

**UN CONVENTION ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN**

WOMEN'S LEAGUE OF BURMA

**SHADOW REPORT ON BURMA
FOR THE 64TH SESSION OF
THE COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN**



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ABOUT WOMEN'S LEAGUE OF BURMA

The Women's League of Burma, an umbrella organization of 13 ethnic women's organizations, has been documenting human rights violations against women and girls in Burma's ethnic communities for 16 years. Since this Committee's 2008 review of Burma, we have been working in affected communities to track the progress of the commitments made by the Government of Burma (hereinafter 'the Government') to implement the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). Through our 13 member organisations, field staff monitor human rights violations against women and girls in communities which often remain inaccessible to observers, international NGOs, and providers of humanitarian assistance. Alongside this, we work closely with our networks of civil society organisations, political parties, and the media to ensure access to diverse sources of information unearthing human rights violations against women and girls. Our submission is a reflection both of this diversity, and the primary information we receive from the ground on a regular basis.

This is a joint report submitted on behalf of our members: Burmese Women's Union, Kachin Women's Association Thailand, Karen Women's Organization, Karenni National Women's Organization, Kayan Women's Organization, Kuki Women's Human Rights Organization, Lahu Women's Organization, Palaung Women's Organization, Pa-O Women's Union, Rakhaing Women's Union, Shan Women's Action Network, Tavoy Women's Union and Women's Rights & Welfare Association of Burma.

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ACRONYMS AND ABBREVIATIONS

ARHZ	Adolescent Reproductive Health Zone	MNHRC	Myanmar National Human Rights Commission
BEGE	Basic Education and Gender Equality Programme	MOC	Military Operations Command
BPHWT	Back Pack Health Worker Team	MOU	Memorandum of Understanding
BWU	Burmese Women's Union	MWAF	Myanmar Women's Affairs Federation
CAM	CEDAW Action Myanmar	NCA	Nationwide Ceasefire Agreement
CBO	Community-based Organization	NGO	Non-governmental Organization
CCD	Community Driven Development	NLD	National League for Democracy
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women	NSPAW	National Strategic Plan for the Advancement of Women
CRSV	Conflict-related sexual violence	OCED	Organisation for Economic Cooperation
CSO	Civil Society Organization	ODC	Office of Drug Control
EAO	Ethnic Armed Organization	PoVAW	Prevention of Violence against Women
EBO	Euro Burma Office	PWO	Palaung Women's Organization
GDP	Gross Domestic Product	PWU	Pa-O Women's Union
GJC	Global Justice Center	QBEP	Quality Basic Education Program
GR	General Recommendation	RWU	Rakhaing Women's Union
HISWG	Health Information System Working Group	SHRF	Shan Human Rights Foundation
IDP	Internally Displace Persons	SWAN	Shan Women's Action Network
ILO	International Labour Organization	TBC	The Burma Consortium
INGO	International Non-governmental Organization	TNI	Transnational Institute
IWDA	International Women's Development Agency	TSM	Temporary Special Measures
IWRAW	International Women's Rights Action Watch	TWU	Tavoyan Women's Union
KNWO	Karenni National Women's Organization	UN	The United Nations
KWAT	Kachin Women's Association Thailand	UNDP	The United Nations Development Programme
KWHRO	Kuki Women's Human Rights Organization	UNFC	United Nationalities Federal Council
KWO	Karen Women's Organization	UNFPA	The United Nations Population Fund
KYWO	Kayan Women's Organization	UNICEF	The United Nations Children Fund
LWO	Lahu Women's Organization	UPR	Universal Periodical Review
MANA	Myanmar Anti-Narcotic Association	WCRP	Women and Child Right Project (Southern Burma)
MNCWA	Myanmar National Committee for Women's Affairs	WHRD	Women's Human Rights Defenders
		WLB	Women's League of Burma
		WON	Women's Organizations Network of Myanmar
		WRWAB	Women's Rights & Welfare Association of Burma

1. EXECUTIVE SUMMARY

From 1962 to 2011 in Burma, the combination of repressive rule by a male-dominated military and a traditional cultural patriarchy had insidious and pervasive long-term negative effects on women's equality. Decades of repression adversely impacted women's health, well-being and welfare, ability to participate in politics and political decision-making, and educational, economic and employment opportunities. Moreover, during those six decades the military also waged war in several regions of Burma against various Ethnic Armed Organisations (EAOs), and conflict continues to this day. These long-running conflicts have been characterized by human rights abuses against ethnic communities, including sexual violence against ethnic women, and have had a devastating negative impact on the rights and opportunities available to ethnic women.

In 2011, the military instituted a process of reform as part of a carefully-orchestrated plan to continue military rule under the guise of democracy. Since this nominally-civilian government (the Government) took power in 2011, women in Burma have experienced limited improvements with respect to fundamental human rights and freedoms but are far from enjoying the rights required by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which Burma is a party. After years of "reform," significant economic, political and social problems for women remain: widespread poverty and underdevelopment; a lack of legal, administrative and institutional capacity; a governing system that continues to lack true accountability and transparency; ongoing ethnic conflict, including continued human rights abuses and sexual violence by military forces; and pervasive gender inequality. The failure, after five years in office, of the Government to improve women's rights to substantive equality and non-discrimination demonstrates a disregard for CEDAW's mandates and compares unfavorably with troubling actions such as continuing sexual violence by the military, the swift passage of the discriminatory Laws on Race & Religion, and the failure to enact a comprehensive violence against women law.

This Report focuses the women's human rights situation in Burma's ethnic areas, in particular in remote and conflict affected areas where most of WLB's member organisations are operating. We highlight the ways in which rural and ethnic women in Burma are denied the equality and non-discrimination guarantees provided by CEDAW. While all women in Burma face the same struggle to enjoy their rights under CEDAW, rural and ethnic women face additional hurdles and specific harms such as trafficking, unequal access to education and healthcare, land insecurity and the devastating impact of drug production and trade. Moreover, rural and ethnic women are directly implicated by armed conflict and the quest for peace. This gap between the experiences of women in cities and urban settings versus those of ethnic women in rural areas must be understood and taken account when analyzing the status of women's rights in Burma.

This Report seeks to highlight certain significant factors impeding women's rights throughout the country. First, the military continues to play a powerful role in society and politics. This deeply-entrenched power is provided, in part, by the 2008 Constitution which grants the military complete legal autonomy over its own affairs, placing it outside of any civilian oversight by the executive or legislative branches. Further, the Constitution provides immunity to the military and Government officials for any misdeeds, including conflict-related sexual violence, in office and ensures that all military matters are to be decided solely by the military. Other provisions, such as Parliamentary quotas, ensure that the Military will retain a significant role in the legislative and executive branches. Therefore, the power and domination of the military at all levels of government is guaranteed in the Constitution, and, because the Military enjoys a veto over all Constitutional amendments, this power is unlikely to be reduced in the near future.

Second, continued conflict has caused additional suffering for ethnic and rural women. The military has committed human rights abuses, including sexual violence against ethnic women, as part of its offensives in ethnic areas. Part of the conflict stems from a desire to control the vast natural resources in ethnic areas, and the military and its cronies have long-standing and extensive business interests in ethnic regions. Continuing conflict, and the web of military presence and business interests in ethnic areas, has had a devastating effect on women and women's rights, especially in rural and ethnic areas.

Third, part of the lack of progress on women's equality is due to the woefully inadequate legal system in Burma. First and foremost, the Constitution itself establishes structural barriers to equality, and discriminates outright against women through failing to provide a CEDAW-compliant definition of discrimination and limiting job opportunities for women. It also discriminates against women indirectly by establishing the Parliamentary quotas for the military. Most of the laws that relate specifically to women are outdated, such as the Penal Code of 1861, and many laws, regulations, and policies

(including customary law) are disadvantageous and discriminatory towards women. Laws passed since 2011 often did not take women's concerns into account and some, such as the Laws on Race & Religion, are discriminatory outright. Women also do not enjoy protection from anti-discrimination legislation or a comprehensive violence against women law, which is of particular concern for women victims of conflict-related sexual violence.

Moreover, even legal and other rights that are available on paper are often not enforced due to corruption in the legal system, the police force and other governmental authorities. These failures are compounded by a judiciary that is unreliable, susceptible to military influence and corruption, and often unwilling to enforce the rule of law. Outside of the formal legal system, the application of customary laws which are prevalent in rural and ethnic areas can also impede women's access to justice. These factors present serious obstacles to women's ability to know or enforce their rights.

It is hoped that ensuring women's equality will be a greater focus of the new NLD-led Government that came to power in April 2016. Given the structural barriers established by the military, including those in the Constitution, reducing the power and influence of the military will be a challenge. To encourage the new Government on the path to ensuring human rights, and women's rights, it is crucial to provide it with guidelines and signposts for action. Forums such as this CEDAW review are essential to establishing benchmarks for women's rights and equality, as promised by CEDAW. Rights under CEDAW should be made available, without restriction or further delay, to every woman and girl in Burma, regardless of her region, religion, or ethnicity.

2. METHODOLOGY

The report production process consisted of the development of data collection tools, literature/document review, informant interviews and workshops on the ground in various regions of Burma, NGO/CSO consultations and compilation of the draft report. The informant interviews were conducted by WLB member organizations, which drafted their own reports (selected evidence is attached). The process of consultation was national, cross-border and local in dimension to ensure a comprehensive result.

From mid-November 2015 to mid-May 2016, WLB member organizations collected data for the report through methods including surveys, interviews and information gathering at group CEDAW awareness-raising workshops. WLB members organized 49 CEDAW awareness-raising workshops in 26 townships in the WLB operating areas, and 924 women and 351 men participated. WLB's data collection covered 62 townships in Chin State, Kachin State, Mon State, Karen/Kayin State, Karenni/Kayah State, Rakhain State, Shan State, Sagaing Region, Tanintharyi Region and Yangon/Rangoon Region and interviewees included 1,273 women and 361 men. *[See the map of surveyed areas in Annex 14]*

The WLB CEDAW working team compiled, translated and analysed the data and conducted a literature review of existing material. Following this, WLB hosted a four-day workshop with the Global Justice Center in late February 2016, which gave technical assistance on the development of the report.

Upon the completion of the first draft of the report in March 2016, WLB organized a three-day consultation workshop among WLB member organizations to verify and analyse the conclusions of the report, and a one day consultation workshop with CBOs and NGOs of Burma active in Thailand to raise awareness on WLB's CEDAW reporting activities and get their input on WLB's CEDAW report.

Similar consultation workshops were organized inside Burma in April 2016, including a 3 day workshop with WON and CAM, and a one day workshop with CSOs based in Yangon/Rangoon.[See list of participating organizations in Annex 15] The input from these workshops was added to this final WLB CEDAW NGO shadow report. Altogether 82 organizations participated in the consultation workshops in Thailand and Burma.

3. ARTICLE 1 (DEFINITION OF DISCRIMINATION)

The Constitution of the Union of the Republic of Myanmar (the “Constitution”) does not provide a definition of equality or discrimination that complies with the requirements of CEDAW nor does it contain a provision regarding the applicability of international treaties, including CEDAW. In fact, in 2008 the Committee on the Elimination of Discrimination against Women (the “Committee”) in its Concluding Observations called on the Government of Myanmar (the “Government”) to explicitly address these shortcomings through Constitutional amendment.¹ The Government has not amended the Constitution and thus the rights of women in Burma to substantive equality and non-discrimination by law are unfulfilled.

