



UNIVERSAL PERIODIC REVIEW ON BURMA

Joint Submission by Women's League of Burma (WLB)

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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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 the 2011 UPR, we have been working in affected communities to track the progress of the commitments made by the Government of Burma (hereinafter 'the Government'). 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 in 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.

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Introduction

Based on information that we have collected since 2011, the WLB would like to highlight the following five issues to demonstrate how the Government's failure to meet promises made during the 2011 UPR, and its obligations under international law, has impacted women and girls in particular:

I - Women and girls are subjected to ongoing sexual violence in areas of both conflict and increased militarisation, and are denied access to justice;

II - Female Internally Displaced Persons (IDPs) and refugees face an increased risk of human rights abuses during their cycle of displacement;

III - Women and girls' security is imperiled by land confiscation and increased militarisation driven by large scale development projects;

IV - Women are excluded at every stage of the peace process, marginalising the issues specific to women and girls and exacerbating gender inequality;

V - Burgeoning drug production and the absence of Government support for those affected is threatening the human rights of women and girls;

Our submission will not only provide information on each issue, but will provide key recommendations to identify actions which the Government can take both to realise its promises from the 2011 UPR and to safeguard the human rights of all women and girls.

I - Women and girls are subjected to ongoing sexual violence in areas of both conflict and increased militarisation, and are denied access to justice

1. The Government has failed to meet the promises it made during the 2011 UPR to prosecute and punish perpetrators of sexual violence¹, adopt legal and judicial reforms to guarantee access to justice for women affected by violence², and undertake a comprehensive investigation into crimes of sexual violence by the military and provide reparations to victims.³ In so doing, the Government has violated its obligations under United Nations Security Council Resolutions (UNSCR) on Women Peace and Security and the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), as well as the commitments made under the Declaration of Commitment to End Sexual Violence in Conflict.⁴ Furthermore, contrary to its obligations under international law, the Government continues to allow survivors and women human rights defenders (WHRDs) to face intimidation and threats.⁵

¹ 2011 UPR Recommendation 104.32, 104.11, 104.36, 104.37, 104.39. See Women's League of Burma (WLB), 'Ongoing sexual violence highlights urgent need for Burma Army to stop offensives and pull back troops from Kachin areas', 2015 (hereinafter 'WLB (2015)')

² 2011 UPR Recommendation 104.37

³ 2011 UPR Recommendation 104.39

⁴ UN Charter: S.C. Res. 1325, ¶ 11, U.N. Doc S/RES/1325 (Oct. 31, 2000); S.C. Res. 1820, preamble at ¶ 11, U.N. Doc S/RES/1820 (June 19, 2008); S.C. Res. 1960, preamble, U.N. Doc S/RES/1960 (Dec. 16, 2010); S.C. Res. 2106, preamble, ¶¶ 2 and 19, U.N. Doc S/RES/2106 (June 24, 2013); S.C. Res. 2122, preamble, U.N. Doc S/RES/2122 (Oct. 18, 2013); Report of the Secretary-General on Sexual violence in conflict, ¶ 12, U.N. Doc. S/2013/149 (14 Mar. 2013); CEDAW General Recommendation 19, ¶ 25(a); CEDAW General Recommendation 30, ¶ 38; Common Article 3 to all four Geneva Conventions. See also the Declaration of Commitment to End Sexual Violence in Conflict.

⁵ UN Charter: S.C. Res. 1820, Preamble, U.N. Doc. S/RES/1820 (June 19, 2008); S.C. Res. 1888, ¶ 6, U.N. Doc. S/RES/1888 (Sept. 30, 2009); S.C. Res. 2106, Preamble, U.N. Doc. S/RES/2106 (June 24, 2013); CEDAW General Recommendation 30, ¶ 38(c), (d).

