



INTERNATIONAL
TRIBUNAL
ON CRIMES AGAINST
WOMEN OF BURMA



MARCH 2, 2010
NEW YORK



MESSAGE FROM THE NOBEL PEACE LAUREATES



The International Tribunal on Crimes Against Women of Burma was conceived after a peace delegation organized by the Nobel Women's Initiative visited the Thai-Burma border in 2008. The visit of our delegation, which included activists as well as Nobel Peace Laureates, was hosted by the Women's League of Burma.

At every stop on our journey, we met many strong and brave women who were living in the most difficult circumstances. We were impressed by the resilience of the women. Many had been forced to flee their homeland because of terrible violence, yet they never stopped calling Burma home. These women shared their stories of fear, pain and horror - but perhaps more importantly, they also shared their hopes, dreams and wishes for the future of Burma. In our view, their unwavering belief that change is possible, combined with their drive to make change happen, makes these women of Burma an unstoppable force. It makes them an inspiration for us all.

We knew then that it was important to bring their stories to a larger audience. That is why we helped organize the International Tribunal on Crimes against Women of Burma.

At the day-long Tribunal, four judges and many people around the world listened as twelve women from Burma told personal stories of how they had been brutalized and victimized by the military regime. The judges' findings and recommendations were a clear response to the women's testimony.

Based on what they heard and other documentary evidence, the judges concluded that war crimes, crimes against humanity and human rights violations have been and continue to be committed by the Burmese military regime. Their recommendations also send a strong message to the regime, to the Association of Southeast Nations (ASEAN) and other states in the Asia-Pacific region, to the international community and to civil society. The judges' recommendations constitute a blueprint for action on Burma.

We cannot speak about Burma without mentioning our sister Laureate, Daw Aung San Suu Kyi. At the Tribunal, calls for her release and that of all political prisoners in the country echoed through the auditorium. We ask that General Than Shwe, the military junta's head of state, heed these calls and release Aung San Suu Kyi and all political prisoners.

We hope the Tribunal will stand as a constant reminder to all of us and to the world of Daw Aung San Suu Kyi's teaching:

“IF YOU'RE FREE, YOU HAVE A CHANCE AND A RESPONSIBILITY TO HELP PEOPLE WHO ARE NOT FREE.”

Betty Williams
Betty Williams

Mairead Maguire
Mairead Corrigan Maguire

Jody Williams
Jody Williams

Shirin Ebadi
Shirin Ebadi

Wangari Maathai
Wangari Maathai

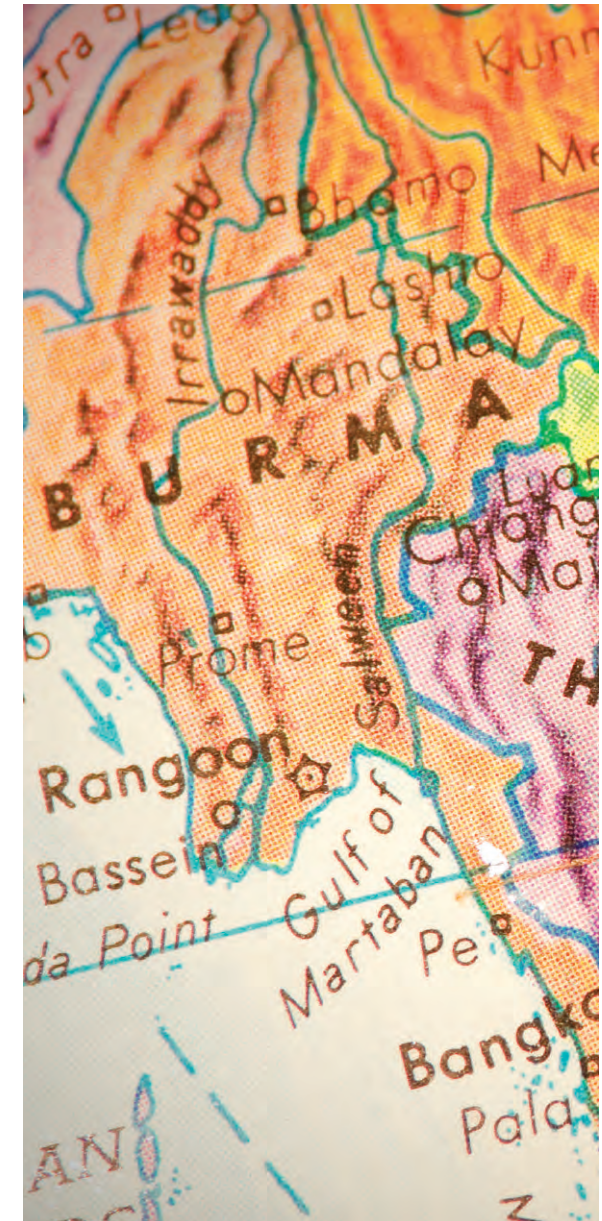
Rigoberta Menchu Tum
Rigoberta Menchu Tum



