

BRIEF SUMMARY ON SEXUAL VIOLENCE IN MYANMAR/BURMA FOR THE SECRETARY GENERAL'S REPORT TO THE SECURITY COUNCIL PURSUANT UNSCR 1820 *Submitted by the Global Justice Center & The Women's League of Burma*

For the past 60 years, the military regime in Myanmar/Burma has committed and commissioned war crimes, crimes against humanity and potentially even genocide. There is substantial documentation that widespread and systematic sexual violence is employed by the regime as a tactic of war to destabilize, terrorize and humiliate communities.¹ In both conflict and ceasefire areas, military forces are reported to subject women and girls to multiple forms of violence including abduction, forced marriage, rape, including gang rape, mutilation, suffocation, scalding, murder, sexual slavery and other forms of sexual violence.² Widespread violence against women and girls has also resulted in their restricted movement, as they are often fearful of working in the fields or traveling unaccompanied given the regular military checkpoints where women and girls are often subjected to sexual harassment and rape.³ The structuralized and systematic sexual violence is an inevitable result of the regime's policies of military expansion and consolidation of control by all possible means over a disenfranchised civilian population.

The documented evidence demonstrates that there is a climate of impunity that not only enables the military to evade prosecution for rape and other crimes against civilian women, but also fosters a culture of continued and escalating violence. When military officials commit sexual violence against women it goes unreported because of fear of reprisals – victims are threatened with or subjected to detention, threats to family, or even killed.⁴ UN Special Rapporteur Sérgio Pinheiro confirmed this lack of legal protection for women in his report on the situation of human rights in Myanmar/Burma.⁵ Further, the Myanmar/Burma regime has inserted an amnesty provision in the 2008 Constitution that grants immunity for all junta inflicted crimes and removes any rights for civil redress for victims of crimes committed by the military and police, thus blocking justice in civilian courts.⁶ As a result, all crimes of sexual violence committed by the military or police, both in the past, present or future can never be questioned by anyone, save the Commander-in-Chief.⁷

Since 1992, UN Envoys, United Nations Resolutions and Reports have repeatedly expressed grave concern about these ongoing violations and have called upon the regime to end impunity. The reports by the UN Special Rapporteurs on Burma submitted to the UN General Assembly since 1992 contain an abundance of testimonies of extreme human rights violations committed by the military regime, including military rape. Yet, the military regime has ignored 32 U.N. resolutions most of which include a call for an independent investigation of crimes such as the rapes by the military of ethnic women. These crimes are part of a systematic strategy for destroying ethnic communities in Burma and are a threat to international peace and security.

Recommendations

1. The Security Council should call for a commission of inquiry to investigate all cases of widespread and systematic sexual violence in Myanmar/Burma.
2. The regime's unwillingness and lack of genuine attempts to provide justice for victims of widespread and systematic sexual violence should trigger a Chapter VII referral of heinous crimes to the International Criminal Court.

¹ See attached reference sheet listing all UN related documents on Sexual Violence. Note that reports with extensive discussion on sexual violence in Myanmar/Burma have been marked with an asterisk and relevant paragraphs have been highlighted for ease of reference. Note also that rape reports published by ethnic women in Burma including the Shan, Mon, Karen, Palaung, and Chin, as well as by Refugees International, document sexual and other forms of violence against women systematically perpetrated by the junta and even identify perpetrators, give relevant dates and the battalion numbers of the rapists. The Shadow Report by the Women's League of Burma to the CEDAW Committee provides detailed evidence that the sexual violence continues and is fueled by impunity.

² See E/CN.4/2006/67/Add.1 Para 92. See also other reports listed on attached reference sheet for other detailed discussion on sexual violence in Myanmar/Burma.

³ *Id.* Para. 96. See also other reports listed on attached reference sheet for other detailed discussion on sexual violence in Myanmar/Burma.

⁴ See U.N. GAOR, Human Rights Council, 10th Sess., Human Rights Situations that Require the Council's Attention, Report of the Special Rapporteur on the Situation of human rights in Myanmar, Tomás Ojea Quintana at 61, U.N. Doc. A/HRC/10/19, at 61, 66, (2009).

⁵ Special Rapporteur Sérgio Pinheiro, *Report of the Situation of Human Rights in Myanmar*, U.N. Doc. A/CN.4/2006/34 (February 7, 2006). See also U.N. Doc. A/HRC/7/2008/18 (February 7, 2008) at 87.

⁶ Myanmar Constitution [April 2008]. Chapter XIV, § 345.

⁷ Myanmar Constitution [April 2008] Chapter VII § 343. (“[t]he decision of the Commander-in-Chief of the Defense Services is final in military justice”)