be discussed or publicized during the current dialogue processes as the regime would hesitate to make democratic changes and, if necessary, there might also be a human rights trade-off for democratization; and, the second one is that, without dealing with previous human rights abuses properly, the perpetrators will enjoy endless impunity thereby violating individual right to justice of the victims justice and creating a situation in which the perpetrators can commit more human rights abuses in the future without having any concern for being held responsible. In this regards, many academics have pointed out the following:

While diplomats and negotiators involved in efforts to curtail violent disputes previously might have dismissed any focus on past atrocities as an obstacle to stability and the resolution of conflict, today, it is increasingly recognized as an integral and unavoidable element of the peace process. As example, although recent peace accords to conclude civil wars in El Salvador, Bosnia, and, most recently, Guatemala may each have their respective weaknesses regarding accountability, each reflects this paradigm shift by incorporating various mechanism to deal with the legacy of past violations and recognizing that a durable peace would be unattainable without them.³⁸

Prosecuting the human rights violations of a predecessor regime can yield at least half a dozen significant benefits to a democratic government. First, it can substantially enhance the prospects for the establishment of the rule of law. Second, Prosecution can function as a means of educating the citizenry to the nature and extent of prior wrong doing. Third, prosecution is one of the most effective ways of identifying and creating the predicate for the compensation of victims of a predecessor regime's



misdeeds. Fourth, prosecution can provide a means of punishing wrongdoers for their criminal conduct. Fifth, prosecution can enhance a society's ability to deter future violations of human rights. Finally, prosecution may be essential to healing the social wounds caused by serious human rights violations.³⁹

In the case of Burma, a human rights trade-off must not be made simply for democratization. A clear message must be sent to all perpetrators who have seriously violated human rights and have committed heinous crimes even now that they will be prosecuted in national courts or the International Criminal Court, despite the fact that particular cases which are not serious may be considered for amnesty if perpetrators come forward, admit their crimes, uncover the truth and facilitate a peaceful democratization process similar to the case of South Africa.

Impunity: Denial of the Rule of Law and National Reconciliation

There are concerns that Senior General Than Shwe and his elite Generals are not naive enough to simply adopt the call of the democratic opposition for 'national reconciliation'⁴⁰ at the present time while they have the upper hand in assuming political power⁴¹.

The essence of the 2008 Constitution is to guarantee impunity indefinitely and the 2010 election will implement it. When impunity prevails, the Rule of Law does not come into existence. Without dealing with these challenging issues, a political dialogue that may lead to genuine national reconciliation will only be a myth. Should impunity prevail and criminal accountability be systematically denied even in the national legal system, Burma will be in a vicious circle and the commission of heinous crimes will continue to occur repeatedly, denying the rule of law and damaging the stability of the state. As a result, development will never become a reality.

So long as the power of Senior General Than Shwe and a group of his lackey generals, who are responsible for having committed a number of heinous crimes, remains unchallenged, the military dictatorship will be entrenched. Then, the term 'national reconciliation' may even be used by Senior General Than Shwe to prolong his power⁴², a fake dialogue may be created again, and the 2008 Constitution will remain unchanged. Afterwards, the regime will step forward for the 2010 election and may be able to rule the country indefinitely as a military dictatorship, safeguarded by the constitution. If the regime is able to seek legitimacy on the basis of the 2008 Constitution after the 2010 election, democratization of Burma based on the Rule of Law will be a distant dream.



Democratization of Burma: A Brief Analysis of the Strategy of the UN

The current strategy of the international community, mainly the UN, to facilitate democratization of Burma is firstly to persuade the regime to enter into political dialogue after political prisoners are released, secondly to encourage the regime to review its 2008 Constitution, and thirdly to create conditions conducive to a credible election in 2010. With reference to particular situations of Burma mentioned above, it may not be achievable given that it focuses only on national political issues. The military regime may pretend to adopt it in one way or another superficially. It will however be denied essentially, shielding itself with former reason, 'sovereignty of a state' and asking supports of some UNSC member countries.⁴³

Under that strategy, the rigid command of Senior General Than Shwe remains intact and his creation of an environment of fear continues spreading not only within the public but also among all army personal. More importantly, the strategy of the UN, initiated by the UN Secretary General, is contrary to previous resolutions of the UNSC⁴⁴, and also principles of the Charter of the United Nations⁴⁵ with reference to South Africa's 1984 Constitution, as follows:

