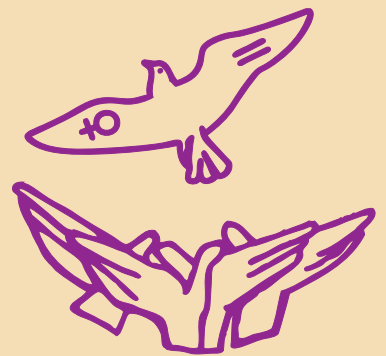




# "If they had hope, they would speak"

*The ongoing use of state-sponsored  
sexual violence in Burma's ethnic communities*



Women's League of Burma  
November 2014

## **WOMEN'S LEAGUE OF BURMA (WLB)**

The Women's League of Burma (WLB) is an umbrella organization comprising 13 women's organizations of different ethnic backgrounds from Burma. WLB was founded on 9th December, 1999. Its mission is to work for women's empowerment and advancement of the status of women, and to work for the increased participation of women in all spheres of society in the democracy movement, and in peace and national reconciliation processes through capacity building, advocacy, research and documentation.

### **Aims**

- To work for the empowerment and advancement of the status of women.
- To work for the rights of women and gender equality.
- To work for the elimination of all forms of discrimination and violence against women.
- To work for the increased participation of women in every level of decision making in all spheres of society.
- To participate effectively in the movement for peace, democracy and national reconciliation.

### **Address:**

P.O. Box 413, GPO  
Chiang Mai 50000  
Thailand

E-mail: [wlb@womenofburma.org](mailto:wlb@womenofburma.org)  
Website: [www.womenofburma.org](http://www.womenofburma.org)

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## Acknowledgements

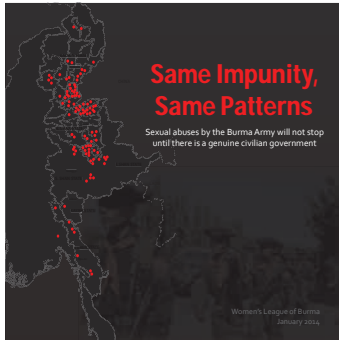
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This report has only been made possible by the women, girls and other community members who dared to speak out, and share their stories despite grave risks to their personal security. Their courage to work for sustainable peace and respect for human rights is the most powerful agent of change in Burma today. It is to them that this report is dedicated.

The Women's League of Burma would like to thank the individuals and organisations whose contributions made this report possible. We are particularly indebted to the the Network for Human Rights Documentation Burma, the Democracy and Peace Network, Global Justice Center, Fortify Rights, Burma Relief Center, and Burma Campaign UK for their inputs.

We would also like to thank our member organisations, whose field work forms the basis for the information contained in this report: Kachin Women's Association Thailand (KWAT), Karen Women Organisation (KWO), Lahu Women's Organisation (LWO) and Palaung Women's Organisation (PWO). We also thank the Karen Human Rights Group (KHRG) for providing documentation information.

## Summary of Same Impunity, Same Patterns



In our *Same Impunity, Same Patterns* report released in January 2014, we noted the ongoing incidence of state-sponsored sexual violence in ethnic communities, and analysed the underlying dynamics and contributory factors to it. We also outlined some key recommendations to the government of Burma, the international community, and Ethnic Armed Organisations (EAOs) to bring about an end to sexual violence in ethnic communities, and the de facto impunity enjoyed by its perpetrators, and steps necessary to safeguard the human rights of women of Burma.

### The report noted:

- Between the elections of 2010 and January 2014, the WLB and our member organisations documented 104 cases of sexual violence against women and girls – a number we believe to be a fraction of the actual abuses taking place.
- The majority of these cases are linked to military offensives, and their widespread and systematic nature indicates a structural pattern. The use of sexual violence in conflict is a counter-insurgency strategy, and is closely tied to control over resource-rich ethnic areas.
- Burma's Constitution and domestic legal framework contravene norms of international law and preclude the realisation of substantive equality for women, and the lack of judicial independence creates distrust in mechanisms of justice.
- The systematic and widespread use of sexual violence by the Burma Army makes the abuses potential war crimes and crimes against humanity under international law, requiring thorough independent investigation.
- The overwhelming dominance of male participants in the official peace process means that critical perspectives on peace and conflict are excluded, and that structural gender inequality is preserved.

Based on these findings, the report made the following recommendations, which remain unheeded:

To the government of Burma:

- Immediately put an end to sexual violence against women and ensure justice for those crimes
- Reform the 2008 Constitution to ensure that the military is constitutionally placed under civilian control and that women's rights are promoted
- Ensure that Burma's domestic legislation incorporates relevant norms of international law and effective national laws for the protection of women
- Ensure women's participation in the peace process dialogue and include accountability for past human rights violations in the discussions

**To the international community:**

- Acknowledge that rule of law and democracy will not flourish in Burma until the military is placed under civilian control through constitutional reform
- Call on the government of Burma to immediately end sexual violence against women and ensure justice for those crimes
- Call on the government of Burma to establish effective judicial and non-judicial transitional justice mechanisms to investigate human rights abuses, particularly those relating to sexual violence, including an independent international investigation, truth-commissions and impartial independent national courts

**To Ethnic Armed Organisations (EAOs):**

- Ensure women's participation in the peace process dialogue, and include accountability for past human rights violations
- Maintain demands to the government of Burma to change the 2008 Constitution, in order to ensure that the military is constitutionally placed under civilian control and that women's rights are protected, as a condition to the peace process

## EXECUTIVE SUMMARY

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In January 2014, the Women's League of Burma (WLB) published a report which demonstrated the systematic use of rape by the Burma Army as a strategy to subjugate communities across the country. We documented over a hundred cases of sexual violence in the years since President Thein Sein took office – a number which we believe grossly underestimates the true scale of the problem. Drawing on evidence gathered by our member organisations across Burma, we argued that there are clear links between militarisation, investment and human rights abuses. We also proposed a number of steps to uproot the culture of impunity which surrounds sexual violence, and prevents survivors from obtaining justice. Whilst recent months have seen positive action taken in several areas, the pillars which provide impunity for perpetrators of human rights abuses remain in place. In January, we called for constitutional reform to place the military under civilian control; the establishment of effective judicial and non-judicial mechanisms to investigate human rights abuses, particularly those relating to sexual violence, and; greater participation of women in the peace process dialogue.

**Today we reiterate these calls.**

Despite signals from the Burmese government of their willingness to address these issues, rape and the intimidation of individuals seeking justice continue unabated. In the months since *Same Impunity, Same Patterns* was published, the WLB has continued to receive reports of rape, attempted sexual violence, and intimidation of women by Burma Army personnel across the country – with a total of 14 cases of gang-rape, rape and attempted sexual assault documented between January and June, and many more women facing sexual violence but fearful of the consequences of taking action. The situation at the local level remains largely unchanged: women and girls are still denied basic human rights on a daily basis, and perpetrators of rights violations against women are not held responsible. The cases discussed below bear this out. They shed light on the dynamics of investment and human rights abuses in ethnic areas; the difficulties faced by civil society in obtaining redress for survivors, and safeguarding the human rights of women, and; the inadequate efforts of the government to deliver on their promises of reform. Moreover, they evidence how much work remains to be done to effect a fundamental shift in the culture of impunity which underpins gender inequality in Burma today.

In recent months, calls for the Burmese government to undertake Constitutional reform, and to investigate both current and historical human rights abuses, have grown. In March, United Nations Secretary General Ban-Ki-Moon echoed this, further urging that the government work to safeguard women affected by violence.

