

## Joint Submission to the UN Human Rights Council

### *Universal Periodic Review – 23<sup>rd</sup> Session*

## **Myanmar**

### **Analytical Background**

1. The Government of Myanmar (the “Government”) is obligated in its second cycle Universal Periodic Review (“UPR”) to provide detailed information on how it has implemented recommendations on human rights protections made during its first cycle UPR in 2011, as well on developments in human rights in Myanmar since 2011. In the context of women’s rights, the Government’s progress has been dismal on both fronts.
2. At the outset, it must be stressed that women’s perspectives were largely absent from the 2011 UPR. Out of a total of 197 recommendations made to the Government during the 2011 UPR, only nine—a mere 4.6%—made any direct reference to the rights of women.<sup>1</sup> Moreover, of these nine recommendations, only seven were accepted by the Government; accepted recommendations related primarily to eradicating all forms of violence against women and bringing its perpetrators to justice, as well as to strengthening domestic laws to ensure gender equality. As explained in more detail in this submission, the Government has failed to implement any of these seven recommendations.
3. Moreover, since 2011, limited democratic reforms in Myanmar have not improved women’s rights or made any strides towards ensuring gender equality in general. This can be attributed, at least in part, to the fact that the focus of the reforms has been on readying Myanmar’s economy for an influx of capital and encouraging foreign investment, rather than on ensuring human rights. Additionally, the way the Government characterizes reforms needs to be carefully considered. For example, in its 2015 report to the CEDAW Committee, the Government asserts that “8 laws related to women’s rights have been amended or enacted.”<sup>2</sup> However, consideration of these laws reveals that they are laws which provide labor and economic protections generally, not laws seeking to ameliorate the situation of women in Myanmar. In fact, only one of the laws discussed, the Social Security Law, includes specific provisions related to women (maternity leave).
4. As explained below, this failure stems from entrenched structural barriers that have remained unchanged since 2011. In fact, the threats to women’s equality examined in this submission—gender discrimination embedded in law, barriers to women’s

access to justice, and exclusion of women from participation in public and political life—exist against an unchanged landscape shaped by a deep history of patriarchy and decades of oppressive military dictatorship. Today, these legacies remain very much alive in the form of fundamental defects that impede genuine reform in all aspects of rule of law, including legal structures guaranteeing true gender equality.

5. In particular, three underlying themes are critical to understanding the complexity of injustice against women in Myanmar and the need for structural reforms in order to effect genuine positive change:

- **Ongoing Supremacy of Military Power:** Despite the Government’s recently proclaimed transition toward democracy, Myanmar’s political landscape remains tightly controlled by the same military regime that has systematically abused and discriminated against women for decades.
- **Entrenchment of Military Power and Gender Inequality in the 2008 Constitution:** Despite its celebrated enactment as a sign of democratic reform, Myanmar’s military-drafted 2008 Constitution actually reinforces deeply rooted problems of systemic gender discrimination perpetuated by over sixty years of military rule and now structurally embedded in Myanmar’s constitutional laws. Additionally, the 2008 Constitution leaves the military entirely outside civilian control and oversight.
- **Lack of an Independent Judiciary:** It is widely acknowledged that Myanmar lacks an independent, impartial, and effective judiciary to uphold the rule of law. Unsurprisingly, most civil society actors have little to no faith in the independence of the judiciary, which is seen as ineffective, corrupt, and subject to political influence.

6. In this submission, the Global Justice Center and the Leitner Center for International Justice will focus on three areas of women’s inequality that remain substantially hindered by these structural defects:

- I. Gender discrimination embedded in law,
- II. Barriers to women’s access to justice, and
- III. Exclusion of women from participation in public and political life

7. In the context of the Government’s 2015 UPR obligations and accepted 2011 UPR recommendations, the analysis below explains how these challenges impact the daily lives of women and girls in Myanmar, with specific recommendations to the Government on meeting its international obligations to eliminate discrimination against women.

## **I. Gender Discrimination Embedded in Law**

## ***Failure to adopt a definition of discrimination against women in line with international human rights norms***

8. During the 2011 UPR, the Government accepted recommendations to fully implement its international human rights treaty obligations, including eliminating discrimination against women under CEDAW, through the incorporation of such obligations into domestic law.<sup>3</sup> The Government also accepted a recommendation to further strengthen its national machinery to ensure gender equality, implicitly including Myanmar's national Constitution and any other national laws and legislation.<sup>4</sup>
9. A critical first step towards the implementation of the Government's obligations to eliminate discrimination against women is the adoption of a legal definition of discrimination against women, in conformance with the language of CEDAW, within the national Constitution or other appropriate legislation.<sup>5</sup> CEDAW's definition of "discrimination against women" encompasses "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."<sup>6</sup>
10. As a State party to CEDAW, the Government has failed to adopt an acceptable legal definition of discrimination against women.<sup>7</sup> The 2008 Constitution contains some provisions regarding equality but fails to provide a comprehensive definition of discrimination against women that encompasses substantive equality and articulations of discrimination against women in law and in effect,<sup>8</sup> as required of all States Parties under CEDAW.
11. The lack of a legal definition of discrimination against women in Myanmar's domestic law, including one that incorporates substantive equality, ultimately hinders the formulation, interpretation, and dissemination of laws and policies impacting the rights of women. This leaves the Government, as well as civil society actors and international monitors, without a critical benchmark for assessing progress on the elimination of discrimination against women. Moreover, without such a definition, victims of discrimination are left without fundamental guidance on how to engage the legal system, restricting their ability to access justice and leaving perpetrators of discrimination against women unaccountable for their actions.

### *Recommendations*

- The Government must immediately adopt a legal definition of discrimination against women that is in conformity with CEDAW, either by amending the 2008 Constitution or through anti-discrimination legislation.

