



**Part ( E )  
BLC Activities**

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**Interface Burma:  
TO PROMOTE AWARENESS ON THE INTERNATIONAL  
CRIMINAL COURT**

*by BLC's Working Team for ICC*

**I. INTRODUCTION**

For decades, the people in Burma have suffered extreme oppression under the ruling military regime, the State Peace and Development Council (SPDC). The acts of the military regime in Burma have been widespread and systematically committed, such as murder, rape, torture, forcible displacements, deprivation of physical liberty of individuals and land confiscations without consent or compensation. Furthermore, the regime has forced the judges to jail persons who are active in politics, lacking of fair trial and ignoring due process of law. The acts of the authority are not only human rights violations. These acts are international crimes. These crimes should be subject to the international justice mechanisms, particularly through referral to the International Criminal Court. Therefore, we need to increase cooperation among Burmese Human Rights Organizations, Non-governmental organizations and individuals. We should promote awareness of the International Criminal Court (ICC). This article will highlight the BLC's trip to The Hague in order to promote knowledge of the ICC.

**II. SUMMARY OF THE HAGUE TRIP**

The purpose of this trip is focused on trainings such as international criminal justice system and international criminal court, upon invitation by the International Federation for Human Rights (FIDH). The FIDH has created training sessions focusing on representatives of national human rights non-governmental organizations (NGOs). The training sessions are presented about the functioning and activities of the ICC. The FIDH also aims to improve capacity building of Burmese (Myanmar) groups on international criminal justice mechanisms.



Furthermore, the FIDH has addressed the fight against impunity for crimes committed in Burma, according to decisions from a seminar in Bangkok which was organized by the FIDH and the Burma Lawyers' Council (BLC) on 4-6 May 2009. Recently, the FIDH, the Alternative Asean Network on Burma (ALTSEAN) and the BLC published a joint report, **Myanmar/Burma: International Crimes committed in Burma – The Urgent Need for a Commission of Inquiry**.

### III. TRIP PURPOSES AND MAIN TOPICS OF TRAINING SESSIONS

The objectives on this trip were objectively focused on **Myanmar/Burma: International Crimes committed in Burma – The Urgent Need for a Commission of Inquiry**. Furthermore, this trip confirmed a decision to advocate for a resolution from the United Nations Security Council, send a Commission of Inquiry to Burma, and also seek a referral to the ICC based on the ground information from Burma.

The training sessions were targeted on such concepts as the jurisdiction and functioning of the ICC, the possible establishment of an International Commission of Inquiry, the documentation of crimes, the complexities of dealing with mass atrocities, the rights of victims, and the role of other international justice mechanisms – for example, universal jurisdiction and Truth and Reconciliation Commissions.

### IV. PARTICIPANTS

Participants included many representatives from Burmese Human Rights and Legal Organizations. Particularly, three representatives of BLC participated in this trip to The Hague, The Netherlands: U Thein Oo, Chairperson of the BLC; U Aung Htoo, General Secretary of the BLC; and Nai Lawe Aung, a BLC staff member. Lway Aye Nang, General Secretary of the Women's League of Burma (WLB), also participated in this trip. Two other representatives joined this trip on behalf of the Network for Human Rights Documentation-Burma (ND-Burma) – namely, Ko Khin Maung Shwe and Ko Aung Myo Thein.

Many experts from the International Criminal Court (ICC) gave presentations. Mr. Claus Molitor is an Analyst Office of the Prosecutor. Two presenters were from the sections of Registry (Public Information and Documentation and Representative of Victims' Participation and Reparations) of the ICC. There were also two representatives from the section of the Office of Public Counsel for Victims and section of the Office for Public Counsel for the Defense of the ICC. Ms. Kristin Kalla, a Senior Program Officer of the Secretariat of the Trust Fund for Victims of the ICC, also presented.

Three experts presented about the Commission for Reception, Truth and Reconciliation in East Timor; the Coalition for the International Criminal Court (CICC); and the Project Coordinator of Universal Jurisdiction from the



perspective of the international justice system. The International Federation of Human Rights (FIDH) contributed three delegations. They included Emmanouil Athanasiou, an Asia Desk Officer; Mariana Pena, a permanent representative to the ICC; and Camille de Rugy, a staff of the Research Assistant of the FIDH.

## **V. STUDY OF THE ICC AND INTERNATIONAL JUSTICE SYSTEM FROM EXPERTS**

### **1. Documentary on Milosevic's Case**

The FIDH delegation introduced the system of international criminal justice, based on the documentary on Milosevic's Case. The crimes committed by Milosevic, have occurred in internal territory.

### **2. Universal Jurisdiction: An Introduction**

Asa Rydberg van der Sluis is a Swedish lawyer who worked in the International Criminal Tribunal for the former Yugoslavia (ICTY). She presented about universal jurisdiction, such as the background of universal jurisdiction, international conventions providing for universal jurisdiction over serious international crimes, rationale for an exercise of universal jurisdiction, filing complaints based on universal jurisdiction and practical considerations, and also comparing issues in Burma.

