

CEDAW SHADOW REPORT

Submitted By: Women's Organization Network (WON)

June 2016



Table of Content	Pages
Acronym	3
Acknowledgements	4
I. Executive Summary	4
II. Methodology	5
III. Myanmar’s Implementation of CEDAW	5
A. Introduction	5
B. Violations of Article 7, 12 &14	5
1. Article 7	5
1.1 Overview	5
1.2 Committee’s 2008 Concluding Observations and Myanmar’s 2015 State Report	7
1.3 Barriers to Women’s Political Participation	7
a. Cultural, Social, and Economic Barriers	7
i. Gender Stereotypes about Women’ Role in Society	7
ii. Lack of Education	8
iii. Safety Concerns	8
iv. Economic Barriers	9
v. Lack of Knowledge and Awareness of Political Matters	9
b. Legal Barrier	9
i. Military Domination of Parliament	9
ii. Absence of Temporary Special Measures, Including Quotas	10
1.4. Barriers to Women’s Participation in the Peace Process	10
2. Article 12	11
2.1 Committee’s 2008 Concluding Observations and Myanmar’s 2015 State Report	11
2.2 Lack of Access to Affordable, Adequate and Timely Healthcare	12
a. Clinics and Hospitals Are Inaccessible for Many Women	12
b. Medicines and Health Services Are Prohibitively Expensive	12
c. Health Centers Lack Human and Material Resources	12
d. Health Education is Inadequate	13
i. Women are not educated on family planning services, sex education, and reproductive health options	13
e. Healthcare for Women in Prisons	13
2.3 Reproductive Rights	14
a. Abortion	14
i. Persistence of Dangerous Illegal Abortions	14
b. Maternal Health	15
i. Maternal mortality is decreasing, but is still disproportionately high in comparison to neighboring countries	15
ii. Women in conflict areas have a significantly harder time obtaining maternal healthcare	15

iii.	Dependency on midwives who often are untrained	15
iv.	Infant Mortality	15
c.	The Population Control Healthcare Law (Birth Spacing Law)	16
2.4	HIV/AIDS	16
a.	Lack of education on how HIV spreads and prevention	16
b.	Lack of access to government services and ART	17
c.	Discrimination against HIV positive women	17
3.	Article 14	18
3.1	Committee’s 2008 Concluding Observations and Myanmar’s 2015 State Report	18
3.2	Poverty and Other Economic Barriers	
a.	Lack of Access to Employment Opportunities and Debt	18
b.	Migration & Unemployment	19
c.	Abuses Against Sex Workers and Trafficking in Persons	19
i.	Criminalization of Sex Work and Harassment of Sex Workers	19
ii.	Condom use	20
3.3	Drug use and cultivation	20
a.	Drug Use	20
b.	Alcohol Use	21
3.4	Development Projects and Land Grabbing	21
a.	Lack of Inclusion in Development Planning	22
b.	Displacement as a Result of Land Grabbing	22
3.5	Education	22
3.6	Access to Justice	23
a.	Courts	23
b.	Lack of Responsiveness by the Police	23
c.	Traditional/informal justice mechanisms	23
C.	Conclusion	24

Acronym

AIDS	Acquired Immunodeficiency Syndrome
ARV	Antiretroviral
CEDAW	Convention on Elimination of all forms of Discrimination Against Women
HIV	Human Immunodeficiency Virus
IDP	Internally Displaced People
MPs	Member of Parliaments
NGO	Non Government Organization
PLHIV	People Living with HIV
SRH	Sexual and Reproductive Health
VAW	Violence Against Women
WLB	Women's League of Burma
WON	Women's Organization Network

ACKNOWLEDGEMENTS

This WON CEDAW Shadow report was supported by multiple donors, including Pyoe Pin, Trocaire, Olof Palme International and USAID, all of whom supported various activities throughout the whole reporting process. WON thanks our colleagues from Women's League of Burma (WLB) and CEDAW Action Myanmar (CAM) for providing insight and expertise that greatly assisted the reporting process through consultation and feedback.

WON would like to show our gratitude to Cornell University Law School's Global Gender Justice and International Human Rights Clinics for sharing their pearls of wisdom with us throughout the reporting process and their technical input that greatly improved the manuscript. WON is also immensely grateful to IWRAW for its comments on an earlier version of the manuscript.

WON thanks the Steering Committee members of WON, WON's member organizations, CEDAW focal persons, data collection trainers and data collectors. Last but not least, WON would like to express its heartfelt thanks to each individual respondent who shared her experiences, feelings and time.

I. Executive Summary

This report reflects the results of WON's research and interviews of women from ten of Myanmar's states, who shared their experiences and struggles to vindicate their rights.¹ As a party to CEDAW, Myanmar's government has an obligation to protect and guarantee the rights of its female citizens in a variety of realms. Of particular concern to WON are Myanmar's shortcomings in regard to its obligations under Articles 7, 12, and 14.

In 2012, women comprised only 4.42% of Myanmar's National Parliament. The 2015 election, however, raised that percentage to 14.5%. This shift demonstrates the potential for women to play a decisive role in governing the country. Nevertheless, women still face multiple barriers to political participation at the national, regional and local levels, including gender stereotypes, safety concerns, lack of education, and legal and economic barriers. To comply with the obligations of Article 7, the government must implement legal reforms and promote social change to allow women to exercise their rights to political participation.

Access to health remains illusory for many—if not most—women in Myanmar. Clinics and hospitals are few and far between, particularly in rural areas. Women report that hospital care is unaffordable and of poor quality. Women concerned by issues of cost or travel often depend on midwives and traditional birth attendants for childbirth, and while there has been a decrease in Myanmar's maternal mortality rate, it is still high compared to neighboring countries. Abortion also continues to be illegal in Myanmar, forcing many women to seek dangerous abortions that risk their health and lives. Women lack education on sex, birth control, STIs, and HIV/AIDS.

¹ All names used in this report and the annexed research report are pseudonyms.

Rural women suffer disproportionately from poverty, lack of access to healthcare and education, and unemployment. Poverty is a primary concern for most rural women, who lack employment opportunities and education. Addiction to drugs or alcohol is prevalent in many households, as is domestic violence. Poverty has also led to mass migration as individuals often leave to find work in other states or countries. In other instances, poverty has forced families to take on high-interest debt. Some women, in times of economic need, turn to sex work, an illegal profession in which they are often taken harassed or abused by police. Land grabbing, often perpetrated by the Government, has also become an increasing problem for rural women. The government must provide increased services and economic opportunities to rural populations, and foster an atmosphere in which women are protected from abuse.

II. Methodology

WON collected data from its members' geographic locations, and also from other places where information relevant to the selected CEDAW articles was available. In the end, WON collected data from ten states, regions, and divisions, namely Chin, Kachin, Kayin, Mandalay, Mon, Shan, Rakhine, Sagaing, Thanintharyee and Yangon. The methodology and results of this data collection are more fully summarized in the attached research report (Annex 1). WON supplemented its data with desk research.

III. Myanmar's Implementation of CEDAW

A. Introduction

For all of the changes that Myanmar has experienced over the last few years, the country's women have received few benefits. Although the government of Myanmar has adopted a National Strategic Plan for the Advancement of Women, it has failed to allocate necessary resources to ensure its implementation. Legal reforms benefitting women have been announced but never adopted, such as legislation aimed at protecting victims of gender-based violence. While Myanmar has taken promising steps toward greater democracy, it has simultaneously passed a series of Race and Religion Laws that limit women's reproductive rights and violate their right to equal treatment in marriage.

This report highlights the ongoing struggles of women seeking to realize their rights to political participation and health, as well as the plight of rural women. While WON recognizes that the Myanmar government has taken important steps forward, there is still much work to be done. Through this report, WON seeks to give voice to Myanmar's women in the hope that their needs may be met and their rights protected.

B. Violations of Articles 7, 12 and 14

1. Article 7

1.1 Overview

While the 2015 elections saw an increase in women's political participation at the national level, women still face significant barriers preventing their full and equal participation in

public and political life. In 2012, women comprised only 4.42% of members in Myanmar's National Parliament, the lowest participation rate among all ASEAN countries.¹ Following the elections, the number of women representatives increased to approximately 14.5% of the National Parliament and 12.5% of state and regional Parliaments.² Nevertheless, women's political participation at the subnational or local level (ward, township, and village) remains exceedingly low. In 2014, women comprised only 0.11% of administrators at the village level.³ In WON's study, female respondents from all areas except Kayin State reported that women in their areas did not participate in local government.⁴

1.2 Committee's 2008 Concluding Observations and Myanmar's 2015 State Report

In 2008, this Committee expressed concern over the "very low rate of participation of women in all areas of public, political and professional life," and called on the Government of Myanmar to adopt targets and quotas, where necessary, "to accelerate women's full and equal participation in public and political life, in particular at high levels of decision-making."⁵ The Committee also urged Myanmar to implement "awareness-raising activities about the importance of women's participation in decision-making" and to develop "targeted training and mentoring programmes for women candidates and women elected to public office."⁶ Finally, it urged Myanmar to "carefully monitor the effectiveness of measures taken and results achieved."⁷

Myanmar's 2015 State Report makes clear that the government has largely failed to respond to these recommendations. The State Report mentions that awareness-raising and capacity-building activities are needed to increase women's political participation, but does not describe any specific current activities.⁸ Myanmar's State Report also fails to disaggregate data on women's political participation at all levels of government by age, race, and urban and rural areas.⁹ Finally, the State Report does not discuss the steps it has taken to address existing social, cultural, economic, and legal barriers to women's political participation.¹⁰

1.3 Barriers to Women's Political Participation

a. Cultural, Social, and Economic Barriers

i. Gender Stereotypes about Women's Role in Society

In its 2008 Concluding Observations, the Committee expressed concern about "the persistence of adverse cultural norms, practices and traditions as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life."¹¹ It called upon Myanmar to "put in place without delay a comprehensive strategy, including review and formulation of legislation, to modify or eliminate cultural practices and stereotypes that discriminate against women."¹² The Government has failed to take the necessary steps to comply with this recommendation.