1. Declares that the so-called "new constitution" is contrary to the principles of the Charter of the United Nations, that the results of the referendum of 2 November 1983 are of no validity whatsoever and that the enforcement of the "new constitution" will further aggravate the already explosive situation prevailing inside apartheid South Africa.
2. Strongly rejects and declares as null and void the so-called "new constitution" and the "elections" to be organized in the current month of August for the "coloured" people and people of Asian origin as well as all insidious manoeuvres by the racist minority regime of South Africa further to entrench white minority rule and apartheid;

Actually, the SPDC's 2008 Constitution is contrary to the principles of the Charter of the United Nations, as it grants blanket amnesty to the perpetrators who have committed heinous crimes while it activates the military dictatorship; the results of the referendum of 10 May 2008 are of no validity whatsoever; and the enforcement of the "2008 Constitution" will also further aggravate the already explosive situation of 'impunity' prevailing inside Burma. However, unfortunately, the UN Secretary General as well as member states of the UNSC are keeping silent about the SPDC's 2008 Constitution, which may impliedly entrench the rule of military dictatorship in Burma, denying peaceful democratization and ignoring efforts of victims to seek justice. The Constitution is also contrary to



the recent development of international law that emphasizes the 'Responsibility to Protect',⁴⁶ instead of 'intervention in internal affairs of a state'.⁴⁷

It is time for UNSC to address the issues of Burma from the aspect of the international law and international human rights laws, focusing on heinous crimes, while implementing the UNSC resolutions for this problematic country.

Conclusion

Issues of democratization of Burma, including 'national reconciliation', do not stand in isolation from the prevailing situation of 'impunity' from the aspect of the commission of heinous crimes, which resulted in the deprivation of the Rule of Law. So long as the genuine principles of the Rule of Law are denied, people in Burma will remain in atrocious situations. They have already exerted their best efforts to transform their society peacefully but, unfortunately, under the brutal oppression of the military dictatorship, they still have not yet achieved their objective. They have proven that they deserve peace, freedom, justice and development.

Former UN Special Rapporteur on Human Rights in Burma, Professor Paulo Sao Pinheiro, provided his recommendation as follows⁴⁸:

Since 1990, U.N. representatives have visited the country 37 times in an attempt to facilitate dialogue and promote human rights. They have exhausted all domestic and diplomatic remedies without achieving human rights protection and national reconciliation in Myanmar. And while the U.N. General Assembly and the U.N. Human Rights Council have passed over 35 resolutions regarding Myanmar, the U.N. Security Council has yet to pass a single one. The United Nations will not be successful until the Security Council acts to directly address our stagnant efforts.

It is time for the international community to act, at least, to end impunity in Burma in a way that it may also facilitate the efforts of people in Burma for peaceful democratic transition with a genuine 'national reconciliation', on the basis of the Rule of Law. More importantly, such action of the international community may crack rigid control of Senior General Than Shwe and a group of Generals, impliedly encouraging other military leaders who did not commit any heinous crimes and who may tend to focus on 'professionalism' for reformation within the army⁴⁹. To this end, the following recommendations are made:

- (1) The international community must take tougher actions⁵⁰, including an Arms Embargo, against the military regime;



- (2) The UN Security Council must declare the SPDC's 2008 Constitution as well as the election to be organized in 2010, as "null and void";
- (3) The UN Security Council must send a Commission of Inquiry⁵¹ to investigate the situation of Burma, focusing on international crimes, including crimes against women,⁵² which may lead to a Security Council referral of Burma to the International Criminal Court.⁵³

Only then will the regime release over 2,100 political prisoners, including Daw Aung San Suu Kyi; a political dialogue aiming to achieve genuine national reconciliation on the basis of the Rule of Law will be established; and a peaceful democratic transition will assuredly be facilitated.

(Endnotes)

¹ UN Secretary-General addresses the press following Security Council briefing on Myanmar, 13 July 2009; UNGA has already made several recommendations for political dialogue.

² National League for Democracy's Shwegondaing Declaration, issued on April 29, 2009.

³ The regime never established any political dialogue not only with the NLD but also any other ethnic armed organizations which entered into cease-fires since 1989.