2. The prosecution of crimes of sexual violence in conflict has been hindered by the Government's failure to enact effective measures to fight violence against women.⁶ While the Government has authored the National Strategic Plan for the Advancement of Women (NSPAW) and signed the Declaration of Commitment to End Sexual Violence in Conflict, neither have been implemented. Furthermore, strict legislation which criminalizes all types of violence against women – in the form of an Anti Violence Against Women Law – has not yet been passed. As a result of these failures, the Government has broken its promise made during the 2011 UPR to increase efforts to prevent and combat violence against women and girls.⁷

3. The Government has failed to fulfill its commitments, under international law and pursuant to its 2011 UPR, to undertake the legal and judicial reforms necessary to ensure justice for victims and survivors of sexual violence in conflict.⁸ The judiciary lacks independence from both the executive and the military⁹; prosecution of cases involving human rights violations by the military is undertaken in private through the court-martial system¹⁰, and; the vast majority of women and girls affected do not receive redress. The case of Sunlut Roi Ja is particularly notable here, given the attention the case garnered by the UN Special Rapporteur in March 2012, September 2012 and March 2013. Despite her family pursuing the official judicial process to obtain redress and justice, the whereabouts of Sunlut Roi Ja is still unknown. Rates of prosecution for perpetrators of sexual violence, particularly in conflict zones and areas of increased militarisation – that is, areas which have seen increased deployment of military personnel and munitions – remain very low.¹¹ Since the 2011 UPR, the WLB has documented 73 crimes of sexual violence by the Burma Army in Kachin State, Karen State, Mon State, Chin State, Shan State, and Karenni State. The vast majority of cases of sexual violence by the military are dealt with by the court-martial system, which lacks transparency and civilian oversight, and does not make public any information relating to cases. Moreover, many survivors are located long distances from administrative centers, which combine with structural and procedural impediments to make the process of initiating court proceedings whilst maintaining a livelihood very difficult.¹²

4. Survivors are routinely subject to intimidation by state authorities – in which superiors of the accused perpetrators are often instrumental – impeding the punishment of those responsible and contravening the Government's commitments under international law.¹³ Harrassment and coercion of survivors and their families is common following crimes of sexual violence, and has continued unabated.¹⁴ In April 2014, 17 year-old 'Ma Bauk' was abducted by two soldiers following her day's work on the outskirts of DawHpum village. The soldiers raped her repeatedly at knife-point, beating and threatening to kill her if she spoke to anyone about her trauma. Having managed to escape, 'Ma Bauk' reported the incident to the village leader, who in turn took the case to the local police. Over the months that followed, the family worked hard to seek justice, despite being repeatedly told that the military authorities would ensure accountability for the perpetrators. On several occasions, military authorities visited the family home to offer monetary compensation for the crime, conscious that 'Ma Bauk' wanted to continue with

⁶ 2011 UPR Recommendation 105.8

⁷ 2011 UPR Recommendation 105.10

⁸ UN Charter: S.C. Res. 1820, Preamble, U.N. Doc. S/RES/1820 (June 19, 2008); S.C. Res. 1888, ¶ 6, U.N. Doc. S/RES/1888 (Sept. 30, 2009); S.C. Res. 2106, Preamble, U.N. Doc. S/RES/2106 (June 24, 2013); CEDAW General Recommendation 30, ¶ 38(c), (d).

2011 UPR Recommendation 104.37, 104.9, 104.11

⁹ International Center for Transitional Justice (ICTJ) (2014) Navigating Paths to Justice in Myanmar's Transition, p.7-8. See also Nixon, H., Joeline, C., Chit Saw, K.P., Aung Lynn, T., and Arnold, M. (2013) State and Region Governments in Myanmar, p.13-15

¹⁰ Women's League of Burma (WLB), If they had hope they would speak: The ongoing use of state-sponsored sexual violence in Burma's ethnic communities, 2014, p.6-10 (hereinafter 'WLB (2014)')

¹¹ WLB (2014), p.6-8

¹² WLB (2014), p.6-10

¹³ CIHL Database, Rule 153; Rome Statute, Article 28; UN Charter: S.C. Res. 1960, preamble, U.N. Doc S/RES/1960 (Dec. 16, 2010)