Gender stereotypes based on cultural and religious norms about women's roles within society continue to pose major barriers to women's political participation.¹³ Cultural views that a woman's value mostly stems from her ability to have children and that a woman's place is in the home persist.¹⁴ WON's interviews confirmed this. Respondents from Mandalay Division, Mon State, Shan State, Sagaing Division and Thanintharyee Region stated that the commonly

held view is that women's place is only at home.¹⁵ Religious teachings that portray men as spiritually superior to women also fuel these gender stereotypes.¹⁶

The priority that Myanmar society places on women's childcare and household duties hinders women's political participation because these duties impose time constraints on women's ability to participate in activities outside the household.¹⁷ When women do enter public life, the community may criticize women who it thinks are prioritizing their political activities over these duties.¹⁸ According to the Myanmar NGO Alliance for Gender Inclusion in the Peace Process (AGIPP), "[g]endered norms and biases . . . inform public perceptions regarding women in politics. Women who enter the public sphere do so at the risk of ridicule, intimidation, violence or the threat of violence, especially when speaking out on issues deemed controversial."¹⁹ These risks may deter women from engaging in politics.²⁰

ii. Lack of Education

The CEDAW Committee has noted that unequal access to education deprives women of the necessary skills to participate effectively in government.²¹ Low levels of education may also deter women from taking part in political and public life. This was confirmed by WON's data.²² Because the Government has not taken adequate steps to remedy gender discrimination in education, women's political participation has suffered.

Policies also exist that require females to receive higher marks than males on their university entrance exams to study certain subjects such as engineering, medicine, and technology.²³ These policies violate Article 10, which requires that the Government impose the same conditions on both men and women for access to studies and eliminate stereotypes about gender roles at all levels of education.²⁴

iii. Safety Concerns

Women in Myanmar do not travel alone, especially at night, because of fears for their safety.²⁵ In addition, societal norms suggest that it is improper for women to travel alone.²⁶ Restrictions on women's travel limit women's political participation because many political activities involve traveling, such as attending trainings and meetings, visiting government offices and houses of constituents.²⁷ These limitations also reduce women's ability to participate in social and economic activities that would increase women's opportunities to engage in political decision-making.²⁸

In some cases, women candidates face physical threats, even death threats, when travelling to campaign.²⁹ Women are often compelled to travel with a friend or colleague, which puts additional financial burdens on the candidate.³⁰ Respondents in WON's study also complained about the absence of laws that would effectively protect women candidates from threats to their personal security.³¹

iv. Economic Barriers

Campaigning is very expensive, especially for women who need companions or bodyguards.³² WON's interviews indicate that women who run for office are responsible for these expenses themselves, and they receive no government or party assistance.³³ As a result, women often need to seek approval and financial support from their husbands or families before running for office.³⁴ According to the data that WON gathered, this approval is crucial because women often must rely on their families for financial assistance to help pay the expenses of running for office.³⁵

v. Lack of Knowledge and Awareness of Political Matters

Another obstacle to women's political participation cited by the women that WON interviewed is women's lack of knowledge and awareness of political matters.³⁶ Most women do not fully understand their rights.³⁷ Some women reported that even if women are interested, in many cases, they often do not know how to vote or otherwise engage in politics.³⁸ This lack of awareness about women's political participation is even more prevalent in conflict-affected areas and among the ethnic regions, where most of the women do not understand Myanmar language.³⁹

b. Legal Barriers

In addition to cultural, social, and economic barriers, women face legal barriers that prevent them from realizing their right to political participation. These barriers include the military's domination of Parliament and a lack of temporary special measures.

i. Military Domination of Parliament

Although the 2008 Constitution states that one of the Union of Myanmar's consistent objectives is to enhance the "eternal principle of Equality" and that "[e]very citizen shall have the right to elect and be elected in accord with the law," it contains provisions that discriminate against women.⁴⁰ For example, it expressly permits the Government to appoint only men to "positions that are suitable for men only."⁴¹

By reserving substantial power to the military, the Constitution denies women the ability to be fully and equally involved in the government. For example, the military has the power to veto constitutional amendments that would advance gender equality and reduce its overall control of the government.⁴² In addition, the military quota reduces the number of seats available to women.⁴³ Furthermore, because members of the legislature, including military members, make up the Presidential Electoral College, women are both less likely to have a significant impact on who becomes President and less likely to become President themselves.⁴⁴ The military's domination also reinforces patriarchal cultural stereotypes that portray women as less capable of leadership than men.⁴⁵

ii. Absence of Temporary Special Measures, Including Quotas

General Recommendation 23 states that removing legal barriers to women's political participation is not enough and encourages States to adopt temporary special measures, such as quotas and training programs for women candidates.⁴⁶ As noted above, in its 2008 Concluding Observations, this Committee recommended that Myanmar implement temporary special measures.⁴⁷ Although the National Strategic Plan for the Advancement of Women (NSPAW) commits to adopting temporary special measures, namely quotas and "capacity building for future women leaders on leadership and negotiation skills,"⁴⁸ no quotas have been implemented. The State Report fails to address the issue.

1.4. Barriers to Women's Participation in the Peace Process

The Myanmar government has not taken sufficient steps to fully include women and civil society organizations representing women's rights in the peace process, as required by General Recommendation 30. Myanmar's State Report addresses this issue in vague and general terms, noting that "Myanmar women have been attending workshops on women, peace and security in ASEAN Region"⁴⁹ and listing four events that the government held on this topic in 2012 and 2013. The State Report, however, fails to provide detailed information about concrete measures that the government has taken to ensure women's equal participation in conflict prevention, management and resolution, as is required under General Recommendation 30.

Myanmar's State Report lists three institutions responsible for facilitating the national peace process, but fails adequately to indicate how these institutions are securing women's participation in the peace process. For example, Myanmar has not provided any information about the number of women in the "Enhancing of Gender Equality and Women's Empowerment Sector Working Group."⁵⁰ The Union Level Central Working Committee, created to promote internal peace and national reconciliation,⁵¹ consists of 52 members, out of which only two are women.⁵² The Government rejected a recommendation that it ensure the optimal minimum 30% participation rate recommended by the Beijing Declaration and Platform for Action.⁵³ Instead, the National Ceasefire Agreement (NCA) provides: "We shall include a reasonable number of women representatives in the political dialogue process."⁵⁴ The uncertainty over whether the NCA is binding exacerbates the lack of clarity in this provision.⁵⁵

Although some prominent women are attending peace talks and acting as technical advisors and facilitators, women's participation is severely lacking in other peace institutions as well.⁵⁶ For example, the Nationwide Ceasefire Coordination Team has only one female representative, and the Senior Delegation includes only two women.⁵⁷ Institutions such as the Union Peacemaking Central Committee and the Joint Ceasefire Monitoring Committee have no women representatives at all.⁵⁸

Recommendations

- Review and formulate legislation to modify or eliminate cultural practices and stereotypes that discriminate against women.

- Establish a Gender Ministry to oversee gender mainstreaming at the national level and promote women’s participation at all levels.
- Implement concluding observation 16 as soon as possible through review and revision of the national level mechanism, and appoint gender advisors at the national and local levels to develop gender sensitive policies and plans.
- Allocate budgetary resources to effectively implement the National Strategic Plan for Advancement of Women (NSPAW).
- Amend the National Education Law to include provisions that explicitly prohibit gender discrimination in education. Specifically, prohibit universities from establishing different entrance criteria for men and women and include gender-sensitive subjects/curriculum.
- Amend the Constitution to abolish the 25% military quota in Parliament, the military veto power, and the requirement that people in high-level positions in the executive branches of government be “well-acquainted” with military affairs.
- Institute a mandatory quota of 30% of women in the national and sub-national legislatures.
- Institute a mandatory quota of 30% of women representatives in the peace process.
- Create and implement comprehensive and gender-sensitive laws that prohibit violence against women such as the Prevention of Violence Against Women Act in such a way that truly reflects civil society organizations’ concerns.
- Provide financial assistance to women candidates so that they can independently cover the financial expenses required to run for office.
- Provide financial assistance to women’s civil society organizations and to support women representatives in the peace process.
- Keep, and make publicly available, systematic, gender disaggregated data of women’s political participation at all levels of government.