## ***Entrenchment of gender-based discrimination through proposed and existing legislation***

12. During the 2011 UPR, the Government accepted recommendations to incorporate its international human rights law obligations into domestic legal systems, including a recommendation to strengthen its national machinery to ensure gender equality.<sup>9</sup> However, current existing and proposed national legislation in Myanmar raise substantial gender inequality concerns.
13. In a troubling step backwards with respect to women's rights, Myanmar's national legislature is currently considering a set of so-called "Laws on the Protection of Race and Religion" that threaten to deeply entrench widespread gender-based discrimination, in clear violation of the Government's international obligations, under CEDAW and elsewhere, to eliminate discrimination against women.<sup>10</sup> Two of the proposed laws, the Buddhist Women's Special Marriage Bill and the Population Control Healthcare Bill, particularly threaten women's fundamental human rights and would embed negative and harmful gender stereotypes into Myanmar law.<sup>11</sup>
14. The Buddhist Women's Special Marriage Bill aims to regulate interfaith marriage by imposing strict rules concerning the conduct of non-Buddhist men—and only men—towards their Buddhist wives, whose conduct is not addressed by the proposal.<sup>12</sup> Passage of this law would blatantly violate international norms protecting the rights of women to enter and fully participate in marriage on an equal basis with men.<sup>13</sup> Moreover, by solely regulating the conduct of men with regard to women, it also reinforces negative prejudices and customs based on the supposed inferiority and superiority of women and men, respectively, and on stereotyped roles for women and men, in contravention of CEDAW.<sup>14</sup>
15. Meanwhile, the Population Control Health Care Bill proposes a 36-month "birth spacing" interval for women between child births.<sup>15</sup> This clearly violates the Government's international obligations to ensure the right of women, on an equal basis with men, to "decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights."<sup>16</sup> Moreover, the proposal contains no protections against use of forced contraception, forced abortion, or forced sterilization as implementation or enforcement measures, which violate a broad range of fundamental rights, including women's rights to life, liberty, and security, and the right to be free from discriminatory barriers to health care, all on an equal basis with men.
16. Gender-based discrimination is also pervasively entrenched throughout existing laws, particularly under the archaic Myanmar Penal Code, enacted in 1861. The impact of such laws on women's access to justice is further described below in paragraphs 24-27.

17. A particularly troubling concern with the Penal Code is the criminalization of abortion under Section 312, enforced through criminal and civil penalties for both women and persons performing abortions, except where abortion is performed to save a woman's life.<sup>17</sup> This exception would not permit abortions to preserve women's physical and mental health or to terminate a pregnancy resulting from rape.<sup>18</sup> In fact, complications from unsafe abortions are a leading cause of maternal mortality in Myanmar.<sup>19</sup> The criminalization of abortion under the Penal Code without exceptions for women's physical and mental health or pregnancies resulting from rape constitutes a discriminatory barrier to women's access to medical care, which violates the Government's international obligations under CEDAW and, in the case of women who become pregnant as a result of conflict-related rape, the Geneva Conventions<sup>20</sup> and Security Council Resolutions 2106 and 2122.<sup>21</sup>

### *Recommendations*

- The Government must reject the proposed "Laws on the Protection of Race and Religion," including the Buddhist Women's Special Marriage Bill.
- With regard to the Population Control Healthcare Bill, the Government must ensure that any enacted laws include adequate human rights protections and safeguards against gender discrimination and use of forced contraception, forced abortion, or forced sterilization as implementation or enforcement measures.
- The Government must repeal Section 312 of the Penal Code criminalizing abortion. It must also ensure that at a minimum, any laws restricting abortion, include exceptions to save women's lives and preserve women's physical and mental health, as well as exceptions for pregnancies resulting from rape.

## **II. Barriers to Women's Access to Justice**

### *Impunity for the military*

18. The Government accepted several recommendations during its 2011 UPR with respect to access to justice for violence against women ("VAW") perpetrated by the Myanmar military, including recommendations to ensure accountability and to conform Myanmar's legal system to international standards.<sup>22</sup> However, since 2011 the Government has made little progress on implementing these accepted recommendations. Instead, in areas where conflict between the Myanmar military and ethnic armed groups continues, human rights abuses and violations of international humanitarian law ("IHL") by the Myanmar military are rampant. Human rights violations continue because the Government has failed to take measures, including changes to structural barriers to access to justice, such as those enshrined in the 2008 Constitution, to end these abuses and ensure accountability.

19. Since 2011, systematic sexual violence against ethnic populations by the Myanmar military has continued, with near total impunity.<sup>23</sup> For example, more than 100

cases of rape, gang rapes, and sexual assault were reported between 2010 and 2014.<sup>24</sup> Further, recent follow up reporting indicates that incidents of sexual violence in conflict have occurred as recently as January of this year, including the rape and killing of two teachers in Northern Shan State by military personnel.<sup>25</sup> In addition, U.N. experts report an increase in sexual violence carried out by the Myanmar military since 2013.<sup>26</sup> In Myanmar, where “impunity is the rule” and “punishment is the rare exception,”<sup>27</sup> victims often do not report sexual violence due to intimidation by, and a fear of negative repercussions from, military personnel and police officers, stigma by the community, and the Government’s failure to provide confidentiality for victims.<sup>28</sup> Therefore, reported cases of rape and sexual assault are only a small fraction of the actual total.<sup>29</sup>

20. Impunity for military perpetrators is enshrined in the 2008 Constitution. Article 445 guarantees that no proceeding shall be instituted against any member of the Government “in respect to any act done in the execution of their respective duties.”<sup>30</sup> As the former Special Rapporteur on the situation of human rights in Myanmar has indicated, this provision can be construed as a guarantee of immunity for military actors from investigation, prosecution, or punishment for crimes committed in carrying out their roles, including for sexual violence committed in conflict.<sup>31</sup>
21. The 2008 Constitution further entrenches impunity by establishing military autonomy from all its judicial processes and giving the Commander-in-Chief “final and conclusive” authority over all cases and complaints.<sup>32</sup> That is, serious human rights violations committed by the military, including rapes and sexual assaults, fall under the jurisdiction of a totally military controlled system with no civilian oversight.<sup>33</sup> Even if these cases were adjudicated according to international standards, it must be noted that under the 2008 Constitution, the Commander-in-Chief could simply overturn verdicts as he saw fit.<sup>34</sup>
22. These structural problems within the military court-martial system are compounded by a total lack of transparency.<sup>35</sup> While the Government has repeatedly asserted that action has been taken against military perpetrators of rape, no information is provided as to what charges were pursued or what punishment was assessed.<sup>36</sup> Furthermore, as the military code is not publicly available, it is unclear if (and highly unlikely that) the prosecutions comport with international standards. Moreover, it is unknown if any military commanders have been prosecuted for what has been described as their imprimatur on a pattern and practice of sexual violence.<sup>37</sup> The lack of transparency renders justice invisible to the victims.
23. The Government’s failure to take steps to adequately address, investigate, end and ensure accountability for sexual violence by the Myanmar military violates its obligations under international humanitarian law,<sup>38</sup> international human rights law,<sup>39</sup> the UN Charter<sup>40</sup> and its voluntary commitments,<sup>41</sup> and undercuts its statements professing a commitment to human rights.

## *Recommendations*

- The Government should amend the 2008 Constitution to bring the military under civilian oversight and control.
- The Government must repeal constitutional provisions that grant the military impunity for human rights violations, including sexual violence, and those provisions that permit all military matters, including crimes committed against civilians, to be adjudicated only in courts-martial.
- The Government must ensure full transparency with respect to prosecutions of military perpetrators of sexual violence.

