

# Considerations for Developing a CEDAW Concluding Observations Implementation Plan in Myanmar



**Considerations for Developing  
a CEDAW Concluding Observations Implementation Plan  
in Myanmar**

**Gender Equality Network**



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Yangon, Myanmar  
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## EXECUTIVE SUMMARY

On July 7<sup>th</sup> 2016 in Geneva, the UN Committee on the Elimination of Discrimination against Women (the “Committee”) evaluated the Government of Myanmar’s (the “Government”) compliance with the mandates of the Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW”). Myanmar ratified CEDAW in 1997 and was last examined by the Committee in 2008.

Based upon that review, the Committee issued Concluding Observations (“COB”) which provided a variety of recommendations regarding how to improve the Government’s compliance with CEDAW mandates. These recommendations set important benchmarks with respect to protecting women’s rights, ensuring equality and eliminating discrimination against women.

The COB are an invaluable tool for advancing gender equality in Myanmar. The purpose of this Report is to provide contextual background for CEDAW issues and outline steps for the Government to take as part of a comprehensive COB implementation plan. This Report can be used as a building block for a comprehensive implementation plan for CEDAW recommendations as well as for an overall advocacy plan to advance women’s equality. It can also inform decisions regarding establishing advocacy priorities.

This Report must be considered within the context of gender equality advocacy and strategic planning already being done within Myanmar. Specifically, significant work has already been done in drafting and, to a lesser extent, implementing Myanmar’s National Strategic Plan for the Advancement of Women (“NSPAW”). Any COB implementation plan at the Government level must wrestle with how to incorporate and harmonize its components with NSPAW. These two processes are occurring simultaneously and thus work must be done to ensure that they are complementary. NSPAW can be only a component of, not an alternative to, COB implementation due to shortcomings in NSPAW’s foundational basis and implementation provisions.

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## LIST OF ACRONYMS

CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
COB	CEDAW Committee Concluding Observations
CEDAW	Committee on the Elimination of Discrimination Against Women
Constitution	2008 Constitution of the Republic of the Union of Myanmar
CSO	Civil Society Organization
GBV	Gender-based Violence
Government	Government of Myanmar
IDP	Internally Displaced Person
IEC	Information, Education and Communication
MNCWA	Myanmar National Committee on Women's Affairs
MNHRC	Myanmar National Commission on Human Rights
NSPAW	National Strategic Plan for the Advancement of Women
PoVAW Law	Prevention (and Protection) of Violence against Women Law
VAW	Violence against Women

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## SCOPE AND METHODOLOGY

The first step in the preparation of this Report was to organize the Committee’s COB recommendations by most relevant CEDAW Article. Certain recommendations were applicable across all CEDAW articles and are presented first as “Overall Recommendations.” Recommendations by CEDAW Article are presented sequentially thereafter.

In order to give context to COB implementation planning, each Section is prefaced by a discussion entitled “Contextual Background.” This discussion is intended to ground thinking about future actions in terms of both what CEDAW requires and what have been some concerns regarding that topic within Myanmar. This is not intended to be an exhaustive survey but more to suggest some points to keep in mind while shaping a COB implementation plan.

Within each section, each COB recommendation was given a heading in order to synthesize its main point. It is important to note, however, that recommendations are often dense and offer directives regarding multiple topics so the headings may not cover each component of the recommendation.

Finally, for each recommendation, we suggest one or more implementation actions which cover a broad range of Government actions. These recommendations incorporate and reflect comments and suggestions made by NGOs in their Shadow Reports to the Committee as part of the country review in July 2016 in Geneva (the “Constructive Dialogue”).



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## COMPILATION OF RECOMMENDATIONS

### OVERALL RECOMMENDATIONS:

#### Contextual Background:

Developing a COB implementation plan to ensure greater gender equality and non-discrimination is a formidable challenge. The Government will need to utilize a variety of vehicles including amending and adopting laws through the Legislature, developing, amending and implementing administrative regulations and policies via the Executive and making improvements to the judiciary as well as deploying media strategies and educational campaigns. This type of comprehensive and extensive undertaking will require significant political will and expenditure of political capital, and could be complicated by the significant role still played by the military. Further, any plan will require continued political will through the years-long implementation phase. Prior Governments have pledged to ensure greater gender equality but such promises were not accompanied by concrete actions or sufficient resources, and budget allocations as was the case with the NSPAW.

A COB implementation plan will be developed against the backdrop of already-existing gender equality strategies within Myanmar, such as NSPAW, which is intended to advance women's equality through 2022, is an important vehicle, but not a perfect one. The Government should not rely only on NSPAW because of significant deficiencies in the legal basis, implementation and execution of NSPAW. For example, NSPAW does not call for changing the legal framework, which in many cases is insufficient and discriminatory, NSPAW is not adequately resourced and NSPAW does not have sufficient implementation, monitoring or evaluation mechanisms in place. Therefore, it is important to recognize that NSPAW cannot substitute for COB implementation. The lessons of NSPAW can inform, however, the development of a COB implementation plan. For example, the COB implementation plan should call for specific actions to be taken within specific time periods, should include specific monitoring and evaluation processes as well as a timetable for action and provide for adequate resources/funding to implement the plan.

As the Government develops its COB implementation plan, it should consult with and include a broad range of CSOs. This should be done at all stages of the process and should include appointing representatives of CSOs to any implementation, monitoring or evaluation committees.

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Moreover, the COB implementation should not be seen as occurring in a vacuum. CEDAW is part of a singular network of international human rights guarantees. This patchwork of mutually-reinforcing international responsibilities and standards must be taken into account when developing a COB implementation plan.

Finally, the Committee called for expedited reporting on a few topics that it deemed of prime importance for ensuring substantive gender equality, which are listed below. The Government will need to submit this follow-up Report in July 2018. When a State party submits a requested follow up report, the Committee assesses the report to determine if it adequately addressed the Committee's concerns. The Committee will then use that assessment to recommend follow up actions for the State party. NGOs will also have the opportunity to submit Shadow Reports to provide additional information directly to the Committee. Therefore, it is important to make these four topics a priority for Government action and to ensure that the follow-up reporting on these topics addresses the Committee's concerns.