2. Article 12

2.1 Committee’s 2008 Concluding Observations and Myanmar’s 2015 State Report

In its 2008 Concluding Observations, the Committee urged Myanmar to “make every effort to increase women’s access to health-care facilities and medical assistance by trained personnel, especially in rural and remote areas.”⁵⁹ It further called on the Government “to reduce, as a matter of priority, the incidence of maternal and infant mortality, as well as deaths caused by infectious diseases, malnutrition and maternal complications.”⁶⁰ Finally, it recommended that Myanmar strengthen and expand efforts to increase knowledge of and access to affordable contraceptive methods throughout the country.⁶¹ With respect to HIV/AIDS, the Committee called on Myanmar to engage in “sustained efforts to address the impact of HIV/AIDS on women and girls.”⁶²

Myanmar’s State Report notes that Five Year Strategic Plans are in place for reproductive health and HIV/AIDS, and announces that services like “birth spacing services” are “available.”⁶³ The State Report claims that health services and education are available and that trainings are underway for healthcare providers,⁶⁴ but fails to address issues of access (such as cost, distance, and local custom) that prevent women from benefiting from these services, especially in rural areas. Furthermore, although the State Report notes that abortion rates are at 3.3% and that maternal mortality due to unsafe abortion is at 9.9%,⁶⁵ the State Report makes no

mention of efforts to legalize abortion in cases of rape or incest, or where the mother's health is at risk, as recommended by this Committee.⁶⁶ The State Report addresses HIV/AIDS education programs and treatment packages,⁶⁷ yet interviews conducted by WON indicate that the Government has failed adequately to educate women about the causes of HIV transmission and to provide services to those living with HIV/AIDS. Lastly, the State Report fails to make any mention of two groups who face particular health risks: sex workers and women in prison.

2.2 Lack of Access to Affordable, Adequate and Timely Healthcare

a. Clinics and Hospitals Are Inaccessible for Many Women

CEDAW Article 12 requires States Parties to ensure access to healthcare, especially for women's health needs. Yet when asked whether there was a health clinic in their villages, most women surveyed by WON reported that there was none.⁶⁸ Without access to a clinic or health center, many of the women waited until their health problem became serious before seeking medical care. The great majority of respondents from across Myanmar described hospitals and clinics as *"too remote for villagers to rely on;"* they were thus seen as an option of last resort.⁶⁹ This has serious consequences for maternal and infant mortality. As Ma Hla Myo Thwe from Rakhine State described: *"She had been trying to give birth to a child with the aid of a midwife for three days. On a boat, on the way to the hospital, she gave birth to a dead child."*⁷⁰

b. Medicines and Health Services Are Prohibitively Expensive

Cost is an additional factor that deters women's access to hospital treatment. Several of the women surveyed specifically described how they chose not to seek hospital care because they could not afford the high cost.⁷¹ Many women respondents reported similar stories of having to borrow money in order to send their seriously ill children to a hospital.⁷² Both cost and distance combine to prevent many women from seeking the healthcare that they may desperately need. These women view hospital visits as an option of last resort, and do not seek care until it is potentially too late for them or their children. Respondents from Kayin State, Shan State, and Myingyan and Mandalay Division mentioned that they rely on traditional or spiritual healers for health care, as they are easier and cheaper to access than hospitals.⁷³

c. Health Centers Lack Human and Material Resources

Respondents surveyed who did have access to a health center either in their own village or a neighboring village stated that the quality of care received was generally poor, because there were not enough doctors or nurses, supplies were inadequate, or the doctors were incompetent.⁷⁴ A number of women relayed stories of medical mistakes, including a respondent from Kachin State who described how hospital doctors botched the delivery of her baby, resulting in a broken bone left untreated that eventually led to the baby's death eight months later.⁷⁵

Many female respondents from Kayin, Mon, and Shan States, as well as Sagaing and Yangon Divisions also reported that healthcare staff favour those who can pay the steep hospital costs and the nurses and doctors treat poorer patients badly.⁷⁶ The doctors regularly fail to educate poor patients about diseases, treatments, and healthcare options.⁷⁷ While this data does

not prove that all doctors in Myanmar hospitals treat their patients poorly, it indicates that the quality of healthcare in many regions is sub-par, particularly for ordinary villagers, and that the Government of Myanmar is not fulfilling its Article 12 obligations to all citizens.⁷⁸

d. Health Education is Inadequate

Many of the women WON interviewed expressed dismay over the lack of education about healthcare options, which contributes to poor health in their villages generally.⁷⁹ The correlation between lack of education and poor health is particularly strong in the area of maternal and reproductive health.

i. Women are not educated on family planning services, sex education, and reproductive health options

Most women interviewed on this topic said they received little or no education on sexual or reproductive health.⁸⁰ Many women are unaware of aspects of the menstruation cycle that determine when can they get pregnant.⁸¹ In Myanmar culture, it is taboo to have open discussions about sexual and reproductive issues, so such questions go unaddressed. This lack of sexual and reproductive health awareness, including that of contraceptive methods, increases the risk of unwanted pregnancies.⁸²

Even where women have some knowledge of contraceptive methods, these methods may not be available or they may be cost prohibitive.⁸³ Without an understanding of the options or access to a doctor who could help them select an appropriate birth control method, women simply chose to forego family planning.⁸⁴ This tendency is particularly pronounced in rural areas where trained medical professionals are few and far between.

e. Healthcare for Women in Prisons

Women prisoners face atrocious, overcrowded, and “*extraordinarily unsanitary*” conditions.⁸⁵ Consequently, many prisoners develop illnesses, but prison hospitals fail to provide proper hygiene and lack necessary medication and supplies.⁸⁶ Many prisons also often lack the anti-retroviral medicine required to treat HIV, and some patients die from AIDS while incarcerated.⁸⁷ HIV-positive prisoners are separated from other prisoners in a quarantined area within the prison, contributing to discrimination against the prisoners with HIV. In spite of tremendous efforts from INGOs, access to anti-retroviral therapy (ART) for HIV-positive prisoners is still a challenge.⁸⁸ When illnesses develop, prisoners rely on family members to bring much-needed medication, but this medicine often does not reach the prisoners because authorities confiscate it.⁸⁹

Women prisoners also struggle to take care of basic women’s health needs. Prisons provide no sanitary napkins for menstruating women, and often women prisoners only possess one pair of underwear that they must attempt to keep clean and usable for the duration of their periods.⁹⁰ Prisoners’ daily water ration is meager anyway, and women prisoners are allowed no extra water with which to wash during menstruation.⁹¹ As with medicine, women prisoners end

up relying on family to bring supplies or must strike deals with each other to purchase supplies on the prison black market.⁹²

Pregnant women face difficulties when seeking medical care from the prison. Often, the prison doctor may not be available or may refuse to attend (especially in the case of a woman political prisoner), so the pregnant woman must rely on other prisoners to help her deliver.⁹³ WON also encountered reports of women prisoners being shackled and otherwise treated inhumanely while pregnant. Oak Htan from Chin State was forced “*to do hard work like clean the floors until [her] pregnan[cy] was six months. They shackled [her until] . . . minutes . . . before delivery.*”⁹⁴ They unshackled her during delivery, yet she was again shackled the moment she began breast-feeding.⁹⁵

After the child is born, prison authorities often will not provide an increased ration of water to clean newborns, or even extra cloth.⁹⁶ Prisons provide no post-natal care and women prisoners, often malnourished themselves from poor prison food, frequently have difficulty breastfeeding.⁹⁷

2.3 Reproductive Rights

a. Abortion

Abortion is generally illegal in Myanmar. If a woman is caught she may be charged with a prison term of up to seven years, and any assisting healthcare provider may be sentenced for up to three years.⁹⁸ Where the abortion causes the death of the woman, even if inadvertent, the assisting healthcare provider may be sentenced to a prison term of up to ten years plus a fine.⁹⁹ While abortion is still illegal in the cases of rape or incest, an abortion may be considered legal if it is done in good faith to save the life of the woman.¹⁰⁰

i. Persistence of Dangerous Illegal Abortions

A number of women interviewed about women’s access to health discussed abortion, indicating that abortion is a choice that some Myanmar women make in spite of the law.¹⁰¹ From the research data, the reasons for choosing abortion appear to be primarily economic: several women who had sought an abortion discussed the economic difficulties that having another child would present, stated that they simply could not afford to stop working in order to have another child, or noted that they already had very young children in their care.¹⁰² Some women told stories of being pressured to receive abortions from husbands or family members, but refusing.¹⁰³ Thus, although illegal, abortion is an option that some women seek or are encouraged to seek.

