



THE PROSPECTS OF ADVANCEMENT FOR WOMEN?

WLB's Analysis of National Strategic
Plan for the Advancement of Women



Women's League of Burma (WLB)
May 2019



WOMEN'S LEAGUE OF BURMA

The Women's League of Burma (WLB) is an umbrella organisation comprising 13 women's organisations 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, 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 at every level of decision-making in every sphere of society
- To participate effectively in the movement for peace, democracy and national reconciliation



THE LEITNER CENTER FOR INTERNATIONAL LAW AND JUSTICE

As a research, advocacy, and educational center at Fordham University School of Law in the United States, the Leitner Center for International Law and Justice works in solidarity with grassroots activists and social justice organizations to promote the rule of law, access to justice, and strong protections for human rights.

In particular, the Leitner Center has been actively engaged in promoting human rights in collaboration with partners in Burma, with particular focus on research, advocacy, and capacity-building in areas of gender equality for ethnic women and girls and prevention of gender-based violence and discrimination in conflict and post-conflict settings.

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OVERVIEW OF NSPAW

On October 3, 2013, the Burma Government launched the National Strategic Plan for the Advancement of Women (2013-2022) ("NSPAW"), proclaiming it a "comprehensive" ten-year plan embodying its "commitment to promoting and protecting the human rights of women" in Burma.¹ NSPAW was officially issued through the Department of Social Welfare, a division of Burma's Ministry of Social Welfare, Relief and Resettlement.

Framed as "an ambitious yet achievable" plan for progress towards women's equality from 2013 to 2022 in 12 "Key Priority Areas," NSPAW's stated objectives are to ensure that "[a]ll women in [Burma] are empowered and able to fully enjoy their rights with the support of" the Government of Burma, and to enable the creation of "systems, structures and practices ... for the advancement of women, gender equality, and the realization of women's rights."²

In structuring NSPAW as a framework for achieving these objectives, the Government cites both domestic and international law as NSPAW's primary foundations. With respect to domestic law, NSPAW is "based on the Constitution 2008" and is intended to ensure that women are able to "fully enjoy their rights in accordance with the features of the Constitution."³

In regards to international law, NSPAW is based on the principles of CEDAW (which the Government ratified in 1997) and the 12 priority areas outlined under the Beijing Platform for Action (adopted at the Fourth World Conference on Women in Beijing in 1995). In fact, NSPAW's 12 Key Priority Areas closely track the 12 priority concerns of the Beijing Platform for Action, namely:

- Women and Livelihoods
- Women, Education, and Training
- Women and Health
- Violence against Women
- Women and Emergencies (changed from the Beijing Platform for Action's original characterization as women and armed conflict, discussed further under Section 3 below)
- Women and the Economy
- Women and Decision-Making
- Institutional Mechanisms for the Advancement of Women
- Women and Human Rights
- Women and the Media
- Women and the Environment
- The Girl Child

1. *National Strategic Plan for the Advancement of Women ("NSPAW")*, Preface.

2. *Id.* Preface and Section 5.

3. *Id.* Preface and Sections 3 and 4.

FUNDAMENTAL PROBLEMS WITH NSPAW

PROBLEM I:

Problems related to NSPAW's reliance on the 2008 Constitution

A. NSPAW legitimizes discriminatory provisions of the 2008 Constitution that permit and perpetuate gender inequality

As mentioned above, NSPAW purports to be based on the 2008 Constitution and is intended to ensure that women are able to “fully enjoy their rights in accordance with the features of the Constitution.”⁴ However, the 2008 Constitution itself contains provisions that clearly constitute direct and indirect discrimination against women.

For instance, Article 352 of the Constitution states that notwithstanding a prohibition against sex-based discrimination “in appointing or assigning duties to civil service personnel,” “nothing in this Section shall prevent appointment of men to the positions that are suitable for men only.” This explicitly legalizes discrimination against women and perpetuates negative and limiting stereotypes about women.

Meanwhile, other constitutional provisions indirectly discriminate against women, thereby reinforcing gender inequality. Articles 109, 141 and 161 each mandate specific quotas of legislative representatives directly appointed by Burma's Defense Services. Notably, women have only recently been allowed to serve actively in the military and accordingly occupy only a miniscule fraction of military appointed legislative seats, which constitutes indirect discrimination against women, or discrimination in effect.