¹⁴ See WLB (2014), p.6-9

her schooling. Almost a year later, no one has been convicted of the rape, and neither ‘Ma Bawk’ nor her family has received any support from the state.¹⁵

The rape and murder of Maran Lu Ra and Tangbau Hkawn Nan Tsin in January 2015 has also illustrated the intimidation which communities face following an incident of sexual violence involving the military.¹⁶ Despite international calls for a swift and transparent investigation into the crimes, criminal charges have not yet been brought against any perpetrators, and military personnel have threatened local communities with prosecution if they implicate the military with the crimes.¹⁷

Minimal compensation is also routinely offered to families as a quid pro quo for not pursuing legal action – reinforcing the perception that a nominal fee provides justice. By not taking concrete steps to change this, the Government has been complicit in substituting payment in place of justice through the legal system against perpetrators from the military, in contravention of commitments made during the 2011 UPR.¹⁸

5. WHRDs focusing on sexual violence face myriad threats to their security.¹⁹ The Government’s security forces routinely conduct surveillance activities when WHRDs undertake awareness raising activities, and subject WHRDs to harassment when working with survivors of sexual violence. WHRDs from Kachin Women’s Association Thailand (KWAT) and Karen Women’s Organisation have also reported the continued attendance of military intelligence personnel at workshops given to raise awareness of CEDAW.²⁰ The intimidation and threats faced by WHRDs focusing on sexual violence by the military belies the commitments made to effectively fight violence against women in both NSPAW, and the Declaration of Commitment to End Sexual Violence in Conflict.

I - Recommendations

(a) Deliver on promises made during the 2011 UPR to end sexual violence, and ensure the prosecution and punishment of perpetrators from the police, military and other authorities.

(b) Reform Burma’s 2008 Constitution and domestic legal frameworks to place the military under civilian control, incorporate relevant norms of international law, safeguard the independence of the judiciary from the executive and military, and allow for the Government to meet its obligations as a party to the UN Charter, Security Council Resolutions on Women Peace and Security, the Universal Declaration of Human Rights, CEDAW, and the Convention on the Rights of the Child.

(c) Implement and fund NSPAW to ensure that commitments made are comprehensively fulfilled, including the establishment of a transparent and mutually-supportive relationship with civil society groups.

(d) Adopt the Anti Violence Against Women Law, including provisions specifically directed towards sexual violence in all contexts.

(e) Implement commitments made under the Declaration of Commitment to End Sexual Violence in Conflict, and allow an independent international investigation into crimes of sexual violence committed in conflict, ensuring legal punishment of perpetrators irrespective of their institutional affiliation, and reparation to survivors and victims’ families.

¹⁵ Interview with Kachin Women’s Association Thailand. See also WLB (2014), p.8-9

¹⁶ See WLB (2015)

¹⁷ Interviews with Kachin Baptist Church, January, February and March 2015

¹⁸ 2011 UPR Recommendation 104.36

¹⁹ WLB (2014), p.9, 14-15

²⁰ Women’s League of Burma workshop with WHRDs, January 2015

II - Female Internally Displaced Persons and refugees face an increased risk of human rights abuses during their cycle of displacement

1. Ongoing conflict across Burma displaces women and girls. Contrary to its commitments under international law, the Government has not instituted any mechanisms to protect displaced women and girls, including from gender-based violence²¹, and has denied humanitarian assistance to communities affected by conflict which hinders the provision of basic services to those affected.²² In addition, the Government has failed in its promise to include women in consultations about repatriation,²³ imperiling their security and livelihoods, and leaving risks specific to them unaddressed.²⁴