These reported abortions are not always safe, as seen by respondent’s reports of over bleeding and procedures done without injection of anesthetic.¹⁰⁴

b. Maternal Health

Across the country, a lack of knowledge and skills, as well as unsafe abortions, postpartum hemorrhaging, and complications from malaria are the primary causes of maternal mortality, especially in rural areas where maternal mortality rates are generally higher.¹⁰⁵

i. Maternal mortality is decreasing, but is still disproportionately high in comparison to neighboring countries

The maternal mortality rate in Myanmar has dropped significantly since 1990 (a sixty-five percent decrease), but numbers are still too high, especially when compared to neighboring Thailand's rates.¹⁰⁶ According to a 2013 report by the World Health Organization, United Nations Population Fund (UNFPA), and other UN agencies, Myanmar is now down to 200 deaths per 100,000 live births.¹⁰⁷ This is still nearly ten times higher than the maternal mortality rate in Thailand, however, which in 2013 had 26 deaths per 100,000 live births.¹⁰⁸

ii. Women in conflict areas have a significantly harder time obtaining maternal healthcare

Maternal mortality rates in conflict areas are much higher. In 2012, it was reported that in certain areas there was more than one death out of every hundred live births.¹⁰⁹ Along the Myanmar-Thailand border areas where conflict proliferates, maternal deaths are directly linked to “lack of access to skilled birth attendants and a lack of knowledge about emergency obstetric care among local untrained traditional birth attendants.”¹¹⁰

With regard to pre- and post-natal care, one woman reported that her family had to run away from their village because of the ongoing armed conflict in the area. She gave birth to her first child on the way to an IDP camp. Her baby later died from lack of health care.¹¹¹ Conflicts have an adverse impact on maternal and child health, especially where it is difficult for mothers to access adequate care even under non-conflict circumstances.

iii. Dependency on midwives who often are untrained

As noted above, many Myanmar women rely on untrained traditional birth attendants for their obstetric needs because hospital or clinic care is not available, too far away, or too expensive. Su from Kachin State reported that an inexperienced midwife left the placenta inside of the womb and caused the death of a mother who was unable to afford the trip to the hospital.¹¹² Another woman described how traditional birth attendance used a “bamboo stick to push the baby out the mother's womb.”¹¹³

iv. Infant Mortality

Over half of the respondents interviewed on the topic of maternal health reported cases of infant mortality.¹¹⁴ The causes of infant mortality varied—some women described ailments after birth that caused the death of the child, and a few women told stories of botched birth.¹¹⁵ In many of these cases, there was a correlation between poor healthcare and infant mortality, as

described by Mang No Liani from Chin State: “*Without a clinic or hospital in the village, Y delivered babies . . . in the forest One of her sons died at the age of five month[s]. And one . . . daughter also died at four month[s].*”¹¹⁶

c. The Population Control Healthcare Law (Birth Spacing Law)

Myanmar has recently adopted (although not yet implemented) a controversial new law called the Birth Spacing Law. This law is one of the four new Race and Religion Laws.¹¹⁷ This law requires a 36-month interval between children, and allows authorities to impose forced contraception in some cases.¹¹⁸ The Birth Spacing Law is subject to arbitrary enforcement, and there is a high risk that it will have a discriminatory effect on ethnic and religious minorities given the atmosphere of intolerance that exists in certain regions.¹¹⁹ The UNFPA has pointed out that imposing restrictions on birth spacing and family planning contravenes international women’s rights norms, which require family planning to be voluntary in all circumstances.¹²⁰ “[C]oercive, uneven application of birth control policies, and differing standards of care for different communities across the country”¹²¹ violate Myanmar women’s rights to affordable and accessible reproductive health under CEDAW Article 12.

2.4 HIV/AIDS

Myanmar has one of the highest HIV/AIDS prevalence rates in Asia.¹²² HIV infection spiked in the 1990s and has been on the decline since then as a result of NGO-led outreach efforts.¹²³ These results indicate that education and empowerment programs do work. The research data, on the other hand, demonstrates that the Government of Myanmar is still failing to provide many of its women appropriate HIV education and treatment.

a. Lack of education on how HIV spreads and prevention

Many women interviewed by WON discussed how either they, or someone they knew, had contracted HIV from their husbands. Sandi from Mon State described this situation in stark terms:

*“[My husband] worked at a fishing boat owned by Thailand. I was infected with HIV from him. . . . Now I have been HIV positive for five years. There are twenty men infected with HIV in our village Usually, we [are] infected with HIV from the men, including the single ones. All women are widows, because their husbands have died of AIDS.”*¹²⁴

As described above, women do not always have adequate access to healthcare knowledge, and thus may not be able to protect themselves and their families from HIV infection. The research data indicates that HIV education programs focus more on those who are already infected and help instruct them how to care for themselves; preventative HIV education (structured so that women can actually attend) is still lacking for many village women.¹²⁵

b. Lack of access to government services and ART

It is unclear from WON's data how many HIV-positive respondents had access to anti-retroviral therapy (ART), but the women who discussed ART indicated that it may not be consistently available or affordable. Respondents indicated that there were not enough drugs coming from the government and the available drugs were not affordable.¹²⁶ One woman discussed how she had received ART from an NGO whose services are no longer available; and another woman from Mon State said that while ART is available in her region, it is restricted to urban areas.¹²⁷

Additionally, as of 2014, funding for ART was available almost exclusively through the Global Fund to Fight AIDS, Tuberculosis, and Malaria (GFATM).¹²⁸ UNAIDS points out that a single-donor model is extremely precarious for thousands of people living with a disease that requires lifelong treatment. At present only 2% of Myanmar's GDP is allocated to public health, in spite of an increase in Government spending.¹²⁹

c. Discrimination against HIV positive women

Lack of community awareness about HIV contributes to stigmatization and discrimination against people living with HIV/AIDS. Reported reactions to HIV-positive individuals also illustrate a clear lack of knowledge about HIV transmission. One woman reported that neighbors hurriedly washed the cup she drank out of as soon as she left their house; another reported that villagers burnt all the clothes of a couple who died from AIDS; yet another reported that villagers quarantined an HIV-positive woman "*outside the village*" and "*burned down everything related to her as soon as she passed away.*"¹³⁰ At its most extreme, discrimination and misunderstanding surrounding HIV resulted in one HIV-positive woman's forced sterilization after giving birth.¹³¹

Recommendations

- Review and revise legislation criminalizing abortion to reduce unnecessary death and health risks to women as a result of unsafe abortion.
- Repeal the discriminatory Population Control and Healthcare Law to allow Myanmar women more agency in marriage and family decisions.
- Allocate sufficient budgetary resources to allow for the construction of clinics and hospitals in rural areas, provide trained staff, and ensure that healthcare is affordable for poor women. Begin and/or expand healthcare education programs on topics such as HIV/AIDS, family planning, and maternal health.
- Establish health and sex education programs in schools.
- Take steps to address the cultural stigma surrounding sexual and reproductive health, as well as sexually transmitted infections.
- Take steps to address gender stereotypes that relegate women to the home and encourage unwanted pregnancies.
- Prohibit the forced or coerced sterilization of HIV-positive women.
- Provide appropriate and accessible women's health care for women in prison.

- Include women (including minority women) in the drafting process for any nationwide measures addressing women’s health.

3. Article 14

3.1 Committee’s 2008 Concluding Observations and Myanmar’s 2015 State Report

The CEDAW Committee’s 2008 Concluding Observations highlighted several ways in which Myanmar’s implementation of Article 14 fell short of its obligations. Specifically, the Observations highlighted rural women’s increased levels of poverty and illiteracy; difficulty in securing access to health care, education and social services; and “lack of participation in decision-making processes at the community level.”¹³² The Observations also reflected the Committee’s concern about traditional gender stereotypes that relegated women to “tasks related to farming and raising children and . . . no opportunity for wage employment.”¹³³ To address these concerns, the Committee asked the Myanmar government to “take the necessary measures to increase and strengthen the participation of women in designing and implementing local development plans and [to] . . . ensure that [rural women] participate in decision-making processes and have improved access to . . . health care, education and social services.”¹³⁴

Myanmar’s 2015 State Report cites the implementation of Community Driven Development Projects (“CDD”),¹³⁵ which were established in order to give rural communities more input into local development.¹³⁶ While this initiative and others described in the report are a step in the right direction, the limited progress made by Myanmar falls far short of what is required to address the specific challenges facing rural women. Much of the data in the State Report cannot be verified. Further, the report fails entirely to address the recurring problem of land grabbing.

3.2 Poverty and Other Economic Barriers

For many of the women interviewed by WON, poverty is an ever-looming threat that slowly consumes the family. Even when everyone in the family is working to make ends meet, there often isn’t enough money to provide appropriate food, healthcare, and housing. Of the women interviewed, there was continuous mention of school fees as the first expense to be cut.¹³⁷ Moreover, the government has failed to provide adequate support for families suffering from extreme poverty. Women interviewed by WON identified affordable electricity, clean water, clinics, ART pills, and education on best farming practices as unfulfilled needs they wished the government, or anyone, would be able to provide.¹³⁸

a. Lack of Access to Employment Opportunities and Debt

In rural areas, women face a dearth of employment opportunities. Rural women and their families will farm and eke out a living as best they can. Without other sources of income, many families turn to borrowing money to make ends meet.