## *Inadequate civilian justice mechanisms*

24. The Government accepted several recommendations during its 2011 UPR with respect to ensuring access to justice for victims of VAW.<sup>42</sup> The majority of these recommendations focused on the need to amend domestic laws related to VAW and to reform the judicial system to ensure its independent ability to administer justice. Despite accepting these recommendations, the Government has not dismantled the structural legal barriers that impede access to justice for victims of sexual violence.
25. VAW in Myanmar remains a pervasive problem. One recent study of violence against women in Myanmar found not only that all women interviewed for the study had experienced at least one type of violence, but also that almost all women had experienced at least one form of physical abuse by an intimate partner.<sup>43</sup> Myanmar's legal system provides insufficient protections, legal and otherwise, for these women.<sup>44</sup> Myanmar has no specific law criminalizing domestic violence,<sup>45</sup> no comprehensive laws to prevent violence against women or sexual harassment and no law allowing victims to obtain restraining orders against abusers.<sup>46</sup> In addition, deficiencies in Myanmar's outdated, colonial-era laws such as the Penal Code, the Code of Criminal Procedure, and the Evidence Act, present substantial obstacles to addressing violence against women.<sup>47</sup>
26. The Penal Code does not criminalize unwanted sexual touching or sexual harassment outside the context of sexual intercourse, although Section 354 does criminalize assault intended to "outrage [a woman's] modesty," a troubling example of outdated and ambiguous language justifying scrutiny of a woman's "modesty" as a pre-condition for access to justice.<sup>48</sup> Moreover, the Penal Code only prohibits and punishes marital rape if the woman is less than 13 years of age.<sup>49</sup> In addition, the Penal Code leaves the definition of rape ambiguous such that it does not cover, for instance, cases of forced non-penile penetration.<sup>50</sup>
27. Neither Myanmar's Code of Criminal Procedure nor its Evidence Act contains any substantive protections for the integrity and dignity of women during the investigation and prosecution of cases involving violence against women.<sup>51</sup> Indeed, the Code of Criminal Procedure does not appear to have any specific provisions

concerning VAW at all. Meanwhile, under the Evidence Act, a woman's previous sexual conduct and character is admissible as evidence to discredit her testimony concerning allegations of her rape.<sup>52</sup> The law also permits judges to both compel victims of rape to testify against their attackers *and* to draw an adverse inference from a victim's refusal to answer questions about the rape.<sup>53</sup>

28. These legal deficiencies are compounded by significant problems in the administration of justice in Myanmar, in particular a judiciary that substantially lacks independence.<sup>54</sup> Myanmar's judiciary is seen as "inactive and subordinate to the military," with "allegations of judicial corruption, inefficiency, and susceptibility to executive influence [that are] so widespread that they cannot be sensibly discounted."<sup>55</sup> Another major issue largely overlooked in much of the access to justice discourse is judicial vetting.<sup>56</sup> Myanmar's judiciary has not been vetted since the transition to quasi-civilian government and the 2008 Constitution requires a minimum tenure of judicial experience for appointment to certain courts.<sup>57</sup> Accordingly, the judges in these seats must have been on the bench since prior to the start of democratic transition. Thus, only judges that were on the bench during the junta's authoritarian rule, many of whom were complicit or actively involved in the sham arrests and baseless prosecutions of countless political prisoners,<sup>58</sup> are eligible for the highest positions in Myanmar's judiciary.
29. The Government has failed to follow through on its promises and obligations to comprehensively address VAW. Since 2011, the Government has pledged to develop an "Anti-Violence against Women Law,"<sup>59</sup> but to date, only half of its 20 proposed chapters have been drafted.<sup>60</sup> In fact, the Myanmar Parliament unanimously agreed to urge the Government to submit the law for legislative consideration in order to spur the Government to action.<sup>61</sup> By contrast, since 2011, the Government has passed 119 new laws, including a comprehensive foreign investment law.<sup>62</sup> In another example of promises without effective action, the Government developed a National Strategic Plan on the Advancement of Women, but the plan devotes little to no attention to addressing the fundamental deficiencies in Myanmar's legal system, provides no procedures for implementation, and lacks funding for execution.<sup>63</sup>
30. The Government's failure to take adequate steps to eradicate and ensure accountability for VAW violates its obligations under the Universal Declaration of Human Rights and CEDAW. Article 2 of CEDAW requires States parties "to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women," "to establish legal protection of the rights of women on an equal basis with men," and "to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination."<sup>64</sup> As discussed above, the legal framework for women seeking justice for VAW does not in any way comply with these obligations.

### *Recommendations*



- The Government must enact new legislation guaranteeing comprehensive protection from all forms of violence against women, including emotional, economic, domestic and sexual violence, and marital rape, as well as sexual assault and sexual harassment. The new legislation should also provide clear criminal penalties, civil remedies, rehabilitation and reparations in all cases of violence against women.
- The Government must amend its existing laws relating to violence against women, including provisions of the Penal Code, the Code of Criminal Procedure, and the Evidence Act, to ensure such laws adhere to prevailing international standards, removing antiquated notions of family and sexual violence, and guarantee justice in the form of criminal punishment, rehabilitation and reparations.
- The Government must ensure the independence of the judiciary in the administration of justice and should undertake vetting to remove from power any judges who were complicit in the crimes of the former military *junta*.

### ***Ineffective National Human Rights Commission***

31. The Government accepted several recommendations during the 2011 UPR to establish an independent human rights body in conformity with international standards, as codified in the “Paris Principles” on the status of national institutions for the promotion and protection of human rights.<sup>65</sup>
32. In March 2014, the Myanmar Parliament passed an enabling law for the Myanmar National Human Rights Commission (“MNHRC”), which had been established by Presidential Decree in September 2011.<sup>66</sup> While the enabling law did address some of the deficiencies of the MNHRC as originally constituted, it did not correct fundamental problems regarding the MNHRC’s independence, scope of duties and power to resolve complaints.
33. Victims of human rights abuses cannot access justice due to a number of deficiencies in law and in practice. The enabling law limits the mandate of the MNHRC such that it can only report, refer and recommend responses for each violation.<sup>67</sup> Of particular concern, the MNHRC still appears to be limiting its mandate to complaints regarding the infringement of rights only under the 2008 Constitution and only from citizens, rather than on the broader mandate outlined in the enabling legislation itself, which includes human rights treaty the Government has ratified.<sup>68</sup> Another major concern is that the MNHRC does not ensure confidentiality of complaints and has complete discretion regarding disclosure of information, which could have a chilling effect on the filing of grievances.<sup>69</sup> The failure to ensure confidentiality particularly impacts women who are victims of sexual violence, since they are unlikely to come forward without guarantees of confidentiality. This is a very real concern since the Government has been known to retaliate against those who file grievances with the MNHRC. The case of Shayam

Brang Shawng demonstrates that complaints to the MNHRC of human rights abuses at the hands of the military will be punished with swift and forceful prosecution.<sup>70</sup>

34. The MNHRC is not viable option for those seeking justice for human rights abuses and violates the Government's obligations to have a national human rights commission in compliance with the Paris Principles<sup>71</sup> as well as its commitments during the 2011 UPR to ensure such a mechanism.