RECOMMENDATIONS:

- Amend the Constitution to include an effective guarantee of substantive equality, non-discrimination and the responsibility of the Government to ensure equality and non-discrimination.
- Amend the Constitution to include a provision regarding the applicability of international treaties, in conformance with CEDAW.

4. ARTICLE 2 (POLICY MEASURES)

Women are not protected by anti-discrimination laws in Burma and certain laws, regulations, and policies directly and indirectly discriminate against women. Differential treatment is premised on the notion that women require “protection” or that they are not suited for certain positions, especially decision-making roles. For example, Article 352 of the Constitution sets aside certain jobs that are “suitable for men only” which the State Report does not consider discrimination.² Other policies and practices allow only men to be considered head of household for purposes of land registration in certain parts of Burma and the Government has done nothing to ensure a woman’s right to serve as head of household.³

Since 2011, the Government has passed a number of laws that it claims in reporting to this Committee relate to women’s rights.⁴ However, only one of these laws provides protections specifically for women; the remaining laws provide general protections for certain categories of persons, such as laborers. The one example of protections for women, the Social Security Law of 2012’s provisions for pregnant women, is not routinely enforced.⁵ In fact, women report that they are either unaware of the right to take leave or reluctant to assert this right for fear of losing their job.

In fact, laws passed since 2011 have actively discriminated against women, perpetuated negative gender stereotypes, and failed to take women’s rights into account. The so-called “Laws on the Protection of Race and Religion,” passed in February 2015, impose strict limitations on women’s rights, including the right to choose a spouse and the number and spacing of children.⁶ Land and foreign investment laws were passed in 2012 soon after the transition to a civilian government without proper examination of how the laws would impact women or human rights.⁷ In another example, passage of a new Association Registration Law in July 2014, and issuance of related Bylaws, did not expand protections but rather ensured continued restriction of freedoms.⁸ Thus, the Government has failed to implement the Committee’s 2008 recommendation to formulate laws “that would ensure the practical application of gender equality.”⁹

RECOMMENDATIONS:

- Immediately repeal all discriminatory laws, provisions and regulations, including those in the Constitution as well as the Laws on the Protection of Race and Religion.
- Pass a comprehensive anti-discrimination law to protect women and review all existing and draft legislation to ensure that they include adequate women’s rights protections and safeguards against discrimination, do not conflict with CEDAW, and include consideration of the impact on women.
- Ensure that rights given to women, including pregnant women, in the Social Security Law are enforced.
- Amend the Association Registration Law to allow for free and fair registration of organizations and the exercise of freedom of assembly; enact regulations designed to encourage the registration of women’s organizations, including by streamlining and expediting the registration process for women’s groups.
- Clarify that women can be heads of household and own land by enacting amendments to land laws and registration procedures.
- Conduct throughout the country comprehensive awareness-raising events on the law and legal rights, with an emphasis on women and women’s rights, especially in rural areas.

5. ARTICLE 3 (DEVELOPMENT AND ADVANCEMENT OF WOMEN)

The Government has failed to implement the Committee's recommendation to "ensure the provision of the necessary authority and adequate human, financial and technical resources to the national machinery" that ensures women's substantive equality.¹⁰ The Myanmar National Committee for Women's Affairs (MNCWA) and the Myanmar Women's Affairs Federation (MWAF), which the Government identifies as focal points for CEDAW implementation, receive only limited funding and do not engage in active, forward-thinking women's rights policy and development. Both organizations focus more on superficial and ceremonial activities rather than advocacy for women's advancement and empowerment. Senior leadership traditionally has been aligned with the Government, ethnic women make up a low percentage of members, and coverage in ethnic areas is sparse.¹¹ Similarly, the Myanmar National Human Rights Commission has not been granted sufficient independence, operates under a limited mandate and budget, and does not adequately include community-based organizations (CBOs) in the appointment process.¹² The Gender Units described in the State Report do not have a clear role or function and their impact cannot be felt at the local level.¹³ Finally, the National Strategic Plan for the Advancement of Women (NSPAW), the Government's 2012 plan to advance the cause of women's rights, is merely that - a plan on paper. Since NSPAW's unveiling, the Government has not implemented NSPAW's promises and goals.

RECOMMENDATIONS:

- Ensure the provision of the necessary authority and adequate human, financial and technical resources to the national machinery to implement CEDAW and effectively promote gender equality, including by employing full-time gender experts at national, state, and local levels; consider establishing a Ministry of Women's Affairs to coordinate gender policies.
- Amend the MNHRC enabling legislation to increase its budget, allow for greater independence, ensure more involvement of CBOs (especially in the selection process), and include professionals with a background in women's rights.
- Execute and fund the promises made in NSPAW, articulating and implementing precise and specific practical actions to achieve substantive equality and eliminate discrimination, include CBOs in the implementation process, and establish specific and detailed monitoring and evaluation plans including an annual review of progress.
- In order to effectively and practically implement policies to advance women's rights, ensure that the MNCWA and MWAF are given a substantial budget, are run by independent experts on women's rights, and develop and implement forward-thinking and rights-based programming to empower women throughout the country, but especially in rural areas.
- Establish a women's caucus in Parliament and develop and implement policies that encourage and support women politicians (especially mothers), by providing financial resources, childcare, maternity leave, and other support services.¹⁴

6. ARTICLE 4 (ACCELERATION OF EQUALITY)

The Government has not instituted any Temporary Special Measures (TSM) intended to further CEDAW's goals and assist women in achieving equality, as requested by the Committee in 2008.¹⁵

RECOMMENDATIONS:

- Institute TSM to ensure women's rights under CEDAW, freedom from discrimination, and unfettered ability to participate in political and social life, including a minimum 30% quota for women's participation in legislative, political, judicial and administrative bodies.
- Draw up by-laws and regulations to practically implement TSMs in the political, economic and social arena and to provide penalties for failing to implement them.

7. ARTICLE 5 (SEX ROLES AND STEREOTYPING)

An analysis of both customary law and practices indicates that women in Burma hold a lesser status in society. Contrary to Government assertions, customary laws are discriminatory against women in many regions, in particular with respect to inheritance, matrimony, property, and health.¹⁶ Often, traditional norms and practices that discriminate against women continue to be followed, even if they contradict rights in laws or regulations because these protections are not

enforced, especially at the local level. In part, this stems from the prevalence of negative gender stereotypes and assumptions in the media. This failure strongly suggests the need for promoting awareness of law and legal rights among women and for establishing the means to enforce rights on paper such as complaint centers. This is especially important at the local and village level in ethnic areas, where discriminatory stereotypes are deeply embedded in society and culture.

Examples of informal negative gender cultural stereotypes can be found across Burma

The following examples are indicative of customs, attitudes and practices across Burma that discriminate against women. On Government-issued identification cards, women are listed as “dependent” even if they are employed and have their own careers and identification cards for children must bear the signature of the father not the mother. This also holds true in IDP camps, where residents must list a father’s not mother’s name on all documents. Customary practice also favors listing men only as head of household at immigration and other Government offices due to cultural and traditional norms. Women’s rights to land ownership are curtailed in Kayan, Karreni/Kayah, Kayaw and Kuki ethnic groups. In Karen, Kachin and Chin states, women victims of rape or sexual harassment are expelled from their village on the assumption that the village must be “cleansed” of the victims. The traditional Buddhist practice of Hgay-toe-boe proscribes women from participating in village life and in Karenni State menstruating girls are sent to live in a hut set apart from the village so that she does not pollute the village. In Kayah/Karenni and Shan villages women impregnated outside of wedlock are expelled from the village because they are deemed impure. [See Annex 1 for more detailed information regarding negative sex roles and stereotypes.]

RECOMMENDATIONS:

- Eliminate all customary laws and practices that discriminate against women or are harmful to women.
- Develop and institute gender sensitive school curricula and develop teaching materials (in Burmese and local languages) on gender discrimination, CEDAW and women’s rights and ensure that teachers are periodically, regularly and adequately trained to instruct on gender awareness and discrimination.
- Establish a comprehensive strategy and program to modify or eliminate cultural practices and stereotypes that discriminate against women as recommended by the Committee in 2008 (¶21), including by increasing women’s empowerment via television, newspaper, and media.

8. ARTICLE 6 (TRAFFICKING)

The Government enacted the Anti-Trafficking in Persons Law in 2005 and has established a Central Body for the Suppression of Trafficking in Persons.¹⁷ Despite these efforts, trafficking remains prevalent in Burma and Burma remains “a source country for men, women, and children subjected to forced labor and for women and children subjected to sex trafficking.”¹⁸ After being placed in Tier 3 (the worst) by the U.S. Department of State Trafficking in Persons Report from 2008-2011, Burma moved up to Tier 2 Watch List in 2012 and has remained in this category for the last two years.¹⁹ Burma continues as a Tier 2 country because the prevalence of trafficking cases remains high, there is a lack of accountability for perpetrators, victims receive inadequate Government services, and the Government fails to provide sufficient data regarding the scope of the problem.²⁰ This year the Government must be either upgraded to Tier 2 or downgraded to Tier 3, and local trafficking organizations have recommended Tier 3 status for Burma’s continuing violations and failure to address the problem.²¹ Resolving the trafficking problem cannot be accomplished, however, until the Government develops a strategy to remedy the multiple and interconnecting underlying causes of trafficking, which thus far it has proven unwilling or incapable of doing.

Failure to Address Underlying Root Causes

Government anti-trafficking efforts have failed in part because they do not address the many underlying root causes of trafficking. The persistence of conflict and Government limits on humanitarian aid to conflict areas lead to extensive internal movement of individuals and communities which makes women and girls vulnerable.²² Moreover, trafficking is being fueled by the harsh economic realities of ethnic regions, which the Government acknowledges in its reporting to this Committee.²³ Economic underdevelopment, lack of social services provided by the Government, and limited employment opportunities coupled with “significant [economic] disparities between neighboring countries” lead many immigrants to hire smugglers in hopes of finding a better life.²⁴ Another contributing factor is the pervasive impact of drug addiction of men and boys on families, which leaves many women and girls responsible for family livelihood; there

are even reports of fathers trafficking daughters in order to support drug habits.²⁵ Finally, natural disasters, and the inadequate Government response thereto, fuel trafficking.

The individual and combined impact of these factors causes economic hardship for families who have to pay for education, health, and basic services. This leads families, and especially women and girls, to seek economic opportunities abroad. Women and girls travelling to Thailand, China, Singapore, and Malaysia are often exploited when they arrive and sold to the sex industry or domestic work.²⁶ [See Annex 2 for case studies.]

The situation is especially dire for internally displaced persons (IDPs) in camps in northern Shan, Palaung, and Kachin states, and others affected by conflict who are without means to provide for themselves and their families. Thus, they easily fall prey to brokers who promise safety and a job necessary for survival. For example, border immigration offices near IDP camps in Kachin state are closed as a result of the nearby conflict. The nearest immigration offices are inaccessible from the camps due to road closures and ongoing fighting. Without access to legal travel documents, many who wish to travel across the border are forced to look for smugglers and placed at risk.²⁷ Additionally, once migrants reach foreign soil, they are unable to find work due to their illegal status and are very “vulnerable to abuse of basic rights.”²⁸ Women and underage girls are especially vulnerable in this regard.