*'I call on the Government of Myanmar to fully investigate and respond to current and historical human rights violations and abuses, including crimes of sexual violence. I urge the Government, with the support of the United Nations and its partners, to work to develop a comprehensive protection and service response for survivors.'*<sup>1</sup>

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<sup>1</sup> Report of the Secretary-General (2014), 'Conflict-related sexual violence', p.12-13, United Nations Security Council

Despite signing the Declaration of Commitment to End Sexual Violence in Conflict, measures to improve transparency and accountability have not materialised, and the readiness of the police and judiciary to properly investigate human rights abuses remains inadequate. While the government's National Strategic Plan for the Advancement of Women (NSPAW) has been heralded as a step forwards, a number of issues raised in the CEDAW Committee's 2008 Concluding Observations and Recommendations – which preclude NSPAW from being effectively implemented – have not been addressed. Women are denied the means to seek redress for grievances, excluded from Burma's peace and reconciliation process, marginalised in the political realm, and remain severely disadvantaged under national law.

In January's report, the WLB proposed a series of steps necessary to realise justice for survivors of sexual violence, and to restore the dignity of the women of Burma (see page ii). Almost a year later, the Burmese government continues to preside over myriad human rights abuses, and stands firm in its contravention of several international treaties and UN Security Council Resolutions to which it is party. Allegations that the actions of the government and military authorities may constitute war crimes and crimes against humanity have not galvanised concrete action targeting their root causes. Indeed, the major findings of this report evidence that:

- Justice for survivors of ongoing state-sponsored sexual violence remains almost non-existent, owing to the lack of transparency which characterises Burma's judicial framework, the complicity of public officials in providing the Burma Army with de facto impunity from prosecution, and the prohibitive cost of financing legal proceedings
- Rapid investment in resource-rich ceasefire areas is driving an increase in the presence of the military, resulting in burgeoning human rights abuses and undermining the safety of women
- Intimidation of civil society organisations has increased, and government support for organisations working to advance the human rights of women in ethnic communities remains severely limited
- The government's National Strategic Plan for the Advancement of Women (NSPAW) has been poorly implemented, leaving patterns of injustice and the under-representation of women in political and public life unchanged
- No action has been taken to implement the Declaration of Commitment to End Sexual Violence in Conflict, and women's issues have been entirely absent from peace negotiations between Ethnic Armed Organisations (EAOs) and the government

For these reasons, the WLB is reiterating its call to the international community to pressure the government of Burma to establish effective judicial and non-judicial mechanisms to investigate human rights abuses, including an independent international investigation, truth-commissions and impartial independent national courts. Additionally, amending



the 2008 Constitution to ensure that the military is placed under civilian control, and to incorporate norms of international law designed to safeguard the rights of women, is central to any attempt to ensure justice and gender equality in the future.

Initiation of a political dialogue between the Burmese government and Ethnic Armed Organizations, including discussion of socio-economic issues pertinent to each community, must also begin. Peace in Burma is predicated on resolutions to such issues – as evidenced by the conflict and deprivation which continue to threaten communities in Kachin State after the end of a 17 year ceasefire between the Burma government and Kachin Independence Organisation / Kachin Independence Army (KIO/KIA). Only by arriving at compromise on these questions can the complete withdrawal of the Burma Army from ethnic areas be realised, and sustainable peace be achieved.

Finally, as long as the process of peace and reconciliation is marshaled primarily by men, space for the participation of women will be neglected. Ensuring that women's voices are heard at every level of the political dialogue is essential to ending patterns of sexual violence associated with militarisation. Taken together, we believe these recommendations will lead not only to the sustainable peace which is desired by all, but also to the safeguarding of the human rights of women across Burma.

## SECTION ONE: EVIDENCE FROM THE GROUND

### Ongoing crimes

Since the release of *Same Impunity, Same Patterns*, the use of sexual violence against ethnic women has continued unabated. Reports of gang-rape, rape, and attempted sexual violence from Kachin State, Karen State, Mon State, Chin State, Shan State and Karenni State continue to be received by WLB and our member organisations. As described in *Same Impunity, Same Patterns*, rape and sexual violence in Burma may constitute crimes against humanity and war crimes per the definitions provided by the Rome Statute of the International Court.<sup>2</sup> It is clear from the number and geographic scope of these crimes<sup>3</sup> that terrorising civilian populations in ethnic states with sexual violence remains an institutionalised practice of the Burma Army. The unifying factors in all these cases are the involvement of military personnel – both through the act itself, and complicity in covering it up – and their disdain for the concepts of accountability and transparency, which are perceived as threats to their authority rather than instruments to build trust.

The military's perception of sexual violence as a permissible act is evidenced by the number of gang-rapes which civil society organisations continue to unearth. The prevalence of gang-rape is a direct result of Burma's Constitution situating the military above human rights and norms of international law. Alongside cases of sexual violence, survivors face intimidation from authorities at every level, including from officers determined to subvert justice and ensure the culture of impunity remains intact. For the government to legitimately claim that the military is contributing to meeting Burma's commitments to human rights outlined elsewhere in this report, a substantive behavioural shift is required.

*On January 9th 2014, on the road from Myitkina to Sumpara Bum in Kachin State, soldiers from the 298th LIB Battalion pulled aside three Kachin women on their way home from work. Two managed to escape, but Roi Roi was forced to accompany the men. Having taken her to a place sufficiently distant from passers-by, she was gang-raped. When Roi Roi explained what had happened to her family, they notified both the media and the army. The LIB No.31 Battalion Commander summoned Roi Roi, her parents, the village administrator and some other villagers to meet and discuss the incident. Following these discussions, the Commander and subordinate staff made visits to the village to question who was spreading news about the incident, and threatened them not to make trouble. As yet, no action has been taken against the perpetrators.<sup>4</sup>*

The brutalisation of ethnic populations as a goal of the Burma Army is evidenced by the systematic nature of the crimes committed, the ages of many survivors, and the absence

2 As described in *Same Impunity, Same Patterns*, p. 23-27, rape and sexual violence are both war crimes and crimes against humanity under the Rome Statute of the International Criminal Court. Additionally, sexual violence is prohibited under international humanitarian law (IHL), including the Geneva Conventions of 1949 to which Burma is party - see Customary IHL, International Committee of the Red Cross, Rule 93, 'Rape and Other forms of Sexual Violence'.

3 'Crime' is used in this report under the terms discussed in Women's League of Burma (WLB) (2014), *Same Impunity, Same Patterns*, p.23-27. Under Burmese national law, rape is criminalised under Article 375 of the Myanmar Penal Code, and Article 376 allows courts to sentence convicted rapists to life in prison. Sexual violence has also been recognized as a human rights violation - see Coomaraswamy, R., Special Rapporteur on Violence Against Women (1995) 'Sexual Violence Against Refugees: Guidelines on Prevention and Response

4 Sourced from Kachinland News

of prosecution faced by perpetrators. WLB has documented the rape of girls as young as 8 years old in Shan State (see below), alongside the rape and gang-rape of other girls in Kachin and Mon States. The absence of support mechanisms for survivors allows the psychological effects of these crimes to metastasise, decimating the lives of young women and girls in the process. The stigma attached to survivors of sexual violence by their communities further adds to their trauma.