NSPAW makes no mention of the need to remove clearly discriminatory language in the 2008 Constitution. Accordingly, NSPAW legitimizes constitutional provisions that explicitly legalize gender discrimination and preserves constitutionally-mandated military power structures that preclude substantive equality.

Recommendation

- In order for the Government to substantively address gender equality in Burma, it must repeal or amend specific provisions of the 2008 Constitution that affirmatively embody legalized discrimination against women as a matter of law, including Article 352, and revise constitutional provisions constituting discrimination in effect, including Articles 109, 141 and 161.

4. *Id.* Preface and Sections 3 and 4.

B. NSPAW legitimizes discriminatory provisions of the 2008 Constitution that permit and perpetuate gender inequality

As fully explained below in Section 3(b), state-sponsored acts sexual violence in conflict are made possible by a culture of impunity that protects perpetrators. This includes Article 445 of the Constitution, which guarantees that no proceeding shall be instituted against any member of the Government “in respect to any act done in the execution of their respective duties,” which provides functional immunity for sexual violence in conflict perpetrated by military actors.

The Constitution further entrenches impunity by establishing military autonomy over all its own judicial processes and giving the Commander-in-Chief “final and conclusive” authority over all cases and complaints, thereby placing all serious rights violations committed by the military—including rape and other forms of sexual violence—under the jurisdiction of a military-controlled judicial system.⁵ For a full explanation of how the Constitution perpetuates impunity for state-sponsored sexual violence in conflict, including recommendations, see Section 3(b) below.

PROBLEM II:

Problems related to NSPAW's implementation and accountability

A. The Government has failed to designate specific roles and responsibilities for NSPAW implementation

Throughout NSPAW, the Government suggests that NSPAW implementation will be undertaken by a variety of actors, creating confusion about the actual roles and responsibilities of any specific entities or individuals. For example, Section 20 states that NSPAW “will be implemented by Government agencies, National and International non-Governmental organizations, UN agencies, private agencies, Civil Society Organizations and individual donors.”⁶ Despite this, NSPAW fails to describe any actual responsibilities assigned to any of these actors.

Elsewhere in NSPAW, the Government calls for creation of specific entities to oversee NSPAW implementation, but remains silent on any specific, practical details on how they will be established. For example, Sections 22 and 24(e) call for creation of a NSPAW Management Committee to be responsible for “timely implementation, quality assurance, monitoring and annual reporting” on NSPAW, while Section 23 calls for as sub-committees for each NSPAW Priority Area “comprising focal Ministries and other stakeholders working in different sectors.”⁷

Section 23 also calls for designation of a “focal person” in each of the “Ministries involved in the implementation of

5. *Constitution of the Republic of the Union of Burma (2008)*, Article 343.

6. *Id.*, Section 20.

7. *Id.*, Sections 22, 23, and 24(e).

NSPAW” to “coordinate and monitor” the Ministry’s NSPAW-related work.⁸ While a NSPAW Management Committee, NSPAW priority area sub-committees, and ministry-level NSPAW focal persons seem like important first steps toward

making NSPAW a reality, the Government provides no details on exactly how and when they will be created, what specific activities they will undertake, and how they will be held accountable for NSPAW implementation.

Recommendations:

- The Government must provide specific details on which entities and individuals have been assigned direct responsibility—and who will be ultimately accountable—for all aspects of NSPAW implementation.
- The Government must provide specific names and contact information for entities and individuals designated for NSPAW implementation, and must make them available to answer questions and provide publicly available information concerning NSPAW implementation progress.
- Specifically, the Government must publicly report on the status of the creation of a NSPAW Management Committee, the 12 sub-committees corresponding to each NSPAW Priority Area, and NSPAW “focal persons” designated in each Government ministry involved in NSPAW implementation.

B. The Government has failed to develop and implement necessary operational plans for NSPAW implementation

While NSPAW includes brief discussion of operational plans for NSPAW implementation, the Government does not appear to have communicated any meaningful information about the development of such plans, making it difficult to measure or evaluate progress on this critical first step. For example, under Section 24(a), the NSPAW Management Committee is required to develop a “5-year Operational Plan to coordinate and priorities the

implementation of strategic policies, plans and legislative reforms” for NSPAW implementation, to be “reviewed and revised on a regular basis. e.g. every six months.”⁹

Under Section 24(b), the Operational Plan must “identify the structures and mechanisms for the management of implementation of [NSPAW] at all levels,” including at national, state, regional, township, and local administrative levels.¹⁰ Presently, after five years since NSPAW’s launch in 2013, it is unclear whether any NSPAW Operational Plan exists or is being developed.