2. The Government has failed in its commitments made during the 2011 UPR to safeguard the fundamental rights of ethnic women and girls, and address their humanitarian and socio-economic needs, which in turn has undermined its promise to promote nationwide reconciliation.²⁵ The resumption of conflict between the Government and several ethnic armed organisations (EAOs), and the violation of numerous ceasefire agreements, have driven displacement and migration.²⁶ Women and girls fleeing conflict-affected areas have continued to be subjected to gender-based violence, including sexual violence and trafficking.²⁷ KWAT has documented numerous cases of trafficking, including that of a woman whose daughter was trafficked following displacement from Nam San Yang village. After arriving back at her IDP camp following a brief absence, the woman was told that her daughter had been trafficked and sold by a broker as a bride. Despite being contacted by her daughter for help, the woman has been unable to locate her, and Government authorities have not provided any assistance to resolve the case.²⁸

3. The flight of women and girls from conflict zones has denied them access to basic services, contravening the Government's commitments under international law.²⁹ The military's targeting of civilians in ethnic communities remains indiscriminate³⁰, resulting in restrictions on freedom of movement which breaches Burma's obligations under the UDHR.³¹ In the event of migration, many girls are unable to access education, health care and remain unaided by the Government.³² Moreover, IDPs have little or no access to legal mechanisms, including those which would safeguard them from gender-based violence during displacement³³, contrary to the Government's obligations under CEDAW.³⁴

4. The Government has continued to break promises made as a signatory to CEDAW and during the 2011 UPR by denying humanitarian assistance to civilians in areas of conflict, denying their fundamental

²¹ CEDAW General Recommendation 30, ¶ 57(a)

²² CEDAW General Recommendation 30, ¶ 57(d); CRC General Comment 6, ¶ 41, ¶ 47

²³ CEDAW General Recommendation 30, ¶ 57(c)

²⁴ CEDAW General Recommendation 30, ¶ 57(b); U.N. Guiding Principles on Internal Displacement, Principle 4; CRC General Comment 6, ¶ 3

²⁵ 2011 UPR Recommendation 104.29, 104.51, 104.52. See also CEDAW General Recommendation 30, ¶ 57(b); U.N. Guiding Principles on Internal Displacement, Principle 4; CRC General Comment 6, ¶ 3

²⁶ Kachin Women's Association Thailand (KWAT), Pushed to the Brink: Conflict and human trafficking on the Kachin-China border, 2013 (hereinafter 'KWAT (2013)')

²⁷ KWAT (2013), p.20-22

²⁸ KWAT (2013), p.20

²⁹ Interview with Rakhaing Women's Union, March 2015. See CEDAW General Recommendation 30, ¶ 57(d); CRC General Comment 6, ¶ 41, ¶ 47

³⁰ Fortify Rights, 'I thought they would kill me': Ending wartime torture in Northern Myanmar, 2014

³¹ UDHR: Articles 13, 14 (1)

³² KWAT (2013), p.14

³³ Palaung Women's Organisation, The Burden of War: Women bear burden of displacement, 2012, p.24-25

³⁴ CEDAW General Recommendation 30, ¶ 57(a)

rights and neglecting their humanitarian and socio-economic needs.³⁵ In 2013, KWAT reported that whilst international aid agencies have been allowed access to areas under Government control in conflict zones, they have been restricted from accessing and assisting over 70, 891 IDPs in Kachin controlled areas.³⁶ In another example of the Government denying humanitarian support to civilians affected by conflict, in October 2014 restrictions on movement in Hpa-an and Hpapun districts were reported by our partners, hindering the provision of humanitarian aid.³⁷ Efforts to ensure access to basic services in territory administered by EAOs have been extremely limited, and the denial of humanitarian assistance to these areas has exacerbated this situation.

5. The proposed repatriation of refugees to areas affected by conflict contravenes the Government's 2011 UPR commitments to safeguard their humanitarian needs.³⁸ The Government has reneged on its commitments under international law to prevent gender-based violence by proposing to establish resettlement sites close to military bases. The increased presence of the military around five proposed resettlement sites in Karen State – deemed suitable owing to their proximity to arable land – would increase the threat of violence towards women, particularly those pursuing agricultural livelihoods.³⁹ By excluding women from the planning process for repatriation, and denying their participation in planning for post-conflict income generation activities, the Government has neglected its promises under international law⁴⁰ and the 2011 UPR to address the needs and risks specific to female IDPs/refugees of minority communities.⁴¹

II - Recommendations

(a) Ensure the needs and risks specific to women and girls are addressed at every stage of conflict, including through the provision of support for those affected by livelihood insecurity, trafficking, and sexual violence.