*On November 11th 2013, in HkaLum village close to Northern Shan State, an 8 year old girl was raped by a soldier from the 323rd Light Infantry Regiment under the Theinni-based 16th Military Operations Command (MOC). The girl was babysitting her infant sister while her parents were working in a nearby paddy field when the soldier arrived at her house. Having arrived, he forced his way into the young girl's room, threw her baby sister to the bed, and raped her. He repeatedly told the girl that if she told anyone, he would kill her.<sup>5</sup>*

The gravity of these crimes does not affect the de facto impunity from prosecution enjoyed by military personnel, whose behaviour is exempt from civilian oversight and authorized by senior military personnel – concerned primarily with their soldiers rather than survivors. We have noted the continued incidence of military personnel becoming actively involved in arbitration following cases of sexual violence, and the fear instilled in survivors that results.

*Following the attempted rape of a woman on January 26th 2014 in Hpruso in Karenni State, Captain Aung Zaw Htun settled the matter by offering 300,000 kyat (about \$300) as compensation on the proviso that the incident would not be reported to the media, or any further action taken. Subsequently, the local women's group tried to meet with the survivor in her village, but were denied as the compensation had already been accepted, and they feared the ramifications of speaking out about the incident.<sup>6</sup>*

The complicity of the military cultivates fear among the police to properly investigate such crimes – conscious that the link to the military will almost certainly result in the case being concluded outside of the judicial process.<sup>7</sup> One of the most commonly cited reasons for the absence of investigation into the crimes documented is a 'lack of evidence' to prosecute.<sup>8</sup> In areas where military personnel outnumber the police, the scope for cases to be dismissed on this basis is wide – and is often used against survivors to win their acquiescence to an out-of-court settlement.

While the government's National Strategic Plan for the Advancement of Women (NSPAW) commits to raising awareness to eliminate violence against women and girls, and to implement community-based initiatives to prevent and respond to it (see below), the government is not devoting resources to these ends in ethnic communities. Furthermore, the foundations upon which sexual violence and human rights abuses are built remain enshrined in law. As a result, justice and accountability for survivors remains elusive.

5 Sourced from Kachinland News

6 Sourced from Kanatarawaddy Times

7 As noted in Same Impunity, Same Patterns, p.34-5, the abduction and disappearance of 28 year old Kachin woman Sumlut Roi Ja by Burma Army soldiers, and the Supreme Court's rejection of a writ of habeas corpus by her family, is a clear example of the de facto impunity with which the Burma Army operates, and the reluctance to properly investigate such crimes. Three years after her disappearance on October 28th 2011, Sumlut Roi Ja's whereabouts is still unknown.

8 Reuters, 'Myanmar still uses rape as weapon of war – women's group', January 14th 2014

## SECTION TWO: ROOT CAUSES

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### Justice and accountability

*‘The army are not interested in accountability for sexual violence or human rights abuses. If a Captain or Commander commits rape, they will go to the survivor’s house to apologise, and offer some compensation. Even the highest ranking officers are doing this. If a gang rape committed by a group of soldiers is made public, they will quickly be moved to another base before they can be held to account.’*

Lahu Women’s Organisation interview, September 2014

As has been highlighted by numerous publications, the interaction of Burma’s 2008 Constitution with the country’s judicial framework provides the Burma Army with de facto impunity from prosecution. There are a number of key Constitutional clauses which leave the military unaccountable to civilian courts, and afford them de facto freedom from prosecution for crimes committed as a result of official duty.<sup>9</sup> Incidence of sexual violence, attempted rape, torture, forced displacement and other human rights abuses committed by military personnel remain almost exclusively dealt with by military tribunals.<sup>10</sup> Despite the recent transferral of a case of sexual violence to a civilian court, there is not yet evidence to suggest this is precedent setting.<sup>11</sup> In relation to cases dealt with under the court-martial system, it is not the Supreme Court but the Commander-in-Chief of the Defense Services whose decision is final. Furthermore, those cases which are tried under civilian courts are overseen by a judiciary that lacks adequate independence from the Executive and the military, and is neither impartial nor effective.<sup>12</sup> The interaction of these elements of Burma’s polity creates an environment in which the Burma Army operates with impunity.

Although rape is criminalised under Article 375 of the Myanmar Penal Code, and Article 376 allows courts to sentence convicted rapists to life in prison, serious punitive action taken against soldiers responsible for these crimes continues to be largely non-existent. The lack of transparency in Burma’s judicial system undermines not only the ability of survivors of sexual violence to achieve redress, reparations and rehabilitation, but also the efforts of the local police to enforce the law. This mindset permeates every level of the judicial paradigm, and seriously affects the work done by local police to undertake criminal proceedings against military personnel.

*‘The police make excuses for army rapists saying, ‘It’s only a small mistake’, and, ‘They don’t mean to do it’. They work with the army to get survivors to accept compensation instead of going to court.’*

Lahu Women’s Organisation interview, September 2014

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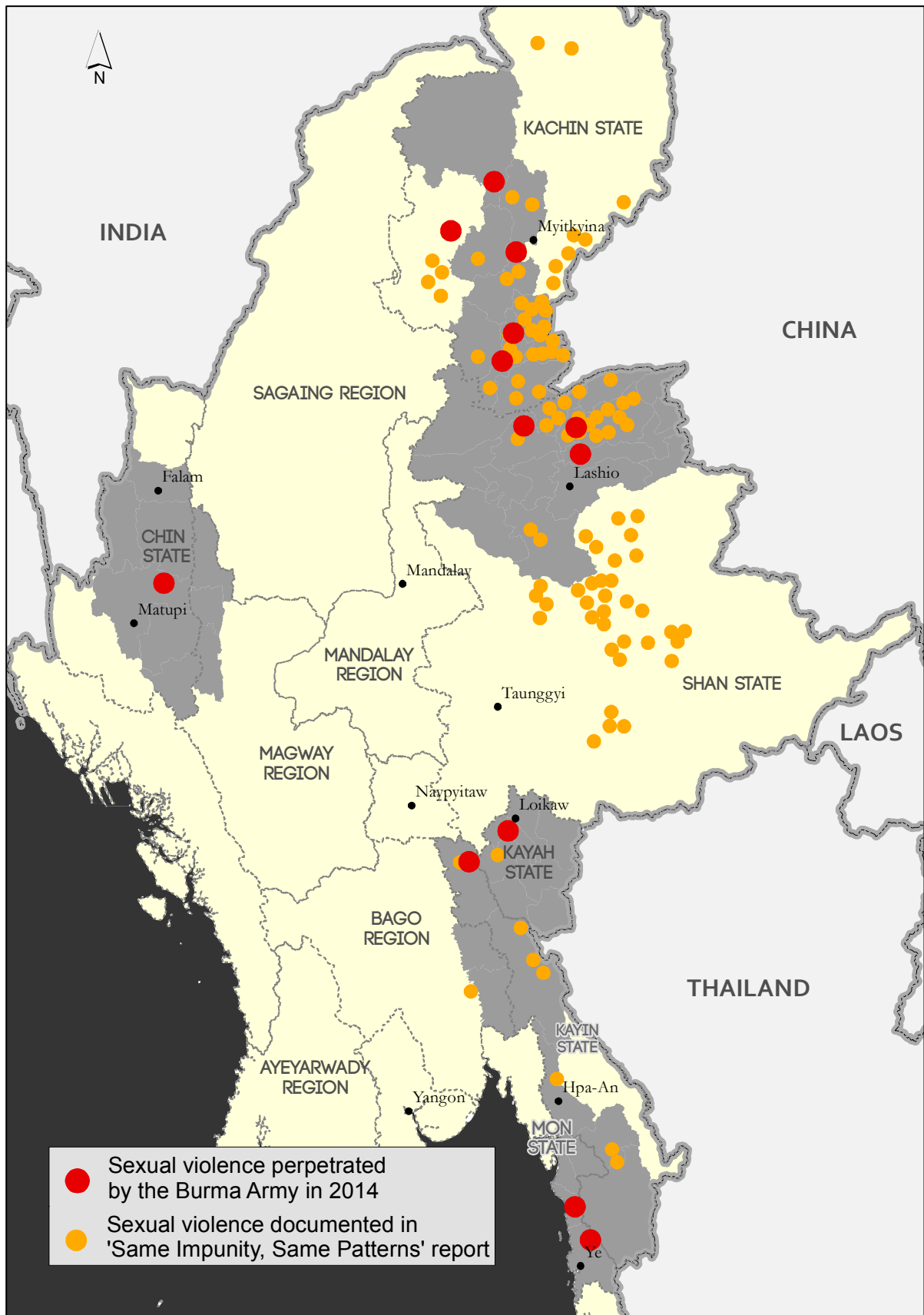
<sup>9</sup> See Constitution of the Republic of the Union of Myanmar (2008), Articles 20 (b), 293 (b), 294, 319, and 445.