⁴ Former UN Special Rapporteur on Human Rights in Burma, Prof. Paulo Sao Pinheiro' article, 'End Burma's System of Impunity' Published: May 27, 2009

⁵ VOA News Washington 25 October 2007; The official "New Light of Myanmar" newspaper Saturday published a photograph of the dissident figure with a representative of Burma's military government alongside an article about Friday's meetings, VOA News Washington 10 November 2007; Than Shwe did not mention the role of the UN in Burma's inclusive national reconciliation process in his speech, nor did he mention the meetings between Suu Kyi and the junta's liaison officer, Minister of Relation Aung Kyi, "Irrawaddy: no compromise, says junta's mouth peace"- Wai Moe" Nov 19, 2007; Aung San Suu Kyi met Friday with General Aung Kyi, the newly-appointed "minister for relations" with the opposition leader.

⁶ "In the interest of the nation, I stand ready to cooperate with the government in order to make this process of dialogue a success and welcome the necessary good offices role of the United Nations to help facilitate our efforts in this regard."; Daw Aung San Suu Kyi's statement, The Associated Press, Thursday 8 Nov 2007.

⁷ Chapter 4,5,6,7, 9,10,11 of the SPDC's 2008 Constitution.

⁸ On May 22, 2008, the European Parliament made the following decision: "Takes the view that if the Burmese authorities continue to prevent aid from reaching those in danger, they should be held accountable for crime against humanity before the ICC; calls on the EU member States to press for a UN Security Council resolution referring the case to the Prosecutor of the ICC for investigation and prosecution;"

⁹ SPDC's 2008 Constitution is the only one legal and political document, out of all constitutions across the world, which legitimizes the military rule systematically in accordance with the constitution.

¹⁰ U Thein Oo, chairperson of the Burma Lawyers' Council, in his speech at the POLA



conference organized by the Korean Bar Association, Seoul, Korea, on July 4, 2009.

¹¹ Under 1974 Constitution, elections were held once four years, constituting altogether four times. No democratization could be made; no gradual change took place; and, Burma became one of the least developed countries across the world. Then, 1988 people's uprising occurred and the said constitution was torn apart by the people.

¹² Statement was made by Former Major Aung Linn Htut, who took responsibility as a high ranking diplomatic official in SPDC's Burmese embassy in Washington, USA, and later he sought asylum in the United States.

¹³ In 1974 Constitution, there was no single military official who occupied any formal position in the legislature and executive; and, there existed not an independent military court, which was separated from civilian judicial system.

¹⁴ SPDC's 2008 Constitution creates "Presidential System", but it is different from the United States of America. In so doing, the role of the political parties are hugely reduced. Most importantly, people will not enjoy rights to directly vote for the State President, which will exercise executive power; and, it is almost certain that one of the army Generals will become the State President under the fabricated presidential electoral system, which is never practiced in any state across the world; Article 60 of the SPDC's 2008 Constitution. Then, the role of the political parties is extremely minimized.

¹⁵ "Myanmar toward the elections" by International Crisis Group: Page 23; August 20, 2009.

¹⁶ "The Legislature will not be able to balance the power of the president. The president has certain powers, over appointments, the budget, and states of emergency, that would allow executive tyranny"; Position Paper on the National Convention's Principles for a Constitution for the Union of Burma; Submitted by The Ethnic Nationalities Council (ENC); Prepared on behalf of the ENC by David C. Williams, Director, Center for Constitutional Democracy in Plural Societies; January 15, 2008.

¹⁷ UN Secretary-General's briefing to the Security Council on Myanmar, New York, 13 July 2009.

¹⁸ The major ethnic armed cease-fire organizations such as the New Mon State Party (NMSP), the Kachin Independence Organizations (KIO) and the United Wa State Party (UWSP) have already declared that they would not accept the program of the SPDC to transform their own armies into Border Security Force and place them under the command of the SPDC's Commander-in-Chief of the Defense Services in January, February and April 2009 respectively. Their positions contradict article 339 of the 2008 Constitution which stipulates, 'All the armed forces in the Union shall be under the command of the Defence Services.'

¹⁹ The SPDC's 2008 Constitution prohibits the emergence of independent democratic political parties as they are not allowed to establish independent political objectives in accordance with Article 404 (a) as follows: 'A political party shall set the objective of non-disintegration of the Union, non-disintegration of the national solidarity and perpetuation of sovereignty'.