TABLE OF CONTENTS

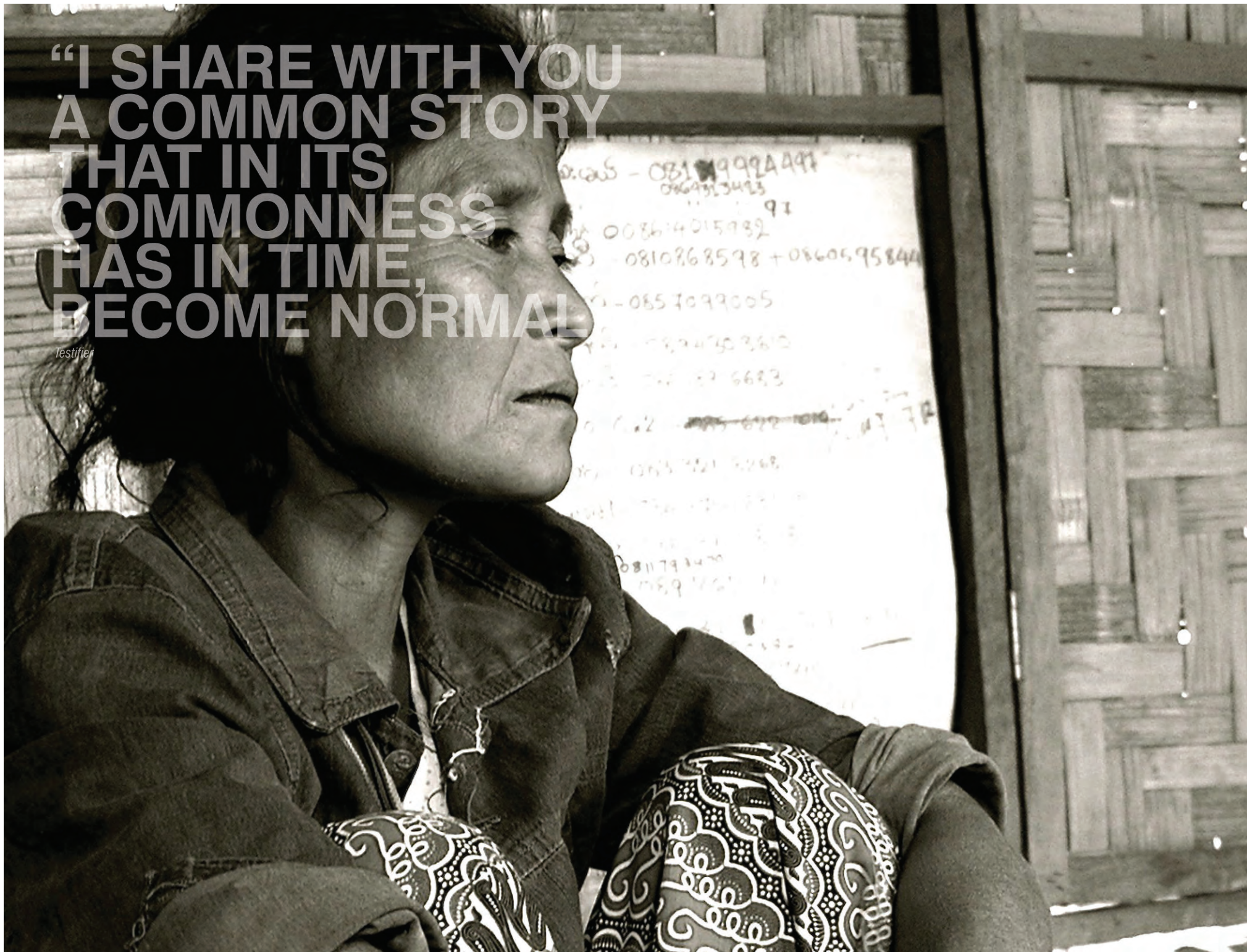


INTRODUCTION	5
“PRISONERS IN OUR OWN COUNTRY”	6
Rape, Sexual Violence and Sexual Torture	
Political Prisoners	
Forced Displacement	
Forced Labour	
THE TRIBUNAL	
LISTENING TO THE WOMEN OF BURMA	9
TESTIMONY	
“THIS IS MY WITNESS”	10
Sexual Violence Against Women	
Civil and Political Violations	
Social, Economic and Cultural Violations	
THE JUDGEMENT	
AMPLIFYING THE CRIES FOR JUSTICE IN BURMA	15
Judges’ Biographies	
Statement of Findings and Recommendations	
War Crimes	
Crimes Against Humanity	
Violations of Human Rights	
Recommendations to Burma’s Military Regime	
Recommendations to the Asia-Pacific Region	
Recommendations to the International Community	
Recommendations to Civil Society	
APPENDIX	22
Learn More, Do More	
Acknowledgment	



**“I SHARE WITH YOU
A COMMON STORY
THAT IN ITS
COMMONNESS
HAS IN TIME,
BECOME NORMAL**

Testifier



INTRODUCTION

It is a watershed moment in Burma. It is time to take action for change.

Elections are promised for 2010. There is widespread doubt that these elections will be free or fair. The regime's violent abuse of its own people—ethnic nationalities, in particular—puts it in the ranks of some of the world's worst human rights abusers. From the imprisonment and torture of political dissenters to the conscription of civilians to be used as sexual slaves and human landmine sweepers, the list of human rights violations in Burma is well documented. Sadly, the world mostly watches in silence while the regime continues to act with impunity.

But that situation may be changing. The calls for change from within Burma and from the region are steadily growing louder. Many in the international community are getting tired of resolutions that fall on deaf ears. And women are at the forefront of a thriving movement for democracy in Burma itself. Though they have suffered some of the worst crimes at the hands of the military regime, women are also fearlessly working to bring about change.

The Tribunal is about these women. They are survivors of unimaginable horrors, but they are also courageous advocates for a society built on peace, justice and equality. In the act of telling their stories, they are calling for the rest of us to join them in their struggle.

We would like to acknowledge the determination of the twelve women of Burma who, for many months, prepared to travel to New York to share their personal, and often exceptionally difficult, testimony with the Tribunal judges and audience members. Each of these women understood that by recounting her own story, she was sharing the stories of thousands of other women from across Burma, women who had also suffered terrible abuses, crimes and violations by Burma's military regime.

The outcome of the Tribunal matters greatly to us. Our two organizations are directed by women and focused on women. We strongly believe that the Tribunal has added value to the existing documentation and reporting work on the crisis in Burma by focusing on individual women's stories of their own suffering, as well as the suffering of their families and communities. This way, the Tribunal has told unique stories of women of Burma, as well as the broader story of many people of the country.