<sup>10</sup> The alleged rape of a 15 year old Kachin girl by a soldier based in Kutkai Township on May 16th was transferred to a civilian court after the soldier was sentenced to a year in prison by military tribunal, having been found guilty of leaving his battalion quarters without permission.

<sup>11</sup> United Kingdom Government Foreign and Commonwealth Office, ‘Burma – Country of Concern: latest update, 30 September 2014’

<sup>12</sup> See United Nations, ‘Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee’, 23rd September 2014, A/69/398, p. 18. See also Women’s League of Burma (2014) Same Impunity, Same Patterns, p.32-33

# Map of rape incidents by Burma Army since 2010



*On January 26th 2014, a 43 year old Mon woman suffered serious injury during an attempted rape by a Burma Army officer near Wae Yet village in Mon State. The perpetrator – identified by his ID card dropped at the scene – was Second Corporal Ye Min Tun from Artillery Battalion 315. The severity of her injuries resulted in her being hospitalised first in the village clinic, then Moulmein hospital, and finally in Yangon.*

*When the case was reported to the Commander of Artillery Battalion 315, he offered to cover the survivor's medical costs on the proviso that no charges would be pressed against the perpetrator. Consequently, the victim's husband was forced by the Wae Yet village administrator to sign a statement agreeing not to press charges. The woman spent two months in hospital.*

*Military sources have reported that the perpetrator has been sentenced to 7 years in prison, but no evidence of this has been made available to the survivor's lawyer. As of October 2014, there has not been any public hearing, and the whereabouts of the perpetrator remains unknown.<sup>13</sup>*

The interaction between public officials and individuals at the community-level is a key node in the process of building trust in the formal justice system. While programs to improve transparency and capacity have been undertaken at the central level, arbitrary and discriminatory practices continue to characterize many people's experiences of the judicial process. This is due not only to the reluctance of public officials to instigate criminal proceedings, but also the limited independence of the judiciary in Burma as a whole.<sup>14</sup> The level of authority wielded by the Executive over the highest ranking members of the judiciary informs the crimes for which justice and accountability are pursued.<sup>15</sup>

The absence of accountability for the military is perpetuated by the regularity with which cases brought against individual soldiers routinely disappear into the court martial system. Once the police have passed responsibility on to the military to investigate a crime, there is no obligation for them to make public the information relating to the case. As such, survivors, the police, and representatives of the judiciary recognise that the likelihood of obtaining justice is drastically reduced. Decades of judicial proceedings being handled in such a way has undermined survivors' confidence in obtaining justice for crimes committed by military personnel.<sup>16</sup>

*On April 10th 2014, having been stopped by two soldiers on the roadside, 17 year old 'Ma Bauk' was forced at knifepoint to drive her motorbike to an abandoned farmhouse, four miles distant from the nearest village. In spite of her attempts to flee and cry for help, the soldiers kept her at the house and raped her repeatedly. The following day, 'Ma Bauk' was able to escape as she drove them back towards their base. Upon telling her family what had happened, they immediately went to the police station, lodged a complaint, and went for a medical examination.*

13 Sourced from The Human Rights Foundation of Monland-Burma (HURFOM) (2014), In Pursuit of Justice: Reflections on the Past and Hopes for the Future of Burma, p.61. Further information provided by WLB fieldworkers.

14 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

15 For an analysis of the role played by the Burmese government in the financing and operation of the opium trade in Kachin state and northern Shan State, see Kachin Women's Association Thailand (KWAT) (2014) Silent Offensive: How Burma Army strategies are fuelling the Kachin drug crisis, p.12 and p.35-37

16 Palaung Women's Organisation has documented two separate cases of state-sponsored sexual violence in the Palaung area of Northern Shan State since January 2014. Both survivors requested that details surrounding their cases be kept confidential, fearing the impact of publicising their cases on the judicial process, and the personal repercussions from local authorities. Source: Palaung Women's Organisation

*Six weeks after the rape, the police revealed that a case had not been opened against the perpetrators. Though one of the men had been identified, the army refused to cooperate with the police and allow them to interview the accused. Subsequently, the army explained that the identified soldier had gone absent without leave from the camp and did not know his whereabouts. Despite the publicity garnered for the case – including through BBC interviews and the launch of an appeal by the Asian Human Rights Commission – the perpetrators have not yet been brought to trial, and the family remain under close surveillance by the police.<sup>17</sup>*

The cost of financing legal proceedings is also an important factor in dissuading people from pursuing litigation. For many survivors of human rights abuse, the prohibitive expense – of paying for a lawyer, arranging transport, and organising childcare whilst having to continue to work to support their families – has a serious bearing on their choice of whether or not to pursue justice. 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.

*‘At the moment, if a survivor fights their case in court, you know that their family will end up poor. Families have to sell everything they have to pay for lawyers’ fees – and so few people are prosecuted as a result. If the options are destitution or injustice, most people are forced to choose injustice.’*

Kachin Women’s Association Thailand interview, September 2014

The role of civil society organisations to strengthen systems of accountability and transparency at the local level is, therefore, crucial. Not only do these groups provide financial assistance to survivors pursuing legal action, but – as the government’s NSPAW notes – they also play a key role in raising the awareness of communities, building a culture of accountability, and in helping realise Burma’s obligations under international law. Yet human rights defenders continue to be targeted for trying to achieve these aims.<sup>18</sup>

*‘We’ve asked field staff to go to visit (the survivor), but they are afraid of what might happen. Also, they know that to get to her home they have to pass through the military controlled area which means they run the risk of being subjected to violence or abuse.’*

Naw Ohn Hla, Democracy and Peace Network interview, August 2014

Our discussions with civil society organisations across Burma suggest that the level of intimidation they face has not diminished with the legal space they have been granted under the Thein Sein administration. This is demonstrative of the Burmese government’s prevailing approach: undertake internationally-approved reform at the legislative level, and continue to ignore the perpetration of egregious human rights abuses on the ground. Routine violations of the rights the government has committed to safeguarding still

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<sup>17</sup> Sourced from Asian Human Rights Commission, ‘Soldiers who raped teenage girl not punished for their crime’, May 27th 2014. Further information provided by WLB fieldworkers.