### *Recommendations*

- The Government must ensure the independence of the MNHRC, grant the MNHRC the ability to resolve complaints, and institute regulations ensuring the confidentiality of complaints and protection for complainants.

### **III. Exclusion of women from participation in public and political life**

#### ***Systematic exclusion of women from participation in Myanmar's civil service on an equal basis with men***

35. During the 2011 UPR, the Government accepted a recommendation to take legislative and practical steps to ensure free and democratic political processes and ensure strengthen national machinery to ensure gender equality.<sup>72</sup> However, despite Myanmar's long history a male-dominated public and political life, largely due to decades of male-only military rule, not a single recommendation was made—much less accepted—during the 2011 UPR concerning the elimination of gender-based discrimination in participation in public and political life.
36. Despite Government claims of progress since 2011 towards free and democratic political processes, women in Myanmar continue to face fundamental barriers to equal participation in public and political life.<sup>73</sup> These barriers include both explicit and implicit restrictions on women's participation in the formulation and implementation of public policy, and right to hold public office and perform all public functions at all levels of government on an equal basis with men.<sup>74</sup> Tellingly, as of February 2015, women accounted for only 4.8% of combined seats in the upper and lower houses of the national legislature (the Amyotha Hluttaw and the Pyithu Hluttaw, respectively).<sup>75</sup> Furthermore, as of June 2014, women only made up 2.8% of seats at state and regional government levels, 0% of administrators at township levels, and only 0.1% of village heads.<sup>76</sup> Moreover, only two out of 33 federal ministers are women.<sup>77</sup>
37. Myanmar's military-drafted 2008 Constitution contains provisions affirmatively excluding women from civil service, creating a fundamental barrier to participation of women in public and political life on an equal basis with men. Specifically, Article 352 states that, notwithstanding a prohibition against sex-based discrimination in appointing or hiring civil service personnel, "nothing in this Section shall prevent appointment of men to the positions that are suitable for men only." This restriction

is in flagrant violation of the Government's international obligations, under CEDAW and elsewhere, to ensure enjoyment of fundamental rights and freedoms without distinction on the basis of sex.<sup>78</sup> Moreover, the Government's attempts to legitimize this discrimination, including the recent position taken in its Combined Fourth and Fifth Periodic Reports to the CEDAW Committee that "some placements are to positions that are suitable for men only in accordance with the situation of natural work-places (for example, in mining and petroleum), and women, therefore, cannot be appointed to those positions," fully display the deeply-rooted discrimination and patriarchy that influences and governs policy-making and law in Myanmar.<sup>79</sup>

38. The 2008 Constitution also contains provisions that implicitly reinforce discrimination against women's participation in political decision-making, perpetuating the systematic exclusion of women from political power throughout over 60 years of military rule. Specifically, Articles 109 and 141 of the Constitution each mandate 25% quotas for representation by the military (the "Defense Services") in both houses of the national legislature. Historically, Myanmar's military has excluded generations of women, denying them positions of political power and making them ineligible for employment, education, business, and relationship-building opportunities created by military status.<sup>80</sup> After intense criticism, the military finally appointed two women as part of its constitutionally-mandated legislative quotas in January 2014.<sup>81</sup> With this appointment, women now account for only .01% (or 2 out of 166) of the overall military-appointed seats.<sup>82</sup>
39. Despite rhetoric to the contrary, the Government does not appear to have undertaken meaningful or effective special measures to dismantle fundamental barriers against women's participation or accelerate the equal participation of women in political and public life, including in the civil service. The Government adopted a National Strategic Plan for the Advancement of Women in October 2013, but the plan sets forth a series of goals without any specific implementation measures or source of funding.<sup>83</sup> As implemented by other State governments seeking achieve equality of political participation by women, specific measures could include recruiting, financially assisting, and training women candidates for public office; amending discriminatory electoral procedures; developing and funding campaigns directed at women's equal participation; setting numerical goals and quotas for women's equal representation; and targeting women for appointment to public positions.<sup>84</sup> Indeed, measures such as these are considered essential prerequisites to true equality for women in political and public life.<sup>85</sup>

## *Recommendations*

- The Government must repeal explicitly discriminatory constitutional provisions, such as Articles 352, 109 and 141, which prevent women’s equal participation in political and public life.
- The Government must implement temporary special measures to accelerate elimination of discrimination against women in Myanmar’s political and public life, including recruiting, financially assisting, and training women candidates for public office; amending discriminatory electoral procedures; developing campaigns directed at women’s equal participation; setting numerical goals and quotas for women’s equal representation; and targeting women for appointment to public positions.

***Exclusion of women from participation in post-conflict peace and reconciliation processes***

40. During the 2011 UPR, the Government accepted recommendations to peacefully and meaningfully engage ethnic groups as an integral part of the post-conflict peace and transitional process.<sup>86</sup> However, despite Myanmar’s history of systemic exclusion of women from participation in public and political life, not a single recommendation was made—much less accepted—during the 2011 UPR concerning the equal participation of women in the peace and transitional process.
41. It is widely acknowledged that women in Myanmar have been effectively excluded from participating in negotiations for peace and transitional processes in relation to the Government’s conflicts with ethnic groups.<sup>87</sup> For instance, after the 2011 UPR, initial ceasefire agreements between the nominally civilian government and 13 armed ethnic groups were negotiated in late 2011, almost exclusively by men.<sup>88</sup> Unfortunately, though not surprisingly, none of the preliminary ceasefire agreements made a single reference to women, including any reference to accountability for acts of systematic sexual violence perpetrated against ethnic populations by the Myanmar military.<sup>89</sup> This complete absence of women’s issues is a result of the systematic exclusion of women from peace and reconciliation dialogues.<sup>90</sup>
42. In 2013, a 52-member delegation, or “working committee,” appointed to represent the Government in negotiations for peace and transitional processes included only two women (who are duly elected representatives of the lower Pyithu Hluttaw).<sup>91</sup> The 11-member Government “central committee” did not include any women.<sup>92</sup> The Special Rapporteur found in September 2014 that “women have been largely excluded and have not been a part of the negotiating teams thus far.”<sup>93</sup> It should be noted that women are notably absent from ethnic delegations as well.
43. The lack of adequate participation in Myanmar’s peace and transitional process violates norms of international law that entitle women to full, equal, and effective participation in all stages of peace processes, including in conflict resolution, post-

conflict planning and peace building, both as high-level mediators and within the composition of mediator and negotiator teams.<sup>94</sup> It also demonstrates the Government's failure to live up to its responsibility to remove any restrictions on women's participation in the prevention, management, and resolution of conflicts, as well as to ensure women's equal representation at all decision-making levels in national institutions and mechanisms dealing with crimes committed during the conflict, including through participation of women's civil society organizations.<sup>95</sup>

### *Recommendations*

- The Government must ensure that women fully, equally, and effectively participate in all stages of peace processes, including in conflict resolution, post-conflict planning and peace building, both as high level mediators and within the composition of mediator and negotiator teams.
- The Government must improve women's participation in all stages of peace processes, including through promoting women's leadership and appointment of women to senior decision-making roles; consulting and incorporating the advice of groups which are broadly representative of women's views and interests; and ensuring equal representation at all decision-making levels in national institutions and mechanisms dealing with crimes committed during conflict.

