



Criminal Accountability: Stopping impunity for the perpetrators of violence against women in Iraq and Burma

**Briefing for parliamentarians Thursday 21 February 2008
Inter Parliamentary Union room, Palace of Westminster.**

Under the auspices of the International Coordination for Gender Justice in Iraq (ICGJI) and UNIFEM UK.(United Nations Development Fund for Women), experts on the legal situation of women in Iraq and Burma gave a briefing for parliamentarians.

Key issues covered included the heinous crimes of the dictatorships, the need for a strong constitution providing rights for women, the focus of violence against women from minority groups the need for a strong judiciary and the rule of law.

UNIFEM reported on the event. Professor Janet Benshoof and Counsel Andi Friedman gave up to date information on the legal situation in Burma and also in Iraq in regards to the constitution and legal processes for women.

A summary of their presentation is found hereafter. The Union of Burma is currently ruled by a military junta that calls itself the "State Peace and Development Council" (SPDC). The council is a body of twelve senior generals who run the country and make key decisions. The SPDC, formerly the State Law and Order Restoration Council (SLORC) took over the government on 18 September 1988 in a military coup. Since that time, the regime's rule has been characterized by violent repression and human rights abuse.

Senior General Than Shwe is the country's head of state, Secretary of Defense, commander-in-Chief of the armed forces and has been the chairman of the SPDC since 1992. Senior General Than Shwe's disastrous economic policies have kept Burma one of the poorest countries in the world. Free press and free speech are non-existent. The junta uses systematic rape, torture, summary execution and disappearances to control the people. Aung San Suu Kyi is a Burmese pro-democracy leader and political activist. She is the head of the National League for Democracy in Burma and was elected Prime Minister of Burma in the 1990 elections. The SPDC, however, prevented her from assuming this role and placed her under house arrest. Suu Kyi has been under house arrest in Burma for the majority of the past 18 years since her election as Prime Minister and remains under arrest even today, as the junta repeatedly extends her period of detention. Suu Kyi was awarded the Nobel Peace Prize in 1991 and the Jawaharlal Nehru peace prize by the Government of India for her peaceful and non-violent struggle against the Burmese military dictatorship. Her father, General Aung San, was also a renowned political activist

and had negotiated Burmese independence from British colonization in 1948.

The State Peace and Development Council is a brutal military regime that illegally seized power in Burma and continues to exercise dictatorial control over the country. The regime has persisted with impunity in Burma for over forty years, making Burma home to the longest running conflict in the world. Moreover, Burma repeatedly tops major global indices that demonstrate that it is currently one of the most repressive, lawless, corrupt and unstable countries in the world.

In June 2007, the International Committee for the Red Cross (ICRC) issued a global alert that condemned the SPDC, stating that they had breached the Geneva Conventions and were systematically causing thousands of people to suffer under their regime. This was a major departure from the ICRC's usual policy of neutrality and was the second time in its history that it issued such a statement. The only other time that the ICRC had issued a similar call was in response to the Rwandan genocide.

In September 2007, Burmese monks led a peaceful protest against the regime in the Burmese capital city, Yangon, which came to be known as the Saffron Revolution. The junta responded to the peaceful protestors with brutal violence, killing a number of protestors and arresting many more. The UN Human Rights Council's Special Rapporteur reported that 30 to 40 monks and 50 to 70 civilians killed as well as 200 beaten, although unofficial estimates place the death toll much higher. In October 2007, Al Jazeera News reported that over 1,000 people had been arrested but foreign media sources claimed that the number was over 6,000.

In May 2008, Cyclone Nargis hit Burma, destroying homes, infrastructure, food and water supplies. Instead of attempting to provide disaster relief for the people affected by the cyclone, the junta refused to allow any nonpolitical international humanitarian aid to enter Burma until almost a month after the cyclone. Even today, although international humanitarian aid groups have the resources to help the people affected by the cyclone, they still face problems entering the country and distributing food, water and basic supplies to the people. The junta's deliberate attempts at blocking humanitarian aid have led to the unnecessary deaths of thousands of people and amount to crimes against humanity.

A week after the cyclone hit, in a widely criticized move, the junta decided to hold a national referendum on a military constitution that had been drafted by the junta. The referendum was a part of a 14-year long process known as The Road Map to Democracy, which was meant to be a process reestablishing democratic rule in Burma. Despite domestic and international pressure to postpone the referendum, the junta went ahead with the vote and claimed that their constitution had been overwhelmingly approved by 92.4% of the voting population. The referendum, however, was clearly a sham and was denounced by international authorities, as well as by the NLD. The military constitution is a disaster for Burma. Not only does it grant the SPDC immunity from any criminal prosecution through the constitution, but it is also the worst constitution ever drafted for women and makes gender inequality a permanent feature of the government. The constitution also bars Aung San Suu Kyi from public office.

The Burmese military junta has ignored over 30 United Nations resolutions that have called for an independent investigation of crimes by the junta. Although eight U.N. envoys have attempted to carry out fact-finding missions in Burma, all their attempts have been thwarted by the regime. Every diplomatic solution that has been tried, has failed.

Impunity emboldens criminals like Senior General Than Shwe, suggesting that dictatorial heads of state can get away with the gravest crimes against humanity without any consequences. The SPDC's actions go far beyond a repudiation of democracy; they are criminal violations of international humanitarian and human rights law, including violations of the Geneva Conventions. War criminals cannot be granted immunity for their actions as this enables others to follow in their stead. A focus on criminal investigation will also reframe the dialogue from democracy and human

rights to criminal accountability and will put pressure on the SPDC by alienating it from political and economic friends, such as China and Russia.

Moreover, the recent wide-spread protests by monks and civilians in August/September 2007, and ensuing violent crackdown, has opened a new window of opportunity to end impunity for the ongoing crimes being perpetrated by Burma's military leadership.

Burma was added for the first time to the United Nations Security Council Agenda last year. Special powers are granted under Chapter VII of the United Nations Charter which allow the Security Council members heightened power to address situations that constitute a threat to international peace and security. Over the last two decades, in particular, there has been a growing international consensus not only that lawless states are a threat to security, but also that the world community has a moral and legal duty to protect people held prisoners by their own leaders. The world is thus at a crossroads for achieving global justice now. It is imperative for the United Nations to send a clear message to the world community that impunity will not be granted to war criminals, by referring Burma to the ICC.

Finally, it is inconceivable that a war criminal like Senior General Than Shwe be allowed to participate in the negotiations for a democratic Burma. Senior General Than Shwe has been the head of the SPDC for over fifteen years and has consistently thwarted all efforts for Burma's democratization. He has upheld and repeatedly extended Aung San Suu Kyi's term under house arrest; it is thus not only unthinkable but also illegal that a war criminal be allowed to negotiate the terms of Burmese democratization with Suu Kyi, the elected head of state. The pursuit of criminal accountability against the SPDC is imperative before democracy can be achieved in Burma.