²⁰ In legislative bodies, one fourth of members will at least be occupied by army personnel, nominated by the Commander in Chief of the Defense Services, without necessity for being elected; Article 109, 141 and 161 of the SPDC's 2008 Constitution; Chapter (5) of the SPDC's 2008 Constitution.

²¹ The real power of executive will not lie with the State President but with the



National Defense and Security Council, which will stand as a permanent military institution, in the Chapter of Executive, in accordance with the constitution;

²² With reference to SPDC's Constitutional Principles, Prof. David C. Williams, Professor of Law, Indiana University, USA, and Director, Center for Constitutional Democracy in Plural Societies provides comments, "The President will dominate the judiciary".

²³ The Chief Executive is most likely to be the military who will take responsibility as the State President.

²⁴ Appointment of judges: Article 299, 308 and 327 of the SPDC's 2008 Constitution. Removal of judges: Article 302, 311, and 334 of the SPDC's 2008 Constitution.

²⁵ "Fourth Core Human Rights Element: Judiciary" elaborated by Mr. Tomas Ojea Quintana, UN Special Rapporteur on Human Rights Situation in Burma, in his report "Human Rights Situation in Myanmar" Special 5, 2008; P. 21.

(c) to form associations and organizations; Article 376 of the SPDC's 2008 Constitution:

"No citizen shall, except matters on precautionary measures taken in accordance with law for the security of the state or prevalence of law and order or the peace and tranquility and interests of the people or matters permitted under an existing law, be held in custody for more than 24 hours without the remand of a competent magistrate"

²⁷ 1975 State Protection Law, 1962 Printers and Publishers Law, 1985 Television and Video Act, 1996 Computer Science and Development Law, 2000 Internet Law.

²⁸ One of the main objectives of the National Democratic Front established in 1974; NDF is a political alliance comprising ethnic armed organizations; One of the major agreements in Mae-tha-raw-hta Conference, attended by almost all major ethnic resistance organizations, held on January 7-14, 1997; It is formally recognized by Daw Aung San Suu Kyi, as the General Secretary of the National League for Democracy and it was mentioned in her speech delivered on 50th anniversary of the Union Day, held on February 12, 1997.

²⁹ With reference to SPDC's Constitutional Principles, Prof. David C. Williams, Professor of Law, Indiana University, USA, and Director, Center for Constitutional Democracy in Plural Societies provided comments, "Ethnic minorities will not control the upper house. The Upper House will also be powerless. States will not be allowed to write their own constitutions. Sub-national government other than the states will also be responsible to the union president, rather than to the citizens of those sub-national governments." (January 15, 2008)

³⁰ Articles 201, 214, 340, 410, 412 (a), 427, 410, 412, 427 of the SPDC's 2008 Constitution

³¹ Article 293 of the SPDC's 2008 Constitution

(a)-----

(b) the decision of the Commander-in-Chief of the Defense Services is final and conclusive."

³³ "This clause won't protect them from international prosecution, but it shows they're worried about it," says Mark Farmaner, director of the advocacy group Burma Campaign UK; "Putting Burma's Junta on Trial", By Andrew Marshall <http://www.time.com/time/printout/0,8816,1915174,00.html>; Friday, Aug. 07, 2009.

³⁴ Article 445 of the SPDC's 2008 Constitution: "----- . No proceeding



shall be instituted against the said Councils or any members thereof or any member of the Government, in respect of any act done in the execution of their respective duties."

³⁵ The International Committee of the Red Cross issued a global alert on Burma, on June 29, 2007, verifying the regime's criminal violations of the Geneva Conventions, stating that such violations were personally observed by ICRC delegates, that all confidential bilateral negotiations had broken down, and that the crimes by the government were likely to be ongoing.

³⁶ Amnesty International released a report entitled, **Crimes Against Humanity in Eastern Myanmar**; June 5, 2008.

³⁷ "Crimes in Burma" a report by International Human Rights Clinic at Harvard Law School, May, 2009.

³⁸ Coming to Terms with Atrocities: A Review of Accountability Mechanisms for Mass Violations of Human Rights; Neil J. Kritz, Senior Scholar on the Rule of Law, United States Institute of Peace.