(b) Allow unhindered access to those providing humanitarian assistance to internally displaced persons, and uphold the commitment to provide basic services – notably access to healthcare, education and legal services – to all, irrespective of ethnicity.

(c) Ensure women's involvement at every stage of planning for repatriation and post-conflict income generation activities, to help mitigate against the risks specific to them as IDPs/refugees.

III – Women and girls' security is imperiled by land confiscation and increased militarisation driven by large scale development projects

1. The Government has broken the promises it made during the 2011 UPR to safeguard the fundamental rights of women and girls from multiethnic communities⁴² and to implement MDG1⁴³ by

³⁵ 2011 UPR Recommendation 104.29, 104.51. See also CEDAW General Recommendation 30, ¶ 57(d); CRC General Comment 6, ¶ 41, ¶ 47

³⁶ KWAT (2013), p.9

³⁷ Karen Rivers Watch, *Afraid to Go Home: Recent Violent Conflict and Rights Abuses in Karen State*, 2014, p.8-9

³⁸ 2011 UPR Recommendation 104.51

³⁹ CEDAW General Recommendation 30, ¶ 57(e)-(f); U.N. Guiding Principles on Internal Displacement, Principle 4.

See The Border Consortium, *Protection & Security Concerns in South East Burma/Myanmar*, 2014, p.6

⁴⁰ CEDAW General Recommendation 30, ¶ 57(c)

⁴¹ 2011 UPR Recommendation 104.51, 104.54. CEDAW General Recommendation 30, ¶ 57(b); U.N. Guiding Principles on Internal Displacement, Principle 4; CRC General Comment 6, ¶ 3; CEDAW General Recommendation 30, ¶ 57(d); CRC General Comment 6, ¶ 41, ¶ 47

⁴² 2011 UPR Recommendation 104.24

undertaking numerous development projects – under the protection of the military – which threaten women and girl’s security. The Government has failed in its commitments under CEDAW to protect against the displacement of women with a special dependency on land⁴⁴ by allowing mass land confiscation, and to ensure that redistributed land is shared on equal terms between men and women.⁴⁵

2. Land confiscation has dramatically increased in areas surrounding development projects⁴⁶ – specifically the Shwe Gas Pipeline in Rakhine State and the Dawei Special Economic Zone (SEZ) in Tanintharyi Region – increasing poverty for affected communities.⁴⁷ In these areas, agricultural work is a primary occupation of the majority of women.⁴⁸ Therefore, land confiscation leaves them without work or livelihood⁴⁹, which violates the Government’s CEDAW commitments.⁵⁰ The Government has failed to meet its obligation to ensure that rural women participate in and benefit from these projects⁵¹, and that the distribution of dividends from these projects is equal.⁵² This is a dereliction of promises made in the 2011 UPR to solve long standing conflicts in the country and move towards national reconciliation.⁵³

3. By allowing increased militarisation in ceasefire areas to secure development projects, the Government has failed to deliver on its promises to promote and protect the fundamental rights of women and girls, and address their humanitarian and socio-economic needs.⁵⁴ In parallel to increased security risks as a result of militarisation⁵⁵, sexual harrasment by migrant labourers working on development projects has become a daily problem for many women.⁵⁶ The Government has contravened promises made during the 2011 UPR both by failing to adopt effective measures to fight violence against women⁵⁷, and by neither prosecuting nor punishing its perpetrators.⁵⁸