Ineffective Government Policies and Services

During its 2008 review, the Committee “recommend[ed] that information and training on the anti-trafficking legislation be provided to the judiciary, law enforcement officials, including border police, immigration officers, public officials and social workers in all parts of the country.”²⁹ In reporting to this Committee, the Government claims that it spends roughly \$350,000 annually to combat trafficking in persons, and that it conducted a variety of trainings, educational talks and workshops.³⁰ This Government response to trafficking is woefully inadequate in terms of the amount of resources devoted to such a vast and pernicious problem and in terms of policy development. Government efforts do not address the root causes and scope of the problem or the factors that allow it to flourish and Government officials fail to recognize or fulfill the needs of victims.³¹

Government efforts are not felt in rural and ethnic areas. Trafficking victims and their families have limited recourse to assistance and justice, and difficulty reintegrating into society.³² The Government reported to the Committee that the sum total of its efforts throughout the country in 2015 was to rehabilitate only ten trafficked women by spending a total of approximately \$6,500, which is a miniscule sum by any measure. Moreover, prevention efforts do not impact ethnic areas since outreach efforts are often one-off events and outreach materials do not reach the local level and are not readily available in ethnic languages, despite claims to the contrary.³³ As a result, local organizations, such as women’s groups and churches, provide the majority of support and outreach services.³⁴ Unfortunately, local women’s groups have not been included in the development of programming, strategy, or materials. Including those on the front lines of anti-trafficking efforts, and drastically increasing the amounts spent to combat trafficking, would help the Government to design an effective strategy at the local level.

Lack of Accountability for Perpetrators

Contrary to assertions in the State Report, the Government fails to hold perpetrators accountable for human trafficking.³⁵ Victims do not understand the complaint-making process because Government efforts at raising awareness have been limited and ineffective. For example, Government public awareness materials are generally in Burmese, not in local languages. The complaint procedure is complicated and lengthy; often there is a long delay between filing of complaints and taking action. Even simple matters such as unavailability of phones or cell signals to call the complaint hotline inhibit reporting. Also, parents of young trafficking victims sometimes do not have enough information about their child’s situation to be able to make a complaint. Moreover, victims are not provided with protection or compensation for their cooperation with law enforcement which discourages reporting.³⁶

As a result of the failure to provide adequate training, a lack of political will, and corruption, Government officials and the police often cannot be counted on for support. Local police generally do not actively pursue trafficking investigations and instead wait for complaints from the public in order to act. Police and other Government officials, including immigration officers, lack the training to identify potential victims and instead provide assistance only after abuses have already taken place.³⁷ They also are susceptible to corruption and fail to act if the perpetrator is a person of power within the community. Victims are discouraged from reporting due to the disorganized criminal investigation system, the lack of victim services, and the requirement that families finance the search for or release of trafficking victims. Moreover, corruption and favoritism remain prominent features in prosecution of traffickers. Police limit

investigations when the perpetrator is a well-connected individual.³⁸ One observer attempted to summarize the issues by saying, "Burma has weak law enforcement agencies and patchy cooperation among member states; insufficient institutional and procedural safeguards against corruption...and lacks a strong, independent, and fair justice system at the national level."³⁹ Thus, the Government has failed to implement the Committee's recommendation in 2008 to prosecute and punish traffickers and support and protect victims.⁴⁰

RECOMMENDATIONS:

- Enhance accountability and enforce laws to punish traffickers and root out corruption. Ensure that perpetrators are effectively punished according to the law, and under no circumstances enjoy impunity because of their positions or wealth.
- Severely punish members of the military and Government authorities who are directly or indirectly involved in trafficking; punish those who are negligent in dealing with or preventing trafficking cases.
- Establish a Memorandum of Understanding (MOU) with neighboring countries regarding border crossing procedures and undertake a comprehensive awareness raising campaign within affected communities regarding the MOU and its attendant responsibilities.
- Ensure that effective support reaches victims, provide repatriation to a victim's home area, and give support such as vocational training so that victims can rebuild lives.
- Disseminate without prejudice accurate, up-to-date, appropriate and culturally-sensitive information on factors contributing to trafficking; develop school curricula regarding trafficking.
- Allocate sufficient budget to effective awareness-raising campaigns to prevent trafficking, including radio programs and materials in all ethnic languages and appropriate materials for those who are illiterate.
- Allow CBOs, particularly women's organizations, to assist trafficked women and girls without restriction and participate in developing Government anti-trafficking policy.
- Allow international NGOs to independently monitor anti-trafficking programs without Government interference and control to ensure that the Government is fulfilling its obligations to regional and international anti-trafficking initiatives.
- Provide trafficked women and girls with adequate medical care, counseling, financial support, housing and opportunities for further training, as well as free legal services.
- Respect trafficked girls' and women's rights and wishes at all times.
- Address, via Government policy, root causes of trafficking; for example, provide education and empowerment programs to women and girls, open opportunities for women's all-around development, economic opportunities and opportunities to earn a livelihood at home, resolve ongoing conflict, and eliminate land grabs and halt development projects.

9. ARTICLE 10 (EDUCATION)

Despite being in the 14th year of a Long Term Education Plan, the Government has failed to provide adequate basic education for the men and women of Burma, in part due to significant under-budgeting in the education sector.⁴¹ Women and girls continue to face additional barriers to education than men and boys, and these barriers have not been addressed by the Government. In fact, the 2014 education reform law does not include any gender equality language.⁴² Obstacles are more pronounced in rural areas since ethnic conflict, displacement and patriarchal values hinder girls' ability to access education. Consequently, there has been little improvement in female education since the last reporting cycle.

Insufficient Budget Allocation for Education

The Government has failed to implement the Committee's 2008 recommendations to improve girl's education, and increased only minimally funding for education since 2008.⁴³ In 2013, the Government allocated 1.5% of GDP to education, less than half the OECD average.⁴⁴ This lack of funding creates and exacerbates numerous obstacles to girls' education.

Limited resources generally result in a gross shortage of schools. Despite the Government's claims that it extended education programs to sub-townships, the reality is that schools remain scarce, especially in rural and ethnic areas.⁴⁵ Lack of transportation infrastructure, sometimes the result of misappropriation of funds by authorities, makes schools very difficult to reach. Some regions are forced to utilize alternative venues, such as monasteries, for schools. As a result,

in many rural and ethnic areas, families are deterred from sending their children to school as it is costly, and getting there is complicated and inconvenient.

The lack of budgeting for education also results in poor teacher quality. Teachers are grossly underpaid and undertrained, despite Government claims to the contrary, which often leads to corruption.⁴⁶ The quality of instruction is often not sufficient for children to obtain the necessary level of knowledge for Government exams. Therefore, students are forced to turn to private instructors to learn the curriculum. The schools that are operating are often in great disrepair, and missing basic equipment and tools, which prevents effective teaching. Contrary to Government claims, students are not provided with free textbooks, scholarships or a school stipend in most areas.⁴⁷ In fact, a recent ILO report found that 41.8% of trafficked laborers dropped out of school because of inability to pay for school.⁴⁸

To make up for the lack of Government support, parents are forced to incur the costs for their children's education. These include fees for private tuition, school books, school supplies and food, with annual fees for high school students ranging from two hundred thousand to 2.5 million Kyat (US \$173.91 to \$2173.91). [See Annex 3 for cost information.] While these problems concern all children, girls are disproportionately affected. If families can only afford to send one child to school, it is likely to be a son rather than a daughter. This is primarily a reflection of Burma's patriarchal culture, in which boys' education takes precedence. In addition, it is often considered unsafe for girls to travel the long distances to school. Consequently school dropout rates for girls are extremely high, especially in rural areas. In some villages the documented dropout rate is as high as 85% in both secondary and high schools. [See Annex 3 for dropout rates.]

It is worth noting that the Government mentions that a UNICEF-supported project called Basic Education and Gender Equality Programme (BEGE) has "been implemented for providing all children to have access to quality basic education without gender discrimination."⁴⁹ This is an overstatement of the scope and reach of the program. BEGE is a feature of the Quality Basic Education Program (QBEP) program which delivers education services to only 34 townships.⁵⁰ WLB member organizations report that QBEP and BEGE are not well known in most rural and ethnic areas and have limited impact.

Lack of Education due to Armed Conflict and for IDPs

Burma's decades-long history of armed conflict also greatly hampers girls' access to education. First, the ongoing conflict poses a safety risk for girls travelling to and from school. At times when conflict escalates, schools either close down or girls stop attending school out of fear of violence.⁵¹ Moreover, continuing violence often forces families to flee their homes and become IDPs living in temporary settlements. These makeshift camps have very limited resources and do not provide schooling for resident children. The Government's prohibition on allowing international organizations to give aid to IDP camps further hinders access to education. These educational deficiencies are again amplified in the case of girls.

Barriers to Education in Ethnic Areas

Government schools in ethnic areas discriminate against ethnic nationalities (minorities) in several ways. First, there are few schools available and often they are in remote and inaccessible areas. Second, the language of instruction is Burmese and the Government favors a policy of sending teachers to ethnic areas that do not speak local languages rather than training people from local communities. Instruction in local languages must be held outside of school hours. Language barriers thus discourage ethnic children from pursuing their education.⁵²

The Government also promotes Burmese culture in its education curriculum at the expense of local ethnic culture. Schools are required to teach political propaganda through a biased curriculum that promotes Burmanization and the military while distorting, minimizing and mischaracterizing the history and role of ethnic nationalities. Diplomas issued by schools run by local ethnic organizations are not recognized by the Government. As a result of language barriers and discriminatory practices, ethnic children are often discouraged from attending school. This factor coupled with the above-mentioned lack of resources in rural areas hinders all education, but especially girls' education.⁵³

Moreover, the significant drug problem in rural and ethnic areas where opium is harvested negatively impacts access to education.⁵⁴ Drug addicts spend their already meager incomes on drugs, meaning there is far less money to pay for their children's education. In addition, recurrent Government land grabs also contribute to the educational crisis. Families forced from their land become displaced and often indigent, which in turn has a negative effect on education of their youth. All of these problems disproportionately impact females' ability to access education in rural and ethnic areas.

Gender Stereotypes in Curriculum

Despite the Committee's 2008 recommendation to introduce curricula and textbooks that are not sex-discriminatory, little has been accomplished in this regard.⁵⁵ School curriculum continues to include stereotyping and discriminatory content, which contribute to overall negative attitudes and behavior towards women. The Government acknowledges that the Curriculum Development Team is currently "strengthening its skills on gender analysis and gender stereotyping issues" but this has not translated into any reforms or improvements.⁵⁶ In fact, the Government's report to this Committee details training for trafficking victims to include "cooking, tailoring, knitting wool, handicraft making and decorating flower and fruit" which displays the extent to which gender assumptions and stereotypes are prevalent.⁵⁷

RECOMMENDATIONS:

- Drastically increase Government spending, so that at least 20% of GDP is spent on education.
- Institute affirmative action policies starting from primary school to target challenges faced by women, especially in rural and ethnic areas.
- Provide truly free compulsory quality basic education throughout the country, particularly in rural areas (without additional costs for private tuition, books or supplies).
- Take measures to increase safety for girls attending school, including ending armed conflict and developing transportation infrastructure throughout the country.
- Provide teachers and educational professionals with decent salaries and social security benefits; ensure that teachers are given gender sensitivity training; to address the issue of poor teaching and assessment methods, adequately fund and upgrade teacher-training colleges which will also promote women's advancement, as the majority of teachers are women; recruit and train teachers from local ethnic communities and allow instruction in local languages.
- Revise curricula and teaching materials so that the education system is not misused to promote Burman ethnic identity or military propaganda, to perpetuate gender stereotyping, and to exclude ethnic identity and language; establish a curriculum drafting committee to revise curriculum to be gender sensitive by eliminating gender stereotyping and gender bias and to be more inclusive of ethnic cultures and contributions; for example, curricula should include information about CEDAW and history lessons should include stories of successful and significant women and ethnic leaders.
- Institute special programs, such as scholarships (or subsidized facilities), to prevent the high drop-out rate among girls and women throughout the country.
- Take measures to eliminate stereotypes of women and girls based on cultural and traditional norms, which are hindering their access to education.
- Ensure that IDP girls can access quality education and receive international assistance.
- Recognize diplomas from non-Governmental schools.
- Re-establish evening classes, schools, and colleges so that women and girls who work during the daytime can continue their studies.