### **Concluding Observation:**

#### **Adopt a National Action Plan on Implementation of COBs and other Overall Considerations**

*The Committee recommends that the State party: (c) Adopt a national action plan for the implementation of the present concluding observations with clear targets and indicators to ensure effective monitoring and evaluation of progress. (COB ¶19(c))*

*The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention. (COB ¶149)*

*The Committee calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development. (COB ¶150)*

*The Committee recommends that the State party consider seeking international assistance and cooperation and availing itself of technical assistance in the development and implementation of a comprehensive programme aimed at the implementation of the above recommendations as well as the Convention as a whole. The Committee also calls upon the State party to continue its cooperation with specialized agencies and programmes of the United Nations system. (COB ¶153)*

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*The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 15(a)&(d) and 45(d)&(f) above. (COB¶154) [Recommendation in 15(a) calls for amending the Constitution, 15(d) for expediting revision of all discriminatory laws and provisions and adopting new laws, 45(d) for ensuring birth registration and eliminating obstacles to citizenship and 45(f) for investigating and punishing sexual violence against ethnic minority women.]*

*Recommended Implementation Actions:*

- Develop, adequately fund and implement a comprehensive national action plan on implementation of COB, which should: include specific action items to be undertaken; identify and task specific government departments responsible for actions; establish benchmarks and timelines for action; and provide for periodic monitoring and evaluation.
- Include broad-based civil society/grass roots consultation with local women's CBOs at all stages in the development of the COB implementation plan, including by convening regular, periodic formal and informal meetings throughout the process and appointing CSO representatives on any formal or informal bodies charged with the task of COB implementation.
- Coordinate the COB implementation plan with the revised NSPAW implementation strategy in order to avoid duplication of effort and streamline the process.
- Immediately translate the COB implementation plan into Myanmar as well as other major ethnic languages and for those who are illiterate or disabled (including by producing illustrated, pictorial and non-print materials), and disseminate the COB implementation plan at the national, regional and local level to Government officials, legislature, the military, police, medical personnel, judiciary, justice implementers, educational professionals and the general public.

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## Article 1 (Definition of Discrimination)

### Contextual Background:

Implementing a CEDAW-compliant definition of discrimination is crucial to achieve gender parity. Provisions of the Constitution are both facially discriminatory and discriminatory in effect, and both types of discrimination are prohibited by CEDAW. The Government's explanation at the Constructive Dialogue for certain discriminatory provisions relied on regressive stereotypes about women which are prohibited also by CEDAW. The Government must ensure that any definition of discrimination in existing laws, including the 2008 Constitution of the Republic of the Union of Myanmar (the "Constitution") and any existing legislation, reflects the notion of substantive equality by encompassing both discrimination as a matter of law and discrimination in effect, as well as discrimination in the public and private spheres. One way to ensure the elimination of such stereotypes in society is to eliminate them in law. While there are multiple means for implementing a CEDAW-compliant definition of discrimination, the Constitution is preferred and changing the fundamental human rights and civil liberty shortcomings of the Constitution should be a priority and not contingent upon conclusion of the peace process. The Committee recognized this urgency by designating Constitutional amendment for expedited reporting in July 2018.

### Concluding Observation:

#### Adopt a CEDAW-Compliant Definition of Discrimination

*The Committee reiterates its previous recommendation (CEDAW/C/MMR/CO/3, para. 9) that the State party urgently adopt a comprehensive definition of discrimination against women in national legislation, such as its anti-discrimination bill, in line with article 1 of the Convention, with a view to ensuring that women are protected against both direct and indirect discrimination in all spheres of life. (COB ¶11)*

### Recommended Implementation Actions:

- Adopt a CEDAW-compliant definition of discrimination in national legislation, such as an Anti-Discrimination Law or the Constitution, as well as establishing by law the responsibility of the Government to ensure substantive equality and non-discrimination.

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- Repeal or amend facially discriminatory provisions of the Constitution, including, *inter alia*: (1) Section 348 of the Constitution to guarantee basic human rights to all persons in Myanmar; (2) Section 351 to extend to all women and girls the legal enjoyment of rights; and (3) Section 352 to remove language that prohibits women from holding certain jobs and clarifying that women must not be discriminated against with respect to employment.
  - Amend the Constitution to eliminate de facto discrimination or discrimination in effect by eliminating, *inter alia*, the 25% military quota in Parliament, the military veto power, and the requirement that people in high-level positions in the executive branches of government be “well-acquainted” with military affairs contained in Sections 59(f), 109, 141, 161, 362, 381, and 445.

### **Concluding Observation:**

*The Committee recommends that the State party: (a) Fully integrate the provisions of the Convention into national law. (COB ¶19(a))*

### *Recommended Implementation Actions:*

- Amend the Constitution or pass other legislation to incorporate by reference and acknowledge the applicability of international instruments to which Myanmar is a party, including CEDAW.

## **Article 2 (Legislative & Policy Measures)**

### **Contextual Background:**

Eliminating discriminatory laws and provisions, including in the Constitution, that do not comply with international standards and CEDAW should be a priority for the Government. The CEDAW Committee called for expedited follow-up reporting on this issue in July 2018 and it has been highlighted by multiple Special Rapporteurs as a significant barrier to democratic progress and gender equality. Therefore, the legislative reform commission (or any other successor or substitute body) should set a specific timetable for action, should include civil society in all steps of the review process and should ensure that there is adequate gender expertise on the commission. This commission should also consider expanding its mandate to review all prospective laws for gender implications.

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The Government's position at the Constructive Dialogue regarding the Laws on the Protection of Race and Religion does not fully take into consideration the degree to which those laws contravene international human rights and CEDAW standards. The Government asserted that those laws were for the protection of women which relies on stereotypes prohibited by CEDAW. Solely regulating men's conduct with regard to women reinforces negative prejudices and customs on the supposed superiority/inferiority of men and women and the inability of women to make their own decisions. Finally, the language of those laws is overly vague and leaves open a multitude of opportunities to discriminate against women in violation of CEDAW. While the Government asserts that the laws themselves are, for the most part, entirely voluntary, the designation of these as "laws" belies this characterization. It is important that the Government understand and publicize how these laws contravene international law in order to understand how they need to be changed.

CEDAW makes special provisions for and requires special protections for women facing multiple forms of discrimination, including internally displaced women. The gender dimensions of the displacement cycle and women's vulnerability during displacement must always inform laws and policy and may require special measures and protections. When developing policy, the Government must recognize that Internally Displaced Persons ("IDP") require special protections and face multiple and intersecting forms of discrimination.

Perhaps the most important foundational action is to implement educational programs to understand what CEDAW means and requires. As the Government engages in COB implementation, the first step is to understand CEDAW as it will be the foundation on which the plan, laws and actions are built. In other words, it is a question of the content of the trainings provided, not a question of the number of trainings or number of those trained. It is also important that this context regarding CEDAW be included when disseminating the COBs. Translating and disseminating the COBs is perhaps the easiest recommendation to implement as it can be done quickly. But it is important to also include some context so that the COB are not presented in a vacuum and to ensure that the information reaches all women, men and young people by ensuring that the COB are translated into local languages and that illustrative, pictorial and non-print materials are developed for the illiterate and disabled.

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## Concluding Observation:

### Review and Amend Discriminatory Laws and Constitutional Provisions

*The Committee reiterates its previous recommendations (see CEDAW/C/MMR/CO/3, para. 11) that the State party, without delay: (a) Amend the Constitution in order to remove stereotypical references to the roles of women and men in the family and in society, as well as all other discriminatory provisions, including regarding appointment to the civil service. (d) Expedite the revision of all discriminatory laws and provisions, and the adoption of new laws to promote gender equality. (COB ¶15(a), (d))*

### Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement a strategy and plan to accelerate the achievement of non-discrimination and substantive equality including by: amending the Constitution; adopting legislative, executive, administrative and regulatory policies and practices, including TSMs; passing a comprehensive anti-discrimination bill and/or affirmative action policies; and instituting adequate and accessible mechanisms to lodge complaints and enforce rights granted.
- Review and analyze, with the input of a broad array of CSOs, all domestic laws, policies and provisions to determine any that are discriminatory against women, and ensure that the legislative reform commission currently reviewing domestic laws, or any future law review mechanism, conducts its review quickly and thoroughly and develops specific recommendations to amend any law that discriminates or has a discriminatory effect, on gender grounds or any other grounds prohibited by CEDAW or other international human rights law.