<sup>18</sup> The Human Rights Foundation of Monland-Burma (HURFOM) (2014), In Pursuit of Justice: Reflections on the Past and Hopes for the Future of Burma, p.13-14

characterise the experience of many ethnic communities across Burma. In recent months, this has been most clearly evidenced by the proliferation of land confiscation – itself an important contributory factor to the increase of military troops in ethnic communities, driving the manifold human rights abuses visited upon them.

## Investment and Impunity

*‘We report a lot of land confiscation, torture, drug related crime and violence by both the Burma Army and militias... If land is confiscated and people want to make a claim, they have to show papers of ownership. But people have been farming very big tracts of land for generations without these papers, and have never needed them before. If they don’t have them, the police won’t investigate their claim.’*

Lahu Women’s Organisation interview, September 2014

Since the publication of *Same Impunity, Same Patterns*, there has been increasing concern among the international community about the proliferation of land confiscation and displacement across Burma.<sup>19</sup> The links between military offensives and sexual violence have been well documented by WLB member organisations, as have the ongoing security risks posed to civilians by the reinforcement of military bases.<sup>20</sup> Although the government has negotiated a number of ceasefires with Ethnic Armed Organisations (EAOs) in recent years, the number of military personnel deployed to ceasefire zones has been growing.<sup>21</sup>

The nexus between ceasefire agreements, land confiscation and human rights abuses remains central to the concerns of ethnic populations, and is a key dynamic in the peace building process. The fact that many foreign-funded ‘development projects’ are proceeding without meaningful consultation of local communities and before the issue of natural resources has come to the dialogue table has only heightened these concerns.<sup>22</sup> Alongside these uncertainties, in many areas ceasefires are not bringing peace, but increased poverty, increased military presence and increased sexual violence.

The undertaking of development projects not only requires large tracts of land, but also a well-resourced security force to ensure the safety of the investment site. This positions the Burma Army and pro-government militia well to partner with international investors, financing their ‘self-reliance’<sup>23</sup> operations in ethnic areas in the process. With the increase in the number of soldiers in ceasefire areas comes renewed displacement and fear of sexual violence.

19 Kevin Woods, ‘A political anatomy of land grabs’, Myanmar Times, 10th March 2014. The circulation of the government’s ‘Draft National Land Use Policy’ led the Transnational Institute to conclude that ‘the core objective of the national land use policy seems to be to create the institutional environment needed to secure (large-scale) foreign direct investments...which has the potential to be hugely disadvantageous for millions of small-scale farmers...’ Transnational Institute, ‘Pro-business or pro-poor? Making sense of the recently unveiled draft National Land Use Policy’, 23rd October 2014

20 See Free Burma Rangers, ‘Update on Burma Army Activity in Kachin State and Northern Shan State’, October 27th 2014

21 For example, following a bilateral ceasefire agreement at the beginning of 2012, in Hpapun Township an additional 10 Burma Army camps have been established. See The Border Consortium (2014) Programme Report January – June 2014, p.13

22 See Karen Peace Support Network (2014) Critique of Japan International Cooperation Agency’s Blueprint for Development in Southeastern Burma/Myanmar

23 The license given to the Burma Army to ‘build its own industrial and technological base’ following the passage of the State-Owned Economic Enterprise Law in 1989 has been key to the mass land confiscation across ethnic regions of Burma. See Aung Myoe, M. (2009) Building the Tatmadaw: Myanmar armed forces since 1948. Singapore: Institute of Southeast Asian Studies, and; Taylor, R. (2008) The State in Myanmar. Hawaii: University of Hawaii Press



*'During 2013, sexual violence was reported by displaced persons to have been a significant factor motivating their flight. During flight and while displaced, civilian populations continued to be vulnerable to sexual violence. In the context of prolonged and repeated displacement, effective mechanisms to prevent rape and other forms of sexual violence are often absent or limited.'*<sup>24</sup>

Distrust between ethnic communities and the government's military is firmly rooted. The Burma Army's long history of conflict with EAOs has resulted in the targeting of civilians, instilling fear that undertaking the most mundane tasks – from collecting water to sowing paddy – can result in indiscriminate violence.<sup>25</sup> In eastern Shan State, investment in funding the Burma Army and pro-government militia to act with de facto impunity, with burgeoning human rights abuses a direct consequence.<sup>26</sup> Furthermore, the investment directed into ethnic regions is showing little sign of galvanising the infrastructural development that is central to addressing the needs of communities, and to Burma's economic transformation – which, in turn, is posed by the international community and Naypyidaw as central to achieving sustainable peace in ethnic regions.<sup>27</sup>

Despite the government's avowed commitment to combating the root causes of sexual violence and gender inequality in Burma, ethnic women today find themselves facing an increase in the number of military personnel responsible for confiscating their means of livelihood, and without access to means of redress for the sexual violence they continue to suffer. At present, the 'economic development' which is being instituted by Thein Sein's administration and secured by the military is predicated on the denial of basic human rights to the ethnic women of Burma. This remains the case despite several commitments made by the Burmese government to end discrimination against women, and promote their agency in building a sustainable peace across the country.

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24 Report of the Secretary-General (2014), 'Conflict-related sexual violence', p.2, United Nations Security Council

25 Karen Peace Support Network (2014) Critique of Japan International Cooperation Agency's Blueprint for Development in Southeastern Burma/Myanmar, p.13. See also Fortify Rights (2014) 'I thought they would kill me': Ending Wartime Torture in Northern Myanmar

26 Lahu Women's Organisation interview, September 2014

27 As noted by one field worker interviewed, 'Even if companies bring investment, there is no difference in the roads, electricity connection, hospitals or schools – the only roads that are well made are the ones leading to their businesses.' Lahu Women's Organisation interview, September 2014

## SECTION THREE: GOVERNMENT COMMITMENTS AND IMPLEMENTATION

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### Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Among a number of international treaties to which the country is party, Burma is also a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – which commits countries to eliminate discrimination against women both in law and practice. In 2008, the CEDAW Committee drew attention to a number of areas in which Burma's implementation of the Convention was lacking. While the government's recent NSPAW can be seen as a direct response to a number of the issues raised by the 2008 review, its inadequate implementation has resulted in the neglect of several key elements of the CEDAW Committee's recommendations. Sexual violence remains endemic, ethnic women in Burma are routinely denied justice and accountability, and continue to suffer systematic discrimination.

The reluctance to devote the human and financial resources necessary to improving women's rights has resulted in continued violence against women, impunity for the perpetrators of violence, and the marginalisation of groups dedicated to eliminating discrimination against women. Perhaps even more worryingly, very little progress has been made to implement the substantive measures needed to alter the legal and Parliamentary structures that entrench the subjugation of women. As noted by the CEDAW Committee, Burma's Constitution is unique for the formal guarantees of gender inequality which it institutes.<sup>28</sup> This inequality is underpinned by the Burma Army, and the power which it wields over the country's polity.

Although the opening of the Defense Services Academy to women has been heralded as a step forward for gender equality, the barriers to entry for female recruits are highly restrictive.<sup>29</sup> Even those who meet these criteria remain practically excluded from the most influential positions within the ministries reserved for the Burma Army,<sup>30</sup> given the Constitutional provision which enshrines the 'appointment of men to the positions that are suitable for men only.'<sup>31</sup> The Constitution also requires that the President has a military 'vision or outlook' – a clause widely understood to mean experience within the Burma Army, which excludes the vast majority of female Parliamentarians. Further, as noted above, exemption from civilian oversight contributes to an environment of impunity for sexual violence and other human rights abuses. Taken together, the Constitution 'guarantees that the voices of women in Burma can never be heard.'<sup>32</sup>

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<sup>28</sup> Committee on the Elimination of Discrimination against Women (CEDAW Committee), Concluding Observations of the Committee on the Elimination of Discrimination against Women: Myanmar, U.N. Doc. CEDAW/C/MMR/CO/3 (Nov. 7, 2008)

<sup>29</sup> Female recruits must be 'single, between the ages of 25 and 30, at least 1.6 meters tall, and no heavier than 59 kilograms.' They are also restricted to performing commission – not combat – roles. Irrawaddy News, 'For First Time in 50 Years, Burma's Military Welcomes Women Officers', August 29th 2014

<sup>30</sup> These include the ministries of Defense, Home Affairs, and Borders Affairs.