Many women go into debt as a consequence of poverty. Almost every woman who spoke about the inevitable need to take on debt (through a loan), also mentioned the problem of high accruing interest.¹³⁹ High interest rates perpetuate a cycle of poverty. The women and families who take out loans fight an uphill battle to free themselves from their dire economic need.

b. Migration & Unemployment

Partly because of the lack of opportunities in their hometowns and cities, many people, particularly men, have begun leaving Myanmar for work abroad.¹⁴⁰ Because of the exodus, many of the women interviewed were the main or only breadwinners in their families.¹⁴¹ Many women took odd jobs to survive.¹⁴² Some women even turned to sex work.¹⁴³

c. Abuses Against Sex Workers and Trafficking in Persons

Due to the clandestine and stigmatized nature of sex work in Myanmar, it is difficult to determine accurately the number of active sex workers in the country. Government estimates place the count at between 40,000 and 80,000,¹⁴⁴ the majority of whom are women.¹⁴⁵ Many individuals enter the sex trade driven by poverty; in a country where 43% of the population lives on less than \$2 a day, the up-to-\$30 a day that sex workers can potentially earn seems like a kingly sum.¹⁴⁶ Low education levels, lack of opportunities for education, unemployment, migration, and drug use also drive individuals into the sex trade.¹⁴⁷

In spite of its illegality, sex work is an active industry in Myanmar that can be perilous for those involved in it. Some women and girls have been sold into sex work, becoming victims of international or domestic sex trafficking.¹⁴⁸ A woman from Kachin State recalled:

“A group of people who knew about [my husband’s and my economic] difficulties usually commuted . . . between Myanmar and China. As they [said] that they would search for a job for [my] eldest daughter, in China, [I] placed . . . reliance on them and sent her. After they called her to China, she was sold. She has not come home since then.”¹⁴⁹

i. Criminalization of Sex Work and Harassment of Sex Workers

The Suppression of Prostitution Act of 1949 states that soliciting prostitution is illegal, as is operating a brothel and enticing women into prostitution.¹⁵⁰ A 1998 amendment to the Act increased the range of potential sentences to up to five years imprisonment.¹⁵¹ The Suppression of Prostitution Act has received criticism for making sex workers more vulnerable to police harassment, as well as limiting sex workers’ access to appropriate healthcare.¹⁵² A sex worker who has been sexually assaulted has limited recourse to either police protection (including prosecution of the offender) or medical care, as coming forward as a sex worker could mean automatic imprisonment under the Act.¹⁵³

Sometimes the police demand money or force sex workers to have sex with them in order to avoid arrest.¹⁵⁴ As Khine Khine, a sex worker from Mandalay Division, reported,

*“During my life as a sex worker, for six years, I was forced to sleep with local policemen. Police abused their power, including [by using] threats and blackmail every time they wanted to sleep with me. I sometimes was forced to sleep with three policemen. I did so because I was afraid of police detention.”*¹⁵⁵

Some women have been sent to prison for engaging in sex work, where they may face hard labor, lack of medical care, poor prison conditions, and discrimination on account of being a sex worker.¹⁵⁶ Opposition lawmakers in Myanmar have pushed to amend the Act and decriminalize sex work, but Parliament has rejected all reform efforts.¹⁵⁷

ii. Condom use

Although falling HIV transmission rates among sex workers are encouraging, certain cultural and legal barriers prevent many female sex workers from adequately protecting themselves against sexually transmitted diseases, as well as unplanned pregnancies. Sex workers in Myanmar are familiar with condoms and know how to use them, but fail to use them consistently. Sex workers can obtain free condoms through “drop-in centres and through outreach programmes,” although survey percentages of actual condom use are “too high to be realistic.”¹⁵⁸

Many sex workers are reluctant to carry condoms because the police have been known to use the possession of condoms as circumstantial evidence of prostitution, and make arrests accordingly.¹⁵⁹ In 2011, Order 1048 issued from the Ministry of Home Affairs outlawed this practice of using condom possession as grounds for arrest, but most Myanmar people are unaware of this, and police continue the practice anyway.¹⁶⁰ Sex workers, and even members of the general public, continue to avoid carrying large amounts of condoms for fear of unwanted police attention.¹⁶¹ Even establishments that cater to sex work often do not keep condoms on the premises to avoid police suspicion.¹⁶² Consequently, sex workers remain at high risk for HIV and other STI infection.

3.3 Drug Use & Cultivation

a. Drug Use

Unlike alcohol abuse, which WON’s data suggests is primarily prevalent among men, the world of illegal drugs affects both genders. Nang Ngwe Ngwe, from Shan State, described the consequences of drug abuse in her village:

*Drug abuse is very common among young people in our village. It triggers a series of social problems such as theft, robbery and HIV infection. In some cases, the whole family is infected by an addicted father. In one family of four members, both of the parents were addicts and the husband sold his wife to a Chinese [man] for only 40,000 yuen. Just [eight] months after doing so, he again sold his son and daughter as slaves at a rich man’s house [. . .].*¹⁶³

Many farmers prefer growing poppy because it is more lucrative than rice or vegetables.¹⁶⁴ Poppy can also grow in less nutritious soil, making it a less demanding and costly crop to grow. In rough financial times, the lure to switch to poppy farming is almost insurmountable. While many women relayed that they began growing poppy to support their family, the drug has ensnared some families in a cycle of abuse.¹⁶⁵

b. Alcohol Use

Alcohol abuse has also become an increasingly strong presence in Myanmar. The women interviewed by WON paint a picture of men, all too often husbands and fathers, whose excessive drinking has dire consequences for their families. Of those women interviewed by WON who reported that their husbands drank alcohol, half were victims of domestic violence while their husbands were intoxicated.¹⁶⁶ Many women also brought up the economic peril they face as a consequence of their husband's demand for alcohol.¹⁶⁷ For many of these men, paying for alcohol takes priority over paying their children's school fees, sometimes causing their children to drop out of school.¹⁶⁸

3.4 Development Projects and Land Grabbing

In recent years, an increasing number of development projects have been initiated in Myanmar. Foreign companies, predominantly Chinese-owned, have invested in Myanmar's mining and water-power industries.¹⁶⁹ The women that WON interviewed expressed growing concerns that these new investments are linked to human rights violations such as illegitimate land appropriation. Some villagers were said to have been forced to move because of a mining project.¹⁷⁰ Similarly, interviews suggest that the military is involved in the appropriation of farms for development projects.¹⁷¹ In most cases, we have no detailed information on whether or not the villagers who lost their land received any compensation. In one case, a villager received compensation but felt that it was grossly inadequate.¹⁷²

Some development projects have had negative consequences for women and their families. For example, Sai Hein, from Shan State, noted:

“[The] Chinese were mining in [a local] village. . . . They gave incentives and commitment to build school and contribute donation. But these commitments are written in water. There is a lake named Japan that is being used by the whole village. The Chinese pumped water from the lake. There is no more water to be consumed by villagers.”¹⁷³

Sai Hein's story suggests that companies do not always follow through on commitments they have made to improve local infrastructure. Aye Htet, from Ma Gway Division, worried that a dam project in her region might have a similar effect. She explained, *“We have been depending on Ayeyarwaddy River for regular water supply for our farms for ages. . . . We will surely lose everything from it as soon as the [] dam project is implemented.”¹⁷⁴*

a. Lack of Inclusion in Development Planning

Some of the women interviewed by WON expressed dismay that local communities often have little or no say in the development projects affecting their lives. Affected villagers have found that feasibility plans are not shared with them, and they do not receive answers to their questions.¹⁷⁵

b. Displacement as a Result of Land Grabbing

The women interviewed by WON also mentioned land grabbing as one of the largest issues associated with development projects. The military government has confiscated or occupied the lands and farms of people—in many cases, with little or no compensation.¹⁷⁶ Private companies are also reported to take land from people with little or no compensation.¹⁷⁷ People whose land has been seized face displacement, insecurity, and economic hardship.¹⁷⁸

May Khin, from Mandalay Division, described how a local court and land authorities failed to protect her rights when a local cooperative seized her land. She explained:

“No sooner than I harrow my land, about fifty people led by . . . an employee from co-operative destroyed the harrowed land and later they fenced my land and raised the co-operative flag on my land. The police asked me to apply my case directly to a court of law. The court arranged hearings only on holidays. I thought the court neglect[ed] my case . . . The authorities neglected our complaint by saying ‘this is nothing to do with us, we have no idea.’ . . . Even though we submit[ted] complaint letters several times to the authorities who are responsible for land disputes, our case is still neglected.”¹⁷⁹

This experience illustrates some of the challenges that women face in accessing justice when the government or private actors take away their lands. Women from rural areas whose land is appropriated have to struggle for their livelihood and to support their family.