### Specific Laws to be Passed, Amended or Repealed:

- Amend land laws and regulations to: clarify that women can be heads of household and own land; ensure that the mediation and settlement of land-related disputes affords women effective remedies; establish effective monitoring mechanisms for the implementation of the Farmland Law; ensure that land use certificates bear the names of women including through joint registration; institute awareness raising and training programs to ensure that officials, including at the local level, implement women's equal rights to register land; ensure that women in rural areas have access to information on land registration procedures and mechanisms for redress; and

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collect comprehensive gender disaggregated data on land use certificate registration and ownership.

- Amend the Rights of Persons with Disability Law to provide comprehensive protections for women and girls with disabilities.
- Amend the Penal Code and other laws so that they are in compliance with CEDAW, including by legalizing abortion at a minimum in circumstances of rape, incest, or threats to the life and/or or health of the woman, criminalizing marital rape in all circumstances and decriminalizing same-sex conduct and sex work.
- Repeal any law, regulation or policy that restricts rural women from freely setting up and operating independent local organizations and running programs.
- Amend or repeal any law, regulation or policy that violates the rights to freedom of expression, peaceful assembly and association, including the Association Registration Laws, so that they are in compliance with CEDAW and international human rights standards; adopt laws and regulations to encourage freedom of expression, peaceful assembly and association, including regulations designed to encourage the registration of women’s organizations and provisions to immediately and unconditionally release, drop charges against and expunge the criminal records of all those detained for the peaceful exercise of their human rights.
- Adopt legal and regulatory protections against harassment, discrimination and criminalization of the work of human rights defenders, in particular women’s human rights defenders.

### Concluding Observation:

#### Amend or Repeal Laws on the Protection of Race and Religion (Committee Recommendation Also Under Article 16)

*The Committee reiterates its previous recommendations (see CEDAW/C/MMR/CO/3, para. 11) that the State party, without delay: (b) Amend or repeal the Buddhist Women Special Law, the Population Control and Health-Care Law, the Religious Conversion Law and the Monogamy Law in order to ensure full compliance with the provisions of the Convention (CO ¶15(b))*

### Recommended Implementation Actions:

- Repeal or amend the Laws on the Protection of Race and Religion, including the Buddhist Women’s Special Marriage Law, the Religious Conversion Law, the



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Population Control Health Care Law and the Monogamy Law, as they do not comply with international human rights law and standards or provide strong safeguards against discriminatory application of their provisions.

- Develop (with the input of a broad range of CSOs), adequately fund and implement an outreach and awareness-raising campaign, including within the Government and Parliament, regarding the discriminatory features of the Laws on the Protection of Race and Religion and how those laws contravene international human rights standards.

### Concluding Observation:

#### Accede to Other International Treaties and Special Procedures

*The Committee notes that the adherence of the State party to the nine major international human rights instruments would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the other core human rights treaties that it has not ratified. (COB ¶152)*

#### Recommended Implementation Actions:

- Accede to and ratify all core international human rights treaties, as listed in the COB, as well as the Rome Statute of the International Criminal Court.
- Request that the Myanmar National Human Rights Commission conduct a review and make recommendations regarding which international human rights treaties to accede to and ratify.
- Cooperate with all international Special Procedures, including by issuing a standing invitation to all thematic Special Procedures, by accepting all outstanding invitations and by ensuring full cooperation with and access for all Special Procedures mandate holders within Myanmar.

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## Concluding Observation:

### Ensure Freedom of Movement and Protection from Forced Displacement

*The Committee reiterates its previous recommendations (see CEDAW/C/MMR/CO/3, para. 11) that the State party, without delay: (c) Enact comprehensive legislation that protects women, in particular women belonging to various ethnic minority groups such as the Rohingya from forced displacement. (COB ¶15(c))*

*Recalling its previous recommendations (CEDAW/C/MMR/CO/3, para. 43), the Committee recommends that the State party (a) Repeal all local orders that unduly restrict the freedom of movement of women in northern Rakhine State that prevent them from fully enjoying their rights to education, employment, health care and emergency medical care in a timely manner, in particular emergency and life-threatening cases, and repeal those local orders that restrict child birth and spacing. (COB ¶45(a))*

#### Recommended Implementation Actions:

- Enact legislation and regulations that protect women from forced displacement and guarantee freedom of movement and revoke all local orders and policies which place arbitrary and discriminatory restrictions on freedom of movement, especially restrictions based on ethnicity, religion or group identity.
- Ensure that the Government and military respect international humanitarian law at all times, and that their actions adhere to international humanitarian law standards.
- Establish conditions conducive to the voluntary return of all IDPs to their place of origin or to other places of voluntary resettlement in safety and dignity, and ensure adequate reintegration and security for IDPs.

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## Article 3 (Guarantee of Basic Rights & Freedoms)

### Contextual Background:

As the Government considers the restructuring of the Myanmar National Committee on Women's Affairs ("MNCWA"), it is important to ensure that the final body is independent and fully funded. But it is also important for the Government to think broadly about how to improve national machinery, for example by considering establishing an independent national-level mechanism, such as a National Gender Commission. Whatever format the national machinery takes, it must be adequately resourced and the Government should consider setting aside at least 5% of the national budget as a gender budget which can be used to implement NSPAW and mainstream gender into all policies and laws. It is also crucial that representatives from local CSOs be included in any national machinery.

With respect to the ongoing assessment of NSPAW, the Government must recognize that there are fundamental flaws underlying NSPAW. NSPAW's legal foundation incorporates intrinsic, systemic barriers and shortcomings preventing the realization of substantive gender equality, lacks practical, action-oriented provisions and does not provide for accountability through monitoring and evaluation or for adequate resources to implement its provisions. It is important to recognize these fundamental shortcomings when undertaking an analysis of NSPAW, developing a COB implementation plan and considering how NSPAW and COB implementation should be harmonized.

When considering improvements to the Myanmar Human Rights Commission ("MNHRC") it is important to recognize that the MNHRC is not a sufficient avenue to provide adequate legal protections for women. The MNHRC has only recommendatory powers and thus cannot provide adequate relief for violations and does not comport with international standards codified in the Paris Principles. For example, the MNHRC does not provide confidentiality regarding complaints since the enabling law at ¶165 grants the Commission "the right to disclose, in order to conduct its investigation smoothly, such information which in its opinion ought to be disclosed." Without confidentiality, women are significantly less likely to lodge complaints with the police, which is under the Ministry of Home Affairs headed by a military appointee, since there is lack of trust in the authorities and fear of reprisals. Another important consideration is to ensure that gender equality and expertise is incorporated into the MNHRC. Specifically, the MNHRC should include an equal number of women (formerly only two out of 11 members were women) as well as gender experts and all MNHRC members should be required to receive gender-sensitivity training.