4. Despite the Government committing to guaranteeing access to justice, complaints relating to land confiscation directed to the Myanmar National Human Rights Commission (MNHRC) are rarely followed up.⁵⁹ In Myitkina, Kachin State, a woman’s attempt to pursue legal redress for land confiscation was rejected by the MNHRC, who explained that her original submission of a complaint to a local level court meant that the case was out of their jurisdiction. As a result, the woman has received no compensation or reparation of any kind.⁶⁰ In Eastern Shan State, communities facing land confiscation

⁴³ 2011 UPR Recommendation 104.42

⁴⁴ CEDAW General Recommendation 30, ¶ 57(d); CRC General Comment 6, ¶ 41, ¶ 47

⁴⁵ CEDAW General Recommendation 21, Para. 27

⁴⁶ See Tavoyan Women’s Union (TWU), *Our Lives Not For Sale: Tavoyan women speak out against the Dawei Special Economic Zone project, 2014* (hereinafter ‘TWU (2014)’); Karen Peace Support Network, *Critique of Japan International Cooperation Agency’s Blueprint for Development in Southeastern Burma/Myanmar, 2014*, p.13; WLB (2014), p.10-11

⁴⁷ Interview with Rakhaing Women’s Union, March 2015. See also TWU (2014). See also 2011 UPR Recommendations 104.42, 104.51, 104.24, 104.29

⁴⁸ TWU (2014), p.10-11

⁴⁹ TWU (2014), p.10-12

⁵⁰ CEDAW General Recommendation 30, Para. 57(d)

⁵¹ CEDAW, Article 14

⁵² Beijing Platform for Action, § 165(e)

⁵³ 2011 UPR Recommendation 104.53, 104.12, 104.51

⁵⁴ 2011 UPR Recommendations 104.24, 104.29, 104.51, 105.8. See Karen Human Rights Group (KHRG), *Truce or Transition? Trends in human rights abuse and local response in Southeast Myanmar since the 2012 ceasefire, 2014*, p.97-103, 106-109 (hereinafter ‘KHRG (2014)’)

⁵⁵ WLB (2014), p.4-5

⁵⁶ TWU (2014), p.15

⁵⁷ 2011 UPR Recommendation 105.8

⁵⁸ 2011 UPR Recommendation 104.32

⁵⁹ 2011 UPR Recommendation 104.37. See also Burma Partnership and Equality Myanmar, *All The President’s Men, 2014*

⁶⁰ Women’s League of Burma workshop with WHRDs, January 2015

on a mass scale have no means of redress, and are routinely told that improper paperwork precludes them from filing a case with the MNHRC.⁶¹

5. The Government has failed to implement its promise to support women who have been deprived a means of income as a result of the environmental damage caused by development projects.⁶² Lack of consultation with communities prior to the undertaking of these projects – and their free, prior and informed consent as a result – has imperiled the livelihoods of women. In communities surrounding the Dawei Special Economic Zone (SEZ), soil run off from gravel mining areas and the blockage of drainage channels has caused large scale damage to fields, resulting in a loss of income for women.⁶³ In Ah Yeh village in Eastern Shan State, the water pollution caused by a nearby mining project has resulted in many villagers facing water shortages – both for domestic and agricultural needs – which has directly impacted their ability to cultivate their land.⁶⁴

III - Recommendations

(a) Impose a temporary moratorium on large-scale development projects in regions of Burma affected by conflict until a comprehensive peace agreement can be reached.

(b) Ensure that the Government implements its commitment made during the 2011 UPR to safeguard both the livelihoods of women with a special dependency on land, and the security of women and girls in areas affected by displacement.

(c) Ensure that women participate in and benefit from development projects, and are entitled to an equal share of the dividends from such projects.

(d) Ensure the free, prior and informed consent of communities for development projects to be undertaken, inclusive of women's voices at every stage of the consultation process. Environmental Impact Assessments, Social Impact Assessments and Health Impact Assessments should be undertaken for each project.