8. *Id.*, Section 23.
9. *Id.*, Section 24(a).
10. *Id.*, Section 24(b).

Recommendations:

- The Government must publicly report on the status of the NSPAW Operational Plan, including any progress in identifying structures and mechanisms for NSPAW implementation at national, state, regional, township, and local administrative levels.
- The Government must publicly report on procedures to regularly review and revise the NSPAW Operational Plan, as required by NSPAW, including how the Government is ensuring participation from civil society organizations, especially those representing women and girls from ethnic groups.

C. The Government has failed to undertake or disclose any timely or useful public reporting on NSPAW implementation progress

Proper monitoring and evaluation of NSPAW implementation is an essential basis for Government accountability on national gender equality progress. However, while NSPAW’s language contains brief discussion of measuring and reporting on NSPAW implementation, it remains unclear whether the Government has taken any meaningful steps in this area. For example, under Section 24(e), the NSPAW Management Committee “will take responsibility for timely implementation, quality assurance, monitoring and annual reporting on [NSPAW] to the Cabinet of the President’s Office.”¹¹

Under Section 25, this should include the development of reporting guidelines and timelines.¹² Section 25 further calls for the NSPAW Management Committee to

“review progress towards the objectives of NSPAW and the extent to which efforts are leading towards meeting anticipated outcomes” using a “monitoring framework” that “will be reviewed annually.”¹³ At present, it is unclear whether any reporting has been issued, to the President’s Office or to any other senior office, nor is clear whether any “monitoring framework” has even been developed, let alone reviewed.

These problems are made worse by the Government’s overall lack of any public awareness or information-sharing about NSPAW itself, particularly among civil society organizations representing communities of women and girls from ethnic groups. Notably, a large proportion of these communities report that they have never received any public awareness or information from the Government concerning NSPAW, either before, during, or after NSPAW’s launch.

11. *Id.*, Section 24(e).
12. *Id.*, Section 25.
13. *Id.*

Recommendations:

- The Government must provide information on status of NSPAW monitoring and evaluation, and on annual reporting on NSPAW implementation to the Cabinet of the President's Office, including public release of any Government reporting on NSPAW implementation progress
- The Government must provide information concerning development of reporting guidelines and timelines by the NSPAW Management Committee, and on development of any NSPAW "monitoring framework," including how the Government is ensuring participation from civil society organizations, especially those representing women and girls from ethnic groups

D. The Government has failed to take any action to secure necessary funding and prepare basic budget plans for NSPAW implementation

Under NSPAW Section 20, implementation funding is to come from "contribution of financial, technical and material assistance" from a wide range of actors, including not only "Government agencies," but also "National and International non-Governmental organizations, UN agencies, private agencies, Civil Society Organizations and individual donors."¹⁴

However, there is significant lack of detail concerning estimated figures and basic budget planning in connection to NSPAW implementation. Instead, with regard to a budget planning process, Section 21 simply states that "respective government and international non-governmental organization are responsible to provide require financial, human resource and materials support", in Burmese version

and "Respective Ministries will propose required budgets to the Union Government", in English version.¹⁵

Elsewhere, under Section 24(d), the government commits to developing a "Resource Allocation Plan" for the "entire duration of the Operational Plan," stating that "the amount earmarked by the government [for NSPAW implementation] should be known, and the amount sought from donors and other stakeholders identified."¹⁶ However, no further detail is provided.

Moreover, while funding from the international community may be necessary to support implementation of gender equality strategies, the listing of international funding sources without detailed plans for allocation of domestic resources raises concerns over the seriousness of the Government's political will and commitment towards actualizing gender equality in Burma.

14. *Id.*, Section 20.

15. *Id.*, Section 21.

16. *Id.*, Section 24(d).