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## Concluding Observation:

### Increase Awareness of CEDAW and Human Rights among Officials

*The Committee recommends that the State party: (b) Intensify existing programmes to raise awareness of the Convention and the Committee's general recommendations and women's human rights among relevant stakeholders, including government officials, parliamentarians, legal professionals, law enforcement officers and community leaders. (COB ¶19(b))*

## Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement comprehensive education, awareness-raising and outreach programs for Government officials, the Legislature, military, police, judiciary, justice personnel, medical professionals, teachers and the general public regarding gender equality, women's rights and the importance of fundamental freedoms, including freedom of movement, assembly, expression and belief, and the international human rights and humanitarian law standards, including under CEDAW and the Geneva Conventions, for exercising those rights.
- Ensure that gender equality and human rights awareness and training programs are implemented at the national, regional and local level, including at local administration offices (township and village tract level) and that such programs are available in multiple formats, both print and non-print in all local languages and for those who are illiterate or disabled (e.g. by developing illustrated pictorial and non-print materials).

## Concluding Observation:

### Disseminate COBs

*The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the Parliament and the judiciary, to enable their full implementation. (COB ¶51)*

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*Recommended Implementation Actions:*

- Immediately translate COB into Myanmar as well as other major ethnic languages and for those who are illiterate or disabled (e.g. by developing illustrated, pictorial and non-print materials), and disseminate the COBs at the national, regional and local level to Government officials, the legislature, the military, police, judiciary, justice personnel, medical professionals, teachers and the general public.

**Concluding Observation:**

**Reforms of MNCWA and Effective Implementation of National Strategic Plan for the Advancement of Women (“NSPAW”)**

*The Committee recommends that the State party provide the Myanmar National Committee for Women’s Affairs with adequate resources and institutional stature to be able to coordinate activities as the national machinery for the advancement of women in the State party. It also recommends that the State party continue to strengthen the National Committee by clarifying its cooperation with the Myanmar Women’s Affairs Federation and the gender units in various government departments to enable the National Committee to effectively carry out its activities, including those relating to gender mainstreaming and gender budgeting. The Committee further recommends that the results of the on-going assessment of the impact of the national strategic plan for the advancement of women inform policy changes that need to be made to ensure that the National Committee can effectively coordinate the implementation of the strategic plan. (COB ¶121)*

*Recommended Implementation Actions:*

- Restructure national machinery, such as the MNCWA, to ensure that it has power and authority, as well as budget and means, to implement forward-thinking and rights-based programming to empower women throughout the country, including rural areas; ensure that any national level machinery is run by independent experts on women’s rights, adequately funded and given appropriate power and authority to take action; and consider establishing a national level coordinating mechanism, such as a National Gender Commission or a gender advisor to the President.
- Conduct a review and analysis, with the input of a broad array of CSOs, into the effectiveness of the current national machinery for gender equality and NSPAW,

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including assessing how NSPAW has been operationalized, implemented, funded and evaluated.

- Adopt measures and monitoring and evaluation mechanisms within national machinery to effectively implement NSPAW and to coordinate NSPAW implementation with COB implementation.
- Ensure that at least 5% of the national budget is allocated as a gender budget to provide the necessary authority and adequate human, financial and technical resources to the national machinery to implement CEDAW and NSPAW as well as to promote gender equality, including by employing full-time gender experts at national, state, and local levels.

### Concluding Observation:

#### Reforms of MNHRC

*The Committee recalls its previous recommendation (CEDAW/C/MMR/CO/3, para. 15) to address concerns regarding the funding and appointment of members to the Myanmar National Human Rights Commission to ensure that the Commission is in full compliance with the Paris Principles. It also calls the State party to address concerns regarding breaches of confidentiality in the handling of claims, including claims submitted by women alleging violations of their rights. (COB ¶17)*

### Recommended Implementation Actions:

- Amend the MNHRC enabling legislation so that it fully complies with the Paris Principles, including by ensuring an adequate legal mandate, budgetary authority, and confidentiality for complainants, involvement of CBOs and independence of members.
- Ensure gender diversity and gender expertise of the newly-reconstituted membership of the MNHRC, as well as its selection board and seek international cooperation regarding trainings on best practices and standards for national human rights institutions.

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## Concluding Observation:

### Accede to the Optional Protocol

*The Committee encourages the State party to ratify the Optional Protocol to the Convention and to accept, as soon as possible, the amendment to article 20(1) of the Convention concerning the meeting time of the Committee. (COB ¶48)*

## Recommended Implementation Actions:

- Accede to and ratify the Optional Protocol to CEDAW.

## General Recommendations 33 (Access to Justice)

### Contextual Background:

CEDAW requires that the Government ensure the effective legal enforcement of women's entitlement to enjoy rights on an equal basis with men. The Government must ensure that adequate legal remedies are available for women who experience gender-based discrimination and eliminate barriers to access to justice. Therefore, the Government must ensure the non-biased and non-discriminatory administration of justice and the actual, practical capacity of women to access courts and tribunals on an equal basis with men.

As part of this process, the Government should ensure that the Legal Aid Law is fully and promptly implemented since the law itself establishes a structure for implementation, budgeting, and realization that is complicated and prospective. This means that actual protections could take a significant period of time to take effect. Moreover, the Government should ensure that all women are fully protected by the law since no gender specific analysis was done prior to passage, and only citizens are eligible to utilize the law. Finally, Ch. 11, ¶28 of the Law which states that legal aid providers "should not disturb local peace and tranquility and rule of law" should not be used to inhibit vigorous representation of women or intimidate women human rights defenders.

Another obstacle to access to justice for women in Myanmar is widespread use of informal justice mechanisms based on customary law including laws drawn from traditional, social and religious practices to resolve disputes concerning the rights of women. This is particularly problematic for rural women and/or those within ethnic minority communities. CEDAW applies equally to customary law and traditional practices and any that conflict with

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CEDAW must be eliminated. We also note that additional follow up information requested by the Committee on harmonization of customary law with Article 16 was not provided.

As a means of ensuring enforcement of women’s rights, CEDAW requires an independent, impartial and effective judiciary that is free from political influence, interference and corruption as well as from prejudices or stereotypical notions of women. The judiciary in Myanmar, as was noted by the Judicial and Legal Affairs Complaints and Grievances Investigation Committee in December 2015, suffers from widespread corruption and lacks independence, and is also prohibitively expensive and populated by judges appointed by the previous military junta. Therefore, bringing the judiciary into compliance with CEDAW will require actions across multiple platforms, including Constitutional reform to change the appointment and removal of judges to increase independence, eliminating widespread corruption and judicial vetting.