³⁹ Alternative Responses to Serious Human Rights Abuses: Of Prosecution and Truth Commissions: Stephan Landsman; Clifford Professor of Tort Law and Social Policy, DePaul University College of Law.

⁴⁰ NLD's call for 'national reconciliation' inside the country may be the right way to secure the operational status of Party, while persuading the military leaders who did not commit any heinous crime and who may tend to focus on 'professionalism' within the army.

⁴¹ Khin Ma Ma Myo provided comment that for now it may not be the right time to call for 'national reconciliation'; her comment was issued on August 12, 2009; To contact, khinmamamyo@gmail.com.

⁴² Senior General Than Shwe, as the Chairperson of the SPDC, issued a statement on August 10, 2009, instructing the Ministry of Home Affairs to reduce the term of house arrest for Daw Aung San Suu Kyi. There, he used the term, inter alia, 'not to impose prejudice each other'. Then, NLD highlighted it in its declaration issued on August 12, 2009 referring to its former and current policy on 'national reconciliation'.

⁴³ After Daw Aung San Suu Kyi was rendered penalty by the court on August 11, 2009, China commented that the international community shall have to pay respect to judicial power of a national court.

⁴⁴ The UN Security Council resolution 1325 has highlighted the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes; Forum of Burmese in Europe (FBE) sent a letter to UNSG on July 24, 2009. Statement of Global Justice Centre, based in New York, USA, August 13, 2009, 'UN Secretary General's call for 'National Dialogue' instead of criminal accountability violates international law including the Security Council's clear mandates for criminal accountability in Security Council Resolution 1820.'

⁴⁵ UN Security Council Resolution 554 (1984)

⁴⁶ On 30 January 2009, UN Secretary General Ban Ki-moon issued a report on "Implementing the Responsibility to Protect" (RtoP).

⁴⁷ "Crimes Against Humanity and the Responsibility to Protect", Address by Gareth Evans, President, International Crisis Group, to Crimes Against Humanity Initiative, Hague Intersessional Experts Meeting Dinner, The Hague, 11 June 2009.



⁴⁸ Former UN Special Rapporteur on Human Rights in Burma, Prof. Paulo Sao Pinheiro' article, 'End Burma's System of Impunity' Published: May 27, 2009

⁴⁹ Indonesian military, which deeply exercised the military dictatorship in Indonesia, has already shifted to focus on 'professionalism. Similar case will assuredly happen for Burma, with reference to a number of internal conflicts which had already taken place within SPDC's top Generals in Burma.

⁵⁰ Call of Souhayr Belhassen, President of the International Federation of Human Rights (FIDH) and Debbie Stothard, Coordinator of Alternative ASEAN, on August 19, 2009.

⁵¹ FIDH, BLC and Alternative Asean jointly issued an advocacy note entitled "Burma/Myanmar: international crimes committed in Burma: the urgent need for a Commission of Inquiry ", which can be downloaded at <http://www.fidh.org/IMG/pdf/bu08.pdf>.

⁵² (1) The Women's League of Burma (WLB) calls for General Than Shwe to be charged with war crimes and crime against humanity under new UNSC resolution; 24 June, 2008. (2) The Women's League of Burma (WLB) joined by sixty four leading women's organizations sent a letter to the Secretary General and members of the United Nations Security Council calling for the prosecution of Senior General Than Shwe at the International Criminal Court (ICC), and an immediate end to the longstanding impunity that has been afforded to the brutal military junta in Burma; 7 August, 2009. (3) Human Rights Watch as well as member organizations of Network for Human Rights Documentation in Burma (ND-Burma), such as Roma (3) and Human Rights Education Institution of Burma (HREIB), have sufficiently raised the issue of child soldiers in Burma, which certainly constitutes 'Crime against Humanity'.

⁵³ (1) Demand by the Ad Hoc Commission on Depayin Massacre, jointly formed by the National Council of the Union of Burma and the Burma Lawyers Council, May 2003; Demand by the Women League of Burma, 24 June, 2008 and 7 August, 2009; BLC and the Global Justice Center (GJC) issued a statement as of "International Lawyers call for Criminal Accountability for Burma/Myanmar regime" for the crimes perpetrated by the military leaders under international criminal law September 27, 2007: The (GJC) denounces the Secretary-General's Response to the Conviction of Aung San Suu Kyi as contrary to his mandate under the U.N. Charter; August 13, 2009.

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