<sup>31</sup> Constitution of the Republic of the Union of Myanmar (2008), Chapter VIII, Article 352

<sup>32</sup> Global Justice Center (2012) How the 2008 Constitution of Myanmar/Burma Violates International Laws Guaranteeing Women's Rights, p.4

Recent months have also seen the tabling of regressive legislative measures<sup>33</sup> – which violate both the rights of women to have free choice over their marital partner, and their religious freedom – and the continued delay of the Anti-Violence Against Women Law, which has been in the drafting process since December 2013. Women remain severely disadvantaged under Burmese law - marital rape is only criminalised if the wife is younger than fourteen years of age, no specific laws exist to prevent domestic violence or sexual harassment in the workplace, and women are unable to seek restraining orders against violent men. Alongside de jure hindrances, Burma has also done little to act on the CEDAW Committee’s recommendation to work towards ‘substantive equality’.<sup>34</sup>

Six years after the Committee’s recommendations were published, Burma has one of the lowest levels of representation of women in sub-national and national governance both in ASEAN and globally.<sup>35</sup> Women’s participation in political processes is curtailed by barriers to entry informed by a firmly rooted patriarchal mindset – for example, the ascription of authority to men, the rejection of women in leadership roles, and severe time constraints resulting from women’s shouldering of ‘reproductive labour’.<sup>36</sup> The level of participation of the few women involved in political processes also differs widely, from the ‘nominal’ to the ‘active’.<sup>37</sup> One consequence of this ongoing marginalisation of women is their absence from the negotiation table in the peace-building process<sup>38</sup> – itself a crucial element of achieving an holistic and sustainable peace in Burma. This further highlights the importance of initiating a political dialogue between the Burmese government and EAOS, inclusive of women and the issues affecting them.

*‘There is still a reluctance for (the UNFC) to give power to women – they want to keep it in their own hands. Their willingness to engage with us has improved, but they still say that women don’t have the capacity or experience to be actively involved in peace-building. But this is so clearly not true – KWO has been working as an organisation for over 50 years; our structure is democratic, and we have regular elections; and the whole range of programs we run are operated by women. Although it is a sign of the progress made that (the UNFC) invite us to be involved in meetings and conferences, we are not granted ‘representative’ status. We can either attend as ‘observers’, or not at all.’*

Karen Women’s Organisation interview, September 2014

33 Most notably, the ‘Emergency Provisions on Marriage Act for Burmese Buddhist Women’, which UN Special Rapporteur on human rights in Myanmar, Yanghee Lee, recently called for the withdrawal of. See United Nations, ‘Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee’, 23rd September 2014, A/69/398, p. 19

34 CEDAW Committee, Concluding Observations of the Committee on the Elimination of Discrimination against Women: Myanmar, p.3. ‘Substantive equality’ is defined as the ‘(empowerment of women) by an enabling environment to achieve equality of results. It is not enough to guarantee women treatment that is identical to that of men.’ CEDAW Committee, General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures, Article 8

35 Minoletti, P. (2014) Women’s Participation in the Subnational Governance of Myanmar, p.1

36 Ibid.

37 Agarwal, B. (2010) ‘Does Women’s Proportional Strength Affect Their Participation? Governing Local Forests in South Asia’, World Development, 38, p.101

38 The Nationwide Ceasefire Coordination Team (NCCT), which represents 16 ethnic armed organizations, retains only one female member of a thirteen member committee. The United Nationalities Federal Council (UNFC) retains one female member of their ten member executive committee. This issue has been recognized by UN Special Rapporteur on human rights in Myanmar, Yanghee Lee, who recently called on the government of Burma to do more to promote women’s participation in public and political life. See United Nations, ‘Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee’, 23rd September 2014, A/69/398, p.6

The argument propounded by both the government and EAOs to date has been that the priority for peace negotiations must be the cessation of conflict, from which can follow a political dialogue which establishes the terms and conditions of peace. As a result, the management of the National Ceasefire Agreement (NCA) and wider peace process has been almost entirely by men. To date, the peace process has neglected the perspectives of women, who bear the burden of war in ways which are both different from, and often more acute than, men. The NCA draft reflects a narrow view of the pillars necessary for achieving a sustainable peace – addressing neither the acts of violence which it will prohibit, nor denying amnesty to parties who have committed acts of sexual violence prior to or after signing the agreement.<sup>39</sup> Further, it makes no commitment to addressing past and present cases of sexual violence in ethnic communities, which is indispensable for sustainable peace. To give primacy only to the de facto cessation of fire over a substantive political dialogue misunderstands the ingredients of sustainable peace, and undermines the crucial role of women in its construction.

The contribution of women in civil society organisations is much stronger than in the formal political sphere. Representatives from such organisations often have a wider knowledge of human rights issues, better experience of negotiation, and more critical insights into government policy than the responsible ministers or MPs. The CEDAW Committee review urged the government to create an enabling environment for civil society to work – without restrictions or fear of reprisal – and to facilitate the active participation of these groups in the implementation of CEDAW. In light of this, the continued threats faced by human rights activists and civil society groups are a dereliction of the government’s obligations as a signatory to the Convention. It is also evidence of the government’s lack of commitment to engendering transparency and accountability at every level – itself central to foster a judicial system which guarantees the elimination of discrimination against women.

*‘Making information public is still a big problem – a lot of people are still very scared to speak out about their problems. When survivors live near to a military base, perpetrators surround their village. We get a lot of information that we can’t publicise because people are too afraid. Our field staff regularly face intimidation as well – it puts us in a very difficult position because we often have to forgo justice to keep our staff safe.’*

ND Burma interview, September 2014

*The beating and attempted rape of a 55 year old woman in June 2014 in Matupi township, Chin State sparked the peaceful protests of around 600 women in Rezua and Matupi. They demanded an immediate end to sexual violence against ethnic women, and for the perpetrator to be brought to justice. On June 25th, the eight leaders from both Rezua and Matupi were summoned and interrogated at local police stations. They were subsequently charged under Article 18 of ‘The Rights to Peaceful Assembly and Peaceful Procession Act’ for protesting without permission. On July 23rd, each of the eight activists were convicted and ordered to pay fines of 30,000 kyat each, or be jailed for one month.<sup>40</sup>*

<sup>39</sup> Without addressing these questions, and the absence of women’s participation at every level of the peace process, Burma will remain in direct contravention of its obligations under United Nations Security Council Resolutions 1820 and 1325. See ‘Resolution 1820 (2008)’, adopted by the Security Council at its 5916th meeting, on 19 June 2008, S/RES/1820 (2008), and; ‘Resolution 1325 (2000)’, adopted by the Security Council at its 4213th meeting, on 31 October 2000, S/RES/1325 (2000).

