

## MEETINGS & MACHINERY: THE GOVERNMENT'S COMMITMENT TO THE CEDAW

With such a tradition and history of gender equality, there is no need for Myanmar women to make demands for their freedom or fight for their rights. Myanmar women were born with gender equality. What Myanmar women are doing now is to further development and progress so that they can become better qualified to participate in the building of their country into a peaceful, prosperous, developed and modern nation.

- Shwe Mann Maung, "Myanmar Women's Day," Myanmar Perspectives, July 1998

In honour of the first Myanmar Women's Day on 3 July 1999 [chosen for the formation date of the Myanmar Maternal and Child Welfare Association], 900 shady trees and flowering plants were planted in Yangon Division.<sup>1</sup>

- "Initial report of States Parties: Myanmar"

The government views women's empowerment and participation in decision-making as something very threatening and thus it does not really occur at any level in society, apart from at the household level perhaps. That is why projects with women are restricted to income-generation and health education, mother and child-care. CINT 259

With the government, the question is, "Can anyone be heard?" not just the women. That is the real question. CINT 99

### OVERVIEW

Adherence to the CEDAW Convention is not simply a matter of agreeing in principle to its precepts. Governments are obliged to give evidence of their achievements to protect women's human rights and promote women's advancement, including at the institutional level. The Burmese government has thus far been slow to display serious intent to take adequate measures. Legal and structural mechanisms at a state level are largely lacking; existing committees to address women's affairs have no budget allocations with which to work; and few programs have been designed to assess women's needs or address them. It remains to be seen whether concrete actions will be taken in accordance with the CEDAW or the steps laid out in the Beijing Platform for Action to improve the situation for the country's women.

### THE BURMESE WAY TO EQUALITY

Burma became a State party to the CEDAW on 22 July 1997. Prior to ratification, in 1996, the government took action in accordance with the Beijing Platform for Action to set up a National Committee on Women's Affairs, forming a National

Working Committee and drafting a National Action Plan for the Advancement of Women in August of the same year. Working committees were subsequently established at the state or division level, and below this at the district and township level. (*For more about the Committees for Women's Affairs, see Women's Participation in Politics.*) Nonetheless, doubts remain as to how fully the government is committed to the spirit of the CEDAW and the principles it enshrines and how effective the government apparatus and its implementation of programs has been to date.

Reports presented by the SPDC at regional and international conferences and fora, including the ESCAP High-Level Intergovernmental Regional Review of Implementation of the Beijing Platform for Action,<sup>2</sup> often using identical texts, have consistently affirmed that women in Burma enjoy equal status with men. Government reporting to international fora on their programs for women has also been perfunctory. In the lead-up to the Women 2000 review of the Beijing Platform for Action, governments and women's organizations throughout the region conducted reviews to quantify the efficacy of programs. Reports from Burma on activities were largely lacking.

Our research data shows clearly that women do not enjoy equal status with men, socially or legally, and that their differential position affects their access to health care, education, employment opportunities, justice, positions of political decision-making, and recognition of their nationality. This inequality also puts women at high risk of various forms of violence, including trafficking. This is especially true for rural women and women in armed conflict areas. The SPDC's failure to admit that women in Burma experience gender discrimination in their daily lives makes it unlikely that they will strive to execute programs for women addressing their real needs.

A factor that complicates taking any measure of government compliance with the CEDAW is that women throughout Burma are not aware that the SLORC ratified the Convention and that its successor regime, the SPDC, is committed to abiding by it. Responsibilities and programs on the part of the government have not been widely publicized. Inside the country, only people from international NGOs seem to know about the government's commitment to CEDAW, but most are not cognizant of specific actions for implementation. As a result, assessment of what has been accomplished is difficult.

The CEDAW advises governments that the foundation for non-discrimination must be built on principles enshrined in the constitution, the supreme legal document of the state, and incorporated into the structure of the government itself. In order for progress to be achieved, women and men, from those in public office to those in local communities, must be aware of the legal guarantees of women's human rights and the remedies and means available to them when these rights are abridged.

Prohibition of discrimination is normally secured through the inclusion of a non-discrimination clause in the national constitution. At present, there is no valid constitution in the country. While constitution drafting started in 1993, a final document has yet to be produced. Issues raised for discussion at the constitution-writing National Convention, which has not met for several years, have been closely controlled, with delegates facing potential expulsion for broaching subjects not pre-approved or on the agenda. Since freely and independently formed interest-groups are not

permitted, it is difficult to see how constitutional reform is likely to take place, unless the regime places great enough importance on the inclusion of a non-discrimination clause to suggest it. The CEDAW Committee urged the SPDC representatives to act with expedience to ensure this happens.

