

Myanmar

Akhaya Women Submission to the Universal Periodic Review

Twenty-Third Session, March 2015

Akhaya Women is a Myanmar non-governmental organization established in 2012 and based in Yangon. Akhaya promotes women's rights with a specific focus on sexual and reproductive health and rights and violence against women. Akhaya works directly with women and girls experiencing intimate partner and sexual violence in non-conflict affected areas of Myanmar. Akhaya conducts violence against women prevention campaigns and provides response services, including legal assistance, psychosocial care, income generation and women's empowerment. This submission focuses on discrimination against women and girl in non-conflict affected areas of Myanmar with a specific focus on intimate partner and sexual violence. Myanmar is party to the Convention on the Elimination on Violence Against Women (CEDAW) and the Convention on the Rights of the Child (CRC). This submission will focus on Myanmar obligations under these two conventions. The following information was collected through informal interviews with survivors, Akhaya's situation analysis of services for VAW survivors in Yangon and desk reviews of relevant legislation, policy and national action plans. *Recommendation accepted from previous UPR-how say?*

Violence Against Women

Violence against women in Myanmar is highly prevalent. This includes economic, emotional, physical and sexual violence in the context of an intimate partner relationship as well as non-partner sexual violence. Violence against women is rarely a one-off incident, with the majority of survivors experiencing multiple forms of violence. While all violence is unacceptable, physical violence against women is often severe, ranging from slapping and pushing to life-threatening acts of violence or deliberate attempts on life. While rarely identified as rape, women commonly report being forced or coerced to have sex against their will in the context of an intimate partner relationship. The sexual abuse of female children is also prevalent. This ranges from unwanted touching to rape, with the perpetrator commonly being a family member or someone well known to the child. Sexual harassment and assault in public places, such as groping and indecent exposure, is extremely common and considered normal part of life.

Norms and Practices

Deep-seated social and cultural norms discriminate against women and girls and result in their unequal and disadvantageous status in public and private life. This contributes to violence against women in all its forms. Gender norms that emphasize female passivity and submission to male 'natural' authority restrict female decision-making power and increase women and girls' vulnerability to violence. Discrimination against women is sanctioned by the socially accepted belief of female inferiority, which is rooted in notions of female sexuality that consider the female body to be dirty and spiritually impure. For example, the widely held belief that menstrual blood is dirty and polluted justifies female exclusion from public spaces. Emphasis on the importance of female sexual purity and virginity encourages women and girls to remain naïve about sexuality, including their sexual and reproductive health rights. This greatly reduces female agency to negotiate sexual relationships and is a contributing factor in sexual and intimate partner violence. Sexual violence results in a strong sense of shame and loss of reputation, which further disempowers survivors. Male sexuality is considered to be 'uncontrollable' which contributes to the strong norm of male sexual entitlement. This supports the objectification of women's bodies, tacitly condones sexual violence and contributes a culture of victim-blaming. [CEDAW, recommendation 21, General recommendation 19, specific recommendation 24(e), Article 2(f) and 10(c).]

National Machinery

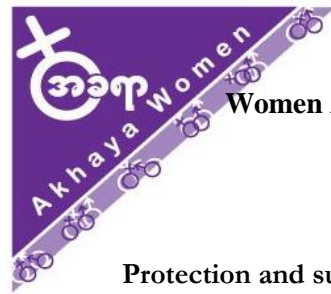
The Myanmar Women's Affairs Federation (MWWAF) was formed in 2003 and functions as the national machinery for advancement of women and girls according to Myanmar's obligations under CEDAW. Like its predecessor, the Myanmar Committee for Women's Affairs, the MWWAF is hindered by a lack of adequate human, financial and technical resources and appropriate authority to carry out its mandate. The MWWAF's close affiliation with the government deters female survivors critical of the government from seeking assistance. The MWWAF's violence against women work is strongly influenced by conservative social norms, which render its services at best inappropriate and at worst actively harmful. For example, women commonly report being encouraged to return to an abusive husband in the interests of maintaining the family unit. MWWAF awareness raising activities advise women to dress conservatively to avoid sexual violence and in doing so, promote a culture of victim-blaming. [CEDAW review, recommendation 17 national machinery – recommended to strengthen, provision of necessary authority, adequate human, financial and technical resources. General CEDAW recommendation 6, Accepted UPR recommendation - 105.3. Further strengthen its national machinery to ensure gender equality (Azerbaijan)]