10. ARTICLE 12 (HEALTH)

Women in Burma do not have access to quality, affordable healthcare, in part because the Government allocates an inadequate portion of its budget to healthcare. In 2013, the figure was only 3.9%, which places Burma among the countries that spend the lowest amounts on healthcare.⁵⁸ Burma is the only developing country in Southeast Asia where military spending is higher than the combined spending on healthcare and education.⁵⁹ This inadequate Government support, combined with other factors such as high costs for healthcare services, makes quality healthcare inaccessible for large portions of the population, especially women and residents in rural areas.

Inadequate Government Support for Healthcare Sector

The Government has not implemented the Committee's 2008 recommendation to improve women's health and the healthcare sector currently is under-budgeted and understaffed.⁶⁰ The 2013 budget increased healthcare spending to only 3.9% of Burma's total budget and Government funds only accounted for 12% of the country's entire healthcare spending.⁶¹ Furthermore, money that the Government spends on the healthcare sector often is wasted due to mismanagement.⁶² This has resulted in a system with rigid procedures and long delays for obtaining treatment.

International donors have propped up the nation's healthcare system⁶³ and local CBOs have also filled the healthcare vacuum.⁶⁴ Many ethnic groups have established their own community-based healthcare services.⁶⁵ For example, the Back Pack Health Worker Team (BPHWT) was founded to empower local communities to provide primary healthcare services to underserved populations in conflict-affected areas of Burma, particularly in areas that international humanitarian organizations cannot reach. Currently, the BPHWT now has 100 teams with 380 health workers and a network of 1,050 traditional birth attendants, village health volunteers, and village health workers serving a targeted population of approximately 225,000.⁶⁶ [See Annex 4 for further information.]

Unequal distribution of resources to and a lack of infrastructure in rural areas also hinder healthcare delivery. Medical centers are few and widely scattered, particularly in rural areas, so women must travel long distances and across borders, at considerable expense, to get affordable, quality medical attention.⁶⁷ Additionally, healthcare investment has been so low that in rural areas one Government midwife oversees as many as 40 to 50 villages.⁶⁸ As a result, in one survey almost two-thirds (73%) of ethnic women in Eastern Burma used traditional birth attendants when giving birth.⁶⁹ Lack of infrastructure and few qualified professionals, combined with local poverty and the economic hardship associated with receiving medical care, reduces patients' ability to access quality healthcare.

High Costs within the Healthcare System

Patients bear the burden of high costs of healthcare services. Natural birth deliveries in government hospitals cost 100,000 to 300,000 Kyat (US \$87.0 – US \$ 260.87) and can be 400,000 Kyat once extraneous expenses are factored in. Caesarian birth deliveries cost 200,000 to 700,000 Kyat (US \$173.91– US \$608.7). [See Annex 4 for a chart detailing costs.] Most residents avail themselves of private-pay polyclinics or monasteries when they need medical attention.⁷⁰ At these locally-run clinics, for a small fee, people can receive very basic primary care services. If medicine is necessary, it must be paid for out of pocket. Hospital patients need to buy their own medicine at the hospital drug store, bring their own bedding, and provide their own patient care. This is also the case when surgery is required. The doctor provides a list of all materials required for the procedure and the family must purchase everything before returning for the procedure.⁷¹

Unequal Access and Barriers to Healthcare Services in Rural Areas

There continues to be unequal access to quality healthcare between urban and rural residents, despite the Committee's recommendations in 2008.⁷² Around two-thirds of Burma's population lives in remote, rural areas with little or no access to family planning and maternal health services.⁷³ Most women in rural areas use traditional birth attendants without official medical training or Government support. Resultantly, there is a big divide in maternal mortality rates between rural and urban areas. Information about and long-term access to contraception for the majority of rural women is not easily attainable. This inability to access or afford healthcare services lead many women in rural areas to unwanted pregnancies and unsafe abortions. [More detailed information about these issues can be found in Annex 5.]

Rural villagers are often reluctant to seek medical attention due to differential treatment by medical personnel. Government medical practitioners treat patients differently depending on each patient's ability to pay and poor patients frequently feel marginalized and discriminated against. Moreover, language barriers inhibit villagers from seeking medical attention since health workers assigned by the Government to ethnic areas do not speak local languages.

IDPs face serious healthcare deficiencies since healthcare services in IDP camps are woefully inadequate. Not only does the Government fail to provide healthcare in IDP camps but it harasses CBOs that attempt to provide these services.⁷⁴ Crowded living conditions, poor sanitation and hygiene, lack of clean water, and insufficient food and nutrition cause increased rates of illness among IDPs.⁷⁵ As a result, the crude death rates in IDP Camps are higher than in other parts of Burma.⁷⁶

Insufficient Training and Corruption among Medical Personnel

When medical professionals are not readily available, due to under-budgeting or other issues, individuals seeking medical attention must rely on local untrained service providers. These informal practitioners fill the gaps in care but are not trained medically and can provide inadequate care.

Additionally, there is corruption in the medical system. There is no accountability or monitoring of doctors; Government doctors can report to their hospital and then leave without penalty. Moreover, to supplement meager incomes, medical personnel sometimes resort to questionable ethical practices; for example, requiring that lab tests be done at higher costs to patients at labs owned by their friends.

Reproductive Healthcare Deficiencies

The problems set forth above are felt especially with respect to reproductive healthcare services, particularly in rural areas.⁷⁷ Women do not have access to family planning information and reproductive health issues are not taught in school, contrary to Government claims to the Committee.⁷⁸ In a 2015 survey by Adolescent Reproductive Health Zone, 90% of adolescents reported a lack of familiarity with reproductive health and were unaware of how to get information about it.⁷⁹ The limited information on reproductive health issues available is not in local languages. Women therefore often rely on untrained local practitioners for illegal abortions because they have no access to reproductive information to prevent unwanted pregnancies. WLB member organizations report a high incidence in rural areas of complications after childbirth, such as prolapse, due to lack of skilled and well-trained practitioners.

Women who seek to utilize family planning strategies must overcome cultural biases in favor of large families.⁸⁰ These traditions affect women in rural communities the most because they have little access to sex education and family planning services. In the eastern parts of Burma, an estimated 80% of women have never used contraceptives.⁸¹ Throughout Burma, contraceptive use is currently less than 40%, and 19% of women in Burma have no access to any sort of family planning services.⁸² This is high compared to the 3% without access to any sort of family planning services in neighboring Thailand.⁸³ Modern methods of contraception are scarce and some 1.53 million married or in-united women between 15 and 49 years old who want to delay pregnancy do not have access to modern contraceptives.⁸⁴ The Government exerts undue interference in women's reproductive health decisions. For example, the Government regulates birth spacing, makes abortions illegal, and requires a husband's consent to be sterilized. If a woman is caught having an abortion she may be charged with a prison term from three to seven years, and if someone is found to be helping her, that provider may be sentenced up to three years.⁸⁵ Nearly 5% of all pregnancies end in abortions, which are one of the leading causes of maternal mortality in part because of reliance on untrained local practitioners.⁸⁶

Women who do choose to become pregnant face obstacles to a healthy pregnancy and delivery, including inadequate workforce, low health expenditures, failing infrastructure, over-worked healthcare professionals, and geographic coverage gaps.⁸⁷ In eastern Burma, 11.3% of women of reproductive age were reportedly moderately or severely malnourished. Maternal mortality rates rank among the worst in Asia.⁸⁸ Child mortality rates are high in eastern Burma and are on par with humanitarian disaster areas like Somalia.⁸⁹

In the State Report, the Government committed to "enhance the estimated budget for mother and child-health-care services year by year" and admitted to a need "to conduct awareness-raising on ... birth spacing methods and provide more contraceptive medicines and devices to women."⁹⁰ The Government also acknowledges the issue of newborn mortality rates, due in part to maternal malnutrition and home deliveries, in reports to this Committee.⁹¹ Thus, it is clear how little progress has been made in implementing the Committee's 2008 recommendations to improve women's health.⁹²

RECOMMENDATIONS:

- Drastically reduce military spending (which is more than education and health spending combined)⁹³ so that at least 15% of the national budget can be spent on health; make budget figures widely and publicly available.
- Develop a national health care system in which care is distributed effectively, equitably and transparently and well-equipped public health facilities are available, particularly in rural areas.
- Immediately repeal all laws that interfere with reproductive rights, including the so-called Laws on the Protection of Race and Religion, restrictions on abortions, and requirement that women obtain permission from their husband to undergo sterilization.
- Eliminate language barriers by publishing and widely disseminating materials in local languages and in audio for illiterate women (e.g. radio programs, hotline).
- Allow CBOs to operate freely and provide them with adequate support to foster their unique ability to identify, understand, and fulfill the needs of vulnerable communities; support ethnic-run hospices and clinics that provide care to communities without Government healthcare services.
- Implement a comprehensive public health education program, in collaboration with the education sector, which will provide girls and women with the information necessary for them and their family members to lead healthy lives; provide reproductive health education and access to free contraceptives to women, men and adolescents throughout the country, in school and otherwise; ensure that teachers receive adequate training to provide reproductive health education; ensure that family planning education programs take into consideration the traditions and physical barriers of women in rural areas.

- Develop effective programs and policies to decrease maternal mortality, especially due to illicit and unsafe abortion procedures; ensure access to affordable sterilization services for women and men.
- Implement comprehensive policies and programs to improve women's health, after consultation with women's groups, especially at the local level; for example, establish hotlines or safe service centers to provide health counseling for women and girls, establish women's friendly drop-in centers that provide health advice or other women's related services, encourage the exchange of health experiences by establishing peer health education programs; implement free services to check women's health every six months at village level, as is done in Thailand.
- Establish a system for accountability or monitoring of doctors and medical personnel, including a complaint mechanism to take action against the unethical medical personnel and practices.
- Train local villagers interested in medical care so that they can provide services at the local level.

11. ARTICLE 14 (RURAL WOMEN)

Burma is home to over 100 ethnic groups, many concentrated in rural areas. Roughly 70% of Burma's population lives in rural areas and the majority are employed in the agricultural sector. Rural areas have twice the poverty rate of urban areas due to a combination of factors: the Government's failure to provide services, infrastructure, or budget to rural areas; military expansion and offensives; the Government's exploitation of natural resources without benefit to local populations; and the Government's coercive agricultural policies. Various ethnic groups have been engaged in conflict with the military for six decades, in part to determine control over vast natural resources and to safeguard ethnic identities.