A principal concern expressed by members of the CEDAW Committee is that legal review has not been undertaken to ensure that domestic law accords with the CEDAW. This is particularly critical given that much of the law in Burma was codified 100 or more years ago, before women's human rights were widely recognized. As a result, legislation as a whole does not serve to promote women's equality. Some laws explicitly discriminate against women by according them different status from men, while others apply a welfare approach, regarding women as subjects deserving protection rather than agents capable of independent judgment or action. New regulations supposedly enacted to curb trafficking serve to discriminate against women, restricting their freedom of movement and access to travel documents. (*See Migration & Trafficking of Women & Girls.*) Laws relating to women's fertility and reproduction deprive women of the opportunity to make decisions regarding their own bodies. (*See Women's Health and Women & the Law.*) Certain sections of the statutory code appear to conflict with customary law, however no hierarchy of law indicates which takes precedence in these cases. All these issues require clarification so that the body of law as a whole reflects the principles of the CEDAW. While representatives of the regime gave brief mention at the CEDAW meeting of the possibility of reviewing domestic legislation, it remains unknown what concrete plans exist.

Another significant problem that became apparent at the CEDAW review in New York is that the government has not committed any budgetary allocation to the National Committee for its work. In answer to questions by CEDAW Committee members regarding fiscal arrangements, members of the government delegation resplied,

On the question of funding, the Myanmar National Committee for Women's Affairs does not receive any budget allocation from the government. It receives donations from well-wishers and from fund raising activities.<sup>3</sup>



#### - Response by the Myanmar Delegation

This led the Committee to comment,

The Committee urges the Government to revise existing funding allocation policies to ensure that the national machinery has sufficient financial and human resources to effectively carry out its mandate and that members of the Myanmar National Committee should include those nominated on the basis of their expertise in the relevant fields.<sup>4</sup>

#### - Concluding Observations and Recommendations by the CEDAW Committee

As noted in this statement, of equal concern is the composition of the Committee. As discussed in greater detail later, the National Committee is headed by men, and half of the remaining membership is male, drawn from ministries, the judiciary and the police force. While these members may be in positions where their authority can impact greatly upon women's lives, there is no guarantee that they themselves are gender-sensitive. It is by no means clear

that the existing Committee members are appropriate or equipped to recognize sex discrimination or appreciate the changes that need to be taken to advance women's equality. This may be especially true since most of the fields that members work in are traditionally male dominated. However, no plans have been released as yet to conduct gender training within the Committee or the relevant ministries to ensure gender-responsive planning and implementation.

Significant contact with grassroots organizations is an important component in the functioning of the national machinery. Partnerships between governments and NGOs are often the most effective way to implement programs for women. The efficacy of NGOs is enhanced when these groups have a strong base in the community and sufficient contact to apprehend women's problems, their possible solutions and the potential obstacles to realizing them. In its reporting on concrete actions needed, SPDC representatives have made consistent reference to programs carried out by the government-organized

NGOs (GONGOs), particularly the Myanmar Maternal and Child Welfare Association (MMCWA), but also the Myanmar Women Entrepreneurs Association (MWEA), Myanmar Women's Sports Federation (MWSF), and the Myanmar Women's Development Association (MWDA). It remains unclear whether these organizations are extensions of the State or independent bodies. (*See Women's Participation in Politics for more on the MMCWA.*)

Many observers in Burma consider these supposed NGOs to be indivisible from the government, in part because of the state support they enjoy, but also because of the number of their members in leadership roles married to government personnel. Serious doubts have been raised about their ability to communicate with ordinary women or represent grassroots concerns, yet the formation of other groups spontaneously motivated to work for change on social issues is largely prohibited. This may mean that women committed to working on these issues have little choice but to do so through the GONGOs; but it is also unclear what are the terms for membership in these organizations.

Currently, the GONGOs have been entrusted with carrying out the bulk of the government's obligations to institute programs for women. The absence of independently formed NGOs capable of playing a watch-dog role inhibits the monitoring and evaluation of government programs. It should also be noted that the MMCWA, the principle organization said to be addressing women's needs, works mostly on maternal and child health and has not been proactive in addressing these or other issues as matters of women's human rights.