After the Tribunal, we took these stories—along with the Findings and Recommendations of the judges—to high-level meetings with United Nations Secretary-General Ban Ki-moon and members of the Security Council. We and our partners around the globe will continue using the work of the Tribunal in our advocacy in support of a free and democratic Burma.

It has been an extraordinary process to work closely and productively as partners to plan for and carry out this Tribunal. We share a deep hope that our work together will have meaningful impact and ultimately help to bring lasting peace, democracy and change to Burma.

All the best,

Elizabeth Bernstein
Executive Director
Nobel Women's Initiative

Lway Aye Nang
General Secretary
Women's League of Burma



“PRISONERS IN OUR OWN COUNTRY”



In a country governed by fear, the majority of Burma's people live in a state of chronic crisis. For over 40 years, the military regime has carried out a widespread campaign of oppression, fear and violence against the people of Burma. In the past 21 years, since the Generation '88 uprising in 1988 and the 1990 election of Daw Aung San Suu Kyi, leader of the National League for Democracy (NLD) party, this violent rule has only grown worse.

The magnitude of the crisis periodically comes to light for the broader world to see. In May 2003, news spread quickly in the wake of the Depayin Massacre, when Aung San Suu Kyi's supporters were viciously attacked and killed. Similarly, international attention was riveted during the fall 2007, when images of the “Saffron Revolution” were broadcast around the world. The evidence was indisputable: the Burmese military regime had rounded up, arrested and attacked monks, nuns, students and other innocent civilians. According to local and international reports, many of the people swept up in the junta's 2007 crackdown were murdered or disappeared. More recently, people all over the world were appalled when the military junta blocked the free flow of humanitarian aid to the people of Burma after Cyclone Nargis.

More common than these few relatively well-documented events and outrages are the stories of ordinary people of Burma. It is the stories of women, in particular, that are often untold and unheard. These are women for whom rape, sexual violence, forced labour, torture, imprisonment and forced relocation are common events.



RAPE, SEXUAL VIOLENCE AND SEXUAL TORTURE

- Ethnic minority women and girls are particularly subject to widespread and systematic sexual violence by Burmese soldiers, including rape, torture and sexual slavery as a means of terrorizing and subjugating the ethnic minorities.
- Many women across Burma experience sexual violence and sexualized torture, including rape, in conjunction with other civil and political violations, such as arbitrary arrest and detention.
- Many women are also routinely subject to rape and other sexual violence and torture while being forced by the military to perform compulsory labour, including portering.

POLITICAL PRISONERS

- The ruling junta routinely locks up activists and others who speak out against military rule. There are currently more than 2,200 political prisoners officially detained in Burma. This includes Burma's most famous political prisoner, Daw Aung San Suu Kyi, leader of the National League for Democracy, who has been under house arrest for 14 of the past 19 years.
- People of conscience in Burma are arrested, detained, tried and imprisoned for long prison terms without any access to legal representation, basic due process procedures or independent judiciary. In practice, laws in Burma are more often wielded to punish people than to protect them.
- Closed courts and courts inside prisons have sentenced thousands of activists, including political figures, human rights defenders, labour activists, artists, journalists, internet bloggers, and Buddhist monks and nuns, to lengthy prison terms.

FORCED DISPLACEMENT

- Burma's military regime has destroyed more than 3,500 ethnic minority villages.
- In some cases, soldiers force villagers to destroy their own communities to make way for government infrastructure projects including roads and dams, or other natural resource extraction or distribution projects.
- More than one million people of Burma have fled the violence and oppression, becoming refugees in neighbouring countries. An additional 600,000 villagers are struggling to survive as internally displaced persons (IDPs). They are often forced to live for long periods of time in the jungle or makeshift camps with few protections and no basic opportunities or rights.
- Over 200,000 women and girls have been trafficked from Burma to other countries in the region, particularly China, according to the National Coalition Government of the Union of Burma (NCGUB). Generally, women facing extreme poverty, lack of education or economic survival opportunities for themselves and their families are at highest risk of being trafficked.

FORCED LABOUR

- The International Labour Organization (ILO) estimates that the military regime has compelled more than 800,000 civilians to perform forced labour including as sexual slaves, building roads and other construction projects, and as porters of heavy loads of munitions and military supplies. The Burmese military are also notorious for using people as "human landmine sweepers." Those forced to labour or work as porters put in long hours with little food and without access to clean water or basic shelter.
- Women who are forced to work for the military regime face unique risks. As porters, women must carry unbearably heavy loads without adequate rest or regard for physical conditions including pregnancy. Inadequate shelter at night leaves them vulnerable to insect-borne disease and worse. Women labourers are at constant risk of sexual violence and even death. Women caught trying to escape may be shot on sight. When they successfully escape, soldiers commonly seek retribution, not just on the women themselves, but also their families and communities.

"IT IS NOT NORMAL
THAT SO MANY PEOPLE
IN BURMA CONTINUE
TO LIVE IN FEAR OF ATTACKS
ON THEIR VILLAGES"

Testifier



THE TRIBUNAL: LISTENING TO THE WOMEN OF BURMA

The International Tribunal on Crimes Against Women of Burma was a day-long event held at the City University of New York on March 2, 2010. This event offered a unique opportunity for people around the world to hear directly from women of Burma about the violations they and their families and communities have faced for so many years. In New York City, over 200 people attended the Tribunal itself. More than 2000 others tuned in to the live web cast. This audience included people from Burma, Australia, Canada and around the world.

Charlotte Bunch acted as moderator of the Tribunal. Bunch is one of the foremost advocates for greater international attention to women's issues. She is the founding Director and Senior Scholar at the Center for Women's Global Leadership at Rutgers University. An activist, author and organizer, she is a leading voice in women's and human rights movements.

It was understood from the onset that there were practical limits to the testimony the Tribunal could hear. It was not possible to address every crime or violation of human rights in Burma. Instead, the Tribunal focused on three categories of crime: sexual violence against women; civil and political violations; and social, economic and cultural violations. Each category featured the testimony of four women of Burma and questions and comments from the panel of judges. An expert from the region moderated each session.