IV – Women are excluded at every stage of the peace process, marginalising the issues specific to women and girls and exacerbating gender inequality

1. Despite signing ceasefire agreements with 14 out of 17 major EAOs since August 2011, conflict has continued in Kachin State, Shan State, Karen State, Kayah State and Mon State.⁶⁵ The Government-initiated peace dialogue has excluded women at every level, failing to meet commitments made under international law and during the 2011 UPR.⁶⁶ By marginalising the issues faced by women and girls, the Government has failed to live up to its promises to strengthen gender equality⁶⁷, ensure the humanitarian and socio-economic needs of ethnic groups, and build a sustainable democratization and reconciliation process.⁶⁸ In contravention of its commitments under UNSCR on Women Peace and Security⁶⁹, the Government has failed to consult the wider community to ensure that women's

⁶¹ Interview with Lahu Women's Organisation, September 2014

⁶² 2011 UPR Recommendation 104.51. See also TWU (2014)

⁶³ TWU (2014), p.6 and p.11

⁶⁴ Lahu Women's Organisation, Grab for White Gold: Platinum Mining in Eastern Shan State, 2012, p.11

⁶⁵ Burma News International, Deciphering Myanmar's Peace Process: A Reference Guide, 2014

⁶⁶ 2011 UPR Recommendation 105.3, 104.51

⁶⁷ 2011 UPR Recommendation 105.3

⁶⁸ 2011 UPR Recommendation 104.51

⁶⁹ UN Charter: S.C. Res. 1888, Preamble, ¶ 1, U.N. Doc. S/RES/1888 (Sept. 30, 2009); S.C. Res. 1889, preamble, U.N. Doc S/RES/1889 (Oct. 5, 2009)

perspectives are included in both discussions and implementation plans, and references to women and gender are entirely absent from ceasefire agreements.⁷⁰

2. The Government has failed to meet its commitment to guarantee unity, peace and stability by denying women a role at every stage of the peace process.⁷¹ The Government has prioritised cessation of fire at the expense of substantive dialogue between conflicting parties, which has protracted conflict, and – given that negotiations take place entirely between men – contributed to the marginalisation of women in political and public life in Burma. To date, the Government has been unwilling to deny amnesty – that is, a de facto pardon – to those who have committed crimes in conflict, contrary to its obligations under international law and the 2011 UPR to punish and prosecute those committing acts of violence against women.⁷²

3. The narrow focus of ceasefire agreements has sidelined the issues specific to women and girls which has protracted conflict. These issues include: addressing the continued abuse of inalienable human rights guaranteed to all under international law, ensuring the realisation of justice and reparations for those affected by conflict-related sexual violence, and the establishing of adequate social infrastructure to ensure access to basic services. Further, by neglecting women in Disarmament, Demobilisation and Reintegration processes, the Government has failed to meet its commitments under UNSCR 1889⁷³ and further marginalised the crucial perspectives of women.

4. In violation of its obligations under UNSCR 2122, the Government has not provided support to civil society organisations working in ethnic communities to promote women’s leadership development, or awareness of women’s human rights.⁷⁴ Despite the adoption of NSPAW, funding has not been given for local-level awareness raising to provide human rights education, and the Government has failed to meet its obligations under CEDAW to encourage women’s involvement in political and public life.⁷⁵

IV - Recommendations

(a) Ensure women’s participation at every stage of ceasefire negotiations, including by appointing women as negotiators, and cease hostilities with EAOs, withdraw troops from ethnic states, and initiate political dialogue between the Government and EAOs.

(b) Ensure that the National Ceasefire Agreement clearly defines prohibited acts of violence committed by any party and designates them as ceasefire violations, and denies amnesty to all parties who have committed acts of sexual violence either prior to or after their signing of these agreements.

(c) Establish a ceasefire monitoring mechanism which includes women at every level, and ensure that women are included in the planning, implementation, and monitoring of Disarmament, Demobilisation and Reintegration processes.

(d) Allow civil society organisations the role of official observers of peace process discussions, to ensure transparency of the dialogue process and hold parties accountable for commitments made.

