



## The Critical Role of Criminal Accountability in Establishing Rule of Law Based on Gender Equality

There is growing consensus in international law that grave violations of international humanitarian law are a threat to international peace and security and that the world community has a moral and legal duty to intervene if the state is the perpetrator, or cannot or will not stop the crimes. Perpetrators of gender-based crimes must be held accountable in order to ensure a rule of law based on gender equality.

### Right to Justice in Iraq:

#### Prosecution of Gender Crimes before the Iraq High Tribunal

The Iraq High Tribunal (IHT) is critical to establishing the rule of law in Iraq and to the future enforceability of women's rights. The IHT provides a unique opportunity to apply the most progressive international law on gender crimes.

In July 2007, the IHT in its Anfal Decision recognized for the first time that rape and other forms of sexual violence were part of the genocidal campaign against Iraq's Kurdish population. This set precedent in the Middle East and represents progress toward taking gender specific crimes out of the shadows and ensuring that women are equally protected under the law. Furthermore, the IHT jurisprudence has the potential to influence the reformation of the Iraq Penal Code.



United Nations Security Council Resolution 1325 (UNSCR 1325) recognizes the impact of armed conflict on women. Key articles include:

Article 10 *'...all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict'*

Article 11 *'... responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, war crimes including those relating to sexual violence against women and girls...'*

#### SCR 1325 implications for Iraq & Burma:

- The IHT has the responsibility to end impunity and consider gender-based violence in its jurisprudence.
- The UN Security Council has a responsibility under its mandate to demand criminal accountability for the widespread crimes committed against women.

*Meeting between the IHT Judges and United States Supreme Court Justice Ruth Bader Ginsberg, who praised them for their work on gender crimes. The president of the IHT Judge Arif Al-Shaheen promised that they would continue to prosecute rape and sexual violence.*

### Access to Justice in Burma and Criminal Accountability

In August 2007, the GJC and Burma Lawyers' Council (BLC) launched a joint campaign to advocate for criminal accountability in Burma and to advocate for U.N. Security council to adhere to its legal commitments to provide justice to the people of Burma. The crimes of the SPDC go far beyond a repudiation of democracy; they are criminal violations of international humanitarian and human rights law. Rape and torture of ethnic women has been a component of the violence used against the people of Burma for decades, and numerous reports have documented the use of this violence. Gender crimes specifically have been recognized for their devastating impact in UNSCR 1325 on Women, Peace and Security and 1674 on the Protection of Civilians in Armed Conflict. The Security Council has acknowledged that state sponsored heinous crimes can constitute a threat to international peace and security, and that ending impunity for those crimes is within its mandate and must act on its commitments in Burma.



*Meeting between the Burma Lawyers' Council and the Global Justice Center. Mae Sot, 2007.*