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UPR Submission Myanmar-23rd session (Oct-Nov, 2015)

Submitted by
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Introduction

1. Myanmar is required to protect the human rights of all its citizens including women under the Universal Declaration of Human Rights (UDHR) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Myanmar is a party to CEDAW. Myanmar is also a member of Association of South East Asian Nations (ASEAN) and must adhere to the Charter of ASEAN (2007) and ASEAN Human Rights Declaration (2012). Committee to End All Forms of Discrimination Against Women has expressed concerns with violence perpetrated by the military against rural ethnic women and widespread domestic violence.¹ This paper will address two human rights issues that affect women across Myanmar, sexual violence of ethnic women by the military and domestic violence. We have looked at various reports done by NGOs, the Myanmar government, and international organizations with qualitative data of specific instances of violence. We took the qualitative data and turned it into quantitative data to show that violence against women in Myanmar is a systematic and widespread issue that needs to be addressed. Because many incidences of violence goes unreported and because Myanmar does not collect data on these incidences, the data is severely underestimated.
2. The last UPR for Myanmar was in 2011, with the evaluation troikas being the Libyan Arab Jamahiriya, the Republic of Korea and the United States of America. At least nine NGO's at the past UPR submitted papers discussing the human rights violations against women in Myanmar. Two countries (Denmark and the United Kingdom) asked questions regarding the conditions and policies protecting women from violence and in the working group report, four countries submitted recommendations to end violence against women. This paper will address the progress, or lack thereof, by Myanmar in addressing these issues brought to light during the 2011 UPR.

Sexual Violence of Ethnic Women by the Military

¹ See Concluding observations of the Committee on the Elimination of Discrimination against Women-Myanmar, Committee on the Elimination of Discrimination against Women Forty-second session, 20 October-7 November 2008, CEDAW/C/MMR/CO/3 (2008); Report of the Committee on the Elimination of Discrimination against Women Twenty-second session (17 January-4 February 2000) Twenty-third session (12-30 June 2000), UNGA A/55/38 (2000); Committee on the Elimination of Discrimination against Women, Twenty-second session Summary record of the 457th meeting Held at Headquarters, New York, on Wednesday, 26 January 2000, CEDAW/C/SR.457 (2000).

3. In 2009, the UN special Rapporteur on human rights in Myanmar stated that human rights abuses in Myanmar were the result of state policy.² Every UN Special Rapporteur documents the State Peace Development Council's (SPDC) army using sexual violence against women as a means of subjugating ethnic areas.³ Between 2010 and 2014, 104 cases have been reported of sexual violence by the Burmese army.⁴ Rape is used to demoralize communities by leaving the community feeling powerless in their ability to protect and seek justice for the victims.⁵
4. The issue of sexual violence of ethnic women by the Burmese military is a systematic one because cases span different ethnic and geographic areas, time, battalions, and positions. Until the SPDC recognizes that traditional stereotypes, institutions, policies, and practices work to subordinate women in Burma, the situation of women will not improve.
5. The first factor that shows sexual violence is a systematic one based on state policy is that the violence spans different geographical and ethnic areas. There is a correlation of rape and violence against ethnic women in relation to areas of conflict between Burmese troops and opposing military groups such as the Shan State Army-North, the Kachin Independence Army, and the Ta'ang National Liberation Army.⁶ Rape by the Burma Army occurs in all ethnic areas of Myanmar including the Shan states, Kachin, Karen, and Kayah. For instance, the Shan states have been in civil conflict with the Burmese central government since 1948, and has one of the highest reports of rape by troops.⁷ Following are incidences of sexual violence by the military in each different ethnic area.

Shan States

6. In July 2011, troops entered a village in Ke See township and raped 3 women and a 12 year old girl. The girl was raped in front of her mother, a third woman who was 9 months pregnant was raped and the last woman was stripped naked, beaten and raped outside of the village. In the Shan States there has been 30 cases of sexual violence involving 35 women and girls, committed by Burma Army soldiers between April 2010 and May 2013. 61 percent of victims were gang raped, and one in four of the rapes ended in murder. We found that about 40% of reported rapes take place in one of the Shan States, with the Northern Shan State being the most victimized.

Kachin State

² *UPR Submission*, International Federation of Human Rights (2011).

³ *Id.*

⁴ *Same Impunity, Same Patterns*, Women's League of Burma (2014).

⁵ *CEDAW Shadow Report*, Women's Organizations of Burma.

⁶ *Update of human right violations by the Burma Army during offensives in Palaung areas*, Palaung Women's Organization (Apr. 2014).

⁷ *Id.*

7. In August 2011, Burma soldiers gang-raped and then killed a 39-year old woman and her 17-year old daughter. The soldiers also tortured and then shot and killed the girl's father. 59 women have been victims of acts of sexual violence since the Burma Army broke the ceasefire in June 2011.⁸ We found that about 35% of reported rapes occurred in the Kachin State.

Karen State

8. High-ranking officers committed half of the rape cases documented, 40 percent were gang rapes and in 28 percent of the cases the women were killed after being raped. We found that about 15% of reported rapes occurred in the Kachin State.