In terms of government program implementation, it appears very little has been achieved thus far. The National Working Committee released the National Action Plan for the Advancement of Women in August 1997. From the descriptions in government literature, to date the activities of the National Affairs Committee and its related mechanisms have mostly been meetings, perhaps because the Committee lacks a budget to do anything else. Studies have also been undertaken on various issues, such as domestic violence. However, it is not always clear whether these studies have been commissioned under the Committee's mandate or are part of other ongoing work. To our knowledge, no affirmative action programs have been undertaken to accelerate women's enjoyment of their

rights or to put more women in positions of decision-making power, where they can influence policy creation.

Most of the Committee's activities appear centered in the area of violence against women, specifically domestic violence. This in itself is interesting, since the SPDC has publicly denied that domestic violence is a problem of any proportion in Burma, as is discussed later. It also appears that the focus to date has been urban areas. Other than this, little is known about the Committee's specific undertakings. While the government has mentioned plans to conduct trainings on violence against women and establish counseling centers, the details of these programs remain vague. The results of studies on domestic violence conducted under the rubric of National Committee planning have not been publicly released. It is currently unknown how any information collected will be disseminated, or how and by whom it will be used. More substantial data regarding research findings and methodology, and program sites, participants, quality and follow-up would facilitate appraisal of these programs.

In addition to ratifying the CEDAW, the Burmese government signed the Beijing Platform for Action. In implementing its National Plan of Action for the Advancement of Women, the Women's Affairs Committee has chosen to focus on five of the 12 Critical Areas of Concern from the Platform For Action: education, health, the economy, violence against women, and the girl-child. The National Plan has also added a sixth area not in the Beijing Platform for Action: culture. The government does not provide any rationale as to why these areas have been chosen above others or why they have not committed to working on all 12 areas, given that there is strong evidence all are areas of concern for women in Burma. In particular, the Government's decision not to include two of the critical areas, poverty and the effects of armed conflict, two of the greatest underlying problems affecting Burmese women today, is a serious impediment to addressing the real situation for women.

According to one government report, presented at a regional conference on trafficking, the state and division level Women's Affairs Committees have each chosen to focus on one of the five areas of the BPFA:

Mandalay Division has chosen 'the girl child' as their area of concern; Sagaing Division has chosen the theme 'women

and culture'; Kachin State has chosen 'education'; Yangon Division is concentrating on 'violence against women' and Ayeyawaddy Division has decided to focus on 'health of women.'<sup>5</sup>

The Beijing Platform for Action and the CEDAW were both written to address gender-based discrimination in all the various aspects of women's lives and to highlight their causal interconnection. The decision to specialize programs by geographic area rather than to use an integrated country-wide approach raises concern about how appropriate projects for women can be implemented in Burma, as well as about how thoroughly the Government understands the intent of these international instruments.

In addition to programs dealing specifically with women's human rights, the Government is said to have begun to address human rights in Burma generally. In October 2000, the Home Affairs Minister approved a proposal for the formation of a human rights committee, with the aim of studying human rights mechanisms of the United Nations to establish a national human rights institution. The Australian Government has assisted in providing human rights trainings organized by former human rights commissioner Chris Sidoti, who has been criticized for engaging with the junta in implementing these programs. The new 20 member committee has eight subcommittees: Home Affairs, Education, Legal Affairs, Health, Labour, Religious Affairs, Social Welfare and International Affairs.<sup>6</sup> As yet, it remains to be seen what the Committee is capable of achieving and whether it will look at specific issues of women's human rights and whether it will incorporate a gender-sensitive approach in its work.

## FINDINGS & RECOMMENDATIONS

Articles 1 to 4 of the CEDAW spell out the Government's obligations to the Convention at a structural level to prohibit discrimination and outline in principle the steps that must be taken to promote equality. These articles recognize that in order to implement practical programs and effect real change, tools (for example, laws or organizations providing assistance), resources (money and people), and machinery (state institutions) must be put in place and policies enacted at the highest level. Article 1, which sets down the definition of discrimination, is the cornerstone on which the entire CEDAW is based. Article 2 stipulates that govern-

ments must commit to eliminating discrimination in order to realize the goals of equality described in the subsequent articles. Articles 3 and 4 deal with government actions to eliminate discrimination, which include implementing structural changes and programs at a government level, and promoting temporary special measures where appropriate to accelerate the achievement of equality.