Finally, the Committee recognized that awareness of legal rights is low. Therefore, the Committee called for improvements to knowledge of legal rights which is an important step for improving civic engagement. Establishing a legal framework with legal rights is important but those rights are not useful if they are not understood and claimed by women.

### **Concluding Observation:**

#### **Provide Legal Aid and Remove Barriers to Justice**

*Recalling its general recommendation No. 33 (2015) on women’s access to justice, the Committee recommends that the State party: (a) Ensure that adequate funding is provided for legal aid and that it is provided free of charge and remove all barriers faced by women, in particular women belonging to ethnic minority groups, in gaining effective access to justice in all parts of the State party, including in rural areas. (COB ¶19(a))*

#### *Recommended Implementation Actions:*

- Ensure that the Legal Aid Law is effectively implemented and funded so that competent gender-sensitive legal aid is available for complainants and defendants, even in non-death penalty cases, and reduce or waive fees and court costs for indigent complainants; develop a campaign to grow and strengthen the legal profession.
- Ensure that judicial or other legal review is a viable option for infringements of women’s rights, including those guaranteed by CEDAW, in all parts of Myanmar; identify barriers to justice, suggest methods to increase transparency in the judicial



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system while maintaining safeguards for complainants and witnesses, and institute measures to establish and strengthen the bar association.

- Ensure that all types of complaints can be easily and effectively lodged at the national, regional and local level before independent and impartial courts with the ability to provide adequate remedy against perpetrators, including complaints for infringements of fundamental freedoms and for violations, abuses and crimes (including land confiscations) committed by the military, police or other Government authorities.
- Establish a Working Group on Access to Justice (similar to the one established for the Legal Aid Law) that would dismantle barriers and increase transparency, meet regularly and periodically, be adequately funded and implemented and include representatives of CSOs.
- Ensure that religious, customary, indigenous and informal justice systems do not discriminate against women, interfere with women's ability to access the formal justice system, or conflict with the norms, procedures and practices required by CEDAW, including establishing by law that in the case of conflicts with national law customary law may not be applied and by sensitizing formal and informal justice personnel, including administrators of informal justice officials at the village level, on CEDAW and women's rights.

### Concluding Observation:

#### Increase Awareness Regarding Law and Women's Rights

*Recalling its general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party: (b) Enhance women's legal literacy and raise awareness on the part of women and men of their rights in order to eliminate the stigmatization faced by women and girls who claim their rights. (COB ¶19(b))*

### Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement a detailed and comprehensive plan to increase awareness of women's rights, including by developing appropriate materials in multiple formats, in all local languages, and for the illiterate or disabled, and by increasing awareness-raising on the law and legal rights at the national, regional and local level for Government officials, the legislature, military, medical personnel, police, judiciary, justice personnel, teachers and the general public.

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## Concluding Observation:

### Reform to Judicial System, Including to Ensure Gender-Sensitivity

*Recalling its general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party: (c) Initiate the reforms necessary to ensure that the judiciary is independent, impartial, professional and gender-sensitive as a means of safeguarding women's rights. (COB ¶19(c))*

### Recommended Implementation Actions:

- Immediately initiate reforms to ensure that the judges and justice implementers are independent, professional and gender-sensitive, including by: appointing gender sensitive justice officials and personnel and capacity-build government officials on CEDAW and women's rights; requiring Government officials, including judges, lawyers, police, and other justice personnel at the national, regional and local levels, to participate in regular CEDAW and follow-up trainings; increasing the number of CEDAW trainers and trainings; eliminating corruption in the formal justice system, including by paying justice system personnel adequate salaries; establishing an independent monitoring system or committee to take action against justice personnel who have taken bribes and dismissing them from government positions; enforcing the Anti-Corruption Law; and making information about the Anti-Corruption Commission publicly available.
- Develop (with the input of a broad array of CSOs), adequately fund and implement a detailed and comprehensive plan to ensure women's access to the formal justice system, including by: establishing systematic and safe court houses, in particular in ethnic states and rural areas; ensuring that women complainants, witnesses, defendants, and women human rights defenders are protected from threats, harassment, retaliation, and other forms of harm before, during, and after legal proceedings; ensuring the application of international standards of competence, efficiency, independence, and impartiality and of international jurisprudence; providing and enforcing appropriate, effective remedies in a timely fashion; ensuring that evidentiary rules, investigations, and other legal and judicial procedures are impartial, are not influenced by gender stereotypes, and protect women's privacy, safety, and other human rights where necessary, for example, by protecting the woman's identity.

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## Article 4 (Temporary Special Measures (“TSM”))

### Contextual Background:

The Government should think in broad terms about TSMs, which can be instituted in combination across all substantive areas. CEDAW General Recommendations 23 and 25 give specific guidance for the use of TSMs, such as setting numerical goals and quotas, electoral reform, and financial assistance, preferential treatment and training for women candidates. The Government must institute a combination of interventions with specific time frames for realization and actors should be held accountable for not meeting gender equality targets. Since a 25% Parliamentary quota for the military is embedded in the Constitution, achieving gender parity will be more difficult and thus a Parliamentary quota for women is warranted. Other TSMs should be instituted to combat a broad range of pervasive inequalities faced by women, such as pay inequalities and the prioritization of men for higher level positions. For example, the Government should institute affirmative action policies, including capacity-building and mentoring specifically for women on a national, regional and local level. With respect to the peace process, two TSMs that have proven helpful are establishing quotas and creating thematic gender units as part of negotiations. In general, the Government should think broadly about different types of actions and ensure that there are penalties for not meeting them.

### Concluding Observation:

*The Committee calls upon the State party to use temporary special measures, such as statutory quotas, in accordance with article 4 (1) of the Convention and the Committee’s general recommendation No. 25 (2004) on temporary special measures, as a necessary strategy to accelerate the achievement of substantive equality of women and men, in particular to enhance the rights of women belonging to ethnic minority groups, including the Rohingya, and women with disabilities, in all relevant areas of the Convention. (COB123)*

### Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and adopt and implement TSMs to accelerate women’s substantive equality in the political, economic and social arena as well as all peace processes, draw up by-laws and regulations to practically implement TSMs and provide penalties for failing to implement TSMs.

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## Article 5 (Stereotyping)

### Contextual Background:

Traditional perceptions of gender roles are often used to justify the economic, social and political structures that give men authority over women and limit women's participation. These traditional and harmful stereotypes pervade all aspects of society, the economy and the law and have been justified on grounds of preserving religious and cultural integrity. It is important to address these underlying stereotypes and norms as part of COB implementation. For example, when thinking about vocational training for women the Government should expand notions of women's work to include activities other than sewing, weaving and flower arranging.

As the Government considers development of school curricula, it should think about including not only information about stereotypes but also how those stereotypes can lead to violations of women's rights. Therefore, school curricula can touch upon the interaction between embedded stereotypes and violence against women and include information about protections for women under laws and CEDAW.