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<sup>1</sup> Human Rights Council, Rep. of the Working Group on the Universal Periodic Review, ¶¶ 104.11, 104.32, 104.36, 104.39, 105.3, 105.8, 105.10, 107.46, 107.67, U.N. Doc. A/HRC/17/9 (Mar. 24, 2011) [hereinafter "2011 UPR Report"].

<sup>2</sup> Combined fourth and fifth periodic report of the Government of Myanmar to CEDAW Committee, ¶ 8, CEDAW/C/MMR/4-5, (Jan. 8, 2015) [hereinafter CEDAW State Report, Myanmar] (The laws are: the Social Security Law (Aug. 31, 2012); Minimum Wage Law (Jul. 12, 2013); Labour Organization Law (Oct. 11, 2011); Settlement of Labour Dispute Law (Mar. 28, 2012); Employment and Skills Development Law (Aug. 30, 2013); Myanmar National Human Rights Commission Law (Mar. 28, 2014); Mass Media Law (Mar. 14, 2014); and the Organization Registration Law (Jul. 18, 2014)).

<sup>3</sup> 2011 UPR Report, ¶¶ 104.2, 104.8, 106.21.

<sup>4</sup> *Id.* ¶ 105.3.

<sup>5</sup> Convention to End All Forms of Discrimination against Women (hereinafter "CEDAW"), art. 2(a), Dec. 18, 1979, 1249 U.N.T.S. 16.

<sup>6</sup> *Id.*, art. 1.

<sup>7</sup> Comm. to End All Forms of Discrimination against Women, Concluding Observations on the Second and Third Periodic Reports of Myanmar, 42d Sess., Oct. 20–Nov. 7, ¶ 8, U.N. Doc. CEDAW/C/MMR/CO/3 (Nov. 7, 2008) [hereinafter 2008 CEDAW Concluding Observations on Myanmar].

<sup>8</sup> CONSTITUTION OF THE REPUBLIC OF THE UNION OF MYANMAR, arts. 347-348, 350 [hereinafter "2008 Constitution"].

<sup>9</sup> 2011 UPR Report, ¶¶ 104.2, 104.8, 106.21.

<sup>10</sup> They are the Religious Conversion Bill, Buddhist Women's Interfaith Marriage Bill, Population Control Healthcare Bill and the Monogamy Bill. *See* Press Release, UN High Commissioner of Human Rights, Myanmar "needs urgently to get back on track," U.N. Press Release (Feb. 25, 2015); Democratic Voice of Burma News, Speaker urges laws to protect Burma's national race, religion, February 27, 2014, *available at* <https://www.dvb.no/news/speaker-urges-laws-to-protect-burmas-national-race-religion-burma-myanmar/37855>. *See also* Joint Statement by Amnesty International and the International Commission of Jurists, Myanmar: Parliament must reject discriminatory 'race and religion' laws, (March 3, 2015) [hereinafter "AI/ICJ Statement"] <https://www.amnesty.org/en/documents/asa16/1107/2015/en/>.