Normative and institutional framework

The 2008 constitution's definition of discrimination has not been reformed to align with CEDAW's, which prohibits direct and indirect discrimination in the public and private sphere. It lacks any guarantee to substantive equality and undermines anti-discrimination provisions regarding employment by stating that nothing 'shall prevent the appointment of men to the positions that are suitable for men only'. It also institutionalizes discrimination by reserving one fourth of the legislature for the military/*tatmadaw*, a male-dominated institution with very few women. [CEDAW Article 7, General Recommendation No. 23 (Women in Political and Public Life), UDHR Article 21]

Despite accepting UPR recommendations to criminalize rape in every context, ensure legal punishment for perpetrators and adopt an effective measure to fight combat violence against women, legislation regarding sexual and intimate partner violence remains inadequate. The colonial era *Penal Code* remains the primary legislation concerning violence against women. There is currently no specific legislation regarding intimate partner violence. Current statutes concerning sexual violence remain inadequate and outdated, framed by notions of gender and violence that call into question the behavior of the victim or perceive them as lesser for having experienced violence. Under existing law, sexual violence is criminalized on the basis that it offends a woman's 'modesty'. Moreover, marital rape is currently exempted from criminal proceedings unless the woman is under 13 years old. An anti-violence against women (AVAW) law has been drafted and submitted to the Joint Bill Committee for approval to be submitted to the legislature for review, however has not been approved yet. [SEE CEDAW Article 1, General Recommendation No. 19]

The proposed Protection of Race and Religion legislative package would violate CEDAW. The package consists of four bills; the Population Control Bill, Buddhist Women's Special Marriage Bill, Religious Conversion Bill and the Monogamy Bill. These bills violate women's reproductive rights and discriminate on the basis of gender and religion. The Buddhist Women's Special Marriage Bill, also known as the Interfaith Marriage Law would require Buddhist women to seek permission from local authorities and parents to marry a man of another faith and requires non-Buddhist men to convert to Buddhism before marrying a Buddhist woman. The Religious Conversion Bill increased mandated hurdles for religious conversion while the Monogamy Bill would outlaw polygamy. The Population Control Bill would grant authorities power to identify regions where women would be encouraged to only procreate once every three years. [reference – CEDAW, Beijing, etc.]



Protection and support for survivors

Protection and support services for female survivors of intimate partner and sexual violence are extremely limited. The lack of appropriate violence protection legislation and mechanisms such as protection orders limits the role of law enforcement in addressing intimate partner violence. When women do report intimate partner violence, they report facing prejudice from authorities that dismiss the seriousness of the incident and encourage them to return home in the interests of the family. The lack of standard operating practices for rape or screening methods for intimate partner violence in government hospitals and the absence of specially trained health workers results in substandard care. For example, rape survivors report that post-rape medical examinations in government hospitals do not include the provision of emergency contraception. There are no rehabilitation services for intimate partner and sexual violence survivors or perpetrators, nor are there any women's refuges. The few counseling options available offered by non-government organizations are inadequate and inappropriate. No legal assistance is provided. Consequently survivors are often deterred from seeking justice through formal legal channels that involve complex and protracted legal processes, which are often prohibitively expensive.

Bias in the justice sector

Survivors report discrimination in the justice sector. Under the *Evidence Act* past sexual conduct and character evidence may be introduced to cross-examine to impugn the credibility of witnesses. The weight of the evidence is left to the judge's discretion. An institutionalized culture of victim-blaming combined with the social conservatism of current laws applied to violence against women cases commonly results in inadequate sentencing. Widespread corruption in courts and the police force allows perpetrators to interfere with legal proceedings to prevent or hinder violence against women cases from going forward. Aware of this, survivors and their family often agree on informal financial compensation. Taboos around sexual violence and importance placed on female sexual purity also contribute to informal resolutions either in form of financial compensation or marriage between the perpetrator and survivor to ensure the survivor's 'dignity' remains intact. This is particularly true in the case of child abuse against a girl. [SEE CEDAW Articles 3, 5, General Recommendation No. 19]