In addition to gathering data on child marriage, the Government should consider steps to eliminate the practice (this is also discussed under Article 16). To eliminate child marriage, the Government must change the legal framework, as was noted by the Committee on the Rights of the Child. Specifically, the Government should set a minimum age of 18 for marriage for both boys and girls and eliminate the legality of girl marriage as young as 14 with parental consent.

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## Concluding Observation:

### Institute and Monitor Strategy to Change Gender Stereotypes

*The Committee reiterates its previous recommendation (see CEDAW/C/MMR/CO/3, para. 21) that the State party: (a) Adopt a comprehensive strategy aimed at eliminating discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and in society, as well as harmful practices such as child marriage;*

*(b) Intensify its efforts to change social norms that reinforce the traditional roles of women and men and to promote positive cultural traditions that strengthen the human rights of women and girls;*

*(e) Regularly monitor and assess the impact, through an independent expert body, of measures taken to eliminate discriminatory stereotypes and prejudice against women, in particular ethnic minority women and Muslim women in Rakhine state. (COB ¶25(a), (b), (e))*

### Recommended Implementation Actions:

- Utilizing the findings and recommendations from GEN's *Raising the Curtain* and *Behind the Silence* research, and in consultation with a broad array of CSOs, develop, adequately fund and implement a comprehensive strategy, including legislation, regulations and other measures, and education and awareness-raising programs (including by using television, newspaper and other media and by incorporating into school curricula) to: eliminate cultural practices and gender stereotypes that discriminate against women; remove barriers to reporting crimes against women; eliminate social stigmas that inhibit reporting, encourage victim-blaming, and excuse/give impunity to perpetrators, especially via state and private media; and educate regarding gender-based violence and its causes.
- Ensure that such awareness-raising and gender sensitivity programs target multiple platforms and multiple audiences, including the Government, legislature, military, police, medical personnel, judiciary, justice personnel, medical professionals, teachers and the general public at the national, regional and local level and are conducted in multiple formats and in all local languages, as well as for the illiterate and disabled.
- Establish a working group and coordinating mechanism at the national level to regularly monitor and assess the progress towards eliminating harmful stereotypes and cultural practices; ensure that this mechanism has power and authority, as well as

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budget and means, to implement forward-thinking and rights-based programming to eliminate harmful stereotypes and cultural practices throughout the country, but especially in rural areas; ensure that this mechanism includes the broad participation of CSOs, and is run by independent experts on women's rights.

### Concluding Observation:

#### Establish Gender-Sensitive Curricula

*The Committee reiterates its previous recommendation (CEDAW/C/MMR/CO/3, para. 21) that the State party: (c) Review educational textbooks and materials to eliminate discriminatory gender stereotypes. (COB ¶125(c))*

#### Recommended Implementation Actions:

- Develop (with a broad array of CSOs), adequately fund and implement gender sensitive school curricula, develop teaching materials and IEC materials (in Myanmar and local languages and for the illiterate and disabled) on gender discrimination, violence against women, CEDAW and women's rights and ensure that all teachers are periodically, regularly and adequately trained to instruct on gender awareness and discrimination.

### Concluding Observation:

#### Provide Data on Child Marriages

*The Committee reiterates its previous recommendation (CEDAW/C/MMR/CO/3, para. 21) that the State party: (d) Provide disaggregated data on the incidence of child marriage in the next periodic report. (COB ¶125(d))*

#### Recommended Implementation Actions:

- Adopt a law that sets the minimum legal of marriage at 18 regardless of parental consent, in accordance with international law.
- Develop a methodology and means to gather data on child marriages at the national, regional and local level; assign a specific department with collecting and analysing such data and preparing data for the next periodic report.

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## Article 6 (Prostitution & Trafficking)

### Contextual Background:

When reviewing laws to deter trafficking and prostitution, the Government should ensure that the provisions are not overly broad and vague and that they provide adequate protections for victims. Moreover, the laws should provide adequate accountability and penalties for all perpetrators, even those affiliated with the State. It is also essential that the Government meaningfully consult a broad-range of CSOs throughout the review and amendment process. Taking significant action now would be helpful since the U.S. will be considering shortly Myanmar's efforts to curb trafficking and based on this assessment determine whether to upgrade Myanmar to a Tier 2 category or downgrade to a Tier 3 category.

### Concluding Observation:

#### Review and Amend Anti-Trafficking in Persons Law

*The Committee recommends that the State party: (a) Expedite the review of the Anti-Trafficking in Persons Law (2005) and ensure that the new anti-trafficking legislation is comprehensive and in line with international norms and standards. (COB ¶129(a))*

### Recommended Implementation Actions:

- Adopt amendments to the Anti-Trafficking in Persons Law (2005) to ensure that it is: comprehensive in nature and in line with international standards; punishes with both criminal and civil penalties and eliminates impunity for traffickers (even members of the military and Government authorities who are directly or indirectly involved in trafficking or are negligent in dealing with or preventing trafficking cases); roots out corruption; and ensures adequate protections for victims; as part of this process, consider decriminalization of prostitution.

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## Concluding Observation:

### Address Root Causes and Increase Awareness of Trafficking and Provide Victim Assistance

*The Committee recommends that the State party: (b) Intensify efforts to address the root causes of trafficking in women and girls and ensure the rehabilitation and social integration of victims, including by providing them with access to shelters, legal, medical and psychosocial assistance; (c) Establish a national referral mechanism and intensify awareness-raising efforts aimed at promoting the reporting of trafficking crimes, the early detection of women and girls who are victims of trafficking and their referral to appropriate services. (COB ¶129(b), (c))*

*The Committee recommends that the State party: (e) Intensify efforts to address the root causes of trafficking by, inter alia, providing Rohingya women and girls with access to basic services, including education, employment and health care. (COB ¶145(e))*

### Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement a comprehensive strategy regarding how to eliminate, via Government policy, identified root causes of trafficking; for example, provide education, employment and empowerment programs; increase women's economic opportunities to earn a livelihood at home; resolve ongoing conflict; and halt land grabs and development projects.
- Develop (with the input of a broad array of CSOs), adequately fund and implement programs and policies to ensure the return, rehabilitation and social reintegration of victims of trafficking, and support already-existing victim assistance programs conducted by local CSOs, including by: providing temporary shelters as well as free legal, medical, economic and psychosocial assistance programs for victims; instituting programs to recover and reintegrate victims; protecting sex workers from harassment and abuse by the police and providing them with legal recourse for such abuse; assisting sex workers sent to prison, including by providing programs to help them reintegrate into society upon release; repatriating victims to their home area; and providing other support such as adequate medical care, counseling, financial support, housing and opportunities for further training (including vocational training).



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- Establish an easily-accessible National Referral Mechanism to report trafficking, with safeguards such as confidentiality measures and features available in local languages and for the illiterate and disabled.
  - Develop (with the input of a broad array of CSOs), adequately fund and implement at the national, regional and local level (including in primary and secondary schools) a comprehensive education and awareness-raising program in multiple formats, with materials in local languages and for the illiterate and disabled that includes: accurate, up-to-date, appropriate and culturally-sensitive information on factors contributing to trafficking and information regarding the order that removes possession of condoms as a ground for arrest.