3.5 Education

In its 2015 State Report, the Government of Myanmar stated that, beginning in the academic year 2013-2014, free compulsory education at the primary level included free textbooks, free exercise books and 1000 kyats per student.¹⁸⁰ Nevertheless, many women interviewed by WON reported that they were unable to send their children to school or had to take their children out of school because they could not afford the cost of their children’s education.¹⁸¹

Some women were unable to send their children to school because of the distance and lack of available transport to school.¹⁸² Some villages do not have their own primary, middle, or high school.¹⁸³ A number of women reported that at least one of these levels of education was lacking in their village and that their children had to travel to another village to further their studies.¹⁸⁴ Even where there are schools in the village, the teachers, buildings, and school materials are not adequate.¹⁸⁵

For example, the lack of adequate school facilities is a major barrier to accessing education for the Chin.¹⁸⁶ In fact, in many rural areas, one school is shared by up to four to five villages. The lack of schools has prompted internal migration, with families choosing to move closer to towns, or sending their children to live with relatives. Understaffing is also a major impediment as communities face the financial burden of paying for supplementary teachers' salaries.¹⁸⁷

In its State Report, Myanmar stated that beginning in the academic year 2013-2014, free compulsory education at the primary level included free textbooks, free exercise books and 1000 kyats per student.¹⁸⁸ However, NGOs reported that schools were charging unofficial fees for educational materials, uniforms, school facilities, and administrative costs.¹⁸⁹ Many of the women interviewed by WON similarly observed that schools charge tuition fees for unofficial extra classes or for school supplies.¹⁹⁰ Such fees perpetuate unequal access to education for girls because they may cause families to prioritize educating their sons over their daughters, leading girls to drop out of school when their families cannot afford the fees.¹⁹¹

3.6 Access to Justice

The justice system in Myanmar is not responsive to women's needs. For women, pursuing access to justice is a difficult proposition—especially in rural areas and for ethnic women who can't speak the Myanmar language.¹⁹²

a. Courts

Rural women face many challenges in bringing a case to court. One of the most serious is a lack of access. Further, many women feel that criminal punishments are not always serious enough, which may deter them from seeking justice through the courts.¹⁹³

b. Lack of Responsiveness by the Police

Multiple interviewees also expressed frustration because they lacked legal education and could not bring charges against attackers. Further, when women did bring charges, police did not always follow through during investigations. For example, Phyu Nyu from Sagaing Division, stated that her husband had attacked her with a knife, injuring her left hand and leaving it permanently disfigured.¹⁹⁴ She explained that “[t]he police did not take any action for my case; . . . it's been 6 months that I opened the case. Nothing happened and nobody is responsive . . . [The police] don't arrest [my husband] even though I informed them exactly where [he] was.”¹⁹⁵

c. Traditional/informal justice mechanisms

In addition to non-responsive police forces, women face other obstacles in accessing justice. A number of interviewees expressed concern that local customs subvert the criminal justice process.¹⁹⁶ This was especially prevalent in cases of sexual assault in rural areas. In one interview, a woman stated that, “[The assailants'] parents came to my home in order to make apology and compensation for [the assault] by offering a big pig, 7000 tons weight according to the Chin customs. The parents in both sides have reached to an agreement and settlement by

accepting apology and big pig as a part of compensation. I myself have got nothing.”¹⁹⁷ Many sexual assault victims echoed this sentiment. They felt that their voices were silenced by not being able to provide input into the assailant’s punishment.

Women in Myanmar continue to believe their rights are not protected by the justice system. Indeed, the many anecdotes WON found of faulty police work, lenient punishment, and a lack of legal support mechanisms lend credence to this belief.

Recommendations

- Conduct and produce results of gender impact assessments for all proposed rural development initiatives.
- Provide a functioning and responsive complaint mechanism for individuals affected by development projects and land grabbing.
- Take action to stop the drug trade and more thoroughly regulate the licensing of alcohol businesses to ensure that the Government’s military and armed groups are not associated with the drug trade.
- Provide data disaggregated by gender on school dropout rates.
- Ensure that children have meaningful access to free, compulsory primary education, by ensuring that primary schools do not charge fees for extra classes or materials.
- Allocate more of the national budget to education to realize the National Education Law’s goal of providing free compulsory education at the secondary school level.
- Enhance access to healthcare in rural areas.
- Decriminalize sex work and eliminate barriers for sex workers attempting to access healthcare.
- Enforce and publicize the order that removes possession of condoms as a ground for arrest.
- Provide shelter for victims of domestic violence and their families.
- Enhance women’s access to justice by providing training on gender-based violence to all justice system actors, including police, prosecutors and judges.
- Adopt and enforce legislation that effectively prevents and responds to violence against women.

C. Conclusion

The recommendations outlined above are based directly on the experiences and needs of Myanmar’s women, as revealed through WON’s data collection. WON accordingly asks that the Committee take its data and recommendations into account when formulating its concluding observations.

-
- ¹ PAUL MINOLETTI, *WOMEN'S PARTICIPATION IN THE SUBNATIONAL GOVERNANCE OF MYANMAR* 1, 8–9 (June 2014).
- ² Kim N.B. Ninh, *Myanmar Elections Usher in Unprecedented Number of Women Parliamentarians*, ASIA FOUND. (March 2, 2016), <http://asiafoundation.org/in-asia/2016/03/02/myanmar-elections-usher-in-unprecedented-number-of-women-parliamentarians/>.
- ³ Minoletti, *supra* note 1., at 1, 10.
- ⁴ Voices of Myanmar Research Report, at 9.
- ⁵ Committee on the Elimination of Discrimination Against Women, 2008 Concluding Observations on the Committee on the Elimination of Discrimination Against Women: Myanmar, ¶ 29 (Nov. 2008) [hereinafter CEDAW 2008 Concluding Observations].
- ⁶ *Id.*
- ⁷ *Id.*
- ⁸ Committee on the Elimination of Discrimination Against Women, Combined Fourth and Fifth Periodic Reports of States Due in 2014: Myanmar, ¶ 81 (Feb. 2015) [hereinafter Myanmar 2015 State Report].
- ⁹ *Id.*
- ¹⁰ *Id.*
- ¹¹ CEDAW 2008 Concluding Observations, *supra* note [redacted], ¶ 20.
- ¹² *Id.* at ¶ 21.
- ¹³ Voices of Myanmar Research Report, at 10–11.
- ¹⁴ ALLIANCE FOR GENDER INCLUSION IN THE PEACE PROCESS, *WOMEN, PEACE, AND SECURITY POLICYMAKING IN MYANMAR: CONTEXT ANALYSIS AND RECOMMENDATIONS* 11 (Dec. 2015) [hereinafter AGIPP RECOMMENDATIONS], <https://www.inclusivesecurity.org/wp-content/uploads/2016/04/AGIPP-Policy-brief-1-Eng.pdf>; GENDER EQUALITY NETWORK, *RESEARCH SUMMARY: RAISING THE CURTAIN—CULTURAL NORMS, SOCIAL PRACTICES, AND GENDER EQUALITY IN MYANMAR* 11 (Nov. 2015) [hereinafter RAISING THE CURTAIN], <http://raisethecurtain.org/wp-content/uploads/2016/02/GEN-summary-english.pdf>. WON's research confirms this: Respondents from Mandalay Division, Mon State, Shan State, Sagaing Division, and Thanintharyee Division have stated that the commonly held view is that women's place is at home.
- ¹⁵ Voices of Myanmar Research Report, at 9.
- ¹⁶ *Id.* at 28; RAISING THE CURTAIN, *supra* note [redacted], at 10–11. For example, the Buddhist belief known as “hpone” or “hpon” gives higher authority and status to men, who are seen as more capable of attaining spiritual enlightenment than women are, and is used to justify opposition to women's leadership. MINOLETTI, *supra* note [redacted], at 28; RAISING THE CURTAIN, *supra* note [redacted], at 10–11.
- ¹⁷ U.N. DEV. PROGRAMME, *WOMEN AND LOCAL LEADERSHIP: LEADERSHIP JOURNEYS OF MYANMAR'S FEMALE VILLAGE TRACT/WARD ADMINISTRATORS* 9 (Nov. 2015) [hereinafter UNDP WOMEN], http://www.mm.undp.org/content/dam/myanmar/docs/Publications/PovRedu/UNDP_Women_and_Local_Leadership.pdf; MINOLETTI, *supra* note [redacted], at 26.
- ¹⁸ MINOLETTI, *supra* note [redacted], at 26.
- ¹⁹ AGIPP Recommendations, *supra* note [redacted], at 11.
- ²⁰ *Id.*
- ²¹ CEDAW Committee, *Concept Note on the Draft General Recommendation on Girls'/Women's Right to Education*, ¶¶ 4.5, <http://www.ohchr.org/Documents/HRBodies/CEDAW/WomensRightEducation/ConceptNote.docx>.
- ²² For example, female respondents from Chin State noted, “Village women do not dare to participate in village-governing affairs because they lack self-confidence as their education level is very low.” Voices of Myanmar Research Report, at 12.
- ²³ Myanmar 2015 State Report, *supra* note [redacted], ¶ 93; Institute for Human Rights and Business, Submission to the United Nations Human Rights Council Universal Periodic Review Session 23: Myanmar, 5 (Mar. 2015), <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMMStakeholdersInfoS23.aspx>.
- ²⁴ CEDAW Art. 10.
- ²⁵ Voices of Myanmar Research Report, at 8; MINOLETTI, *supra* note [redacted] at 28.
- ²⁶ *Id.*; UNDP WOMEN, *supra* note [redacted], at 1.
- ²⁷ Voices of Myanmar Research Report, at 8