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- <sup>11</sup> Rep. of the Special Rapporteur on the situation of human rights in Myanmar (Yanghee Lee), ¶ 28, U.N. Doc. A/HRC/28/72 (Mar. 9, 2015).
- <sup>12</sup> AI/ICJ Statement at 3; Human Rights Watch, *The Myanmar Marriage Plot* (Sept. 5, 2013), <http://www.hrw.org/news/2013/09/05/myanmar-marriage-plot>.
- <sup>13</sup> Rep. of the Special Rapporteur on the situation of human rights in Myanmar (Yanghee Lee), ¶ 28, U.N. Doc. A/HRC/28/72 (Mar. 9, 2015).
- <sup>14</sup> CEDAW at art. 5(a).
- <sup>15</sup> Shwe Aung, *Upper House approves population control bill*, DEMOCRATIC VOICE OF BURMA, Feb. 15, 2012; Zu Zu, *Upper House Passes Controversial 'Population Control' Bill*, THE IRRAWADDY, Feb. 10, 2015.
- <sup>16</sup> CEDAW at art. 16(f).
- <sup>17</sup> MYANMAR PEN. CODE (1861), § 312: Of the causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants and of the Concealment of Births, [hereinafter MYANMAR PEN. CODE], available at [http://www.burmalibrary.org/docs6/MYANMAR\\_PENAL\\_CODE-corr.1.pdf](http://www.burmalibrary.org/docs6/MYANMAR_PENAL_CODE-corr.1.pdf); See also Gender Equality Network, *Myanmar Laws and CEDAW; The Case for Anti-Violence Against Women Laws*, (Jan. 2013) at 14 [hereinafter Gender Equality Network Report (Jan. 2013)].
- <sup>18</sup> Global Justice Center, *Domestic Criminal Laws that Conflict with International Law - Burma's Abortion and Rape Laws: A Case Study*, (Nov. 2012) at 3 [hereinafter GJC Case Study (Nov. 2012)], available at [www.globaljusticecenter.net/index.php?option=com\\_mtree&task=att\\_download&link\\_id=105&cf\\_id=34](http://www.globaljusticecenter.net/index.php?option=com_mtree&task=att_download&link_id=105&cf_id=34).
- <sup>19</sup> Ibis Reproductive Health, *Separated by borders, united in need: An assessment of reproductive health on the Thailand-Burma border*, (2012) at 5, 6, 8, 11; RAISE, *Safe Abortion in Emergencies: Myanmar* (June 2014); CEDAW State Report, Myanmar ¶ 120.
- <sup>20</sup> See Global Justice Center, *The Right to an Abortion for Girls and Women Raped in Armed Conflict: States positive obligations to provide non-discriminatory medical care under the Geneva Conventions*, (2011) available at <http://globaljusticecenter.net/index.php/publications/briefs-and-white-papers/2-the-right-to-an-abortion-for-girls-and-women-raped-in-armed-conflict-february-2011>.
- <sup>21</sup> S.C. Res. 2106, ¶19, U.N. Doc S/RES/2106 (June 24, 2013); S.C Res 2122, preamble, U.N. Doc S/RES/2122 (Oct. 18, 2013); UN Secretary-General, *Report of the Secretary-General on women peace and security*, ¶ 72(a), delivered to the Security Council, U.N. Doc. S/2013/525 (4 Sept. 2013).
- <sup>22</sup> 2011 UPR Report, ¶¶104.9, 104.32, 104.63 and 104.39.
- <sup>23</sup> U.N. Secretary-General, *Rep. of the Secretary General on Conflict-related Sexual Violence*, ¶¶ 37-39, U.N. Doc. S/2014/181 (Mar. 13, 2014) [hereinafter Secretary-General Report (March 2014)]; Rep. of the Special Rapporteur on the situation of human rights in Myanmar to the General Assembly (Yanghee Lee), ¶ 38, U.N. Doc. A/69/398 (Sept. 23, 2014) [hereinafter Special Rapporteur Report (Sept 2014)]; Rep. of the Special Rapporteur on the situation of human rights in Myanmar to the U.N. Human Rights Council (Tomas Ojea Quintana), ¶¶ 36-37, U.N. Doc. A/HRC/22/58 (Apr. 17, 2013) [hereinafter Special Rapporteur Report (Apr. 2013)]; Concluding Observations of the Committee of the Rights of the Child, Myanmar, 59<sup>th</sup> sess., ¶¶ 89-90, U.N. Doc. CRC/C/MMR/CO/3-4 (Mar. 14, 2012) [hereinafter CEDAW Concluding Observation on Myanmar (2008)]; see WOMEN'S LEAGUE OF BURMA, SAME IMPUNITY, SAME PATTERNS 8 (Jan. 2014) [hereinafter WLB Report (Jan. 2014)]; see also Human Rights Watch, *Untold Miseries: Wartime Abuses and Forced Displacement in Kachin State*, (2012) at 36 [hereinafter 2012 HRW Report], available at [http://www.hrw.org/sites/default/files/reports/burma0312ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/burma0312ForUpload_1.pdf).
- <sup>24</sup> WOMEN'S LEAGUE OF BURMA, IF THEY HAD HOPE, THEY WOULD SPEAK 1 (Nov. 2014) [hereinafter WLB Report (Nov. 2014)].
- <sup>25</sup> Kachin Women's Association Thailand, *Ongoing Sexual Violence Highlights Urgent Need for Myanmar Army to Stop Offensives and Pull Back Troops From Kachin Regions* (Jan. 22, 2015), <http://www.kachinwomen.com/publications/statements/136-ongoing-sexual-violence-highlights-urgent-need-for-burma-army-to-stop-offensives-and-pull-back-troops-from-kachin-areas>.
- <sup>26</sup> Secretary-General Report (March 2014), ¶ 38; Rep. of the Special Rapporteur on the situation of human rights in Myanmar to the General Assembly (Tomas Ojea Quintana), ¶ 48, U.N. Doc. A/68/397 (Sept. 23, 2013) [hereinafter Special Rapporteur Report (Sept 2013)].
- <sup>27</sup> WLB Report (Jan. 2014) at 16.
- <sup>28</sup> Secretary-General Report (March 2014), ¶ 37; see also Burma Campaign UK, *Burma Briefing: Rape and Sexual Violence by the Burmese Army*, (July 2014) at 3, available at <http://burmacampaign.org.uk/media/Rape-and-Sexual-Violence-by-the-Burmese-Army1.pdf>; WLB Report

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(Jan. 2014) at 34, (“On the contrary, victims experience harassment and retaliation when they try to seek justice or speak up. As mentioned earlier in this report, silencing of complainants, through threats, torture or illegal detention, is common practice. Sometimes, meager financial compensation is offered to the victims’ family as a way to discourage them to go to courts.”).

<sup>29</sup> WLB Report (Jan. 2014) at 8.

<sup>30</sup> 2008 Constitution, art. 445.

<sup>31</sup> See Special Rapporteur Report (Sept 2014), ¶ 65. See also Special Rapporteur Report (Sept 2013), ¶ 70; Rep. of the Special Rapporteur on the situation of human rights in Myanmar to the General Assembly (Tomas Ojea Quintana ), ¶ 55, U.N. Doc. A/64/318, (24 Aug. 2009)[hereinafter Special Rapporteur Report (Aug. 2009)]; see also WLB Report (Jan. 2014), at 29.

<sup>32</sup> 2008 Constitution, art. 20(b), (“The Defence Services has the right to independently administer and adjudicate all affairs of the armed forces”), art. 294, (“In the Union, there shall be a Supreme Court of the Union. Without affecting the powers of the Constitutional Tribunal and the Courts-Martial, the Supreme Court of the Union is the highest Court of the Union”), art. 319, (“According to Sub-Section (b) of Section 293, the Courts-Martial shall be constituted in accord with the Constitution and the other law and shall adjudicate Defence Services personnel”), art. 343, (“In the adjudication of Military justice: (a) the Defence Services personnel may be administered in accord with law collectively or singly; (b) the decision of the Commander-in-Chief of the Defence Services is final and conclusive.”).

<sup>33</sup> WLB Report (Jan. 2014) at 30-31.

<sup>34</sup> 2008 CONSTITUTION, art. 343.

<sup>35</sup> WLB Report (Nov. 2014) at 9, (“Given the majority of cases are concluded or dismissed within the court martial system – which entirely lacks transparency – survivors are routinely denied justice for crimes committed against them. Conscious of the de facto impunity from prosecution afforded to military, and the slim chance of obtaining any kind of meaningful justice, many survivors choose to remain silent – further entrenching a lack of accountability and transparency at every level.”).

<sup>36</sup> Statement from Tin Kyaw, Permanent Representative of Myanmar to the U.N.S.C, at the Open Debate on Women, Peace and Security, ¶ 58, U.N. Doc. S/PV.7160 (April 25, 2014); Rep. of the Special Rapporteur on the situation of human rights in Myanmar to the U.N. General Assembly (Tomas Ojea Quintana), Annex: Responses of the Government of Myanmar to the report of the Special Rapporteur on the situation of human rights in Myanmar, ¶ 9, U.N. Doc. A/65/368 15 (Sept. 2010)[hereinafter Government Responses to Special Rapporteur Report (Sept. 2010)].

<sup>37</sup> WLB Report (Jan. 2014) at 1.

<sup>38</sup> Geneva Contention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 75 U.N.T.S 31, art. 48 [hereinafter First Geneva Convention]; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85, art. 50 [hereinafter Second Geneva Convention]; Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 75 U.N.T.S. 135, 6 U.S.T. 3316, art. 129 [hereinafter Third Convention]; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287, art. 146 [hereinafter Fourth Geneva Convention]; collectively, the “1949 Geneva Conventions”); common Article 1 to the 1949 Geneva Conventions.

<sup>39</sup> Comm. on the Elimination of Discrimination against Women, *General recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations*, ¶¶ 74, 77, U.N. Doc. CEDAW/C/GC/30 (Oct. 18, 2013) [hereinafter CEDAW, *General Recommendation No. 30*], available at <http://www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf>.