Military Exploitation

The pervasive destructive impact of an exploitative military in rural areas cannot be understated. For decades, the military has expanded into ethnic areas, confiscating land for military bases and income-generation projects and committing human rights abuses, leading to physical, economic, and other hardships as well as displacement for local populations. The military has realized mammoth profits through direct exploitation via military holding companies and indirect exploitation via concessions to business cronies. Transition to a quasi-civilian government has not altered this pattern of exploitation but rather merely expanded the universe of potential business partners for the military. Projects throughout ethnic areas continue without proper consideration of local populations, environmental and safety regulations, or long-term development strategies. In particular, the lack of regulations has led to extensive and devastating health impacts for local populations, including toxic waste, pollution of land and drinking water, and exposure to toxic chemicals.

Land Confiscations

Land confiscation without compensation and forced relocation for so-called development projects has been a long-standing issue in rural areas, but has become even more acute since the transition to a quasi-civilian government in 2011. As a result of land seizures, local populations lose arable land and economic opportunity and are forced to migrate.⁹⁴ Women are especially hard hit, vulnerable to physical violence and other abuses by family, migrant workers and others associated with investment projects on seized lands. Exploitative investment projects cover many industries across many regions and often have led to violence and civil unrest within local communities.⁹⁵ Coercive governmental agricultural policies continue to cause economic hardship in rural areas. For example, in Dawei and Mon states, Government loans to farmers include a stipulation to buy only Government-produced fertilizer or genetically-modified seeds, which are over market price and of inferior quality. This reduces income and yield, engaging local farmers in a cycle of poverty. This overall economic hardship impacts women directly as well as indirectly, through trafficking and increased violence.

Drug Epidemic

Drug production and use has surged in rural and ethnic areas. The total area under opium poppy cultivation in Myanmar was 21,600 hectares in 2006 and more than doubled to 55,500 hectares in 2014, according to the UN Office of Drug Control (ODC).⁹⁶ Indeed, the extent of drug production is vastly underrated since international organizations, such as the ODC, do not take into account drug production in areas under control of ethnic militia.⁹⁷ The Government does not collect data regarding drug use, but drug use related problems, including HIV and Hepatitis C infection rates, have increased in rural areas.⁹⁸

The Government's policies to eradicate drug production and supply have been completely ineffectual. In fact, the Government has exacerbated the drug problem by allowing militia groups aligned with the military to partake in drug-related activities in exchange for fighting rebel groups.⁹⁹ The militia groups rely on the proceeds of illicit drug trade to finance arms and operations, and the military and Government officials turn a blind eye.¹⁰⁰ The Government's failure to stem drug production in rural and ethnic areas fuels drug production and addiction and destroys ethnic communities, which some local residents believe is deliberate.¹⁰¹

Government policies to address drug addiction have failed on a number of levels: they fail to address the root causes of the problem, are repressive and outdated and focus on arresting drug users rather than prosecuting those invested in the cultivation of opium and the production of synthetic drugs. These failed policies have emboldened producers and dealers and increased the availability of drugs. Investment projects spur drug use, as business interests encourage drug use to improve productivity.¹⁰² An indication that the drug trade has been mainstreamed is that under U Thein Sein's Government eight drug lords were also representatives in Parliament.¹⁰³ Increased production and use of opium, heroin, and methamphetamines and the Government's failure address the drug problem puts women at increased risk of life-threatening violence, trafficking and economic deprivation.

Impact on Rural Women

The combined impact of drug use, continuing conflict, land confiscations, and economic insecurity has displaced vast populations, including women and girls. Displaced women and girls are subject to violence and trafficking, and are denied basic services such as education and healthcare. The Government has limited humanitarian assistance to IDPs, restricting access of international aid agencies to IDP camps.¹⁰⁴ Moreover, women have been completely excluded from Government resettlement plans, leading to dangerous proposals such as resettling women and girls close to military bases.¹⁰⁵

The situation outlined above leads to multiple and intersecting disadvantages for women and girls in rural areas, including IDPs. *[See Annex 6 for more detailed information on rural women.]*

Loss of Economic Security. Women lose economic and job opportunities due to development projects, which employ mostly men and which use up arable land. Drug use also places burdens on women to provide economically for fractured families, often forcing women to choose exploitation to secure livelihood. Women and children are also left behind as a result of conflict, forcing women to assume livelihood responsibility for the family.

Loss of Physical Security. Land confiscations displace women and leave them vulnerable to trafficking, violence, and exploitation. Violence against women increases as a result of increased drug use, as addicts become more violent and desperate to sustain their habit. Women can also fall prey to exploitation, abuse and violation due to the absence of men, who leave villages to fight in conflict, become migrant workers or succumb to drug addiction, and an influx of foreign investors, who use their temporary status in the community to rape, or trick women into living with them on the project sites outside of wedlock promising marriage, only to leave once the project has finished, taking no responsibility. *[See Annex 6 for information on foreign investors and women]*

Loss of Land Security. Since most families rely on land for livelihood, land confiscations threaten family and village welfare. Women, in particular, suffer since they are not traditionally on land title documents or listed as head of household. Since they are marginalized in the land tenure system, as discussed above in Annex 6, they are not entitled to compensation or included in discussions about land issues.

Loss of Food Security. With limited economic opportunities in rural areas, families often rely on land for food; without land, many families go hungry.

Loss of Health Security. Development projects, coupled with a lack of infrastructure and regulation, have contaminated air and water, leading to myriad health problems for local residents. To name a few: coal projects contaminate the air leading to birth defects; mercury and other toxic chemical run-off into the water table infects residents, fish, and livestock; and polluted but untreated water is used by residents for cooking and washing. Drugs and the lack of Government drug treatment programs also devastate local communities and treatment programs run by CBOs are not given adequate government support. In fact, local initiatives to combat the drug problem terrorizing communities, such as Pat Jasan, have clashed with Government security forces.¹⁰⁶

Loss of Educational Security. Women and girls suffer from an inability to access education opportunities due to displacement, land seizures, drug dependence, loss of physical security, lack of infrastructure and economic hardship. As

detailed in the discussion of Article 10 above, education costs money and many families simply do not have expendable income, or use extra income to educate only boys.

The Government has failed to adequately address the vast and interrelated issues affecting rural women. The rural development tasks and Community Driven Development (CCD) project outlined in the State Report are simply not felt by the vast majority of rural communities. Moreover, CCD tasks are general, such as repairing roads and bridges, not targeted to meet the needs of women. The Government has utterly failed to provide any services in IDP camps. Moreover, local CBOs that step into the breach left by the Government's failure to provide social and development services are obstructed by Government regulations and registration requirements.¹⁰⁷

RECOMMENDATIONS:

- Impose a temporary moratorium on all investment projects until communities give free, prior and informed consent undertaken inclusive of women's voices of every stage of the consultation process. All projects should be scrutinized by independent and transparent Environmental Impact Assessments, Social Impact Assessments and Health Impact Assessments that are inclusive of local stakeholders, especially women, as well as Gender Impact Assessments, as recommended by the Committee in 2008 (¶45) and in accordance with Principle 10 of the Rio Declaration on Environment and Development (1992).
- Immediately end military offensives and anti-insurgency campaigns targeting civilians. Order the military to cease immediately all involvement in the drug trade, and prosecute all those invested in the cultivation, production, and distribution of narcotic and psychotropic substances in ethnic communities.
- Eradicate opium and narcotic production and implement a drug control strategy and programs which are sensitive to the risks faced by women and girls, including those related to health, education, and livelihoods.
- Provide rural communities, especially those affected by drugs, alternative means of livelihoods – including access to markets for agricultural produce and vocational skills training – and ensure economic opportunities for women and girls, as recommended by the Committee in 2008 (¶ 45).
- Recognize and support local organizations that provide drug eradication services. Ensure that the Government, including through the Myanmar Anti-Narcotic Association (MANA), and international NGOs and the UN, distribute financial support to local groups providing drug treatment services.
- Ensure that the income generated by resource extraction and development projects is spent on local development and on public service sectors. Ensure that women participate in and benefit from investment projects and are entitled to an equal share of the dividends from such projects.
- Institute sustainable agricultural policies and allow local communities, with equal participation of women, to manage natural resources.
- Amend laws restricting rural women from freely setting up and operating independent local organizations and running programs.
- Ensure that rural communities, and women, participate equally in the process of land reform. Ensure that women can enjoy land rights on an equal basis with men.
- Allow women who are at least 18 years old to vote in elections for village level leaders.
- Include at least 30 percent of women in rural development committees.

12. GENERAL RECOMMENDATION NUMBER 19 (VIOLENCE AGAINST WOMEN)

Violence against women is a widespread and institutionalized problem in Burma. Women face violence at home and in public and there is an inadequate legal framework to provide justice to victims, contrary to claims in the State Report.¹⁰⁸ Violence against women is committed by both public and private actors and the military and police are perpetrators of sexual violence against women not only in areas of active conflict but also in non-conflict zones. [For conflict-related sexual violence, see discussion below under General Recommendation 30.]

The Government has failed to implement the Committee's 2008 recommendations to take action to address violence against women and the State Report provides little evidence that the Government has developed and implemented adequate legal, support, or policy measures to eliminate violence against women and punish perpetrators.¹⁰⁹ A Prevention of Violence against Women Law (PoVAW Law) has been discussed and drafted but not distributed for comment, prioritized or passed. Meanwhile, violence against women continues to be an endemic problem in Burma.¹¹⁰

In only the nine months from July 2015 to April 2016, approximately 40 villages reported almost 300 cases, including domestic violence cases, non-state actor violence, and state-sponsored sexual violence cases. Out of these cases, 44 are sexual violence cases or rape [See Annex 7 and 8 for a detailed breakdown of sexual violence cases.] In an indication of the Government's failure to prioritize women's safety, U Thein Sein, in his last weeks in office granted amnesty and released 1,726 convicted rapists in January 2016 which led to an increase in rapes.¹¹¹

Inadequate Legal System

Burma has an inadequate legal framework to protect female victims of violence. Since the transition to a quasi-civilian government in 2011, the Government has promised to enact a comprehensive PoVAW Law.¹¹² No PoVAW Law has been passed, though for years draft laws have circulated within the Government. No draft law has been made available publicly for comment and the failure to prioritize passage of protections for women encourages repeat offenders, and deprives victims of confidence in the legal system. This failure is notable since the Government has amended, passed or revoked approximately 200 laws since 2011, including legislation to protect foreign investors and to curtail women's rights to choose a spouse and with respect to birth spacing.¹¹³

The Government asserts that the Criminal Procedure and Penal Codes "strongly prescribe severe penalties and punishments for those who commit rape or sexual violence . . ." ¹¹⁴ However, there is no comprehensive legal framework, for example no provision for women to secure temporary restraining orders and no prohibition on marital rape unless the victim is under 14 years of age.¹¹⁵ Without a comprehensive PoVAW Law, transparency of investigations, or means to punish and rehabilitate offenders, a climate of impunity and unrestrained violence against women prevails in Burma.

Impunity for the Military: One major issue is the inability to hold military perpetrators of sexual violence accountable for their crimes. Such barriers are official, including Constitutional provisions granting the military complete control over military justice, as well as informal, such as fear and coercion.¹¹⁶ In fact, the military published a statement warning that it "will take action based on the rule of law against those who accuse" soldiers.¹¹⁷ The military has also overseen successful retaliatory criminal prosecutions, such as the one against Ja Seng Ing's father, Shayam Brang Shawng, for making "false accusations" against the military.¹¹⁸ A high percentage of victims are young girls and therefore easily intimidated by these threats.