For the first session on sexual violence against women, the expert was Lway Aye Nang, the General Secretary of the Women's League of Burma. She has worked her entire adult life to help bring democracy and human rights to the people of Burma, especially the women.

Hseng Nong Lintner moderated the session on civil and political violations. She is a founding member of the Women's League of Burma, and currently serves as an Advisory Board Member. She is also a talented photographer, and works with the Shan Women's Action Network.

The final session of the day heard testimony about social, economic and cultural violations. Thin Thin Aung, who is another founding member of the Women's League of Burma and serves on its Presidium Board, was the moderator. Currently based in India, she is a member of the '88 Generation who fled Burma following the military regime's violent crackdown on student democracy activists.

An expert panel of judges heard the women's testimony. They included Nobel Peace Laureates Shirin Ebadi and Jody Williams, and human rights experts Professor Vitit Muntarbhorn from Thailand and Dr. Heisoo Shin from the Republic of Korea. Audience members included women and men from around the world who were in New York to attend the concurrent United Nations Commission on the Status of Women meetings. Other influential policy-makers, activists, international lawyers and academics, in New York and across the globe by web cast, bore witness to the profoundly moving testimonies by the women who are at the center of Burma's too often overlooked human crisis.

Five of the women scheduled to testify could not make it to New York because US consular authorities in Thailand rejected their applications for visas. In their absence, trusted friends and supporters delivered their testimony for them.



TESTIMONY: “THIS IS MY WITNESS”



SEXUAL VIOLENCE AGAINST WOMEN

The four women who testified about the violence they were subjected to based on their gender spoke about rape, other sexual violence, sexualized torture and trafficking.

Chang Chang was attacked and raped in her village, along with four of her friends, by a group of Burmese military soldiers. News spread quickly, and she was punished for bringing shame to her family, school and community. Her teacher caned her in front of the entire school, and then expelled her. Later, she was expelled from her community. Left without support from her community or the opportunity of education, she was arrested by the police for “defaming” the same soldiers that raped her. The official charge for which she was sentenced to one year in prison was prostitution.

When **Naw Ruth Tha** was five months pregnant she was forced to work as a porter, carrying heavy loads for the Burmese military. Each night, after a long day of strenuous work, the soldiers repeatedly raped her. She shouted and cried in protest, but for this she was beaten and threatened. When she finally returned to her family, the soldiers told her father that she had to continue to work as a porter for them. When he refused, the soldiers shot and killed him. Next, the soldiers burned down the village, forcing everyone in the community to flee for their lives.

Ma Htu lived near the Burma-China border. Uneducated and facing limited prospects, she put her trust in a man who promised her a job as a cook in China. With no identifying documents, she crossed the river into the neighbouring country. She soon learned that the expected job was not available. She and two other women were transferred into the care of a woman who promised to help. Still unable to get a job, she was locked up by the man of the house and turned over to the police. The police offered no refuge or protection. Instead they interrogated her and treated her harshly. Returned to Burma, Ma Htu was charged, tried and imprisoned. She received no legal assistance at any time.

Lway Moe Kham appeared as a witness to a young woman who was trafficked across the border to China. The ordeal began when the father of the family died. One brother became a drug addict; the family was forced to sell their tea farm; the mother fell ill. As the eldest of nine siblings, the young woman became head of the family and tried to make a living. But in the wake of a military engineered decline in tea prices, she was unable to earn enough. She moved to a border town to find better paying work. There she met someone who promised her a restaurant job in China. But once in China, she was held against her will by men who threatened, beat and tortured her, and ordered her to marry. To stop the beatings, she finally agreed to marry. Drugged and weak, she managed to escape before the wedding. Lway Moe Kham, who gave the testimony, is one of two women from a women’s organization who helped rescue and support the young woman after her ordeal.

CIVIL AND POLITICAL VIOLATIONS

The crimes and violations that the four testifiers in this group described included torture during detention by Burmese military, arbitrary arrest, imprisonment, arbitrary detention, persecution and other serious violations of due process.

Saw Myat Mar, a former colleague of Daw Aung San Suu Kyi, was a very active member of Generation ‘88. She and her husband spoke out in the face of the regime’s violence and for this, they were persecuted and arrested. In prison, Saw Myat Mar was sexually violated and subjected to invasive, humiliating and unnecessary “medical examinations” in front of male soldiers who videotaped the assaults. After release, she and her husband were not free to resume their lives. They were constantly harassed by Burmese police and lost their ability to earn a livelihood as a result. The couple was frequently subjected to lengthy interrogations. They were under the constant threat of arrest. Finally, they decided they could no longer stand the harassment and sought Daw Aung San Suu Kyi’s blessing to leave Burma.

Nengpi lived with her husband, a chief of a village with a significant military presence (between 2000 and 3000 troops). In 1993, when a soldier stationed in the area fled from his battalion, Nengpi’s husband and seven other men were accused of “cooperating with the deserter”. They were taken into the forest and tortured. The rest of the villagers, unable to help, listened to their screams. Next the soldiers arrested Nengpi and took her into the woods. There she found her husband, badly injured and dying from the beatings. The soldiers blindfolded Nengpi, bound her hands and shackled her feet. They interrogated and tortured her to force her to “confess” to helping the deserter. She refused and was sentenced to a year and two months in prison.

Daw Khin San Nwe was arrested in 1989 because of her membership in Generation ‘88. She was five months pregnant when she was imprisoned. She gave birth behind the prison walls without any medical assistance. Throughout her time in prison she was beaten, starved and forced to drink dirty water. As a result she suffered, and still suffers, from various medical complications. One day, an agent of a human rights organization came to inspect the prison, but prison officials hid Daw Khin San Nwe and all of the other political prisoners. After serving her full term she was released. In 1998 she served as the district chairperson for the National League for Democracy (NLD). Again she was imprisoned because of her political activity and during her imprisonment was denied all forms of outside communication.