²⁸ *Id.*
²⁹ Voices of Myanmar Research Report, at 8.
³⁰ *Id.* at 8.
³¹ *Voices of Myanmar Research Report*, *supra* note [redacted], at 8.
³² *Id.*.
³³ *Id.*
³⁴ *Id.*
³⁵ *Id.*
³⁶ *Id.* at 12.
³⁷ *Id.*
³⁸ *Id.*
³⁹ *Id.* .
⁴⁰ Constitution of the Republic of the Union of Myanmar (2008), art. 6(e), 38(a).
⁴¹ *Id.* at art. 352.
⁴² PROMISES NOT PROGRESS, *supra* note [redacted], at 55.
⁴³ *Id.*
⁴⁴ Constitution of the Republic of the Union of Myanmar (2008), art. 60(a)(b).
⁴⁵ *See id.*
⁴⁶ General Recommendation No. 23, *supra* note [redacted], ¶ 15.
⁴⁷ CEDAW 2008 Concluding Observations, *supra* note [redacted], ¶ 29.
⁴⁸ NSPAW, *supra* note [redacted], ¶¶ 13(c)(4, 6).
⁴⁹ Myanmar 2015 State Report, *supra* note [redacted], ¶ 54.
⁵⁰ Myanmar 2015 State Report, *supra* note [redacted], ¶ 31.
⁵¹ *Id.* at ¶ 53.
⁵² *Id.*
⁵³ Beijing Declaration and Platform for Action, Fourth World Conference on Women, 4-15 Sept. 2015, ¶ 182, <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>; AGIPP RECOMMENDATIONS, *supra* note [redacted], at 14.
⁵⁴ *Id.*
⁵⁵ *Id.*
⁵⁶ *Id.* at 12–13.
⁵⁷ *Id.* at 15.
⁵⁸ *Id.*
⁵⁹ CEDAW 2008 Concluding Observations, *supra* note [redacted], ¶ 39.
⁶⁰ *Id.*
⁶¹ *Id.*
⁶² CEDAW 2008 Concluding Observations, *supra* note [redacted], ¶ 41.
⁶³ Myanmar 2015 State Report, *supra* note [redacted], ¶ 117.
⁶⁴ *Id.* ¶¶ 117–18.
⁶⁵ *Id.* ¶ 120.
⁶⁶ “. . . legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion.” General Recommendation No. 24, *supra* note [redacted], ¶ 31(c). *See also* Views of the Committee on the Elimination of Discrimination against Women under article 7, paragraph 3 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Communication No. 22/2009, *L.C. v. Peru* (2009), [http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/CEDAW-C-50-D-22-2009%20English%20\(clean%20copy\).pdf](http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/CEDAW-C-50-D-22-2009%20English%20(clean%20copy).pdf) (deciding that “the failure of the State party to protect women’s reproductive rights and establish legislation to recognize abortion on the grounds of sexual abuse and rape” was a violation of CEDAW Article 12).
⁶⁷ Myanmar 2015 State Report, *supra* note [redacted], ¶¶ 124–28.
⁶⁸ Voices of Myanmar Research Report, at 13.
⁶⁹ *Id.*
⁷⁰ *Id.*
⁷¹ *Id.* at 13–14.

⁷² *Id.* at 14

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.* at 15.

⁷⁷ *Id.*

⁷⁸ On the other hand, two women related positive stories about their hospital experiences: “[My baby] was born in X hospital The hospital gave us free medical treatment. The employees from [the] hospital are friendly and helpful. Sanitation service at [the] hospital is free. We have clean water and [a] bath tank at [the] hospital. Physicians and nurses are always on duty at [the] hospital.” *Id.* at 15, fn. 66.. In WON’s data, stories of poor care and poor treatment outnumber positive stories, but the presence of positive experiences indicates that it is possible for the Government of Myanmar to provide adequate healthcare for women. *Id.*

⁷⁹ *Id.* at 15.

⁸⁰ *Id.* at 18.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.* at 18–19.

⁸⁴ *Id.*

⁸⁵ See ASSISTANCE ASS’N FOR POLITICAL PRISONERS (BURMA), THE DARKNESS WE SEE: TORTURE IN BURMA’S INTERROGATION CENTERS AND PRISONS 56–57 (2005) [hereinafter THE DARKNESS WE SEE]. See also Aung Hla Tun, *Insight: Brutal prisons complicate Myanmar’s reforms*, REUTERS (Nov. 8, 2011), <http://www.reuters.com/article/us-myanmar-prisoners-idUSTRE7A70GG20111108> and Oliver Holmes, *Malnourished British prisoner suffering ‘awful’ conditions in Myanmar jail*, THE GUARDIAN (Oct. 8, 2015), <http://www.theguardian.com/world/2015/oct/08/malnourished-british-prisoner-suffering-awful-conditions-in-myanmar-jail> (confirming that a decade after THE DARKNESS WE SEE, squalid prison conditions and lack of prison healthcare remain). See also HUMAN RIGHTS WATCH, BURMA’S FORGOTTEN PRISONERS 8 (2009) (describing harsh prison conditions where “food and medical treatment are often poor or nonexistent, and in many cases prisoners have to pay for it themselves”).

⁸⁶ THE DARKNESS WE SEE, *supra* note [___], at 81. See Tun, *supra* note [___] (describing prison medical aid as “rare”). An HIV-positive sex worker interviewed by WON for this report stated: “We got only paracetamol tablets for any disease in prison. For serious cases, patient[s] were allowed to see the doctor in [the] prison clinic.” Case No. 173.

⁸⁷ THE DARKNESS WE SEE, *supra* note [___], at 71–72. Case No. 173 (“HIV infected prisoners are separated from other prisoners in a quarantined area in prison. We felt sad because other prisoners had a low impression upon us. I got ART only when I was moved to Ohh Bo prison.”)

⁸⁸ Médecins Sans Frontiers (MSF) reported that even though its efforts had increased access to treatment in prison, it struggled to supply essential drugs to “countryside regional prisons.” MSF’s prison HIV program ended in 2013, and it was concerned that access to treatment would decline after it departed. Even when MSF was active in the prisons, it reported that of the 462 registered HIV-positive prisoners in Insein Prison, only 264 were able to receive ART. That is only slightly more than half. See TB/HIV in Prisons in Myanmar, Médecins Sans Frontiers & Dr. Thant Zaw Win, Deputy Director of the Prisons Department, Ministry of Home Affairs (Aug. 23, 2013), https://issuu.com/msfuk/docs/2._tb-hiv_in_prison_in_myanmar. One WON interview respondent confirms the effects of this project, stating: “Two years later, I was transferred to Insein Jail. I got clean water there but no medicine. I had encountered discrimination [against] HIV patients there. After Doctors Without Borders had visited the jail, I got regular ART supply and clean toilets and meat.” Case No. 172.

⁸⁹ THE DARKNESS WE SEE, *supra* note [___], at 76. See HUMAN RIGHTS WATCH, *supra* note [___], at 8.

⁹⁰ THE DARKNESS WE SEE, *supra* note [___], at 69; Joint Report, Burmese Women’s Union & Assistance Ass’n for Political Prisoners (Burma), Women Political Prisoners in Burma, at 8 (2004) [hereinafter Joint Report], <http://aappb.org/wp-content/uploads/2014/03/Women-Political-Prisoners-in-Burma.pdf>.

⁹¹ THE DARKNESS WE SEE, *supra* note [___], at 69.

⁹² Joint Report, *supra* note [___], at 8–9.

⁹³ *Id.* at 9. Daw Khin San Nwe, a political prisoner, describes the experience of delivering her baby in Insein Prison:

“I was not sent to the hospital, and I did not demand that. In fact, I did not know I had the right to demand to be taken to the hospital. Mi Lone [a fellow prisoner] pushed my belly extremely hard to give birth, which is why I am barren. If I had given birth in any hospital outside of the prison, I would not have gotten this disease. I had to give birth to my baby with many difficulties.”

Id. at app. 8.

⁹⁴ *Id.* at 22.

⁹⁵ *Id.*.

⁹⁶ *See, e.g., id.* at app. 19.

⁹⁷ *Id.* at 9; THE DARKNESS WE SEE, *supra* note [redacted], at 83.

⁹⁸ Myanmar Penal Code, sec. 312; Mae Sot, *Burmese Family Planning Left Behind*, IRIN News (Jan. 7, 2014), <http://www.irinnews.org/report/99431/burmese-family-planning-left-behind>.

⁹⁹ Myanmar Penal Code, sec. 314.

¹⁰⁰ *Abortion Laws Myanmar*, WOMEN ON WAVES, <https://www.womenonwaves.org/en/page/4884/abortion-law-myanmar> (last visited Mar. 9, 2016). *See* Myanmar Penal Code, sec. 312.

¹⁰¹ Voices of Myanmar Research Report, at 19.

¹⁰² *Id.*

¹⁰³ *Id.* at 20.

¹⁰⁴ *Id.* at 19–20.

¹⁰⁵ General Recommendation No. 24, *supra* note [redacted], ¶¶ 5–6, 25–26; *see also Maternal Mortality Remains High*, IRIN NEWS (Jan. 20, 2009), <http://www.irinnews.org/report/82465/myanmar-maternal-mortality-remains-high> (blaming “eclampsia and obstructed labor,” as well as “lack of manpower, training, facilities and equipment, low awareness at the community level about possible risk factors” in addition to post-partum hemorrhaging, unsafe abortions, and infection as causes of maternal mortality). The United Nations Population Fund estimates that eighty-seven percent of maternal deaths occur in rural areas. *Maternal Mortality Remains a Threat to Myanmar Mums*, U.N. REGIONAL INFO. CTR. (Jan. 8, 2014), <http://www.unric.org/en/latest-un-buzz/28957-maternal-mortality-remains-a-threat-to-myanmar-mums>.

