

# A grim perspective for Burmese of women

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Increased militarization and political oppression in Burma over the past fifteen years had disastrous effects on the status of women. The enactment of the 2008 Constitution includes significant measures that will further curtail women's rights and indicates that the 2010 elections will do little to improve women's status. The women of Burma face unthinkable violence, limited educational, economic, and political opportunities, as well as significant hardships when forced to work abroad.

## Burma Lawyer's Council<sup>1</sup>

The Beijing Conference took place in 1995, only five years after Burma's military regime – the State Peace and Development Council (SPDC) held its last general elections. In 1990, Aung San Suu Kyi, leader of the National League for Democracy, won with an overwhelming majority of the vote. The SPDC refused to recognize the results of the election, imprisoned Suu Kyi under house arrest, and installed an especially harsh version of military rule that is notorious worldwide for its violent suppression of dissent and unrelenting attacks against ethnic minorities.

## Sexual violence and rape as a weapon of war

Against a political backdrop of oppression and violence, women's status in Burma is worsening. Several grassroots organizations along the Thai-Burma border are documenting the rampant human rights abuses committed by members of the military. The crimes of the military junta span a wide range of offenses including unlawful killings, forced disappearances, rape, forced labor, and forced relocation, among many others. Each of these crimes is harmful to women but crimes of gender-based violence have perhaps the most profound impact on the status of women in Burma.

Members of the SPDC commit crimes of sexual violence with shocking regularity. The SPDC uses rape as a weapon of war, especially in its attacks on ethnic groups in the eastern part of the country.<sup>2</sup> The regime increased its attacks on ethnic groups over the past fifteen years – and these attacks include the systematic use of sexual violence.<sup>3</sup> Many women were gang raped by members of the military, who sometimes torture and/or murder their victims.<sup>4</sup> Sexual violence is not a crime committed by a few random members of the military it is a part of the SPDC's concerted strategy to attack ethnic and oppo-

sition groups.<sup>5</sup> Those who commit such crimes are not brought to justice and impunity reigns in Burma.<sup>6</sup> Because the Burmese courts are not independent from the military government victims of gender-based violence and other crimes have no recourse in the Burmese legal system. The culture of impunity that protects perpetrators of sexual violence allows such crimes to continue unabated.

The SPDC's rampant sexual violence and lack of accountability has not gone unnoticed in the international community. The United Nations Secretary General recently acknowledged that the SPDC is in breach of its obligations under United Nations Security Council Resolution 1820. And this resolution was designed specifically to protect women from sexual violence in situations of conflict.<sup>7</sup> The Secretary General took note of the regime's widespread use of sexual violence against ethnic minority women in rural areas; the military's sexual harassment of unaccompanied women and girls; the legal system's inability or unwillingness to adjudicate crimes of sexual violence; and the pervasive impunity that shields perpetrators of gender-based violence from prosecution.

In addition to sexual violence, the SPDC's war crimes and crimes against humanity have disproportionately affected women. In one incident the SPDC burned 3500 villages in eastern Burma. The aftermath was compared by the Thailand Burma Border Consortium to the severe destruction which occurs in Darfur.<sup>8</sup> The massive burning of homes and food has generated large numbers of displaced people. Women are especially harmed through forced displacement from their homes and they become more vulnerable to trafficking and dangerous work.

## Effects of militarization on women

Burmese women face significant hurdles as a result not only of outright violence but of the culture of militarism. The SPDC prioritized military spending at the detriment of essential social services upon which many women rely. The SPDC spends up to 50 percent of its budget on the military – a shocking amount, especially

when the SPDC spends less than three percent of the budget on health care and even less on education.<sup>9</sup> In fact, the regime spends less than one dollar a year per person on health and education combined.<sup>10</sup> The establishment's denial of health rights resulted in the highest maternal mortality rate in the region. In addition the maternal mortality rate in Burma's conflict zones where the military is actively attacking ethnic groups is one of the highest in the world.<sup>11</sup>

Militarization brings with it a sense of hyper-masculinity<sup>12</sup> which creates a political culture that marginalizes women. The military has the power to shape gender roles in Burmese society and construct masculinity as an equivalent of the military's physical force. The visibility of the military, and the lack of women in it, reinforces the perception that women should take on submissive social roles.

The presence of the military is evident in every level of power, and in every part of the government administration.<sup>13</sup> Because of the intense militarization, men are seen as the active contributors to society and the main forces of change.<sup>14</sup> Women, on the other

1 The Burma Lawyers' Council (BLC) is a non-governmental organization based in Mae Sot, Thailand that advocates for the protection of the rule of law and an end to political oppression and human rights violations in Burma.

2 See, e.g., Shan Women's Action Network, *License to Rape* (May 2002).

3 *Ibid.*

4 U.S. Campaign for Burma, People, Politics, Poverty, <[uscampaignforburma.org/learn-about-burma/people-politics-poverty](http://uscampaignforburma.org/learn-about-burma/people-politics-poverty)> (last visited Dec. 8, 2009).