Recommendations:

- The Government must provide specific details on the development and status of specific ministry budgets for NSPAW implementation, including status of proposal of such budgets to the Government
- The Government must provide specific details on allocation of national budget to NSPAW implementation
- The Government must provide specific details on how it is securing "contribution of financial, technical and material assistance" from funders and stakeholders for NSPAW implementation
- The Government must provide information concerning development of the NSPAW Resource Allocation Plan, including the amount earmarked by the government for NSPAW implementation and amount sought from donors and other stakeholders for funding

E. The Government has failed to seek input and participation from civil society organizations representing women and girls from ethnic groups in NSPAW planning and implementation

Under NSPAW Section 24(f), the Government states that "Operationalising NSPAW will involve partnerships inclusive of a broad range of stakeholders," including "Civil Society Organizations."¹⁷ However, it appears that civil society actors representing women and girls from ethnic groups have not been consulted on NSPAW's structure and objectives, and are therefore prevented from meaningful

participation in NSPAW's implementation and evaluation.

As mentioned above, these problems are made worse by the Government's lack of any public awareness or information-sharing about NSPAW itself among civil society organizations representing women and girls from ethnic groups. Again, a large proportion of these communities report that they have never received any public awareness or information from the Government concerning NSPAW, either before, during, or after NSPAW's launch.

Recommendation:

- The Government must take active steps to ensure that civil society organizations representing women and girls from ethnic groups have meaningful opportunities to participate in consultations on NSPAW evaluation and implementation

17. *Id.*, Section 24(f).

PROBLEM III:

Specific NSPAW problems related to women, peace and security

A. NSPAW fails to address gender-based violence and discrimination in conflict

State-sponsored sexual violence in Burma's conflict areas has been widely documented.¹⁸ Rape and other forms of sexual violence have been reported, and since 2010, there have been at least 118 documented incidents of sexual violence by the military.¹⁹

From 2002 to 2007, the nationwide number was at least 875–128 of which were rapes of girls under 18 years of age.²⁰ NSPAW claims to rely on international human rights frameworks for its foundation and structure, particularly CEDAW and the Beijing Platform for Action.²¹ Indeed, as mentioned above, NSPAW's 12 priority areas of focus correlate with the Beijing Platform's 12 critical areas of concern.²²

However, while the Beijing Platform directly identifies women and armed conflict as its fifth critical area of concern,

NSPAW's corresponding Priority Area of "Women and Emergencies" clearly lacks substantive guidance on conflict-related violations against women and girls.²³ More specifically, NSPAW's "Women and Emergencies" section provides almost no real guidance on actual measures to address rape and other forms of sexual violence in conflict, particularly when perpetrated by military and security forces.

For example, while NSPAW's "Women and Emergencies" section includes support for "training, technical support, [and] improved recording and handling of cases of violence against women by police, military, [and] local authorities," it does not specifically acknowledge the complex challenges of addressing rape and other forms of sexual violence.²⁴

Moreover, while the "Women and Emergencies" section lists a "Plan of Action addressing Security Council Resolutions about conflict-related sexual

violence" under "Implementation," not a single reference is made to any specific action by the Government to develop—much less adopt or allocate funds to implement—any such plan.²⁵ Making matters worse, despite attention

to gender-based violence as a general matter in NSPAW's other sections, including on "Violence Against Women," not a single reference is made to rape and other forms of sexual violence in conflict and post-conflict situations.

Recommendations:

- NSPAW fails to meaningfully address serious issues of gender-based violence and discrimination in conflict, including sexual violence, and therefore ignores critically important issues facing women and girls from Burma's ethnic groups
- By naming "Women and Emergencies" instead of "Women and Armed Conflict" as one of NSPAW's 12 Priority Areas, the Government completely disregards the existence of the armed conflict in Burma and advances an inaccurate and misleading interpretation of the Beijing Platform for Action and other international frameworks, creating a false impression that the Government is committed to real gender equality while it willfully ignores serious issues of gender-based violence and discrimination in conflict
- The Government's inaccurate and misleading characterization of international frameworks compromises the integrity of universal gender equality principles and the Government's obligations to implement them

B. NSPAW fails to meaningfully address impunity for perpetrators of sexual violence in conflict

In Burma, state-sponsored acts of rape and other forms of sexual violence in conflict are made possible by a culture of impunity that protects perpetrators. As the Special Rapporteur on the situation of human rights in Burma noted, "[t]he failure to investigate, prosecute and punish those responsible for rape and sexual violence has contributed to an

environment conducive to the perpetuation of violence against women and girls" in Burma.²⁶

Such failures are facilitated by structural deficiencies in Burma's domestic legal system. This includes Article 445 of the Constitution, which guarantees that no proceeding shall be instituted against any member of the Government "in respect to any act done in the execution of their respective duties," which the Special Rapporteur has described as "blanket

18. See U.N. Security Council, *Conflict-Related Sexual Violence: Report of the Secretary General*, U.N. Doc. S/2015/203 (Mar. 23, 2015), available at: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_203.pdf; Report of the Special Rapporteur on the situation of human rights in Burma to the Human Rights Council (Yanghee Lee), ¶ 48 U.N. Doc. A/HRC/31/71 (Mar. 18, 2016), available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/055/13/PDF/G1605513.pdf>.