<sup>40</sup> S.C. Res. 1325, ¶ 11, U.N. Doc. S/RES/1325 (Oct. 31, 2000); S.C. Res. 1888, ¶¶ 6, 7, U.N. Doc. S/RES/1888 (Sept. 30, 2009); S.C. Res. 1889, ¶ 3, U.N. Doc. S/RES/1889 (Oct. 5, 2009); S.C. Res. 2106, ¶ 2, U.N. Doc. S/RES/2106 (June 24, 2013); S.C. Res. 2122, ¶ 12, U.N. Doc. S/RES/2122 (Oct. 18, 2013).

<sup>41</sup> The Government of Burma signed onto the UN Declaration to End Sexual Violence in Conflict. See Samantha Michaels, *Burma Joins Global Summit to End Sexual Violence in Conflict*, THE IRRAWADDY, June 10, 2014.

<sup>42</sup> 2011 UPR Report, ¶¶ 104.9, 104.11, 104.32, 104.36, 104.37, 105.8.

<sup>43</sup> Gender Equality Network, *Behind the Silence: Violence against Women and their Resilience, Myanmar*, (Feb. 2015) at 25[hereinafter Gender Equality Network Report (Feb. 2015)].

<sup>44</sup> Gender Equality Network Report (Jan. 2013) at 1, 22.

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- <sup>45</sup> Palaung Women’s Organization (PWO), *Voices for Change: Domestic Violence and Gender Discrimination in the Palaung Area*, (Nov. 25, 2011) at 5 (The other ASEAN country which has not drafted any legislation addressing domestic violence is Brunei Darussalam)[hereinafter PWO Report (Nov. 2011)]; see also Gender Equality Network Report (Jan. 2013) at 10.
- <sup>46</sup> Gender Equality Network Report (Jan. 2013) at 1.
- <sup>47</sup> *Id.* at 7.
- <sup>48</sup> Myanmar Penal Code, § 354; see also *id.* at 9-10.
- <sup>49</sup> See Myanmar Penal Code, §§ 375, 376; see also, Gender Equality Network Report (Jan. 2013) at 16, (Under the *Contract Act*, a girl is able to marry without her parents’ consent once she attains the age of 18. Under Buddhist traditional law, a woman must obtain consent to marry if she is older than 15, but younger than 20. General approval of the marriage has been sufficient to satisfy the consent requirement. Males are able to marry once they attain physical maturity.).
- <sup>50</sup> Myanmar Penal Code, §§ 375.
- <sup>51</sup> Gender Equality Network Report (Jan. 2013) at 8.
- <sup>52</sup> *Id.* at 9.
- <sup>53</sup> *Id.*
- <sup>54</sup> Progress Rep. of the Special Rapporteur on the situation of human rights in Myanmar to the Human Rights Council (Tomás Ojea Quintana), ¶ 12, U.N. Doc. A/HRC/19/67 (March 7, 2012)[hereinafter Special Rapporteur Report (March 2012)]; see also WLB Report (Jan. 2014) at 32 ; Special Rapporteur Report (Sept 2013), ¶ 64; Nick Cheesman & Kyaw Min San, *Not Just Defending; Advocating for Law in Myanmar*, 31 WIS. INT’L L.J. 714, available at [http://www.Myanmarlibrary.org/docs19/Cheesman\\_KMS\\_Not\\_just\\_defending-ocr-tpo.pdf](http://www.Myanmarlibrary.org/docs19/Cheesman_KMS_Not_just_defending-ocr-tpo.pdf); International Bar Association’s Human Rights Institute, *The Rule of Law in Myanmar: Challenges and Prospects*, (December 2012) AT 58, [Hereinafter IBA 2012 Report], available at <http://www.ibanet.org/Document/Default.aspx?DocumentUid=DE0EE11D-9878-4685-A20F-9A0AAF6C3F3E>.
- <sup>55</sup> IBA 2012 Report at 59. See also International Commission of Jurists, *Country Profile: Myanmar*, (June 2014) 11 available at <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/06/CIJL-Country-Profile-Myanmar-June-2014.pdf>; see also International Commission of Jurists, *Right to Counsel: the Independence of Lawyers in Myanmar*, (June 2014) at 40 available at <http://www.burmalibrary.org/docs16/ICJ-MYANMAR-Right-to-Counsel-en-red.pdf>.
- <sup>56</sup> Oxford Pro Bono Publico, *Justice in Burma*, (Apr. 2008) at 64, available at [http://www.oxfordburmaalliance.org/uploads/9/1/8/4/9184764/justice\\_in\\_burma\\_opbpg\\_report\\_april\\_08.pdf](http://www.oxfordburmaalliance.org/uploads/9/1/8/4/9184764/justice_in_burma_opbpg_report_april_08.pdf).
- <sup>57</sup> 2008 Constitution, art. 301(d)(i)-(ii).
- <sup>58</sup> United States Institute of Peace, *USIP Burma/Myanmar Role of Law Trip Report June 2013*, at 23, available at [http://www.lrcmyanmar.org/system/files/book/usip\\_burma\\_rol\\_report\\_working\\_document\\_-\\_11\\_june\\_2013.pdf](http://www.lrcmyanmar.org/system/files/book/usip_burma_rol_report_working_document_-_11_june_2013.pdf); N. Cheesman, K. Min San, *Not Just Defending; Advocating for Law in Myanmar*, 31 WIS. INT’L L. J. 702, 714.
- <sup>59</sup> CEDAW State Report, Myanmar, at ¶ 17.
- <sup>60</sup> Naw Noreen, *Parliament Agrees to Women’s Protection Bill*, DEMOCRATIC VOICE OF BURMA, Feb. 3, 2015 [hereinafter Noreen Article (Feb. 2015)], available at <https://www.dvb.no/news/parliament-agrees-to-womens-protection-bill-burma-myanmar/47943>; Yen Snaing, *MPs Demand Parliament Considers Violence Against Women Measures*, THE IRRAWADDY, Feb. 3, 2015 [hereinafter Snaing Article (Feb. 2015)], available at <http://www.irrawaddy.org/burma/mps-demand-parliament-considers-violence-women-measures.html>.
- <sup>61</sup> Noreen Article (Feb. 2015); Snaing Article (Feb. 2015).
- <sup>62</sup> Permanent Mission of the Republic of the Union of Myanmar to the United Nations, *Observations of the Permanent Mission of the Republic of the Union of Myanmar in Geneva on the Report of the Special Rapporteur on the Situation of Human Rights in Myanmar to the 28th Session of the Human Rights Council*, (March 10, 2015) at ¶ 6, available at [http://www.myanmargeneva.org/pressrelease/20150309/responses%20sr\\_10%20march.pdf](http://www.myanmargeneva.org/pressrelease/20150309/responses%20sr_10%20march.pdf).
- <sup>63</sup> See Myanmar National Committee for Women’s Affairs, *National Strategic Plan for the Advancement of Women* (2013), available at <http://www.mswrr.gov.mm/mswrradministrator/images/NSPAW%20PDF.pdf> [hereinafter “NSPAW”].