Although government programs in Burma are still in their infancy, and evaluation is perhaps premature, more political will is needed to ensure that guarantees of women's equality are put in place and that the present efforts on the part of the SPDC are not merely posturing. While governments generally have been slow to admit their responsibilities in advancing women's status, denying that problems exist entirely only ensures that they will remain, and probably worsen. The first step the Government needs to take is to admit that serious gender discrimination does exist, and that in Burma, as in all countries, it is a product of historical differentiation between men and women in a myriad of settings.

That said, even with full recognition of gender discrimination, the current situation presents significant stumbling blocks to policy and program formation. Until there are constitutional guarantees of women's equality that explicitly prohibit discrimination, no overall legal mechanism exists to ensure compliance with the CEDAW. Without the input of women and the assistance of experts well-versed in gender and the law in the creation of legal means to secure women's rights, it is very likely that adequate measures for recourse will be lacking and existing underlying discrimination in domestic legislation will not be eradicated.

At a structural level, despite the formation of various committees, no permanent body devoted to women's affairs has been created. At the same time, in the absence of a Ministry for Women's Affairs, no major policy changes have been undertaken to mainstream women or women's issues into the existing decision-making structure or ministries. If the only government-related bodies now working on women's issues are staffed essentially by volunteers with no budget to allocate toward their efforts, it is very difficult to see how anything can be achieved.

The few programs that are in place appear to be

unevenly distributed, both thematically and geographically, to a small number of mostly centralized sites. Wider dissemination about the existing committees' activities and publication of the results of ongoing studies would benefit design and implementation of programs at a national level for women. In order to extend and integrate the existing programs into a more unified whole, more capable of meeting women's needs, the Government would do well to look to the experience of locally-based groups and international NGOs already working on these issues.

Ultimately, government planning should recognize that the problems women face, whether they are addressed formally under the CEDAW or the Beijing Platform for Action, are interrelated, and that work to eliminate them also requires looking at the connections between the different facets of women's lives. To this end, comprehensive programming with a view to addressing the issues outlined in all the substantive articles of the CEDAW and all 12 of the Beijing Platform for Action's Areas of Critical Concern is recommended.

Effective monitoring mechanisms must be implemented to assess the degree of success or failure of programs, and these results disseminated nationwide. Additionally, governments are instructed by the CEDAW Committee to publicize their own reports and the Committee's Concluding Observations and Recommendations along with information about the CEDAW and government obligations to women in their countries. Publication of critical and substantive information of this nature, beyond simple mention in the state-controlled press of delegations' attendance at the CEDAW and other international fora, would help to apprise women of their rights under international law. The country's women are the best judges of whether programs are meeting their needs or not, yet few are aware of the plans currently in place.

Perhaps most importantly, the Government must recognize that the Burmese people's achievement of human rights generally and Burmese women's attainment of their rights are parts of the same process. Until the Government makes concerted and real efforts to respect and uphold the human rights of all its citizens, more than half of whom are female, and to ensure that civil, political, social, economic, and cultural rights are experienced through-

out the country, any assurances that women's rights are guaranteed cannot be taken seriously. Likewise, as women's rights *are* human rights, and as the country is a party to the CEDAW, any efforts to address human rights concerns must take specific action to ensure that gender bias does not prevent women from fully enjoying their human rights.

#### NOTES

1. United Nations Convention on the Elimination of All Forms of Discrimination Against Women, "Consideration of reports submitted by States parties under article 18 of the Convention of All Forms of Discrimination Against Women: Initial report of States parties: Myanmar," CEDAW/C/MMR/1, 25 June 1999, p. 9.
2. Four regional reviews were held in the lead-up to the Women 2000 meeting to assess States' progress in implementing the BPFA. At these meetings, States gave individual reports of their implementation efforts, while overall progress worldwide was reviewed at the Women 2000.
3. "Response by the Myanmar Delegation, Twenty-Second Session of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW)," New York, 26 January 2000, p. 6-7.
4. United Nations, "Report on the Committee on the Elimination of Discrimination against Women," 22nd session, 23rd session, General Assembly Official Records, 55th Session, Supplement No. 38 (A/55/38), p. 14.
5. "Myanmar Country Report on Trafficking in Women," presented at Regional Conference on Trafficking in Women, 3-4 November 1998, Bangkok, p. 8
6. Mizzima News Group, "Burma's human rights committee slow-going," April 12, 2001, www.mizzima.com.