19. Women's League of Burma, *IF THEY HAD HOPE THEY WOULD SPEAK: THE ONGOING USE OF STATE-SPONSORED SEXUAL VIOLENCE IN BURMA'S ETHNIC COMMUNITIES* (2014), available at: <http://womenofburma.org/if-they-had-hope-they-would-speak/>.

20. Global Justice Center and Leitner Center for International Law and Justice, *PROMISES NOT PROGRESS: BURMA'S NATIONAL PLAN FOR WOMEN FALLS SHORT OF GENDER EQUALITY AND CEDAW* (2015), page 71, available at: http://www.leitnercenter.org/files/GJC_final_v3.pdf (citing International Center for Transitional Justice, *IMPUNITY PROLONGED: BURMA AND ITS 2008 CONSTITUTION* (2009), at page 14, available at: <https://ictj.org/sites/default/files/ICTJ-Burma-Impunity-Constitution-2009-English.pdf>); see also Women's League of Burma, *SAME IMPUNITY, SAME PATTERNS* (2014), at page 12, available at: http://womenofburma.org/wp-content/uploads/2014/01/SameImpunitySamePattern_English-final.pdf.

21. NSPAW, *Preface and Section 6*.

22. *Id.*

23. *Id.*, Section 11.

24. *Id.*, Section 11(c)(1).

25. *Id.*

26. Global Justice Center and Leitner Center for International Law and Justice, *PROMISES NOT PROGRESS: BURMA'S NATIONAL PLAN FOR WOMEN FALLS SHORT OF GENDER EQUALITY AND CEDAW*, page 72 (citing Report of the Special Rapporteur on the situation of human rights in Burma to the General Assembly (Paulo Sergio Pinheiro), ¶ 30, U.N. Doc. A/61/369 (Sept. 26, 2006), available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Myan%20A61%20369.pdf>).

immunity for State agents, contrary to the very essence of accountability for human rights violations.”²⁷

The Constitution further entrenches impunity by establishing military autonomy over all its own judicial processes and giving the Commander-in-Chief “final and conclusive” authority over all cases and complaints, thereby placing all serious rights violations committed by the military—including rape and other forms of sexual violence—under the jurisdiction of a military-controlled judicial system.²⁸

Making matters worse, flaws in Burma’s outdated, colonial-era laws such as the Penal Code, the Code of Criminal Procedure, and the Evidence Act, present substantial obstacles to addressing rape and other forms of sexual violence as a general matter.

NSPAW fails to meaningfully address any of these significant legal barriers to justice

for victims of rape and other forms of sexual violence in conflict—particularly when perpetrated by military or security forces. For instance, NSPAW does not suggest any changes to the Constitution or current domestic legal structures or mechanisms to address the prevailing culture of impunity for state-sponsored sexual violence in conflict.

As required by international law and as defined by mechanisms such as the CEDAW Committee, conflict and post-conflict settings require multiple specific remedies for women who experience sexual violence, including robust legal mechanisms and processes to ensure justice for victims and full accountability for perpetrators.²⁹

As a framework for gender equality in Burma, NSPAW falls far short of these standards, and without addressing these fundamental barriers to justice under Burma’s legal system, sexual violence in conflict is likely to continue and become further entrenched.