Kayah State

9. In January 2013, a 10-year old girl was abducted after an evening class by a soldier, who pretended to know her sister and offered her a snack. After convincing the girl that her sister sent him to pick her up, he took her to a distant cemetery and held a knife to her, threatening to kill her as he raped her throughout the night. We found that about 10% of the reported rapes occurred in the Kayah State.

10. A second factor in showing that sexual violence is systematic is that these acts span over a period of time. Incidences of rape by the military have occurred for many years and there has been little progress in improving protection of ethnic women. In January 1999, 6 women from Central Shan State were carrying rice from their farms back to their villages when they met a patrol of soldiers. After accusing the women of supplying food to the Shan State Army, the unit commander took a 15 year old aside, raped her, then shot her. When he had done, he announced that the patrol would rest for an hour and that they could do what they liked with the other women, except kill them. The other women were raped repeatedly before the troops left.⁹ 13 years later in April 2013, two married women from Northern Shan state were raped by Burmese troops. Soldiers forced their way into the women's homes and threatened to kill the women if they told anyone. This report focuses on the time period after 2011, with 2013 being the year with the most reported rapes, followed by 2014.

11. Finally, the third factor showing that sexual violence by the Burmese military is supported by state policy is that this occurs across battalions and positions, yet few cases are punished. In many cases, women are not abused by isolated soldiers but by several of them as brutal gang rapes. This shows a collective culture of acceptance across different battalions. We have found that 45% of rapes are gang rapes, spanning different time periods and geographic areas. The majority of crimes documented have been committed by soldiers of the Burmese Army while wearing uniforms. This shows that soldiers are confident in being

⁸ *Same Impunity, Same Patterns*, Women's League of Burma (2014).

⁹ *CEDAW Shadow Report*, Women's Organizations of Burma.

able to commit these crimes openly and remain unpunished. Sexual violence is perpetrated by soldiers, captains, commanders, and even majors, which institutionalizes the practice of rape as a valid practice.¹⁰

12. Though rape is criminalized by Article 375 of the Myanmar Penal Code, there is a sense of immunity for the military. Attempts by rape survivors, their families, and communities to seek justice from the SPDC army are generally ignored, at best, or met with retaliation, at worse. We found that over 30% of rape victims are also physically abused or murdered. Myanmar needs to create strong laws that criminalize rape including by the military and create a strong legal system to investigate, prosecute, and punish perpetrators of sexual violence. Of all the cases we looked at, only a small percentage, 3%, have the perpetrator receiving some sort of legal punishment and of this 3%, 90% had a victim that was under the age of 14.

Widespread Domestic Violence

13. “Ah yoe kway aung yite mha, ah thae sway aung chit”
“The more a husband beats his wife, the more he loves her”
-Myanmar proverb

Violence against women is a human rights violation that undermines the health, livelihoods and opportunities of women.¹¹ Myanmar remains one of only two ASEAN countries lacking a specific law criminalizing domestic violence. In Myanmar rape is illegal but spousal rape is not, unless the wife is under 14 years of age. A lack of government-run social services along with the lack of legal protection for victims of domestic violence, show that domestic violence is supported by state policy. Almost 90% of community members have experienced or seen physical violence within families.¹² 62% of respondents claim to experience or witness physical violence within the family on an almost daily basis.¹³ Domestic violence cases are usually not a one-off occurrence and physical violence tended to occur together with other forms of abuse, such as emotional or sexual.¹⁴

14. Domestic violence is not only a governmental issue but also a cultural one. The idea that women are less than men in society leads to the allowance of physical abuse by husbands. 62% of Myanmar has never heard or learned about women’s rights.¹⁵ Women rights are not taught in schools, not even at a

¹⁰ *Same Impunity, Same Patterns*, Women’s League of Burma (2014).

¹¹ *Behind the Silence: Violence Against Women and their Resilience*, Gender Equality Network (Feb, 2015).

¹² *Voices for Change*, Palaung Women’s Organization (2011).

¹³ *Id.*

¹⁴ *Behind the Silence: Violence Against Women and their Resilience*, Gender Equality Network (Feb, 2015).

¹⁵ *Voices for Change*, Palaung Women’s Organization (2011).

university level, so there has been no shift in traditional gender stereotypes. 76% of people believe that domestic violence should be resolved within the home, which prevents victims from seeking help, creates victim blaming, and reinforces that domestic violence is acceptable.

Conclusion and Recommendations

15. Both sexual violence from the military and husbands affect women across Myanmar, preventing women from living in a safe, healthy, and opportunistic country. The Myanmar government needs to implement laws which protect women and allow access to justice for victims of these crimes. The government can also help change social and cultural ideas of women by creating government funded aid services and committees, changing curriculum in schools, and promoting awareness of these issues.

16. We recommend that Myanmar:

- Establish and enforce strict legislation criminalizing rape in every context, including by the military;
- Put an end to the impunity of the perpetrators of sexual violence by investigating, prosecuting and punishing those responsible for rape and sexual violence.
- Promote women and women's rights by education in schools and social campaigns.