Lack of Gender Sensitivity: While the Government asserts that there is no gender discrimination, the lack of gender-sensitivity among justice personnel at both national and village levels hinders reporting of sexual violence.¹¹⁹ The State Report references capacity-building trainings to the police force, judicial personnel, social workers, and health personnel, yet provides little information about implementation on a national scale, or regarding the substance, duration, or frequency of these trainings.¹²⁰ In fact, most justice personnel have had little to no training on how to deal with victims of sexual violence.

High Cost of Proceedings: Victims are often poor and without economic power. Cases are generally expensive, especially when corruption plays a part. Victims do not have access to legal aid or support services to assist with expenses. Cases typically require multiple hearings, so women must travel to court several times and resolve concerns for lost wages and child care. Depending on the distance to the courthouse, travelling can be burdensome, lengthy, and costly. [See Annex 9 for information regarding barriers to proceedings.]

Lack of Political Will and Prevalence of Corruption: The climate of impunity in Burma has caused violence against women to become a systematic problem. Lawyers are reluctant to take violence against women cases because of the time and resources they demand in relation to other cases. Often, the crime is de-sexualized, meaning that sexual assault cases are reclassified as regular assault.¹²¹ Justice personnel take advantage of victims, especially where a language barrier exists.¹²² Police officers, lawyers, and medical professionals often refuse or are reluctant to get involved in cases of violence when the perpetrator wields economic or political power, which is often the case. Victims are often pressured to settle or drop complaints in these situations, so that women are victimized again by their lack of economic and political power.¹²³ In some cases, the police will take the complaint "officially" but only post the arrest warrant at the police station and allow the perpetrator to flee.

Culture of Victim Blaming: Victims face enormous pressure from society and their families to resolve claims informally due to cultural stigma.¹²⁴ Cultural and traditional gender norms instruct women not to speak out about being victims of sexual violence and instead to feel guilty and take the blame for the attack. Women are subjected to a "black mark" on themselves and their families upon being victimized or seeking justice. At the community level, religion and

superstition come into play as women are told they are victims because they are being punished for some bad act in a past life.¹²⁵

Barriers Exacerbated for Ethnic Women: While all women in Burma face impediments in gaining access to justice, ethnic women face additional disadvantages. They are uncomfortable accessing the formal justice system, which can be intimidating and frightening. Official court documents are in Burmese, and courts do not offer translations into ethnic languages.¹²⁶ Moreover, it is costly to travel to courts from ethnic areas and to proceed with cases. Most ethnic women simply do not possess the skill set to deal with a judicial process—of which they are already apprehensive—while they are focused on trying to feed their families. [See Annex 9.]

Because of these barriers, victims in ethnic areas are typically most comfortable bringing claims at the village level. Typically women try to resolve claims of violence with village elders and local leaders, but these elders are overwhelmingly male and do not have gender sensitivity training.¹²⁷ Less than 1% (42 of nearly 18,000) of local administrators is female, in part because women are not designated as heads of households and local administrator nominees are traditionally heads of households. Therefore, women do not receive adequate, or sufficiently gender sensitive, justice outcomes.¹²⁸ Moreover, in cases where elders order the offender to pay restitution in an informal resolution, and he fails to pay the victim, there is no recourse for the victim to claim her money.¹²⁹

Lack of Support and Prevention Services

Despite its promises, the Government does not provide adequate support or prevention services for female victims of violence. Local groups must step into the breach when the Government neglects its commitments, and yet these groups encounter Governmental obstacles. Further, the Government forbids most INGOs from going to remote or sensitive areas in ethnic States because of “security” concerns. These barriers in obtaining support services are recurring and cyclical.

The MWAF does not provide adequate support services.¹³⁰ Many areas do not have MWAF offices, and even in areas with MWAF coverage, ethnic victims do not feel comfortable accessing MWAF services due to language barriers, absence of trust, and lack of political will on the part of MWAF. In these cases, service provision falls back to CBOs.

Limited Public Awareness of Rights

Most men and women in Burma are not aware that all forms of violence against women are a form of discrimination under CEDAW and therefore a violation of women’s human rights. Women have limited knowledge of the laws and policies which govern their rights or ability to seek redress.¹³¹ As in other areas of the world, men in Burma believe that violence against women is a less-important “women’s” issue and is a private matter between individuals; they do not acknowledge it as a much deeper, systematic social and cultural problem. Government public awareness campaigns, mentioned in the State Report, have failed to disseminate information throughout the country regarding prevention of violence against women.¹³² Neither do the campaigns recognize men’s roles in helping to change norms and end cycles and patterns of violence against women.

Use of Violence Against Women to Create Communal Conflict

In a troubling trend, violence against women is being used as a tool to incite communal conflict. In a number of cases local political and religious leaders have used rape allegations, which often turned out to be fabricated, to fuel ethnic and religious dissent.¹³³

RECOMMENDATIONS:

- Promptly and permanently withdraw troops from ethnic areas and admit to a pervasive pattern of sexual violence by the military and ensure swift punishment of perpetrators, including commanding officers, and redress for victims; allow all such cases to be heard and decided in civilian court.
- Prioritize and pass a comprehensive PoVAW Law that incorporates the comments of civil society and the public; ensure that the PoVAW Law provides a comprehensive definition of VAW as defined in GR 19 and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), provides specific penalties for offenders of sexual violence depending on the degree and severity of the offense, guarantees the safety of women seeking justice for all forms of violence, and identifies and removes all impediments faced by women victims seeking redress for violence.
- Provide and require support services for victims of violence and ensure that such services are culturally sensitive.

- Develop school curricula to teach students about sexual violence in a manner that promotes public awareness and gender sensitivity.
- Develop and implement gender sensitivity training for justice personnel and public officials, in particular law-enforcement personnel and health-service providers, in order to ensure that they are sensitized to all forms of violence against women and can provide adequate gender-sensitive support to victims; develop and implement public education campaigns about women's human rights, including for all civil servants and state forces.
- Involve men and boys in anti-violence against women efforts via programs educating about the root causes of violence against women.
- Acknowledge the prevalence of domestic violence, sexual harassment, and sexual intimidation in its ethnic communities.
- Allow CBOs to operate freely to empower and provide services to victims without restrictions or harassment.
- Prevent use of violence against women and girls as a pretext to create communal conflict.

13. GENERAL RECOMMENDATION NUMBER 30 (WOMEN IN CONFLICT PREVENTION, CONFLICT AND POST-CONFLICT SITUATIONS)

The Committee's 2013 General Recommendation 30 on women in conflict prevention, conflict, and post-conflict situations (GR30) acknowledges the prevalence of sexual violence in conflict, calls for prosecution of perpetrators of sexual violence, and recognizes that including women in peace and transitional processes is necessary to achieve lasting peace. GR30 is relevant to Burma since six decades of ethnic conflict have had a devastating impact on women and girls, especially those from ethnic groups. As part of protracted conflict, the military has engaged in a widespread, systematic and institutionalized pattern of human rights violations and sexual violence against ethnic women and girls. Conflict-related sexual violence (CRSV) is used as a tactic of war to demoralize ethnic communities, as punishment for supporting ethnic armed organizations, and as part of abuses against women used as forced porters for the military. Thus, for ethnic women, the military is a constant, pervasive, and threatening influence in their lives. While these abuses are overwhelmingly committed by the military, community members also commit sexual violence crimes during times of conflict.

Since the transition to a quasi-civilian government in 2011, on-going conflict and development projects in ethnic communities have increased military presence, and CRSV has continued to be prevalent.¹³⁴ The Government has failed to hold perpetrators accountable for CRSV and in fact persistently ignores the problem, despite overwhelming evidence of abuses. The failure to hold perpetrators accountable condones and continues the pattern of violence.

While periodic conflict has raged in Kachin, Shan, Karen/ Kayin and Mon States, U Thein Sein's Government engaged in a peace process with ethnic armed organizations (EAOs). That peace process was fraught with problems, including an almost complete exclusion of women and women's issues. The newly-elected Government, led by Daw Aung San Suu Kyi, has prioritized achieving peace, suggesting the convening of second Panglong Conference.¹³⁵ To achieve lasting peace, however, the military must cease committing human rights abuses, including CRSV, and women must have a significant role at all levels of the peace process.

Ongoing Pattern of Conflict-Related Sexual Violence

Women are extremely vulnerable to CRSV at the hands of the military, which is actively engaged in conflict with multiple ethnic groups and has a vested interest in development and business projects in rural areas. As part of its campaign of intimidation in ethnic areas, the military for decades has used violence against ethnic women as a strategy and tactic of war. In fact, since 2010, WLB has documented 92 cases of CRSV by the military with 123 victims in Chin, Kachin, Karen, Karenni/Kayah, Mon, Rakhain and Shan States. [See Annex 10 and 11 for a detailed breakdown of cases.] The most recent Report of the Secretary-General on conflict-related sexual violence reports that the "gender-based violence subcluster provided services to over 600 women and girls in 2015 in both government-controlled and non-government controlled areas" of Rakhain and Kachin states alone and estimates that 20 cases of sexual violence are recorded per month.¹³⁶ Both CEDAW and the UN Security Council's Resolutions on Women, Peace and Security (WPS Resolutions) mandate that the Government take steps to address and halt this pattern of violence. To date, the Government has not admitted the extent of the problem, and has claimed only that has provided "human rights education including all forms of violence against women" in defense academies.¹³⁷ While the content of this training is unknown, it is clear from WLB's data that the trainings are ineffective and do not amount to a developed and comprehensive plan to address CRSV by the military.

Impunity for Perpetrators

The Government has not investigated or punished military perpetrators of CRSV nor ensured remedies or reparations for victims. While the State Report claims that there is a “zero tolerance policy” against sexual misconduct by military personnel, WLB has identified over 120 victims of CRSV and has received reports of an inability to achieve redress for victims of military-perpetrated sexual violence.¹³⁸ In fact, just recently the Secretary-General of the UN reported “serious concerns” about impunity for CRSV and a lack of transparency in military justice in Myanmar.¹³⁹

A major source of military impunity is Article 343 of the Constitution which grants the military complete jurisdiction over all military matters, including discipline for members of the military who commit CRSV or other human rights abuses. There is no transparency in these cases regarding investigations, applicable law, charges levied, or punishment for perpetrators. Therefore, victims have no recourse to civilian courts for crimes committed by the military and no effective access to justice. The Government admits that cases involving military personnel on “active duty” are not eligible for transfer to civilian courts.¹⁴⁰

Fear of the military also inhibits survivors. The military has sternly warned that it will “take action based on the rule of law against those who accuse” soldiers and has successfully completed criminal prosecutions against individuals who implicate the military in crimes.¹⁴¹ Other factors that make victims reluctant to come forward include: harassment and coercion of survivors and their communities, the stigma associated with sexual violence crimes, pressure from family and village elders, and the difficulty of pursuing court proceedings while maintaining a livelihood. In cases where victims do come forward, the military assumes jurisdiction, often offering token payment as compensation reinforcing the notion that a nominal fee provides justice.