V – Burgeoning drug production and absence of Government support for those affected is threatening the human rights of women and girls

⁷⁰ WLB (2014), p.12-13

⁷¹ 2011 UPR Recommendation 104.12

⁷² 2011 UPR Recommendation 104.32, 104.36

⁷³ UN Charter: S.C. Res. 1889, ¶ 1, U.N. Doc S/RES/1889 (Oct. 5, 2009)

⁷⁴ UN Charter: S.C. Res. 2122, ¶ 7, U.N. Doc S/RES/2122 (Oct. 18, 2013). See also WLB (2014)

⁷⁵ CEDAW General Recommendation 23, ¶ 28

1. By overseeing an increase in the cultivation, production, and use of drugs in Burma's ethnic communities since 2011⁷⁶, the Government has failed to meet promises made during the 2011 UPR to address socio-economic inequality and bridge the development gap between rural and urban areas of the country.⁷⁷ The Government has continued to incentivise the military to partake in drug-related activities in exchange for fighting rebel groups⁷⁸, severely limiting livelihoods opportunities for women in affected communities, and breaking its promise to address their humanitarian and socio-economic needs.⁷⁹ These financial pressures have driven different types of violence against women, and resulted in an increase in migration and human trafficking.⁸⁰

2. The Government has failed to meet its obligation to prosecute those invested in the cultivation of opium and the production of synthetic drugs⁸¹, increasing their availability and driving drug use among communities – particularly in Kachin State and Northern Shan State. The expansion of the military into areas formerly under the control of the Kachin Independence Organisation has driven production among local farmers, and resulted in a proliferation in violence faced by women. Further, in Karen and Mon States, some EAOs are reluctant to intervene in drug related issues for fear of provoking conflict between various armed actors who benefit from the drug trade, potentially leading to a breakdown of ceasefire agreements.⁸²

3. The drug control strategies of the Government are not gender sensitive, and have driven domestic violence, abuse and increased pressure on women to support the household in the absence of any assistance from the Government.⁸³ Opium cultivation among local communities has driven drug addiction, which has imperiled the health of many and reduced family income, further deepening the poverty which the Government committed to address in the 2011 UPR.⁸⁴

4. The Government has failed to meet its obligation to address the difficulties faced by women in these communities⁸⁵ – specifically, the pressure to bring income into the family home in an environment of few livelihoods opportunities – which has resulted in many pursuing work in the drug trade.⁸⁶ The absence of economic opportunities for women and girls in affected communities has also driven migration and an increase in human trafficking, in violation of commitments made by the Government during the 2011 UPR.⁸⁷

Recommendations

(a) The Government should immediately order the military to cease 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.

(b) Implement a drug control strategy which is sensitive to the risks faced by women and girls in communities affected by drug abuse, including those relating to health, education, and livelihoods.

⁷⁶ Kachin Women's Association Thailand (KWAT), *Silent Offensive: How Burma Army strategies are fuelling the Kachin drug crisis*, 2014. See also KHRG (2014), p.150-51 (hereinafter 'KWAT (2014)')

⁷⁷ 2011 UPR Recommendation 104.14, 104.44

⁷⁸ KHRG (2014), p.150-53; KWAT (2014), p.12-14

⁷⁹ 2011 UPR Recommendation 104.51

⁸⁰ KWAT (2014), p.25-26

⁸¹ UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Art. 6, 8, 14(2)

⁸² KHRG (2014), p.154

⁸³ UN Charter: General Assembly Resolution S-20/3, annex, ¶ 8. See KWAT (2014)

See also CEDAW, Art. 12

⁸⁴ 2011 UPR Recommendation 104.14

⁸⁵ CEDAW, Article 14

⁸⁶ KWAT (2014), p.32-34

⁸⁷ 2011 UPR Recommendation 105.10

(c) Provide alternative means of livelihoods in communities affected by the drug trade - including access to markets for agricultural produce and vocational skills training - and ensure economic opportunities are available for women and girls.