5 See Shan Women's Action Network, *supra* note 2.

6 *Ibid.*

7 United Nations Security Council, Report of the Secretary-General Pursuant to Security Council Resolution 1820, July 15, 2009, S/2009/362.

8 Thailand Burma Border Consortium, Press Release: "Rising Instability in Eastern Burma", Oct. 29, 2009, available at: <[www.tbcc.org/announcements/2009-10-29-media-release.pdf](http://www.tbcc.org/announcements/2009-10-29-media-release.pdf)>.

9 The SPDC spends 2.2 percent of its budget on health care, which is a lesser amount than any other country with the exception of Sierra Leone. The SPDC spends 0.3 percent of its budget on education. U.S. Campaign for Burma, People, Politics, Poverty, <[uscampaignforburma.org/learn-about-burma/people-politics-poverty](http://uscampaignforburma.org/learn-about-burma/people-politics-poverty)> (last visited Dec. 7, 2009).

10 Women's League of Burma, Position Paper: "Women Demand an Immediate End to War Crimes in Burma, Women's League of Burma" (2006), citing Asian Development Bank, *Outlook 2002: Economic Trends and Prospects in Developing Asia*.

11 The U.S. Campaign for Burma states that the maternal mortality rate in this country is "estimated at 230 deaths per 100,000 live births, the highest in the region. The maternal mortality rate in Burma's ethnic and conflict areas is even higher: at 1,200 deaths per 100,000 live births, this rate is among the highest in the world and compares most to the world's humanitarian disasters. Likewise, mortality rates in these conflict zones for children under five years old are among the worst in the world comparable to Sierra Leone and Angola." U.S. Campaign for Burma, *supra*.

12 Uta Klein, *The Contribution of the Military and Military Discourse to the Construction of Masculinity in Society*, <[www.eurowrc.org/13.institutions/3.coe/en-violence-coe/11.en-coe-oct99.htm](http://www.eurowrc.org/13.institutions/3.coe/en-violence-coe/11.en-coe-oct99.htm)> (last visited Dec. 9, 2009) (describing militarization of a society as a gendered process where defense and fighting is seen as the "national duty of men" and reproduction as that of women).

13 See Women's League of Burma, *In the Shadow of the Junta: CEDAW Shadow Report 1* (2008), available at: <[www.womenofburma.org/Report/IntheShadow-Junta-CEDAW2008.pdf](http://www.womenofburma.org/Report/IntheShadow-Junta-CEDAW2008.pdf)> (hereinafter CEDAW Shadow Report).

14 See Klein, *supra* note 13.

## EXTRACTIVE INDUSTRIES AND THEIR IMPACT ON WOMEN

The SPDC has been exploiting Burma's natural resources at an alarming rate. The military has conducted significant mining and logging in the past fifteen years, destroying access to basic resources and introducing new factors that have eroded women's livelihoods.

Mining, in particular, has gravely impacted women due to the private ownership of many small companies and a corresponding lack of safety and community preservation standards. Additionally, mining companies often make agreements with men in the community, further marginalizing women and preventing them from reaping any potential benefits of the profits.

Once companies begin mining, the livelihoods of women, as compared to men, are disproportionately affected in four main ways. First, farmland is seized illegally without compensation and the toxicity of mines creates "dead zones" where no produce will grow. Subsistence-based economies quickly become cash-based, and many women are forced to enter the sex industry in order to provide for their families. Moreover, women must travel further to gather resources, introducing a greater risk

of harassment and violence along the way. Second, women and children are exposed to fumes from sites that may result in chronic illness or impair physical and mental capacity. Third, employment opportunities at mines draw male labor (security personnel and migrant workers) that, in turn, increases levels of gender-based violence—particularly rape—as well as HIV/AIDS infection. Fourth, women often perform tasks such as transporting and treating minerals with chemicals such as mercury, cyanide, sulfur, and hydrochloric acid. These chemicals residues also harm water sources where women collect water for cooking and washing. As a result, women and their children are exposed to toxic chemicals which damage their physical and reproductive health.

Both mining and logging also pose substantial risk of death to male workers. When men are killed on the job, many widowed families are made economically and physically vulnerable. Finally, when an area is cleared of its natural resources, local populations are left disoriented and in limbo—unable to build a sustainable future or return to their traditional way of life. ■

hand, are excluded from the military and are thereby excluded from broader political life. The power of the Government is manifest in its military, sending the clear signal that national power rests in the hands of men. The military embodies what it most likely perceives as the ideal embodiment of masculinity: power over women and power over nation.

Another limitation on women's involvement in public life is rampant sexism—a reality enforced by militarization. Sexism forces many women to take on domestic duties instead of leadership roles. Harmful gender-based stereotypes are a natural product of militarization and are consistently reinforced by the SPDC in its official communications. The regime praises Burmese women for attributes such as modesty and obedience, reinforcing the perception of women as passive social actors.<sup>15</sup> The perpetuation of these gendered stereotypes coming from the highest levels of government makes women's participation in public life extremely difficult.