In 2003, **Daw Nyunt Nyunt** worked with the NLD and Aung San Suu Kyi in Rangoon, Burma. She was with Daw Aung San Suu Kyi on May 31, the day of the Depayin Massacre, when soldiers, some dressed as monks, attacked civilians accompanying and supporting Daw Suu. Daw Nyunt Nyunt was attacked along with these supporters, many of whom were brutally killed that day. Government reports claim only four people were killed that night, but as a witness, she estimates that the attackers killed between 70-80 people.





SOCIAL, ECONOMIC AND CULTURAL VIOLATIONS

These four women gave testimony that described how they were forced by Burmese soldiers to flee or move from their homes and villages, and forced to do physical labour and work as porters.

In March 2007, soldiers arrived at **Esther's** village. They ordered villagers to do the unthinkable: to destroy their houses, cemetery and church to make way for a dam project for the Burmese military. The soldiers loaded most of the villagers onto a ship to relocate them, but Esther's family and a few others decided to go elsewhere on their own. They later heard about the fate of the villagers who had been relocated by the military: unable to grow food on the new land, they were starving. Esther and her family faced a similarly bleak situation, as she and her group were unable to grow anything on their new, unfertile land. They did not have enough water to drink and became sick from drinking directly from the stream. Three people died in the very first week.

After fleeing their village, **Naw Muhsit** and her family lived in refugee camps on the Thai-Burma border. For ten years they were continually forced to leave their homes because of repeated attacks by the Burmese military. The attacks took on a familiar pattern. Moving east, the military would set up posts on mountaintops to oversee the region. From their high location they would watch and wait. Without warning, the soldiers would suddenly rush down to a village, kill the villagers and burn their homes, animals and land. This made life a constant struggle for Naw Muhsit's parents, who knew all too well what it was like to set up a new home and life for their family, only to be relocated again. Naw Muhsit left Burma for the last time in her father's boat at midnight on her ninth birthday. Her sister almost died on the journey.

Ma Pu Sein lived in western Burma where she was forced to labour on roads, along with children as young as ten years old. If she paused to rest, soldiers would beat her with their guns. When she became sick, the military required her ten year-old son to fill her place. She and other workers were provided with little or no food, water, shelter, toilets or medicine for the injured or ill. Ma Pu Sein's own daughter began to show signs of starvation after working for four months with insufficient food. During the night, military soldiers raped many colleagues of Ma Pu Sein. After the rapes, the soldiers sometimes killed the women. The military hunted down anyone who tried to escape, and soldiers beat the families of those who could not be found. After four years of this kind of labour, Ma Pu Sein was forced to leave her children inside Burma. Ma Pu Sein has been reunited with her two daughters but has lost contact with her son and fears for his safety.



At more than 50 years old, **Naw Thaun Nyunt** has suffered a lifetime of attacks by Burmese soldiers. Her family made its living farming, but when the military invaded her village, the soldiers confiscated all the family's property, killed and ate their animals. Naw Thaun Nyunt's father was shot in front of her, and a landmine left under the doormat by soldiers killed her mother. Not content with this devastation, the soldiers burnt down the entire village of 100 households. When she was 12, Naw Thaun Nyunt was shot in the leg by the military. Now living outside Burma, she longs for peace in her home country, where people can be free from the cries "the troops are coming," and free from the constant running.

Each woman's original testimony was given in her native language. Throughout the lengthy testimony development process, the testimony was translated into English. The much-abbreviated summary versions provided here are to give a sense of the women's stories. Some of the women's names, both above and in the testimonies at the Tribunal, were changed for their safety and that of family members.

**“WHAT I WANT
THE WORLD
TO KNOW IS –
WE ARE
IMPRISONED IN
OUR COUNTRY.
I WANT THE
WORLD TO
KNOW THIS.”**

Testifier



“THERE IS NO JUSTICE TO BE FOUND THERE. THERE ARE NO COURTS TO HEAR THEIR CASES.”

Shirin Ebadi

JUDGES' BIOGRAPHIES

Heisoo Shin is an adjunct professor at the Graduate School of International Studies at Ewha Woman's University in Seoul, Republic of Korea. She has been working for thirty years in the women's human rights movement, especially in the area of violence against women. Heisoo Shin recently founded a new NGO, the National Movement against Sex Trafficking, to continue the fight for women's rights.

Jody Williams is an outspoken peace activist. With the International Campaign to Ban Landmines, she received the Nobel Peace Prize in 1997 for work that led to the Mine Ban Treaty. Since January, 2006, Jody Williams has worked to achieve peace through the Nobel Women's Initiative, which she chairs.

Shirin Ebadi, J.D., has worked as a lawyer, judge, and chief justice in Iran. She was awarded the 2003 Nobel Peace Prize for her efforts to promote human rights—in particular, the rights of women, children, and political prisoners in Iran. In January 2006, along with sister Laureate Jody Williams, Shirin Ebadi took the lead in establishing the Nobel Women's Initiative.

Vitit Muntarbhorn is a professor at the Faculty of Law, Chulalongkorn University in Bangkok, Thailand. As a scholar, educator, advisor on policy-making and grassroots activist, he is a tireless campaigner for human rights. Vitit Muntarbhorn has participated in diverse activities at regional, national and international levels for the promotion and protection of human rights for all.



Heisoo Shin



Jody Williams



Shirin Ebadi, J.D.



Vitit Muntarbhorn

THE JUDGEMENT: AMPLIFYING THE CRIES FOR JUSTICE IN BURMA

At the end of the day, the judges presented their findings and recommendations in a powerful and moving statement. The following recommendations are intended to help draw attention to the humanitarian crisis in Burma, and act as a starting point for action for the international community.