<sup>40</sup> See Chin Human Rights Organisation, ‘Eight Chin activists convicted; fined’, July 25th 2014

The promotion of CEDAW – and the attitudinal and process-based reforms implied therein – is heavily reliant on a vibrant civil society. These groups play a key role in both disseminating information relating to human rights, justice, and gender equality, and in assessing the efficacy of complaints mechanisms available for women facing abuse. The dearth of government funding for civil society organisations drawing attention to sexual violence, and the intimidation faced by activists,<sup>41</sup> is demonstrative of the disinterest in building a robust national machinery to promote justice for survivors of sexual violence, and gender equality more broadly.

*‘Whatever the government is doing to protect women, it hasn’t reached us. Maybe there has been an improvement in cities, but we haven’t seen any change in the areas we work in.’*

Kachin Women’s Association Thailand interview, September 2014

Whilst several institutional reforms have been undertaken to address the recommendations of CEDAW’s 2008 Report, it is clear that the resources and resolve needed for them to deliver on their aims are lacking. Six years after the Committee’s recommendations were published, women remain ostracised from the political and peace building processes, intimidated for their work done in civil society organisations, deprived of financial support for projects aimed at raising awareness of gender equality, and denied access to justice by Constitutional sanction. In the last year, the government has been keen to demonstrate its concern for some of these shortcomings, and published a strategy aimed at overcoming them.

## National Strategic Plan for the Advancement of Women (NSPAW)

In late 2013 the Myanmar National Committee for Women’s Affairs published their ‘National Strategic Plan for the Advancement of Women (NSPAW), 2013-2022’. The Plan has been touted as an important signpost on the path to eliminating discrimination against women both in law and in practice. Indeed, the document’s Preface states that the ‘...Plan is a Government commitment to promoting and protecting the human rights of women throughout our country.’ Whilst the statement of intent is commendable, the institutional framework needed to realise it remains absent – most notably, a Constitution which affords women the rights to which they are guaranteed under international law.

The Plan is based on the 12 Priority Areas of the Beijing Platform for Action and CEDAW – which include health, education, VAW, human rights, and institutional mechanisms for the advancement of women. It commits to comprehensive awareness raising and implementation of the Plan through sub-committees in accordance with a 5 Year Operational Plan, with progress towards meeting anticipated outcomes reviewed annually, noting that the Plan’s ‘implementation will be as strong and successful as the partnerships that are built around it...’<sup>42</sup>

41 United Nations, ‘Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee’, 23rd September 2014, A/69/398, p.7-8

42 Myanmar National Committee for Women’s Affairs (2014) National Strategic Plan for the Advancement of Women (NSPAW), 2013-2022, Ministry of Social Welfare, Relief and Resettlement – Department of Social Welfare, p.2

Realising the ambitious aims of the Plan will require not only substantial financial but also human resources to overcome the practical difficulties of working on such a diverse range of issues. Furthermore, to make good its stated aims, the dissemination of CEDAW, the Beijing Platform for Action, and other international law documents pertaining to women's rights and gender equality will be required on a mass scale.<sup>43</sup> As yet, the government has not put any mechanisms in place to address any of the above issues – nor has the text of NSPAW been made widely available to inform discussion about plans that might be formulated to realise it.

*'The government says survivors can lodge a complaint with the Myanmar National Committee (for Women's Affairs), and then follow legal procedure from there. But where are the MNCWA in conflict zones? The government is doing nothing to raise awareness about how women to get justice. That's why people stay silent – they want justice but they don't know how to get it. If they had hope, they would speak.'*

Kachin Women's Association Thailand interview, September 2014

Without devoting sufficient resources to achieve this 'ambitious yet achievable Plan', NSPAW serves as a means for the government to publicise its reformist credentials without altering the patterns of injustice and under-representation of women in Burma. None of the communities in which WLB works have seen evidence of NSPAW's implementation, or wider efforts to avail information pertaining to women's rights. Despite the government's firm resolve on paper and passage of the enabling law for the Myanmar National Human Rights Commission (MNHRC) earlier this year,<sup>44</sup> the systems, structures and practices that preclude the advancement of women remain in place<sup>45</sup> - including the denial of space for women to participate in the development and implementation of NSPAW through civil society organisations.

NSPAW is a strategy document that commits to the development of a 5 year operational plan, which will detail the resource allocation necessary for its implementation. The government-appointed management committee is responsible for assessing progress based on this, and reviewing the monitoring framework annually.<sup>46</sup> In January 2013, the government established the Gender Equality and Women's Empowerment Sectoral Working Group (GEWE SWG), chaired by the Ministry of Social Welfare Relief and Resettlement (MSWRR), with UNFPA and the French Embassy as Co-Leads. The GEWE SWG is comprised principally of Government Ministries, UN and Donor agencies, with women's and gender-focussed networks having to lobby for inclusion after the first SWG meeting in 2013.

Since the launch of NSPAW in October 2013, progress toward implementation and awareness raising of the Plan has been very slow. The commitment and participation of all national and sub-national government bodies and funding partners – as well as

43 As noted by the International Center for Transitional Justice, 'The first step in promoting a rights-based society is awareness of rights and the relationship of state to citizen in guaranteeing those rights. The strength of the appetite for accountability...can only be meaningfully assessed when there is a sufficient awareness of the rights involved.' International Center for Transitional Justice (ICTJ) (2014) Navigating Paths to Justice in Myanmar's Transition, p.15

44 For a discussion on the performance on the MNHRC and the limitations of its mandate, see Burma Partnership and Equality Myanmar (2014) All The President's Men

45 See Khine Thant Su, 'In Place of Military Dominance, Women Can Never Be Equal', Irrawaddy News, August 4th 2014

46 Myanmar National Committee for Women's Affairs (2014), p.37-38

the inclusion of voices from the local-level – have not been realized to date.<sup>47</sup> GEWE SWG meetings have thus far been sporadic, and the facilitation of information sharing and feedback from civil society organisations is severely limited. As a result, the space for women’s voices to be heard through the mechanisms of NSPAW has remained severely limited.

The trust-building that must take place at the local level to realise the goals of NSPAW will need to be underpinned by a strong and active civil society, a requirement recognised by the government.<sup>48</sup> Without this, the Plan will be seen as a directive, doing little to contribute to the welfare of women subjected to government-sponsored violence for decades. Yet the intimidation of civil society activists working for gender justice has not abated since NSPAW was published. Indeed, WLB’s member organisations have reported increased harassment and intimidation from both the military and the police in recent months. Any serious commitment to uprooting violence against women is premised upon transparency and accountability at every level of society; if the organisations responsible for pursuing these goals are coerced into silence, NSPAW’s aim of comprehensively ending discrimination against women will not be realised.

*‘Even when we discover cases of sexual violence, we can’t report them. If we want to have the case officially recognised, the survivor and family have to give their names which they are unwilling to do. Without their permission, there is nothing we can do. They know that if they are linked to accusations against the army or militias, their lives will be made unlivable. When it is a choice between intimidation and silence, most people choose silence – and threaten us with false accusations if we say anything to the police.’*

Lahu Women’s Organisation interview, September 2014

The Constitutional framework which has nurtured a culture of impunity in Burma remains firmly in place. As noted by the International Center for Transitional Justice, Burma’s 2008 Constitution creates ‘a governing structure that gives the military the ability to dominate the government and protect its interests in perpetuity’.<sup>49</sup> While NSPAW commits to ‘taking legal action against the perpetrators of violence against women and girls’, and, ‘providing counseling to women and girls that ensures dignity and safety, effective treatment, care and protection for women and girls affected by violence’,<sup>50</sup> the number of prosecutions for rape by military personnel remains very low, and lack of support mechanisms for survivors only entrenches a culture of silence. Alongside this, no mention is made of dealing with crimes of the past – which is crucial for the government to demonstrate its commitment to meaningful accountability and transparency in the future. Up to now, NSPAW has been one of several effective tools used by the government to demonstrate their reformist credentials – but has done nothing to alter the fear, intimidation, and under-representation that women across Burma face.