Bias in the health

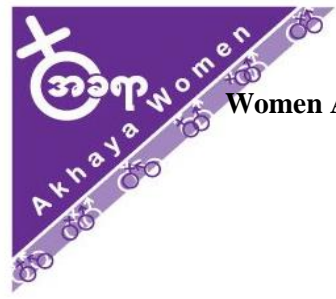
The lack of appropriate healthcare for female survivors of intimate partner and sexual violence is part of a gendered pro-natalist bias within the health sector. This bias is a product of conservative gender roles that frame women exclusively as mothers and wives. The government-sponsored pro-natalist approach to women's health is discriminatory and contributes to poor health outcomes for women and girls. Female sexual and reproductive health suffers as a consequence of this. Beyond maternal health, there are few female reproductive and sexual healthcare services. The lack of comprehensive sexuality education combined with this service gap results in a range of poor female sexual and reproductive health practices and outcomes. For example, the limited availability and knowledge of the birth control pill results in women taking emergency contraception in its place. The lack of fertility services also contributes to high rates of unsafe abortions.

Recommendations

- Myanmar should pass and implement the AVAW law and raise awareness about the law and its consequences in the community, among men and women. Gender sensitivity training should be conducted among justice officials and law enforcement to ensure the effective implementation of laws and appropriate support for survivors. This includes training on confidentiality and privacy measures
- Myanmar should reject the Protection of Race and Religion legislation immediately and commit to adhering to principles of anti-discrimination
- Myanmar should strengthen its national machinery and ensure that its activities reflect the values of CEDAW. Government departments and bodies responsible for the implementation of the National

Strategic Plan for the Advancement of Women 2013-2022 should be allocated sufficient human, financial and technical resources to effectively achieve its stated goals.

- Myanmar should introduce an age-appropriate comprehensive sexuality education syllabus in primary and high school curricula. This should cover topics including sexual and reproductive anatomy, gender equality, healthy relationships, women's rights, and sexual and reproductive health rights
- Women's refuges or crisis accommodation should be established and made readily available to women and girls experiencing violence. Refuges should cater towards women and girls and provide support for women and their children to avoid forced separation
- Violence against women and gender sensitivity training should be provided to health care providers (nurses, doctors, counselors, psychologists, health administrators, etc.) to enable them to identify violence and address it in a sensitive and appropriate way. Appropriate standard operating procedures and guidelines for treating intimate partner and sexual violence survivors should be established



CEDAW concluding observations

CEDAW recommendations 9 Definition of discrimination against women

CEDAW recommendation 11 state constitution and discriminatory laws (constitution)

Maybe add data and information on violence still not collected properly by the state – Recommendation 15 – legal complaints mechanisms, including human rights institution

Recommendation 17 – national machinery

Recommendation 21 (negative cultural practices and stereotypes) and 23 VAW

Recommendation 39 – health – sex and reproductive health, access to contraception.

Interfaith marriage law against what article of general recommendation?

General recommendations

General recommendation no. 6 –effective national machinery – also includes monitoring- maybe add to above paragraph on MWAF activities

General recommendation 21 – equality in marriage and family relations

UPR recommendations

104.11. Establish and enforce strict legislation criminalizing rape in every context, including marital rape (Portugal);

104.32. Ensure that violence against women and girls, including intimate partner violence and all forms of sexual abuse, constitutes a criminal offence, and that perpetrators are prosecuted and punished (Norway);

Accepted recommendations

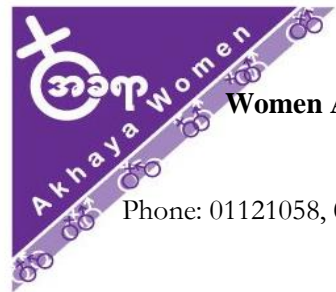
105.3. Further strengthen its national machinery to ensure gender equality (Azerbaijan);

105.8. Adopt effective measures to fight violence against women (Slovenia);

105.10. Increase its efforts to prevent and combat violence against women and human trafficking and adopt a National Plan of Action for the advancement of the human rights of women (Iran);

Female survivors' access to justice through the formal legal system is impeded by the low level of legal awareness in the community and the complex and protracted legal process that is often prohibitively expensive

General recommendation 19 – VAW- relevant – appropriate and protective services, gender training for judiciary and law enforcement officers, other public officials, proper family law and violence protection legislation and mechanisms, effective measures to overcome harmful norms and practices, state parties should establish support services – refuges, speciality trained health workers, rehabilitation and counseling, avoid unsafe abortion through proper fertility services,



Women Advancing *through* Sharing, Learning & Growing *together* to Take Action for Change.

Phone: 01121058, 09-73251085, Email: akhaya.mm@gmail.com