### **3. Current Cases in progress in the Court**

The next delegation from the ICC presented current cases which are in progress in the ICC. For instance, the Democratic Republic of Congo (DRC), Central African Republic (CAR), and Northern Uganda, are state parties to the Rome Statute and therefore have been referred to the ICC directly. Similarly, because Sudan is not a member of the Rome Statute, the Darfur case was not directly referred to the ICC. The crimes which happened in Darfur, Sudan reached the ICC through a referral by the UN Security Council. Of these four countries targeted by the ICC, only five perpetrators are currently standing trial in the ICC.

### **4. Coalition of the ICC: An Introduction**

Isabelle Olma spoke about the work of the Coalition of the International Criminal Court, commonly known as CICC, an international non-governmental organization (NGOs) with a membership of over 2,500 organizations worldwide, advocating for a fair, effective and independent ICC. The CICC's members work as a partnership to strengthen international cooperation with the ICC; ensure that the court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity, and genocide. She also introduced 110 states which are members of the ICC.



## **5. Role of the ICC Office of the Prosecutor (OTP)**

Claus Molitor presented about the structure of the Office of the Prosecutor. The Office of the Prosecutor is formed by three organs which are headed by the Prosecutor. It is an independent office, not influenced by the Court. The mandate of the Office of the Prosecutor is to receive and analyze referrals and communications; to determine whether there is a reasonable basis to investigate; to conduct investigations on crimes such as genocide, crimes against humanity, and war crimes; and to conduct prosecution before the Court.

The three organs of the Office of the Prosecutor are: 1) The Investigation Division; 2) The Prosecution Division; 3) The Jurisdiction, Complementarity and Cooperation Division. The Prosecutor may initiate an investigation in three ways: 1) referral by State Party; 2) referral by UN Security Council; and 3) Communicated from any source.

Moreover, the Prosecutor can open an investigation under the first two ways out of three - referral by State Party or by Security Council. If the case is communicated from a different source, he may request the authority from the Pre-Trial Chamber. Then, the Prosecutor can determine whether there is reasonable basis to proceed in three ways: 1) jurisdiction over crimes; 2) admissibility; and 3) interest of justice.

## **6. The Role of Victims and Witnesses in the ICC**

The Rome Statute has laid down the role of victims and witnesses participating in the Court. The principles of the role of victims and witnesses provided by the Statute are: 1) participation; 2) protection; 3) protection mechanisms; 4) support; 5) reparations; 6) Trust Fund for victims; 7) evidence in sexual violence cases; and 8) special measures.

## **VI. ADVOCACY AWARENESS OF THE ICC CONCERNING CRIMES IN BURMA**

All participants had meetings with the officers of different embassies, such as the Dutch Ministry of Foreign Affairs, the French Embassy, the Swedish Embassy, and the Finland Embassy, and also met many sections of the ICC, such as the Public Information and Documentation Section, Victims' Participation and Reparations Section, The Office of Public Counsel for Victims Section, Section of the Trust Fund for Victims, the Office of Public Counsel for the Defense: Fair Trial. Participants also studied the case of Charles Ghankay Taylor.

The General Secretary of the BLC, Mr. U Aung Htoo, made a short presentation on issues of crimes in eastern Burma committed by the soldiers of the State Peace and Development Council (SPDC). The SPDC has claimed absolute impunity and provided a provision in the 2008 Constitution to ensure impunity on crimes committed in past. Lway Aye Nang, the delegate from WLB, discussed women's issues in Burma. The BLC Chairperson, Mr. U Thein Oo,



shortly presented about the real conditions in Burma and the SPDC oppression of elected preventatives in the 1990 General Election in Burma, including long term imprisonment, detention lacking due process of law, and torture in jail.

The FIDH, BLC, WLB, and ND-Burma requested the officers of embassies to discuss crimes in Burma in the Parliament of the European Union and to encourage the UN Security Council to make a resolution to send a Commission of Inquiry to Burma.

## VII. CONCLUSION

This article highlights different points. It aims to increase awareness of the International Criminal Court in the international community, at regional, national, and international levels. It also connects crimes which have been committed by the military regime in Burma. These crimes are international crimes which should be brought to justice under international criminal justice mechanisms, particularly under the ICC. The perpetrators should not be given impunity for these crimes.

Finally, the FIDH, the BLC, and ALTSEAN Burma have produced a report: **The Urgent Need for a Commission of Inquiry in Burma**. It intends to bring the perpetrators to justice because the people have suffered many atrocities in Burma. It is time for the international community to act, to end impunity in Burma in a way that may also facilitate the efforts of people in Burma for peaceful democratic transition, with a true national reconciliation on the basis of the rule of law.

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