### The impact of poor governance and poverty on migrant women

The SPDC's chronic mismanagement of Burma's economy has kept over 90% of the population under the poverty line.<sup>16</sup> Extreme poverty and a lack of educational opportunities force many women into unsafe work, including the sex industry in neighboring Thailand. Women who are forced into the industry are susceptible to higher rates of HIV/AIDS infection

(and other health risks) and they have limited control over their reproductive choices.

Many Burmese women who are forced to migrate and work as undocumented migrant workers face sexual violence, labor rights violations, and severe economic hardship as a result of their undocumented status.<sup>17</sup> Women who are victims of gender-based violence are unlikely to report those crimes because they fear deportation.<sup>18</sup> Although women flee Burma to escape violence, persecution, and poverty, their safety is often hardly better in neighboring countries.<sup>19</sup> The plight of migrant workers is not the sole result of the global economic crisis or of global economic woes—it is also due to SPDC's violence and oppression and mismanagement of the economy.

### Burma's constitution: codifying impunity

Burma's 2008 Constitution is a dangerous example of the threat of militarization and political oppression on the future of women. This Constitution, approved in a referendum steeped in fraud and conducted in the disastrous aftermath of Cyclone Nargis, pro-

vides a glimpse of what women's rights will look like after the 2010 elections. The elections will enact the Constitution which includes several key provisions aimed at further deteriorating the status of women in Burma.

First, the Constitution reserves 25% of seats in the legislature as well as key ministerial positions to the all-male military, and the remaining seats will likely be filled by individuals (probably men) sympathetic to the current regime.<sup>20</sup> Because an over two-thirds vote is required to change the Constitution, the sizable military presence in the government will ensure that military rule persists after the election.<sup>21</sup> Second, the Constitution includes no mention of benchmarks for women's representation in government and even reserves some positions to men only.<sup>22</sup> Such a loophole provides the government with an easy excuse to further limit the participation of women in political life. Most importantly, the Constitution includes a provision that purports to provide amnesty to all members of the regime for all crimes.<sup>23</sup> The regime's attempt to codify its own impunity will leave women without recourse to challenge the myriad of violations of women's rights. Furthermore the Constitution leaves victims of sexual violence and other crimes with no avenue to justice.

### Grim hopes for the status of women

Burma now ranks 138th on the United Nations Development Program's Human Development Index and was recently ranked above only Afghanistan and Somalia in Transparency International's Corruption Perceptions Index.<sup>24</sup> Violence, corruption, and utter disrespect for international law have become the hallmarks of the SPDC's rule for the past 15 years. Additionally the 2010 elections will most likely cement military rule. The solidification of hyper-militarization will entrench the current systems of patriarchy, militarization, and impunity. If the constitution implemented the prospects are grim for the status of Burmese women in the future. The 2008 Constitution indicates that the status of women after the 2010 elections will only worsen. The situation can only be abated by putting an end to the crimes committed by the SPDC and holding those responsible for violations of women's rights accountable. ■

20 See International Center for Transitional Justice, Impunity Prolonged: Burma and its 2008 Constitution 3-4 (2009), available at <[www.ictj.org/.../Burma/ICTJ\\_MMR\\_Impunity2008Constitution\\_pb2009.pdf](http://www.ictj.org/.../Burma/ICTJ_MMR_Impunity2008Constitution_pb2009.pdf)>.

21 *Id.*

22 The Constitution states, "The Union shall, upon specified qualifications being fulfilled, in appointing or assigning duties to civil service personnel, not discriminate for or against any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, and sex. However, nothing in this Section shall prevent appointment of men to the positions that are suitable for men only." Myanmar Constitution, Ch. 8, Art. 352 (2008).

23 Myanmar Constitution, Ch. 14, Art. 445 (2008).

24 United Nations Development Programme, Human Development Reports, Human Development Report 2009, Myanmar, <[hdrstats.undp.org/en/countries/country\\_fact\\_sheets/cty\\_fs\\_MMR.html](http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_MMR.html)> (last visited Dec. 7, 2009); Transparency International, Corruption Perceptions Index 2009, <[www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009/cpi\\_2009\\_table](http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table)> (last visited Dec. 7, 2009).

15 CEDAW Shadow Report, *supra* notes 14-20.

16 *Id.*

17 See Amnesty International, Thailand: The Plight of Burmese Migrant Workers (2005), available at: <[www.amnesty.org/en/library/info/ASA39/001/2005](http://www.amnesty.org/en/library/info/ASA39/001/2005)>.

18 Refugees International describes how women from Chin State who now live in India face serious harassment and violence but are afraid to report incidents to the police. India: Burmese Chin refugees experience sexual harassment, Dec. 4, 2009, <[www.reliefweb.int/rw/rwb.nsf/db900SID/MUMA-7YF7ET?OpenDocument](http://www.reliefweb.int/rw/rwb.nsf/db900SID/MUMA-7YF7ET?OpenDocument)> (last visited Dec. 7, 2009).

19 See generally Burmese Women's Union, Caught Between Two Hells (2007).