### Concluding Observation:

#### Increase International Cooperation

*The Committee recommends that the State party: (d) Intensify efforts aimed at bilateral, regional and international cooperation to prevent trafficking, including by exchanging information with other countries in the region and harmonizing legal procedures to prosecute traffickers, particularly with neighbouring States and other relevant States in the Association of Southeast Asian Nations. (COB ¶129(d))*

### Recommended Implementation Actions:

- Increase cooperation and exchange of information at the bilateral, regional and international levels, including by: establishing a Memorandum of Understanding (MOU) with neighboring countries regarding border crossing procedures and undertaking a comprehensive education and awareness-raising campaign within affected communities regarding the MOU and its attendant responsibilities and allowing international NGOs to independently monitor anti-trafficking programs without Government interference.

### Concluding Observation:

#### Provide Information on Measures to Eliminate Exploitation of Prostitution

*The Committee recommends that the State party: (e) Provide information in the next periodic report on the exploitation of prostitution and exit programmes for women in prostitution and on measures taken to combat violence against them. (COB ¶129(e))*

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*Recommended Implementation Actions:*

- Repeal the Suppression of Prostitution Act, or amend the Suppression of Prostitution Act to provide comprehensive protections for sex workers and to ensure that it meets international standards.
- Develop a methodology and means to gather data on the exploitation of prostitution and exit programmes and violence against victims on a national, regional and local level; assign a specific department with collecting and analysing such data and preparing data for next periodic report.

## **Article 7 (Participation in Public & Political Life)**

### **Contextual Background:**

With respect to women's participation, progress has been made in recent years. However, progress has been achieved in more traditionally female fields of employment, such as education. CEDAW mandates gender parity across all fields, which requires eliminating stereotypes regarding what constitutes appropriate activities for women. It is also important to ensure that women are represented at decision-making levels. In the Ministry of Social Welfare, women account for 74.1% of workers but only 30.5% of workers at the deputy level or above. During the Constructive Dialogue, the Government attributed the dearth of women's participation at decision-making positions to "the fact that many women prioritized caring for their families over furthering their careers." (Summary Record, ¶12) This statement relies on stereotypes that violate CEDAW and does not take into account the difficult decisions that women face; it is not a choice for women but a reflection of unequal household bargaining power of women. Finally, it is also important to ensure that women's participation increases throughout the country; for example, in regional parliaments women's participation ranges from 0 to 19.4%. Therefore, it is important to take measures in ethnic and rural communities to increase women's participation.

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## Concluding Observation:

### Adopt Measures to Increase Women's Participation

*The Committee reiterates its previous recommendation (CEDAW/C/MMR/CO/3, para. 29) that the State party: (a) Adopt measures, including temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendations No. 25 and No. 23 (1997) on women in political and public life, in order to guarantee and accelerate women's full and equal participation at all levels, including the legislative, ministerial and local government (village committee) levels, as well as in the judiciary, the military, the diplomatic service and academic institutions;*

*(b) Provide information in the next periodic report on specific measures taken, including temporary special measures, to promote the representation of women with disabilities, ethnic minority women such as those belonging to the Kachin, Karen, Rohingya and other ethnic minority groups in decision-making positions. (COB ¶31(a), (b))*

### Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement detailed policies and recommendations to eliminate barriers. including: These include instituting a minimum 30% quota for women's participation in national, sub-national and IDP legislative, political, judicial and administrative bodies; establishing gender and/or women's caucuses in Parliament and develop and implement policies, trainings and mentoring programs that encourage and support women politicians (especially mothers); establishing mechanisms for recording exclusionary practices; passing affirmative action laws and policies; reforming the electoral system and laws; establishing programs to eliminate intimidation of women candidates and address prevalence of misconduct and threats to women candidates; ; collecting and making publicly available systematic, gender disaggregated data of women's political participation at all levels of government; and (i) conducting gender power analyses and gender inclusion audits.
- Develop (with the input of a broad array of CSOs), adequately fund and implement policies and programs to ensure that ethnic women are represented in all levels of government and society and in all peace processes, including by instituting programs in rural and conflict areas to increase women's knowledge of politics and women's rights.

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- Develop a methodology and means to gather data on measures taken to promote the political participation of women with disabilities and ethnic women on a national, regional and local level; assign a specific department with collecting and analyzing such information and preparing information for the next periodic report.

## Article 9 (Nationality)

### Contextual Background:

As the Government considers review of the Citizenship Law and birth registration procedures, it is useful to think in terms of international human rights and international law rather than in terms of Myanmar's national uniqueness. International human rights experts, such as the Special Rapporteur on the situation of human rights in Myanmar, believe the law does not comply with international standards as it includes over-burdensome requirements for citizenship that have discriminatory effects on racial and/or ethnic minorities.

### Concluding Observation:

*The Committee reiterates its previous recommendations (CEDAW/C/MMR/CO/3, paras. 31 and 33) and recommends that the State party amend the Citizenship Law of 1982 in order to grant citizenship to residents in the State party, particularly women and girls in northern Rakhine State, so that they can freely enjoy all human rights. It also recommends compulsory birth registration of those born in camps for internally displaced persons in order to protect them from being rendered stateless. (COB ¶ 33)*

*Recalling its previous recommendations (see CEDAW/C/MMR/CO/3, para. 43), the Committee recommends that the State party: (d) Ensure birth registration of Rohingya and those of other ethnic groups and remove all obstacles faced by Rohingya women and girls with regard to citizenship. (COB 45(d))*

### Recommended Implementation Actions:

- Ensure that the 1982 Citizenship Law is in accordance with international human rights standards and make recommendations regarding necessary amendments to the law in order to ensure that it does not contravene the right to self-identification

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and includes safeguards against arbitrary judgments and discriminatory implementation.

- Ensure that all children born in Myanmar, including in ethnic areas and IDP camps, are registered at birth and granted a birth certificate and ensure that women, especially in rural areas, have information regarding the procedures for obtaining birth registration documents for their children.

## Article 10 (Education)

### Contextual Background:

CEDAW's most important educational mandate is that women receive the same quality and type of education and have the same potential to benefit from education as men. Government policy, for example NSPAW, instead of viewing the issue in relation to the opportunities of men, generally aims to improve women's access to quality education. Therefore, education policy and NSPAW could succeed in their aims and still result in an educational system that marginalizes and discriminates against women. To comply with CEDAW, women must have equal access to education as men. This not only applies in a traditional classroom setting but also for vocational training and not only in urban areas but also rural areas throughout the country.

### Concluding Observation:

#### Eliminate Discriminatory Admission Criteria; Increase Awareness Regarding Education

*The Committee recommends that the State party: (a) Remove all discriminatory admission criteria for women to enrol for certain traditionally male-dominated courses such as engineering, intensify career guidance activities to encourage girls to pursue studies in non-traditional fields and raise awareness among teaching personnel of the importance that girls complete tertiary education. (COB ¶135(a))*

### Recommended Implementation Actions:

- Remove all discriminatory admissions criteria for women to enroll in certain fields of study.