Women’s Exclusion from the Peace Process

President U Thein Sein made a first overture towards peace to EAOs on August 18, 2011. After four years of torturous negotiations, the Government signed a “Nationwide Ceasefire Agreement” (NCA) with only eight of 18 EAOs on October 15, 2015. The Government did not allow six EAOs to sign¹⁴² and seven refused to sign to protest the Government’s divide and rule policy in the negotiation process as well as lack of guaranteed equality for ethnic peoples in the preparation of the political framework. The NCA was not signed by many armed groups whose participation is crucial to lasting peace. Moreover, despite the NCA and various bilateral ceasefire agreements, fighting continues between the military and various ethnic groups, especially in Kachin and Shan states. Military offensives continue despite the democratic elections in November 2015, indicating the extent to which the military is completely autonomous and intent upon maintaining its power despite the wishes of the people. The on-going violence has a devastating impact on local populations, fueling internal migration and displacement. Therefore, the NCA cannot rightly be called nationwide nor a true ceasefire.

More importantly for purposes of CEDAW, women were largely excluded at every level of the peace process.¹⁴³ Neither of the two Union-level peace negotiating teams formed in December 2011 contained any women. The successor negotiating teams formed in May 2012 were similarly male-dominated: the Union Peace Central Committee, led by the President, contained 11 members but no women and the 52-member Union Peace Work Committee included only two women.¹⁴⁴ The now-defunct Myanmar Peace Center, established in November 2012 and funded by international donors to provide technical support to the peace process, had only one woman at a high-level position.

The NCA’s only reference to women was to call for the inclusion of a “reasonable” number of women representatives in the peace dialogue process.¹⁴⁵ This language is vague and arbitrary, leaving women without any real means for accessing negotiations. The Framework for Political Dialogue developed subsequent to the NCA has as one of its basic principles to “make efforts to include 30%” of women’s participation in all political dialogues.¹⁴⁶ This language also does not require women’s participation; simply making an “effort” will suffice.

This type of vague language and lack of political will led to further marginalization of women at Government-led post-NCA peace negotiations. At the Union Peace Conference in January 2016, called for in the NCA, women made up only 7% of delegates, well below the 30% quota. Thus, it is clear that women and women’s concerns have been utterly absent from the peace process and that women’s issues are seen as secondary in the peace process, in direct contravention of the CEDAW and the WPS Resolutions. [See Annex 12 for an overview of women’s limited involvement in the peace process.]

A revised, revived, and inclusive peace process led by the new Government will need to be more inclusive of women and women’s concerns. Unless and until women play a meaningful role in peace negotiations and post-conflict processes, as required by CEDAW, there can be no lasting peace.

RECOMMENDATIONS:

- Order the military to immediately stop using rape as weapon of war against ethnic women; admit the prevalence of CRSV and develop a comprehensive strategy, in accordance with international law, and with input from women's rights advocates, to protect and provide reparation for victims.
- Prosecute all perpetrators of CRSV, including by holding commanding officers responsible, according to international standards and obligations under WPS Resolutions and the Declaration of Commitment to End Sexual Violence in Conflict or allow an independent international investigation of CRSV. The judiciary must have independent authority to hear and try all cases of CRSV without influence from the executive or the military.
- Amend the Constitution to ensure that victims may bring cases in civilian courts and enact or amend relevant laws to provide sufficient punishment for perpetrators and redress for victims.
- Immediately withdraw military forces from ethnic areas so that independent investigations of crimes can take place without military repercussions on local communities.
- Carry out "human rights education and gender-sensitization training for all law-enforcement and military personnel," as requested by the Committee in 2008 (¶ 25).
- Exclude, as part of ensuring accountability, amnesties for CRSV in any negotiated peace agreement.
- Ensure that women fully, equally and effectively participate in all peace negotiations, including in conflict resolution, post-conflict planning and peace building, including through promoting women's leadership via women's leadership training programs and appointing women to senior decision-making roles; establish a quota of a least 30% women's participation in all peace processes and negotiations; ensure that any peace agreements represent the views of groups which are broadly representative of women's views and interests.

14. GENERAL RECOMMENDATION NUMBER 33 (ACCESS TO JUSTICE)

Burma suffers from a generally weak justice system without a stable and reliable rule of law which interferes with the realization of women's rights.¹⁴⁷ Additional barriers to women's access to justice include discriminatory patriarchal and cultural norms, customary law, economic barriers, and corruption. Therefore, women experience widespread discrimination in the enjoyment of their rights and their ability to seek justice for violations of those rights.

Furthermore, women are unable to access justice for gender-based crimes perpetrated by the military because Article 343(b) and 445 of the Constitution place military crimes outside civilian justice. This is especially significant in Burma, where the military perpetrates many gender-based crimes, including sexual assault, as part of long-standing conflict with multiple ethnic groups. A pervasive culture of impunity and a lack of political will to effectively implement initiatives to promote and protect women's rights facilitate and compound discrimination against women by formal and informal justice systems.

Cultural Norms and Stereotypes Privilege Men

In Burma, generally accepted cultural norms and patriarchy put women seeking to obtain justice at a disadvantage. A cultural habit of blaming women victims of violence in both society at large and the justice process inhibits women from coming forward.¹⁴⁸ The patriarchal stereotype that men are superior to women also prevails, limiting women's access to justice in both informal and formal justice systems.¹⁴⁹ (For a more detailed discussion, see Article 5 above.)

Patriarchal Informal Justice and Customary Law Discriminate Against Women

Because of cultural norms and other barriers, victims commonly do not seek redress in the formal justice system. For example, court proceedings are held in Burmese, so victims who are more comfortable in local languages do not seek redress formally. Instead, women victims seek justice informally at the local level. This is especially true in cases of domestic violence, which is considered a family matter better dealt with at the local level.

Unfortunately, women are not always able to secure adequate justice at the local level. Ninety-nine percent of decision-making village leaders are male, so women's perspectives are completely absent.¹⁵⁰ For example, at the village level, a woman victim's family—not the woman herself—receives compensation or other form of settlement.¹⁵¹ Gender bias at the village level influences matrimonial matters as well; a man is always granted his request for a divorce while a woman may be denied or have to pay for one. In instances of domestic violence, village leaders often ask the spouses to try to work out their differences and return in a few months, putting the woman at high risk for harm. Often village level

justice is merely an agreement by the perpetrator not to reoffend which is an inadequate justice outcome. Finally, it can sometimes be difficult for victims to know which level of village justice is the appropriate forum to hear the case.

Women are discriminated against in the realm of property and inheritance as well since the Government recognizes the authority of village elders and religious or ethnic leaders to adjudicate property rights.¹⁵² For example, Kachin customary law favors sons over daughter in inheritance disputes; in divorce cases, the Palaung and the Kachin grant property to the husband as a matter of right. [For more information regarding harmful informal justice practices, see Annex 13.]

Barriers to Justice and Discrimination in the Formal Justice System

Economic Barriers to Justice: Going to court is expensive, and a complainant must pay to file a case and to hire a lawyer. Although the Government claims the complaint-scrutinizing working group must provide a lawyer if necessary, including for complainants at the MWAF, in reality, only defendants in death penalty cases actually receive legal aid.¹⁵³ In addition to court-related costs, complainants must pay for transportation, and often the courts are far away and the process is long which requires many trips, especially for assault cases.¹⁵⁴

Corruption and Impunity for Corruption: Women have a lack of trust in the justice system because of the role of money and corruption in determining the outcome of cases.¹⁵⁵ The judiciary lacks independence from both the executive and the military, with judges often receiving orders regarding how to rule in cases.¹⁵⁶ Moreover, due to pervasive corruption, the party with the most money controls the outcome. Perpetrators frequently bribe judges for a favorable outcome or to postpone hearings in order to discourage victims. There also is an expectation that a winning lawyer will give a "present" or "pay respect" to a judge in order to expedite or win future cases. Bribes are considered normal and personnel who refuse bribes are culturally ostracized.¹⁵⁷ Prior to leaving office, President U Thein Sein even told government officials that gifts up to \$300 were allowed, sanctioning this corrupt practice.¹⁵⁸ The new Government has clarified that an acceptable amount is \$20.¹⁵⁹ As a result, often women victims are victimized again by the rigged legal system.

Reprisals against Women Human Rights Defenders, Witnesses, and Others: Women Human Rights Defenders (WHRD), victims, and witnesses are not protected from threats and harassment before, during, or after legal proceedings. Instead, WHRDs are harassed by police for their work defending women's rights and perpetrators frequently threaten witnesses to prevent them from testifying.¹⁶⁰ Security forces surveil WHRDs when they undertake awareness-raising activities and also harass WHRDs when they are working with victims of sexual violence. Those who protest military abuses or try to bring cases against the military are even criminally penalized for seeking justice.

Military Impunity, Especially for Crimes against Women and Girls: Articles 343(b) and 445 of the Constitution grant the military complete independence over its own affairs, effectively placing military crimes outside the civilian justice system. Both the Government's claims of equal rights for women under the Constitution and the criminalization of assault and insult are rendered moot, since many acts of gender-based violence are perpetrated by military personnel, and thus are outside the reach of the civilian justice system.¹⁶¹ Since 2011, as mention under GR 19 above, WLB has documented 92 cases of sexual violence committed by the military; the 123 victims did not receive adequate redress or reparation for these crimes.¹⁶²

Typically, victims of crimes perpetrated by the military are offered minimal compensation as quid pro quo for not going to court or are threatened or intimidated into keeping silent. When a complaint is brought against soldiers, a military commander intervenes and transfers the case to a military tribunal, which civilians are not allowed to access. Victims cannot present evidence at the military tribunal and their lawyers are often threatened. Military convictions are not for the crime, such as assault or sexual assault, but for breaking military protocol. The military retains the case file and does not make public information about the case's outcome or applicable law. The Government claims that military perpetrators of CRSV have been tried in civilian court, but the total number of civilian prosecutions represents only a small fraction of the overall number of CRSV cases and reports to WLB indicate that civilian prosecutions are extremely rare.¹⁶³ [Please see sample of cases failing to reach civilian court in Annex 9]

No Political Will to Support Implementation of Women's Rights

The Government-run awareness-raising trainings to teach women about the criminal laws protecting their rights are largely ineffective. For one, such Government-run trainings have not been held widely; sadly, in the five years from 2010–2014, they only reached 834 personnel.¹⁶⁴ The Government does not follow up with attendees of trainings to

ensure implementation of training mandates nor hold follow-up trainings to ensure attendees' understanding of CEDAW principles and the importance of implementing women's rights. As a result, rights on paper are not secured in practice: for example, while the police manual provides information about victims' rights, the police often overlook these rights due to corruption or power politics.

The Government describes the MWAF as one of many "well-functioning" legal mechanisms that addresses complaints of violations of women's rights.¹⁶⁵ However, the MWAF is ineffective as a legal complaint mechanism because it has inadequate budget and no professional staff (it consists of only volunteers). The MWAF offices at the local level may aspire to help women victims but can be discouraged from doing so by their MWAF superiors at regional and higher levels. Threats from perpetrators also impact the MWAF's ability to fulfill its mandate.

