FOREWORD

This publication includes a special feature focusing on the issue of "Transitional Justice." Burma's military regime, the State Peace and Development Council (SPDC) has been forced to create some political space by way of agreeing to "talks" with the opposition leader. Burma is passing through a critical stage of its history. After a short period of constitutional rule (post-independence), it has been under military dictatorship for the past 40 years. Repression, coupled with the restriction of freedom and fundamental rights has not broken the spirit of the people. The 8.8.88 uprising demonstrated this invincible power. The battle cry in the movement was "We want democracy here and now!" The Junta retreated and modified its strategy. It held a General Election in May 1990 with a promise to return power to the elected representatives of the people. The post-election period has been a trying time for the elected representatives. Most have been arrested and the Junta refused to negotiate with the representative leader of the pro-democracy movement. Daw Aung San Suu Kyi was herself placed under house arrest. The gross abuses of law and defiance of the peoples mandate are now a history of the past. What is important today is the engagement that the Junta has made with the democratic leader, agreeing to hold political talks, but not yet agreeing to political dialogue. They have set Daw Aung San Suu Kyi free. The trial of Ne Win's family members for an attempted coup has roused the world's attention, and somewhat baffled locals. It is political death and the end of the Ne Win era is significant. These events have raised illusions, hopes and cynicism. Be that as it may. In this backdrop, the dialogue held between the opposition leader and the Junta has become of national importance. The issue of Transitional Justice will assume significance and urgency in the dialogue. It will, like it or not, become a crucial issue. During the regime's long rule, the consistent gross violation of human rights being its hallmark. Unless the transition deals with the past it will be devoid of legitimacy.

The contributors have approached the issue in their own ways. The goal is to put in place a non-controversial formula so that the transition can move forward. This issue should not be a roadblock to the regime transformation. From one extreme "forget and forgive" to the other extreme "of punish and teach," the fragmented society, has to be crafted with sustainability. The question now is not whether Burma needs democracy, but how to manage this transition. Hopefully, this publication may shed some light on the dilemmas and help in the management of the democratic process. In that sense, this publication could also act as a contributor in national reconciliation.

In order to maintain the identity of the Journal being one primarily of "Legal Issues," regular feature articles have been included. Lack of access to information inside Burma due to the regime's ironclad restrictions, which generates widespread fear, prevents us from having primary sources. However we endeavour to keep the issues topical and relevant to the what is happening in Burma and what we hope to happen, that is transition. We appreciate the understanding and cooperation of our readers.

The Publication Team

In the last publication, Issue 11, the name of Sao Shwe Thaike, the first President of Independent Burma, was spelled incorrectly. The Burma Lawyers' Council apologises and deeply regrets this error.