STATEMENT OF FINDINGS AND RECOMMENDATIONS

We, the Judges of this Tribunal, want to begin our statement of findings and recommendations by thanking the brave women who testified on behalf of themselves and others, regarding the crimes and violations committed by and with the encouragement of the undemocratic Burmese military regime. We have been deeply moved by the courage you have demonstrated and by the terrible experiences you have brought to our attention. Your searing testimonies of unimaginable brutalities, including sexual violence, break the silence on behalf of thousands upon thousands of Burmese women. You cry out for justice but have been ignored by a regime that acts with impunity.

If we, who have heard your testimony, find it painful and difficult to listen to, we cannot begin to imagine what it is like for you to relive that pain when you speak before us. Nor can we imagine what it has been like to have to live through such experiences. We understand that you are not just speaking for yourselves, but also for others who cannot be here with us today; indeed you are speaking for all of the peoples of Burma.

Many of the particular words of your testimonies have stuck in our minds. We heard you say: *“This is my witness...this is not something that has been told to me...this is my witness.”* *“We are prisoners in our own country.”* *“It is like being trapped in hell.”*

We heard you tell us: *“I am a refugee who is a child of refugees.”* *“Her life has always been running away from the Burmese military.”* *“I share with you my story which is a common story. In fact it is so common as to become normal...”*



We share your hope that with this Tribunal and your brave testimonies we can help to break that cycle so that this horror, this oppression—these crimes against humanity and war crimes—are never again perceived as normal, in Burma or anywhere.

We appreciate the work of the Women’s League of Burma and the Nobel Women’s Initiative, and all the women and men who assisted the testifiers and enabled them to be here today and testify. Supported by the powerful evidence of the women’s testimonies and numerous official UN reports and documentation of crimes and violations committed by the Burmese military government, we hope that this Tribunal will echo your cry for justice and make the world listen. We hope that it will contribute to ending the impunity with which the vicious Burmese military regime has acted, and lead to the restoration of the democracy that was stolen from you and all the peoples of Burma twenty years ago.



This Tribunal highlights the crimes and violations committed against women as part of the larger attack on democracy and the human rights, peace and security of civilian populations in Burma. The Judges consider that this focus on crimes against women and violations of their human rights is of particular importance in light of the longstanding but recently challenged egregious tradition of the military and others acting with impunity when they commit gender violations. The focus on gender also highlights what you demand—the need to ensure that survivors, women’s human rights advocates and communities of women be fully recognized in the processes of international justice, protection and reparations. Women must also be empowered to fully participate in efforts to end the stranglehold of the illegitimate regime and the conflict. They must be allowed to fully participate in building legitimate democracy in Burma based on equality, peace, justice and security.

The violations we discuss today have a long and sordid history in Burma. The theft of democracy and seizure of power by the Burmese military and the annulment of the 1990 elections (in which the National League of Democracy and Daw Aung San Suu Kyi prevailed) are at the root of the crimes against humanity, war crimes, failure to protect and other human rights violations that we are addressing here. These crimes and violations have oppressed the peoples of Burma, have generated a flood of refugees and constitute threats to international peace and security.

In making these findings, we rely on treaty and declared obligations of Burma and on customary international law, which means that a legal prohibition has been accepted by a consensus of States and followed out of a sense of legal obligation.

We find that the Burmese military regime is responsible, both individually and as a State, for the crimes and violations at issue here, based on its acts and policies of commission. Burma is also responsible based on its failure to act to prevent these crimes and violations through investigating, prosecuting and punishing the perpetrators, as well as its failure to protect and provide reparations to the victimized.

The testimonies we have heard today reconfirm that the regime’s actions amount to war crimes, crimes against humanity, crimes subject to universal jurisdiction and the failure of the regime to exercise its Responsibility to Protect and human rights violations. We will briefly explain our findings in that regard.

WAR CRIMES

The testifiers whom we heard today described harrowing experiences. They told of being forced to do work for the military, being raped by military personnel both during forced labour and in other circumstances, having their homes and villages pillaged and destroyed by the military, and being forced to flee. These are war crimes because they are attacks directed at civilians in the context of, and associated with, armed conflict under customary international law as reflected in the 1949 Geneva Conventions and the Rome Statute which created the International Criminal Court.

Here the armed conflict is non-international in character. Ethnic groups within Burma have been fighting for the right to self government since the British took control of Burma and India. Under the current regime, these groups have been further stripped of their autonomy and they continue to fight.

On the basis of the testimonies today and other documentation, we find that in areas where these hostilities are taking place, the following war crimes have been committed or tolerated by officials of the military regime: rape, sexual violence, sexualized torture and other forms of torture, violence to life and person, outrages on personal dignity, intentional attacks against the civilian populations, pillage and destruction or seizure of their property, and displacement of the civilian populations for reasons related to conflict. War crimes give rise to individual criminal responsibility.

**“MOST
IMPORTANTLY –
WE STRONGLY
URGE THE
UN SECURITY
COUNCIL TO
REFER BURMA
TO THE
INTERNATIONAL
CRIMINAL
COURT.”**

Shirin Ebadi



CRIMES AGAINST HUMANITY

Crimes against humanity refer to specific crimes committed as part of a widespread or systematic attack against a civilian population. We find that the ongoing, systematic attacks by the Burmese military regime against the peoples of Burma constitute crimes against humanity. The attacks are widespread and have been carried out across the country, affecting untold numbers of women—and their families and communities. The fact that similar crimes have been committed against Burmese women in different parts of the country is evidence that the regime has a policy to actively commit and/or passively permit these attacks.

The brutal crimes inflicted on women as part of these attacks include: rape and sexual violence; torture, including rape and sexual violence; enslavement including forced labour; sexual slavery including trafficking; imprisonment and other severe deprivation of physical liberty; persecution directed against individuals based on their political, national, ethnic, cultural, religious and gender identities; forcible transfer of populations; and other inhumane acts.