¹⁰⁶ WORLD HEALTH ORGANIZATION ET AL., TRENDS IN MATERNAL MORTALITY: 1990 TO 2013; ESTIMATES BY WHO, UNICEF, UNFPA, THE WORLD BANK AND THE UNITED NATIONS POPULATION DIVISION 40, 42 (2014), http://www.unfpa.org/sites/default/files/pub-pdf/9789241507226_eng.pdf.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ Hanna Ingber, *Myanmar’s Women Desperate for Healthcare After Decades of Government Neglect*, GLOBAL POST (June 22, 2012), <http://www.globalpost.com/dispatch/news/regions/asia-pacific/120621/myanmar-women-health-care-disaster?page=0,0>.

¹¹⁰ IBIS REPRODUCTIVE HEALTH, *supra* note [redacted], at 5.

¹¹¹ Voices of Myanmar Research Report, at 18.

¹¹² *Id.* at 16–17.

¹¹³ *Id.* at 17. Note also that home births may mean that the baby does not acquire a birth certificate. Two women reported this as a concern.

¹¹⁴ *Id.* at 16.

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 17.

¹¹⁷ *See Burma: Reject Discriminatory Population Bill—‘Race and Religion Laws’ Could Herald New Repression, Violence*, HUM. RTS. WATCH (May 16, 2015), <https://www.hrw.org/news/2015/05/16/burma-reject-discriminatory-population-bill>.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *See UNFPA Statement on the Population Control Healthcare Law in Myanmar*, U.N. POPULATION FUND (June 9, 2015), <http://www.unfpa.org/press/unfpa-statement-population-control-healthcare-law-myanmar>.

¹²¹ U.S. Dep’t of State, Statement by Jeff Rathke, Director, Office of Press Relations, Concerns about Burma’s Health Care for Population Control Bill (May 19, 2015), <http://translations.state.gov/st/english/texttrans/2015/05/20150519315754.html#axzz3bDR2Vn2B>.

¹²² See Lin Aung Swe & Abdul Rashid, *HIV Prevalence Among the Female Sex Workers in Major Cities in Myanmar and the Risk Behaviors Associated With It*, 5 HIV-AIDS-RESEARCH AND PALLIATIVE CARE 223 (2013); MYANMAR NATIONAL STRATEGIC PLAN ON HIV AND AIDS, 2011-2015 i, 6, <http://www.jhsph.edu/research/centers-and-institutes/center-for-public-health-and-human-rights/pdf/NSP%20Full%20Book%20Final.pdf> [hereinafter Myanmar NSP].

¹²³ *Id.* at 3.

¹²⁴ Voices of Myanmar Research Report, at 20.

¹²⁵ *Id.*

¹²⁶ *Id.* at 21.

¹²⁷ *Id.*

¹²⁸ *Global AIDS Response Progress Report—Myanmar*, UNAIDS 32 (Mar. 31, 2014), http://www.unaids.org/sites/default/files/country/documents/MMR_narrative_report_2014.pdf.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² CEDAW 2008 Concluding Observations, *supra* note [redacted], ¶ 44.

¹³³ *Id.*

¹³⁴ *Id.* at ¶ 45.

¹³⁵ Myanmar 2015 State Report, *supra* note [redacted], ¶ 138.

¹³⁶ *Id.* at ¶ 140.

¹³⁷ *Id.* at 36.

¹³⁸ *Id.* at 36–37.

¹³⁹ *Id.* at 36.

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 28.

¹⁴² *Id.* at 29.

¹⁴³ *Id.*

¹⁴⁴ Myanmar NSP, *supra* note [redacted], at 6.

¹⁴⁵ While male and transgender sex workers do exist in Myanmar, stigmatization surrounding sexual minorities makes it even more difficult to obtain an accurate count of their numbers. *See id.* at 34–38. The information here addresses primarily female sex workers unless otherwise indicated..

¹⁴⁶ *See* Htet Khaung Lin, *Poverty Drives Myanmar Girls into Underage Sex Work*, REUTERS (Aug. 16, 2015), <http://www.reuters.com/article/2015/08/17/us-myanmar-girls-sex-workers-idUSKCN0QM07K20150817>.

¹⁴⁷ Lin Aung Swe & Abdul Rashid, *HIV prevalence among the female sex workers in major cities in Myanmar and the risk behaviors associated with it*, 5 HIV-AIDS: RESEARCH AND PALLIATIVE CARE 224 (2013).

¹⁴⁸ Voices of Myanmar Research Report, at 37.

¹⁴⁹ *Id.*

¹⁵⁰ *Current Legal Framework: Prostitution in Myanmar (Burma)*, IMPOWR.ORG, INT’L MODELS PROJECT ON WOMEN’S RTS. (Feb. 7, 2015) [hereinafter Impowr], <http://www.impowr.org/content/current-legal-framework-prostitution-myanmar-burma>.

¹⁵¹ The State Peace and Development Council, *The Law Amending the Suppression of Prostitution Act, 1949*, Apr. 6, 1998 [hereinafter 1998 Amendment]. *See also* Impowr, *supra* note [redacted].

¹⁵² *See* Htet Khaung Lin, *supra* note [redacted].

¹⁵³ *See* Gender Equality Network, *The Case for Anti-Violence Against Women Laws, Briefing Paper 11* (Jan. 2013) [hereinafter GEN Briefing Paper], http://www.burmalibrary.org/docs20/Myanmar_Law+CEDAW-en-red.pdf.

¹⁵⁴ Voices of Myanmar Research Report, at 38.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ Htet Khaung Lin, *supra* note [redacted].

¹⁵⁸ Myanmar NSP, *supra* note [redacted], at 20. The UNAIDS report is vague on this point, but it would seem that NGOs provide these condoms, not State-sponsored institutions. The report also notes that most funding for HIV intervention programming comes from the U.N., bilateral partners, or NGOs. *Id.* at 34. The NSP (a product of the

State) cited in note [] contains no mention of condoms in its recommendations for addressing the HIV epidemic, although the priorities outlined in the NSP are used to dictate how donor funding for HIV programming will be allocated. *Id.* A 2008 State-sponsored public health survey reported that 95.9% of FSW use condoms; UNAIDS dismisses this number as inaccurate and resulting from desirability bias. *Id.* at 20.

¹⁵⁹ See Phyo Wai Kyaw, *Sex Workers Struggle in Mandalay*, MYANMAR TIMES (Aug. 11, 2013), <http://www.mmtimes.com/index.php/in-depth/7815-sex-workers-struggle-in-mandalay.html>; *Push to Decriminalize Sex Work, but Stigma Remains*, IRIN NEWS (Jan. 14, 2014), <http://www.irinnews.org/report/99464/push-to-decriminalize-sex-work-but-stigma-remains>.

¹⁶⁰ *Push to Decriminalize*, *supra* note 205; GEN Briefing Paper, *supra* note [], at 12.

¹⁶¹ See *Push to Decriminalize*, *supra* note 205; U.S. Dep't of State, Burma 2014 Human Rights Report 43, <http://www.state.gov/documents/organization/236640.pdf>.

¹⁶² See GEN Briefing Paper, *supra* note [], at 12.

¹⁶³ Voices of Myanmar Research Report, at 26.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.* at 26–27.

¹⁶⁶ *Id.* at 25.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 23.

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* at 23–24

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.* at 24–25.

¹⁸⁰ Myanmar 2015 State Report, *supra* note [], ¶ 89.

¹⁸¹ Voices of Myanmar Research Report, at 32.

¹⁸² Voices of Myanmar Research Report, at 33.

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ See Rhododendron News, May–June 2011, and Overview of the Right to Education for the Chins in Burma, January 2011, CHRO.

¹⁸⁷ *Id.*

¹⁸⁸ Myanmar 2015 State Report, *supra* note [], ¶ 89.

¹⁸⁹ GLOBAL JUSTICE CTR. & LEITNER CTR. FOR INT'L LAW & JUSTICE, PROMISES NOT PROGRESS: BURMA'S NATIONAL PLAN FOR WOMEN FALLS SHORT OF GENDER EQUALITY AND CEDAW 88 (Aug. 2015) [hereinafter PROMISES NOT PROGRESS]; Myanmar Child Rights Coalition, Joint Submission to the 2015 Working Group of the Human Rights Council, Joint Submission 8, 8 (Mar. 2015),

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMMStakeholdersInfoS23.aspx>.

¹⁹⁰ Voices of Myanmar Research Report, at 32. Some women noted that their children's schools provided some free materials—for example, one school provided each student with three books and three pencils—but explained that parents were are required to provide the rest. *Id.*

¹⁹¹ PROMISES NOT PROGRESS, *supra* note [], at 88.

¹⁹² Voices of Myanmar Research Report, at 31.

¹⁹³ *Id.* at 31–32.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*