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- <sup>64</sup> CEDAW, art. 12(b)(c).
- <sup>65</sup> 2011 UPR Report, ¶ 106.23-30; *see* G.A. Res. 48/134, U.N. Doc. A/Res/48/134 (Mar. 4, 1994).
- <sup>66</sup> The Myanmar National Human Rights Commission Law, Pyidaungsu Hluttaw Law No. 21, 1375 M.E. (2014) (Myan.) [hereinafter “MNHRC Law”].
- <sup>67</sup> *See* MNHRC Law, ¶ 22.
- <sup>68</sup> CEDAW State Report, Myanmar, ¶ 20, 21; For “human rights” as defined by the enabling legislation, *see* MNHRC Law, ¶ 22.
- <sup>69</sup> *See* MNHRC Law.
- <sup>70</sup> Rep. of the Special Rapporteur on the situation of human rights in Myanmar (Yanghee Lee), ¶ 58, U.N. Doc. A/HRC/28/72 (Mar. 9, 2015). *See also* Human Rights Watch, Amnesty International, Fortify Rights, Harvard Law School International Human Rights Clinic, International Commission of Jurists, Physicians for Human Rights, Joint Letter to President Thein Sein Regarding Prosecution of Shayam Brang Shawng (Dec. 18, 2014), <http://www.hrw.org/news/2014/12/18/burma-joint-letter-president-thein-sein-regarding-prosecution-shayam-brang-shawng>.
- <sup>71</sup> U.N. Secretary General, *Results of the Fortieth Session of the Committee on the Elimination of Discrimination against Women, Annex II: Statement by the Committee on the Elimination of Discrimination against Women on its Relationship with National Human Rights Institutions*, ¶ 2, U.N. Doc. E/CN.6/2008/CRP.1 (Feb. 11, 2008); *See also* G.A. Res. 48/134, U.N. Doc A/Res/48/134 (Mar. 4, 1994) (Critically, the Paris Principles emphasize the responsibility of NHRIs to continually monitor situations of human rights violations which it has undertaken to pursue; the power of NHRIs to advise their respective governments on both specific violations and broader issues related to implementation of international human rights obligations; the capacity of NHRIs to interact with regional and international partners; the mandate of NHRIs to educate and inform on human rights; and the need for NHRIs to have quasi-judicial competence, where appropriate.).
- <sup>72</sup> 2011 UPR Report, ¶¶ 105.1, 105.3, U.N.).
- <sup>73</sup> P. Minoletti, *Women’s Participation in the Subnational Governance of Myanmar*, (June 2014) at 1, [hereinafter Minoletti Article (June 2014)].
- <sup>74</sup> CEDAW, art. 7(b).
- <sup>75</sup> OFFICIAL WEBSITE OF MYANMAR PARLIAMENT, [http://www.myanmarparliament.gov.mm/?page\\_id=144](http://www.myanmarparliament.gov.mm/?page_id=144) (last visited Mar. 23, 2015) (total ratio of women representatives in both houses of parliament: 635:31, or 4.8%) (Pyithu Hluttaw (lower house): of 420 parliamentarians in total, 25 women hold elected seats and 2 women hold armed forces appointed seats (ratio of women in lower house: 420:27 (6.4%)); Amyotha Hluttaw (upper house): of 224 parliamentarians in total, 4 women hold elected seats (ratio of women in upper house: 215:4 (1.8%))).
- <sup>76</sup> Minoletti Article (June 2014) at 8.
- <sup>77</sup> CEDAW State Report, Myanmar, ¶ 77; Minoletti Article (June 2014) at 8; Yen Snaing, *Burma’s Government to Appoint Second Woman Minister*, THE IRRAWADDY (Feb. 11, 2014).
- <sup>78</sup> Universal Declaration of Human Rights, art. 2, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948); CEDAW, arts. 1, 2, 7, 11.
- <sup>79</sup> CEDAW State Report, Myanmar, ¶ 97.
- <sup>80</sup> CEDAW State Report, Myanmar, ¶ 37.; *see also* GLOBAL JUSTICE CENTER, *The Gender Gap and Women’s Political Power in Myanmar/Burma*, [http://globaljusticecenter.net/index.php?option=com\\_mtree&task=att\\_download&link\\_id=103&cf\\_id=34](http://globaljusticecenter.net/index.php?option=com_mtree&task=att_download&link_id=103&cf_id=34) (last visited Mar. 23, 2015).
- <sup>81</sup> *Myanmar Military’s First Women Representatives Join Parliament*, RADIO FREE ASIA (Jan. 14, 2014), <http://www.rfa.org/english/news/myanmar/women-01142014143827.html/>.
- <sup>82</sup> *Id.*; Minoletti Article (June 2014) at 8.
- <sup>83</sup> *See* NSPAW.
- <sup>84</sup> Comm. on the Elimination of Discrimination against Women, *General recommendation No. 23 on women in political and public life*, ¶ 15, U.N. Doc. A/52/38 (1997), *available at* <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.
- <sup>85</sup> Comm. on the Elimination of Discrimination against Women, *General recommendation No. 23 on women in political and public life*, ¶ 15, U.N. Doc. A/52/38 (1997), *available at* <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.
- <sup>86</sup> 2011 UPR Report at ¶¶104.51, 104.52, 104.53.

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<sup>87</sup> Swedish Burma Committee, *Where are the Women? Negotiations for Peace in Burma*, (May 1, 2013) at 4, <http://www.burmapartnership.org/2013/05/where-are-the-women/>.

<sup>88</sup> *Id.* at 8.

<sup>89</sup> *Id.* at 11.

<sup>90</sup> Rep. of the Special Rapporteur on the situation of human rights in Myanmar (Yanghee Lee), ¶ 34, U.N. Doc. A/HRC/28/72 (Mar. 9, 2015).

<sup>91</sup> Swedish Burma Committee, *Where are the Women? Negotiations for Peace in Burma*, (May 1, 2013) at 9, <http://www.burmapartnership.org/2013/05/where-are-the-women/>. See also Union Peace-Making Central Committee Reformed, Presidential Order No.14/2013, (July 5, 2013) at 6.

<sup>92</sup> Myanmar Peace Monitor, *Government Peace Plan*, <http://www.mmpeacemonitor.org/peace-process/government-peace-plan>.

<sup>93</sup> Special Rapporteur Report (Sept 2013) ¶ 33.

<sup>94</sup> 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).

<sup>95</sup> CEDAW, *General Recommendation No. 30*, ¶ 46.