The testimonies here and the reports available to us provide ample evidence that women as political activists, Burmese women and women of ethnic minorities, some of whose representatives have testified here today, have all been targets of crimes against humanity. Crimes against humanity give rise to individual criminal responsibility.

Despite Burma's failure to ratify the Rome Statute of the International Criminal Court, we find that the Court's definition of crimes against humanity is applicable to the crimes against women in Burma because that definition also represents basic customary international law applicable to all. As such, it provides the basis for individual States to exercise universal jurisdiction conferred by international law—that is, to prosecute the perpetrators in their national courts.

Further, the UN Security Council, the only international body that can take binding action with regard to the regime, has the power to respond to the Burmese regime's threat to peace and security by referring the situation in Burma to the International Criminal Court. That would enable that Court to investigate and prosecute officials of the Burmese regime. Our recommendations reemphasize the importance of Security Council involvement and call upon the Council to take all appropriate measures, including those necessary to accomplish this referral with all due speed, to bring an end to the ongoing and terrible threat this regime poses to women, as well as to the human rights, peace and security of all.

We emphasize that the United Nations, and particularly the Security Council, also have the power, and indeed the obligation, to take action to redress the failure of the Burmese military regime to protect its residents. With the adoption of the 2005 UN World Summit resolution establishing the Responsibility to Protect, the Security Council has the power to set in motion coercive measures designed to stop these crimes, for example by embargoing trade in Burmese goods produced through forced labour. In recent years the Security Council has also adopted specific resolutions on the protection of civilians, particularly women and children, which impose measures against violence against women and children.

**“BRUTALITY ON
THIS LEVEL
SHOULD NEVER
BE ACCEPTED
AS NORMAL.”**

Jody Williams

VIOLATIONS OF HUMAN RIGHTS

Under international human rights law, the State of Burma is obliged to protect all of its residents and to ensure that their human rights are respected and protected. Burma has ratified treaties concerning some of these rights including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the International Labour Organization (ILO) Forced Labour Convention of 1929. Other rights are found in norms of customary international law and other instruments to which Burma has adhered.

With respect to the treaties that Burma has ratified, CEDAW includes the right of the women of Burma to be free from sex discrimination, the right to participate in the government, the right to education, free choice of profession and employment, the right to equal remuneration, and the right to protection of health and to safety in working conditions, which includes the safeguarding of reproduction. CEDAW also requires all States Parties to take all appropriate measures to suppress all forms of trafficking of women. The CRC prohibits the use of children under the age of eighteen for forced labour and all forms of physical and mental violence, injury or abuse. The CRC also guarantees the rights of children to an education. The Burmese military regime's use of forced labour is a violation of the ILO Convention on Forced Labour that Burma has ratified.

Customary international law requires Burma to prohibit and bring to an end the practices of slavery and torture, to protect the security of all persons and to guarantee the fundamental due process of law. Similarly, based on Burma's adherence to the Association of Southeast Asian Nations (ASEAN) charter and related instruments, Burma is obligated to protect all basic political, civil, social, economic and cultural rights contained in the Universal Declaration of Human Rights, the Vienna Declaration on Human Rights and the basic human rights treaties.

We thus find that the State of Burma has violated rights under treaties it has ratified as well as other human rights constituting customary international law and enshrined in various instruments it has acknowledged, including freedom of speech, religion, expression, protest, association, assembly and political participation.

Under principles of international law, the State of Burma is responsible for failing to take appropriate action to prevent such violations through investigation and prosecution of perpetrators as well as through other means of prevention and protection including reparations to those victimized. It has also failed to take positive measures to ensure the protection and promotion of human rights.

As a result of these findings, we make the following recommendations, to the Burmese military regime, to states in the Asia-Pacific region, to the international community, especially to the United Nations and to civil society.



RECOMMENDATIONS TO BURMA'S MILITARY REGIME

- Stop all forms of violence against women. End the harassment, intimidation, arbitrary arrest, unlawful detention, torture and degrading treatment against women. Respect and adhere to the principles and norms of international criminal and human rights standards particularly the Convention on All Forms of Elimination of Discrimination Against Women.
- Stop attacks and persecution against ethnic nationalities and groups. Release immediately and unconditionally all political prisoners.
- Grant access to United Nations agencies and non-governmental humanitarian groups to ensure that women, in particular, are assisted effectively.
- Provide access to and cooperate with United Nations agencies and human rights organizations to monitor human rights within Burma.
- Ratify all human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and implement them effectively.
- Abide by rules of customary international law, such as the prohibitions against torture, slavery and violence against women and children.
- Ratify the Rome Statute of the International Criminal Court; reform and implement domestic legislation accordingly.
- Establish an effective process for dialogue between different stakeholders including democracy groups, ethnic minorities/nationalities and concerned authorities with emphasis on women's participation in the pursuit of democracy.
- Revise the constitution of Burma, particularly the amnesty provisions, and other national laws in an inclusive and participatory manner, engaging all stakeholders including women, to ensure consistency with international legal obligations and human rights standards.
- Establish effective judicial mechanisms and other processes to establish accountability and provide adequate remedies for international crimes and human rights violations to end impunity.
- Build human-centered national development plans and processes that respond to women's human rights, bearing in mind the special needs of rural women, and allocate national resources fairly and equitably for this purpose.