Recommendations:

- NSPAW’s failure to address serious issues of sexual violence in conflict including the absence of any discussion on removing legal barriers to justice for victims of rape and other forms of sexual violence in conflict—particularly when perpetrated by military or security forces

- By excluding serious issues of sexual violence in conflict from NSPAW, the Government helps to preserve and strengthen the culture of impunity protecting military perpetrators of rape and other forms of sexual violence against women and girls from accountability for their crimes
- NSPAW’s overall failure to acknowledge and recognize the existence and depth of armed conflict has the effect of suppressing voices of those calling to halt armed conflict by the Government and all parties engaging in it
- In order for the Government to substantively address sexual violence in conflict as a national gender equality matter, NSPAW would need to propose changes to the Constitution or current domestic legal structures or mechanisms to address the culture of impunity for state-sponsored sexual violence in conflict

C. NSPAW fails to meaningfully address the need for greater participation by women from ethnic groups in the peace process

It is widely acknowledged that women have been historically excluded from participating in negotiations for peace and transitional processes in Burma. For instance, the Special Rapporteur has found that “women have been largely excluded and have not been a part of the negotiating teams.”³⁰ This directly contravenes Burma’s international obligations, including under CEDAW and Security Council Resolutions addressing the need for women’s involvement in post-conflict settings.³¹

As is widely documented, women’s exclusion from peace processes leads to

irreversible losses, since crucial conflict-related issues of concern to women go unmentioned and therefore unaddressed in peace accords, thereby exacerbating women’s marginalization in the economy, society, and politics.

Despite all this, NSPAW avoids taking a position on the need to include women in peace negotiations and other transitional processes as required by international law. Sections of NSPAW that call for increasing women’s participation make no reference to the applicability in a peace-building context. Without addressing the lack of meaningful participation by women in these important dialogues, the voices of women remain silenced and marginalized.

27. *Constitution of the Republic of the Union of Burma (2008); Report of the Special Rapporteur on the situation of human rights in Burma to the General Assembly (Tomás Oeja Quintana)*, ¶ 55, U.N. Doc. A/64/318 (Aug. 24, 2009), available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/491/51/PDF/N0949151.pdf>.

28. *Constitution of the Republic of the Union of Burma (2008)*, Article 343.

29. See *Committee on the Elimination of Discrimination against Women, General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations*, U.N. Doc. CEDAW/C/GC/30 (2013), available at: <http://www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf>; U.N. Security Council Resolution 1325, U.N. Doc. S/RES/1325 (Oct. 31, 2000), available at: <http://www.refworld.org/docid/3b00f4672e.html>.

30. *Report of the Special Rapporteur on the situation of human rights in Burma to the General Assembly (Yanghee Lee)*, ¶ 58, U.N. Doc. A/70/412 (Oct. 6, 2015), available at: <https://undocs.org/A/70/412>.

31. See *UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, 18 December 2013, CEDAW/C/GC/30*, available at: <http://www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf>; U.N. Security Council Resolution 1325, U.N. Doc. S/RES/1325 (Oct. 31, 2000), available at: <http://www.refworld.org/docid/3b00f4672e.html>; U.N. Security Council Resolution 1889, U.N. Doc. S/RES/1889 (Oct. 5, 2009), available at: <https://www.un.org/ruleoflaw/files/4acdd8512.pdf>.

Recommendations:

- NSPAW's failure to address serious issues faced by women and girls in conflict situations includes the absence of any discussion on addressing the systematic exclusion of women—particularly women from ethnic groups—from participating in negotiations for peace and transitional processes
- By perpetuating women's exclusion from peace processes, the Government's refusal to address conflict issues in NSPAW contributes to the ongoing marginalization of ethnic women from conflict areas in the economy, society, and politics

D. NSPAW Fails to Meet the Minimum Standards for a 1325 National Action Plan

Under international human rights and humanitarian law, the Government is obligated to address gender-based violence and discrimination in conflict, post-conflict or transitional situations. This includes not only the Government's commitments under treaties such as CEDAW and CRC, but also UN Security Council resolutions, which are "crucial political frameworks for advancing advocacy regarding women, peace and security."

In particular, Security Council Resolution 1325 on women, peace and security, adopted in 2000, calls "on all parties to conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict" and to prosecute those responsible.

Since 2000, the Security Council has passed six additional resolutions as part of its "Women, Peace and Security" agenda, defining state responsibilities to

protect women in conflict, include women in post-conflict processes, and provide reparations to victims. Importantly, as a critical aspect of the Women, Peace and Security agenda, governments are encouraged to develop national strategies—known as 1325 National Action Plans—as a form of compliance with Security Council Resolution 1325.

NSPAW cannot and must not be understood as a 1325 National Action Plan in compliance with the UN Security Council's Women, Peace and Security agenda. As stated above, in structuring NSPAW, the Government appears to have deliberately avoided any serious, meaningful attempt to address issues affecting women and girls in conflict situations.