47 Interview with Gender Equality Network, October 2014

48 Myanmar National Committee for Women’s Affairs (2014), p.5. The importance of the government of Burma creating a ‘safe and enabling environment’ for civil society has also been highlighted by the Yanghee Lee, UN Special Rapporteur on human rights in Myanmar. See United Nations, ‘Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee’, 23rd September 2014, A/69/398, p. 8

49 International Center for Transitional Justice (ICTJ) (2009) ‘Impunity Prolonged: Burma and its 2008 Constitution’, New York

50 Myanmar National Committee for Women’s Affairs (2014), p.15

## Declaration of Commitment to End Sexual Violence in Conflict

In June of this year, the Global Summit to End Sexual Violence in Conflict was convened in London. Its aim was to shatter the culture of impunity that exists for perpetrators of sexual violence, and to address the lack of accountability which precludes reconciliation in countries affected by it. The Burmese government became a signatory to the Declaration of Commitment to End Sexual Violence in Conflict shortly before the summit was held, pledging to enact a series of policies to end sexual violence and promote the participation of women in all political, governance and security structures.<sup>51</sup>

Although heralded as a signal of the government's shift towards internationally recognised human rights standards, no concerted effort has been made by the Burmese government to implement the Declaration, nor have they faced pressure from the international actors leading the movement to end state-sponsored sexual violence in conflict. Survivors of sexual violence still do not have access to adequate assistance, medical care, or legal mechanisms to ensure justice for the violations perpetrated against them. The Constitutional impunity afforded to military personnel who rape and torture women remains in place, as does the persecution of civil society organisations working to document cases of sexual violence noted elsewhere in this paper.

*'We haven't seen any support from the government to survivors of these abuses. They're not giving any information about how to seek justice, and as long as they don't have any clear policy for conflict resolution across the country, the abuses will continue.'*

ND Burma interview, September 2014

The absence of a time-bound plan to make good the commitments of the Declaration is evidence of the government's indifference both towards individual acts of sexual violence, and to bringing the military under civilian control to stop it at its source. The government's continued flouting of international law, disregard of the recommendations of CEDAW, and senior military officials' denial that rape is an institutionalised practice<sup>52</sup> suggest that the readiness to holistically address the issues raised by the Declaration is limited. Furthermore, the lack of motivation shown by both the government and EAOs to include women's issues at the core of peace negotiations entrenches the perception that women's participation is secondary.

The Burmese government remains firm in its refusal to implement the Declaration's stated aims: challenging impunity, holding perpetrators of sexual violence to account, raising awareness of crimes of sexual violence, and the provision of better support to survivors. By becoming a signatory to the Declaration, the government signaled its intent to address sexual violence in conflict holistically, in order to build sustainable peace with the rights of women at its core. As of now, there is no evidence to suggest that the government intends to honour this pledge.

<sup>51</sup> See the 'Declaration of Commitment to End Sexual Violence in Conflict' here: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/274724/A\\_DECLARATION\\_OF\\_COMMITMENT\\_TO\\_END\\_SEXUAL\\_VIOLENCE\\_IN\\_CONFLICT.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274724/A_DECLARATION_OF_COMMITMENT_TO_END_SEXUAL_VIOLENCE_IN_CONFLICT.pdf)

<sup>52</sup> Myanmar Times, 'Tatmadaw admits rapes but denies they are institutionalised', 3rd March 2014: <http://www.mmtimes.com/index.php/national-news/9742-tatmadaw-admits-rapes-but-denies-they-are-institutionalised.html>



## SECTION FOUR: CONCLUDING REMARKS AND RECOMMENDATIONS

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The commitments made by the Burmese government to address sexual violence against women, and gender inequality in the country more broadly, have been heralded as clear indicators of their desire to transform the role of women in society. Despite these commitments, however, action to bring about substantive change remains elusive. In the last year, WLB and its member organizations have documented an increase in the presence of the Burma Army in ethnic areas, resulting in manifold forms of violence. The persecution of survivors of this violence, and the civil society activists who work with them to obtain justice, has continued unabated – and is underpinned by a culture of silence which is nurtured by the absence of justice and accountability throughout Burma. When coupled with a Constitutional framework which nurtures a culture of impunity for the perpetrators of the crimes outlined, the overwhelming evidence presented in this report is testimony of the distance left to travel before the women of Burma are able to enjoy the rights to which they are entitled under international law, and the dignity and freedom to which they aspire.

Alongside the recommendations made in *Same Impunity, Same Patterns* (see page ii) which remain unheeded, key recommendations derived from this report are:

### *Recommendations to the government of Burma:*

- Reform Burma's legal system to ensure it reflects norms of international law, respects the human rights of women and ethnic communities, and allows the government to meet their obligations as a signatory to – among others – United Nations Security Council Resolutions 1325 and 1820, the Convention on the Elimination of Discrimination Against Women (CEDAW), the Universal Declaration of Human Rights (UDHR) and the Convention of the Rights of the Child (CRC)
- Provide sufficient human and financial resources to ensure the effective implementation of NSPAW, CEDAW and the commitments made under the Declaration of Commitment to End Sexual Violence in Conflict
- Adopt the Anti Violence Against Women Law, including provisions specifically directed towards sexual violence

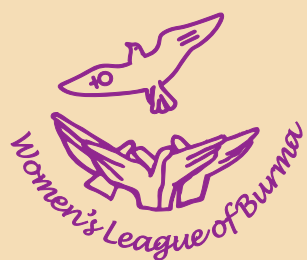
### *Recommendations to the international community:*

- For the government of the United Kingdom – who have led the move to End Sexual Violence in Conflict – to pressure the government of Burma to effectively implement their commitments under that Declaration
- Pressure the government of Burma to work towards achieving the five priorities of the UN Special Representative of the Secretary-General on Sexual Violence in Conflict
- Pressure the government of Burma and EAOs to include provisions to ensure accountability and justice for survivors of state-sponsored sexual violence in the National Ceasefire Agreement (NCA)
- Call on the government to initiate a political dialogue with EAOs across Burma – which includes a strong voice from women, and considers the socio-economic issues

- pertinent to each community – and withdraw troops from ethnic states
- For the United Nations to call on the government of Burma to establish effective judicial and non-judicial transitional justice mechanisms to investigate human rights abuses, particularly those relating to sexual violence

*Recommendations to Ethnic Armed Organisations:*

- Ensure the National Ceasefire Agreement (NCA) includes effective judicial and non-judicial transitional justice mechanisms, committed to addressing past and present cases of sexual violence and other human rights abuses
- Ensure that the NCA clearly defines prohibited acts of violence committed by any party, and denies amnesty to all parties who have committed acts of sexual violence either prior to or after their signing of these agreements
- Ensure the participation of women at every stage of the design and implementation of the NCA and political dialogue



P.O. Box 413, GPO  
Chiang Mai 50000  
Thailand

E-mail: [wlb@womenofburma.org](mailto:wlb@womenofburma.org)  
Website: [www.womenofburma.org](http://www.womenofburma.org)