RECOMMENDATIONS TO THE ASIA-PACIFIC REGION (INCLUDING ASEAN, BILATERAL AND OTHER CHANNELS)

- Call upon ASEAN through its Summit of Heads of Government to impel Burma to apply effective and time-limited measures to comply with the ASEAN Charter and international legal obligations and human rights standards.
- Invite the ASEAN Intergovernmental Human Rights Commission to submit thematic reports covering particular issues related to Burma.
- Bearing in mind the ASEAN Declaration on the Elimination of Violence Against Women and various declarations on children's rights in the region, to which Burma has subscribed, support the establishment of the ASEAN Commission for the Promotion and Protection of the Rights of Women and Children, including consideration of the situation in Burma.
- Call upon the various partners of ASEAN and other regional bodies and states engaging with Burma to influence constructive changes in the country.
- Prohibit trade with Burma involving goods produced through forced labour, as well as oil, gas and electricity generated as a result of forced relocations.
- Take effective cross-border measures to prevent and punish human trafficking, in particular that of women and children, and to offer gender and child sensitive measures to protect and assist those victimized by trafficking.
- Respect the rights of refugees and internally displaced persons, protect them from violence, abuse, exploitation and forced repatriation, which violates the international principle of non-refoulement, and ensure the application of basic standards of international law.

**“YOU CRY OUT FOR
JUSTICE BUT YOU
HAVE ALL BEEN MET
WITH IMPUNITY.”**

Jody Williams

RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY, PARTICULARLY THE UNITED NATIONS

- Urge States to take collective action to ensure the implementation of Security Council Resolutions 1325, 1820, 1888 and 1889, which guarantee women's full participation in post-conflict reconstruction and freedom from all forms of sexual violence.
- Strongly urge the UN Security Council to refer Burma to the International Criminal Court.
- Call upon United Nations member States to fulfill their obligations to exercise universal jurisdiction and to prosecute through their national tribunals perpetrators of the crimes against the civilian population of Burma, including women.
- Ask United Nations agencies with a presence in Burma to increase their work in promoting and protecting human rights.
- Call upon the United Nations Security Council to take effective measures against state authorities on the basis of the responsibility of the state to protect its people from egregious human rights violations (Responsibility to Protect Doctrine).
- Urge the United Nations system to take measures to ensure that the Burmese authorities comply with international human rights standards and international humanitarian law.

RECOMMENDATIONS TO CIVIL SOCIETY

- Continue to actively engage with the peoples of Burma in and outside of the country to mobilize public pressure at the international, regional and national/local levels by raising awareness of the crimes and violations being committed by the Burmese military regime against the peoples of Burma, especially women and children.
- Demand that their governments and the relevant organs of the United Nations, including the Security Council, take action to implement the recommendations of this Tribunal – and others – to ensure the transition of Burma to genuine democracy and to ensure human rights, peace and sustainable human- and women-centered development.
- Bring together civil society organizations working on human rights, international humanitarian assistance and issues relating to Burma to form a Committee of Inquiry for deliberation of the situation in Burma with the purpose of coming to a joint declaration on the situation in that country and/or a coordinated plan of action in support of democracy in Burma.



APPENDIX

LEARN MORE, DO MORE

Women's League of Burma

Since 1999, the Women's League of Burma (WLB), an umbrella organization comprising thirteen women's organizations from twelve different ethnic backgrounds in Burma, has worked for the advancement of the status of women towards a peaceful and just society. www.womenofburma.org

Nobel Women's Initiative

Launched in 2006, the Nobel Women's Initiative is a strategic vehicle of the women Nobel Peace Prize Laureates to leverage the visibility and prestige of the prize to promote, spotlight and amplify the work of women's rights activists, researchers and organizations worldwide, addressing the root causes of violence. www.nobelwomensinitiative.org

Recent Reports on Burma by Non-governmental Organizations

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- *Impunity Prolonged: Burma and its 2008 Constitution*, International Center for Transitional Justice (2009)
- *Threat to the Peace: A Call for the UN Security Council to Act in Burma*, commissioned by Vaclav Havel and Archbishop Desmond Tutu, prepared by DLA Piper Rudnick Gray Cary (2005)
- *We Are Not Free to Work for Ourselves: Forced Labour and Other Human Rights Abuses in Burma*, EarthRights International (2002)
- *Burma: Country in Crisis*, Open Society Institute Burma Project (2001)

Recent Reports About Women In Burma

- *In the Shadow of the Junta: CEDAW Shadow Report*, Women of Burma (2008)
- *Eastward Bound: An update on migration and trafficking of Kachin women on the China-Burma border*, Kachin Women's Association, Thailand (2008)
- *Courage to Resist: Women Human Rights Defenders of Burma*, Women's League of Burma (November 2007)
- *State of Terror: The ongoing rape, murder, torture and forced labour suffered by women living under the Burmese Military Regime in Karen State*, The Karen Women's Organization (February 2007)
- *Catwalk to the Barracks: Conscripted women for sexual slavery and other practices of sexual violence by troops of the Burmese Military Regime in Mon Areas*, Human Rights Foundation of Monland (July 2005)
- *License to Rape*, Shan Women's Action Network (May 2002)

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- UN Human Rights Council, Progress report of the Special Rapporteur on the situation of human rights in Myanmar, Mr. Tomás Ojea Quintana (March 10, 2010)
- UN Security Council, Update Report on Myanmar (August 11, 2009)
- UN Security Council, Report of the Secretary-General pursuant to Security Council resolution 1820 (2008) (August 20, 2009)
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- Human Development Report 2007: Country Fact Sheets Myanmar
- UN Economic and Social Council, Commission on Human Rights (61st Session), Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World - Situation of Human Rights in Myanmar (April 11, 2005)

Websites With Information on Burma

- Assistance Association for Political Prisoners (Burma): www.aappb.org
- Burma Lawyers' Council: www.blc-burma.org
- US Campaign for Burma: uscampaignforburma.org
- Alternative Asean Network on Burma: www.altsean.org
- Global Centre for the Responsibility to Protect: globalr2p.org
- Human Rights Watch: www.hrw.org
- Online Burma/Myanmar Library: www.burmalibrary.org



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In memory of Rhonda Copelon, 1944-2010, whose pioneering advocacy for women's human rights and the establishment of rape and other gender crimes as war crimes and crimes against humanity laid the foundation for this Tribunal.





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