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## **Unlawful Convictions of Burmese Political Prisoners are Crimes Against Humanity – U.N. Security Council Should Refer Burma to the International Criminal Court**

Certain judges in Burma, acting under the orders of Chief Justice U Aung Toe and Senior General Than Shwe, are themselves criminally liable as co-conspirators to crimes against humanity for their acts in “trying” and “convicting” 60 political activists last week. “These acts are the latest from the junta which uses the judiciary as one of its key weapons to commit grave crimes,” says Global Justice Center President Janet Benshoof. Judges including those listed below are criminally culpable and must be referred to the International Criminal Court.

- Chief Justice U Aung Toe
- Daw Aye Myaing, Hlaing Tha Yar Township Court, Yangon Division
- U Thaun Nyunt, North District Court, Yangon Division
- Daw Soe Nyan, Western District Court, Yangon Division
- Daw Than Than, Tamwe Township Court, Yangon Division
- Daw Nyunt Nyunt Win, Kyauktadar Court, Yangon Division
- U Tin Htut, Western District Court, Yangon Division

On November 11<sup>th</sup> approximately forty pro-democracy dissidents received prison sentences of up to 65 years. On November 13<sup>th</sup> twenty more activists were sentenced to terms ranging from 4½ to 9½ years. The convicted include members of the ‘88 Generation Students, labor rights activist Su Su Nway, musician Win Maw, HIV/AIDS activist Than Naing, blogger Nay Phone Latt, and members of Daw Aung San Sui Kyi’s party, the National League for Democracy. Even the defendants’ lawyers were not immune from the regime’s revenge; in October defense lawyers Nyi Nyi Htwe, Aung Thein and Khin Maung Shein were sentenced to between four and six months imprisonment for submitting a complaint about the unfair trial conditions of eleven NLD activists.

Judges did not allow the defendants to question prosecution witnesses, many defendants did not have legal representation and those that did were not permitted to meet with their lawyers in private. Burma Lawyers’ Council General Secretary U Aung Htoo stated, “Rule of law in Burma cannot even be dreamt of when the judiciary has become an instrument of political oppression, exercised by the SPDC military junta.”

United Nations Special Rapporteur on Human Rights in Burma, Tomás Ojea Quintana, said this past week in reference to these convictions, “There is no independent and impartial judiciary system [in Burma].” However, the judges actions go much further; these prison sentences are crimes under the Rome Statute of the International Criminal Court, including violations of Article 7(1)(e) “Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law” and 7(1)(h) “Persecution against any identifiable group or collectivity on political, racial, ethnic, cultural, religious, gender...or other grounds”.

GJC President Benshoof noted that top judges in Hitler’s criminal regime were convicted as co-conspirators of crimes against humanity and, more recently, in the *Dujail*<sup>1</sup> decision, the Iraqi High Tribunal found Judge Awad Hamed al-Bandar jointly criminally liable for crimes against humanity committed with Saddam Hussein because he used the façade of “judicial authority and law” to “try” and then “execute” civilians. Burma Lawyers’ Council and Global Justice Center urge the international community to expose the regime’s criminal partnership with members of the judiciary and to join the call for a UN Security Council referral of all grave international crimes in Burma to the International Criminal Court.

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<sup>1</sup> A1-Mahkama al-jina’iya al-‘Iraqiya al-Uliya [The Iraqi High Criminal Court], al-Dujail Opinion, Unofficial English Translation, (Dec.26, 2006), [www.law.case.edu/saddamtrial/documents/20070103dujailappellatechamberopinion.pdf](http://www.law.case.edu/saddamtrial/documents/20070103dujailappellatechamberopinion.pdf)