By naming "Women and Emergencies" instead of "Women and Armed Conflict" as one of NSPAW's 12 Priority Areas, the Government's reliance on the Beijing Platform for Action and other international frameworks is inaccurate and misleading, creating a false impression that the Government is committed to real gender equality while it willfully ignores serious

issues of gender-based violence and discrimination in conflict.

Moreover, despite the opportunity to address women, peace, and security issues in NSPAW Priority Areas such as "Violence against Women" and "Women and Decision-making," those NSPAW sections fail to meaningfully address conflict-related issues faced by women and girls from ethnic groups.

Moreover, in Section 11(c)(1), NSPAW itself calls for a "Plan of Action addressing Security Council Resolutions about

conflict-related sexual violence"—but fails to include any details on exactly how and when this "Plan of Action" will be created, what specific activities it will include, and how the Government will be held accountable for implementation.

Despite suggestions by the government and other international observers, NSPAW cannot be considered a 1325 National Action Plan for addressing women, peace, and security challenges in Burma, and therefore the government must take action to address these challenges in some other way.

Recommendations:

- NSPAW cannot and must not be understood as a 1325 National Action Plan in compliance with the UN Security Council's Women, Peace and Security agenda, and the Government and international monitors must not characterize NSPAW as a 1325 National Action Plan
- The Government must speed up efforts to develop and implement a comprehensive national plan of action to implement its obligations under Security Council Resolution 1325 and other key instruments related to the women, peace and security agenda, including national strategies on the protection of women and girls from violence in situations of conflict, and women's participation in decision-making on the prevention, management, and resolution of conflict

32. NSPAW Section 11(c)(1).

CONCLUDING OBSERVATIONS

In light of the analysis above, it is clear that NSPAW's provisions are aspirational and ambiguous, without clear guidance on implementation or benchmarks for meaningful evaluation. Moreover, NSPAW fails to meaningfully grapple with the structural barriers precluding gender equality—including the 2008 Constitution, decades of armed conflict and the continuing power of the military, and antiquated laws and legal frameworks—all of which must be addressed in order to achieve substantive gender equality in Burma.

At its best, NSPAW is an inadequate and amorphous effort to improve women's experience in Burma without disruption to long-embedded power structures that insulate the country's male-dominated elite. At its worst, NSPAW is a disingenuous document that pays lip service to Burma's international human rights obligations and domestic anti-discrimination promises while actually entrenching gender inequality. Either way, NSPAW suffers from critical shortcomings related to its conceptualization, substantive content, and implementation.

MEMBERS OF WOMEN'S LEAGUE OF BURMA



မြန်မာ့အမျိုးသမီး သမဂ္ဂ
Burmese Women's Union (BWU)



ကရင်နီအမျိုးသမီး အစည်းအရုံး
Karenni National Women's Organization (KNWO)



ကချင်အမျိုးသမီး အစည်းအရုံး ထိုင်းနိုင်ငံ
Kachin Women's Association Thailand (KWAT)



ကူကီးအမျိုးသမီးများဆိုင်ရာ လူ့အခွင့်အရေး အစည်းအရုံး
Kuki Women's Human Rights Organization



ကရင်အမျိုးသမီး အစည်းအရုံး
Karen Women's Organization (KWO)



ကယန်းအမျိုးသမီး အစည်းအရုံး
Kayan Women's Organization (KyWO)



လားဟူအမျိုးသမီး အစည်းအရုံး
Lahu Women's Organization (LWO)



ပအိုဝ်းအမျိုးသမီး သမဂ္ဂ
Pa-O Women's Union (PWU)



ရခိုင်အမျိုးသမီးများ အစည်းအရုံး
Rakhaing Women's Union (RWU)



ရှမ်းအမျိုးသမီးရေးရာ ဆက်သွယ်လှုပ်ရှားဆောင်ရွက်ရေးအသင်း
Shan Women's Action Network (SWAN)



တအာင်းအမျိုးသမီး အဖွဲ့အစည်း
Ta'ang Women's Organization (TWO)



ထားဝယ်အမျိုးသမီး သမဂ္ဂ
Tavoyan Women's Union (TWU)



တရားမျှတမှုအတွက် အမျိုးသမီးများအဖွဲ့
Women for Justice (WJ)



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