RECOMMENDATIONS:

- Reform the justice system so that the people can easily and effectively lodge complaints for violations, abuses and crimes committed by the military, police or other Government authorities; allow the military to be prosecuted and/or litigated against for CRSV in the civilian formal justice system and ensure the safety of women who are victims of CRSV at the hands of the military, including by preventing the military from retaliating against victims and their families.
- Eliminate economic barriers to women's right to access justice, including by providing competent gender-sensitive legal aid for indigent complainants and defendants, even in non-death penalty cases and reducing or waiving fees and court costs for indigent complainants.
- Ensure that the formal justice system adheres to international standards of competence, efficiency, independence, and impartiality and to international jurisprudence, in particular by providing and enforcing appropriate, effective remedies in a timely fashion; ensuring that evidentiary rules, investigations, and other legal and judicial procedures are impartial and are not influenced by gender stereotypes or prejudice; protecting women's privacy, safety, and other human rights where necessary; for example, by protecting the woman's identity.
- Establish systematic and safe court houses, in particular in ethnic states and rural areas; ensure that women complainants, witnesses, defendants, and WHRDs are protected from threats, harassment, retaliation, and other forms of harm before, during, and after legal proceedings, including by providing the necessary budgets, resources, guidelines, and monitoring and legislative frameworks for protective measures to function effectively and prosecuting perpetrators of intimidation against victims.
- Eliminate corruption in the formal justice system, including by paying justice system personnel adequate salaries; establish an independent monitoring system or committee to initiate serious measures and legal cases against justice personnel who have taken bribes and dismissing them from government positions; enforcing the Anti-Corruption Law; and making information about the Anti-Corruption Commission publicly available.
- Appoint gender sensitive justice officials and personnel and capacity-build government officials on CEDAW and women's rights, including by requiring Government officials, including judges, lawyers, police, and other justice personnel, at all levels to participate in regular CEDAW and follow-up trainings; increasing the number of CEDAW trainers and trainings; conducting regular follow-up trainings over the long-term to ensure attendees' understanding of CEDAW and women's rights; ensuring that training attendees are correctly implementing CEDAW mandates into their work and continuing to monitor this implementation.
- Ensure that religious, customary, indigenous and informal justice systems comply with CEDAW, including by harmonizing their norms, procedures, and practices with CEDAW standards, and that informal justice personnel, including administrators of informal justice at the village level, are sensitized on CEDAW and women's rights.
- Ensure the equal representation and participation of women in justice systems, particularly in village-level informal justice systems where they are grossly underrepresented.
- Ratify the Optional Protocol to CEDAW.

16. ANNEXES *[Please see in a separate document]*

ENDNOTES:

- ¹ Committee on the Elimination of Discrimination against Women, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Burma*, ¶ 9, U.N. Doc. CEDAW/C/MMR/CO/3 (Nov. 7, 2008) [hereinafter 2008 Concluding Observations].
- ² Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties due in 2014: Myanmar*, ¶ 97, U.N. Doc. CEDAW/C/MMR/4-5 (Feb. 23, 2015) [hereinafter 2014 State Report].
- ³ This is true in Sagaing Division and Dawei in Tennesarim Division. See *infra* Annex 1.
- ⁴ 2014 State Report, *supra* note 2, at ¶¶ 9–16.
- ⁵ 2014 State Report, *supra* note 2, at ¶¶ 9, 101.
- ⁶ The “Race and Religion” laws include the Population Control Healthcare Law, Religious Conversion Law, Buddhist Women’s Interfaith Marriage Law, and Monogamy Law. See Press Release, U.N. High Commissioner of Human Rights, (Feb. 25, 2015) (discussing how Myanmar “needs urgently to get back on track”); see also Chloe White, *Protection for Whom? Violations of International Law in Myanmar’s New ‘Race and Religion Protection’ Laws*, GEORGETOWN INST. FOR WOMEN, PEACE & SEC. (2015).
- ⁷ For information regarding land law, see FOOD & AG. ORG OF THE U.S., *VOLUNTARY GUIDELINE OF THE GOVERNANCE OF TENURE: AS A GLANCE* (2012), available at <http://www.fao.org/docrep/016/i3016e/i3016e.pdf>; GOV’T OF THE REP. OF THE UNION OF MYANMAR, *NATIONAL LAND USE POLICY (6TH DRAFT)* (2015), available at http://www.burmalibrary.org/docs21/NLUP_6th_draft2015-06-en.pdf; TRANSNATIONAL INST., *ASSESSMENT OF 6TH DRAFT OF THE NATIONAL LAND POLICY (NLUP)* (2015), available at https://www.tni.org/files/publication-downloads/nlup-6-key_points.pdf. The Government also failed to consider women’s rights or adequately consult civil society when considering amendments to the Investment Law. See Burma: *Address Rights Impact of New Investment Law*, HUMAN RIGHTS WATCH (March 25, 2015), <https://www.hrw.org/news/2015/03/25/burma-address-rights-impact-new-investment-law>; Htin Lynn Aung, *New Investment Laws in Limbo*, MYANMAR TIMES (Sept. 1, 2015), <http://www.mmimes.com/index.php/business/16244-new-investment-laws-in-limbo.html>; *Burma’s New Investment Law Fuels Human Rights Concerns*, KAREN NEWS (April 1, 2015), <http://karennews.org/2015/04/burmas-new-investment-law-fuels-human-rights-concerns.html/>; Sandar Lwin, *DICA Extends Consultations for Investment Law*, MYANMAR TIMES (April 2, 2015), <http://www.mmimes.com/index.php/business/13874-dica-extends-consultations-for-investment-law.html>.
- ⁸ ARROW, *MYANMAR/BURMA BREAKING BARRIERS: ADVOCATING SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS 41* (2016) [hereinafter *Breaking Barriers*]; *Activists Relay Worries of Draft Association Law to Parliament*, ASIAN HUMAN RIGHTS DEFENDERS (June 5, 2014), <https://asianhrds.forum-asia.org/?p=12868>; *Shwe Yee Saw & Myint Htoo Thant, Anger as Government Restricts NGO Registration with By-law*, MYANMAR TIMES (July 24, 2015), <http://www.mmimes.com/index.php/national-news/15644-anger-as-government-restricts-ngo-registration-with-by-law.html>; *The Situation of Human Rights Defenders: Myanmar*, INT’L SERVICE FOR HUMAN RIGHTS DEFENDERS (Mar. 2015), http://www.ishr.ch/sites/default/files/article/files/ishr_-_upr_briefing_paper_on_myanmar.pdf.
- ⁹ 2008 Concluding Observations, *supra* note 1, at ¶ 11.
- ¹⁰ 2008 Concluding Observations, *supra* note 1, at ¶ 17.
- ¹¹ PAUL MINOLETTI, *GENDER (IN)EQUALITY IN THE GOVERNANCE OF MYANMAR: PAST, PRESENT, AND POTENTIAL STRATEGIES FOR CHANGE 27* (2016) [hereinafter *Gender (in)Equality*].
- ¹² Asian NGO Network on National Human Rights Institutions (ANNI), *Report on the Performance and Establishment of National Human Rights Institutions in Asia*, 13 - 21 (2013) [hereinafter *ANNI Report (2013)*]; see *Myanmar Revamps Human Rights Panel Amid Criticism from Rights Groups*, RADIO FREE ASIA (Sept. 25, 2014).
- ¹³ 2014 State Report, *supra* note 2, at ¶ 36.
- ¹⁴ *Babies and Boldness for Myanmar’s New Wave of Women MPs*, BREITBART (March 8, 2016), <http://www.breitbart.com/news/babies-and-boldness-for-myanmars-new-wave-of-women-mps/>; *Hla Hla Htay, Babies and Boldness for Myanmar’s New Wave of Women MPs*, YAHOO! NEWS (March 8, 2016), <https://www.yahoo.com/news/babies-boldness-myanmars-wave-women-mps-185715023.html?ref=gs>.
- ¹⁵ 2008 Concluding Observations, *supra* note 1, at ¶ 11.
- ¹⁶ 2014 State Report, *supra* note 2, at ¶ 179.
- ¹⁷ KIMBERLY ROGOVIN, INTERNATIONAL LABOUR ORGANISATION, *INTERNATIONAL LABOUR MIGRATION IN MYANMAR: BUILDING AN EVIDENCE-BASE ON PATTERNS IN MIGRATION, HUMAN TRAFFICKING AND FORCED LABOUR* (Dec. 2015), available at http://www.ilo.org/yangon/whatwedo/publications/WCMS_440076/lang--en/index.htm [hereinafter *ILO REPORT*].
- ¹⁸ U.S. DEPT. OF STATE, *TRAFFICKING IN PERSONS REPORT 2015: BURMA 104* (July 2015) available at <http://www.state.gov/j/tip/rls/tiprpt/2015/index.htm> [hereinafter *U.S. D.O.S. TRAFFICKING REPORT*].
- ¹⁹ U.S. D.O.S. *TRAFFICKING REPORT*, *supra* note 19.
- ²⁰ These standards are set forth in the US Trafficking Victims Protection Act. For Tier 2 Watch List criteria, see *Tier Placements*, U.S. DEPT. OF STATE, <http://www.state.gov/j/tip/rls/tiprpt/2015/243366.htm>.
- ²¹ *United States: Assign Tier-3 Rankings to Myanmar, Thailand, Malaysia in Annual Trafficking Report*, FORTIFY RIGHTS (MARCH 22, 2016), <http://www.fortifyrights.org/publication-20160322.html>.
- ²² KACHIN WOMEN’S ASSOCIATION THAILAND, *PUSHED TO THE BRINK: CONFLICT AND HUMAN TRAFFICKING ON THE KACHIN-CHINA BORDER* (2013), available at http://www.burmalibrary.org/docs15/KWAT-pushed_to_the_brink-en-red.pdf [hereinafter *PUSHED TO THE BRINK*].
- ²³ UNITED NATIONS OFFICE ON DRUGS AND CRIME, *MIGRANT SMUGGLING IN ASIA: CURRENT TRENDS AND RELATED CHALLENGES 58* (April 2015), available at <http://www.unodc.org/documents/southeastasiaandpacific/Publications/>

[2015/som/Current Trends and Related Challenges web.pdf](#) [hereinafter UNODC REPORT]; *List of Issues and Questions in Relation to the Combined Fourth and Fifth Periodic Reports of Myanmar: Replies of Myanmar to the List of Issues*, ¶¶ 40, 52 (May 3, 2016) [hereinafter *List of Issues Response*]; ILO Report, *supra* note 22, at 3.

²⁴ UNODC REPORT, *supra* note 24, at 58.

²⁵ PALAUNG WOMEN'S ORGANIZATION, *STOLEN LIVES: HUMAN TRAFFICKING FROM PALAUNG AREAS OF BURMA TO CHINA* (June 2011), available at <http://womenofburma.org/14-june-2011-palaung-womens-organization-launched-a-report-stolen-lives-human-trafficking-from-palaung-area-of-burma-to-china/> [hereinafter *STOLEN LIVES*].

²⁶ See *STOLEN LIVES*, *supra* note 26; *PUSHED TO THE BRINK*, *supra* note 23.

²⁷ *PUSHED TO THE BRINK*, *supra* note 23, at 12.

²⁸ UNODC Report Raises Concerns on Human Trafficking Growth, *MIZZIMA NEWS* (Apr. 28, 2015), <http://www.mizzima.com/news-international/unodc-report-raises-concerns-human-trafficking-growth>.

²⁹ 2008 Concluding Observations, *supra* note 1, at ¶ 27.

³⁰ 2014 State Report, *supra* note 2, at ¶¶ 63, 65; *List of Issues Response*, *supra* note 24, at ¶¶ 40–52.

³¹ U.S. D.O.S. *TRAFFICKING REPORT*, *supra* note 19, at 106.

³² *STOLEN LIVES*, *supra* note 26, at 26, 27.

³³ 2014 State Report, *supra* note 2, at ¶ 68.

³⁴ *PUSHED TO THE BRINK*, *supra* note 23, at 15.

³⁵ 2014 State Report, *supra* note 2, at ¶¶ 59, 61.

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