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- Develop (with the input of a broad array of CSOs), adequately fund and implement a strategy to encourage girls to pursue studies in non-traditional fields and raise awareness among teaching personnel on the importance of girls' education.
  - Develop (with the input of a broad array of CSOs), adequately fund and implement detailed, comprehensive and inclusive national policies, programs and recommendations to ensure that all women and girls (including IDPs) are able to enjoy their rights to a quality education and to increase school retention rates, including by: eliminating laws, provisions and admissions criteria (including in the National Education Law) that discriminate against women and girls; instituting affirmative action policies starting from primary school to target challenges to education faced by women, especially in rural and ethnic areas; developing and implementing awareness-raising on gender equality in educational curricula; taking measures to increase safety for girls attending school, including ending armed conflict and developing transportation infrastructure throughout the country; collecting gender-disaggregated data on dropout rates and instituting special programs, such as scholarships (or subsidized facilities), to increase school retention rates; officially recognizing diplomas from non-Governmental schools; and re-establishing evening classes, schools, and colleges so that women and girls who work during the daytime can continue their studies.

### Concluding Observation:

#### Increase Education Budget

*The Committee recommends that the State party: (b) Increase the budget allocation for the education sector in order to improve girls' access to education. (COB ¶135(b))*

### Recommended Implementation Actions:

- Increase Government spending, so that at least 20% of the national budget is spent on education in order to provide truly free compulsory quality basic education throughout the country, particularly in rural areas (without additional costs for private tuition, books or supplies).
- Focus Government spending on: ensuring the availability of educational facilities, especially secondary schools and especially in rural areas, so that students do not have to travel far to reach schools and can access education without concern for personal safety; ensuring an adequate number of properly-trained teachers and educational professionals who are provided with decent salaries, social security benefits and gender-sensitivity training as well as upgrading teacher-training

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colleges; and ensuring adequate education in rural areas by recruiting and training teachers from local ethnic communities and allowing instruction in local languages.

### Concluding Observation:

#### Increase Literacy among Women

*The Committee recommends that the State party: (c) Ensure that the national education strategic plan 2016-2021, which is currently being finalised, provides for programmes aimed at improving literacy among women throughout the State party, including through the provision of adult education. (COB ¶135(c))*

#### Recommended Implementation Actions:

- Ensure that the National Education Strategic Plan 2016-2021 provides for programmes aimed at improving literacy among women and girls in all parts of the country, including rural areas and for the disabled, and ensure that adult women have access to literacy programs at no cost.

### Concluding Observation:

#### Provide Data on Ethnic Women; Remove Stereotypes in Vocational Training

*The Committee recommends that the State party: (d) Provide data in the next periodic report on the educational status of ethnic minority women and girls and review vocational training curricula in order to remove gender stereotypes and ensure the diversification of fields of studies for women and girls. (COB ¶135(d))*

#### Recommended Implementation Actions:

- Develop a methodology and means to gather data on the educational status of ethnic minority women and girls on a national, regional and local level; assign a specific department with collecting and analysing such data and preparing data for next periodic report.
- In connection with the actions undertaken under Article 5 above, eliminate gender stereotypes in vocational training.

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## Concluding Observation:

### Provide Sexual and Reproductive Health Education

*The Committee recommends that the State party: (e) intensify the provision of age-appropriate education on sexual and reproductive health and rights and ensure that it is systematically integrated into school curricula. (COB ¶135(e))*

### Recommended Implementation Actions:

- In connection with the actions undertaken under Article 12 below, develop (with the input of a broad array of CSOs), adequately fund and implement comprehensive health and sex education programs for all students at the national, regional and local level in both primary and secondary schools with materials in all local languages as well as for the illiterate and disabled.

## Article 11 (Employment)

### Contextual Background:

The structural inequalities, occupational segregation and gender pay gap identified as problems by the Committee are the result of embedded stereotypes. In Myanmar, men's work is perceived as more valuable and women are channeled into traditionally "female" occupations. These stereotypes influence legal barriers placed on women, such as Article 352 of the Constitution which prohibits women from holding certain jobs that are not "suitable" for them. These types of provisions violate CEDAW and cannot be justified as "protecting women." While establishing a legal framework and legal protections for women in the workplace is important, establishing adequate enforcement mechanisms for those laws is even more crucial; for example, gender pay gaps persist despite laws guaranteeing equal pay. Therefore, the Government must ensure adequate enforcement of laws and penalties for violations.



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## Concluding Observation:

*The Committee urges the State party: (a) To intensify efforts to gradually transform and reduce the informal sector of employment, eliminate structural inequalities and occupational segregation and reduce the gender pay gap by enforcing the principle of equal pay for work of equal value;*

*(b) To take appropriate sanctions to deter sexual harassment at the workplace and ensure women's access to justice in cases of employment discrimination, including on grounds of pregnancy;*

*(c) To conduct regular labour inspections aimed at enforcing compliance with labour laws;*

*(d) Provide data in the next periodic report on the status of women domestic workers in the State party;*

*(e) To consider ratifying the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization. (COB ¶137)*

## Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement a strategy and policies on a national, regional and local level to reduce the informal sector of employment and eliminate structural barriers and inequalities, including by: adopting laws and policies to eliminate the gender pay gap; providing access to justice for sexual harassment in the workplace and for discrimination in employment; and conducting regular inspections for compliance with labor laws.
- Develop a methodology and means to gather data, including regarding challenges faced by women, on the status of all women workers, including domestic workers, on a national, regional and local level; assign a specific department with collecting and analysing such data and preparing data for the next periodic report.
- Ratify International Labour Organization Conventions Nos. 100, 111 and 189.

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## Article 12 (Health)

### Contextual Background:

The COB regarding health for the most part target specific problems, such as improving conditions for those with HIV or AIDS. Yet it is important to think more broadly about how to holistically improve the overall health care system by improving services, training, delivery and facilities. To do this, the overall health care budget must increase and individual health care outlays must decrease (in fact, the Government recognized that health care costs are high at the Constructive Dialogue in Geneva). According to the World Bank, health spending accounted for only 2.3% of Gross Domestic Product in 2014 in Myanmar (compared to 6.5% in Thailand and 5.7% in Cambodia). Improving the health care system is especially important for women in rural areas, (in which 70% of the population lives).

The COB reflect the importance of ensuring sexual and reproductive services and rights for women throughout the country. It is important to integrate the Article 12 recommendations with actions undertaken under Article 10 in order to ensure a comprehensive sexual and reproductive health rights policy that includes information via multiple platforms and in schools as well as comprehensive reproductive services, including access to free contraception throughout the country. Moreover, on the issue of abortion, the Government recognized at the Constructive Dialogue in Geneva that the law should be amended to allow for exceptions in cases of rape, incest and fetal abnormalities. It is important to ensure immediate changes to the Penal Code since unsafe abortion remains a leading cause of maternal mortality in the country. Furthermore, while the Government asserted that emergency contraception (EC) is provided in post-rape kits, it is important to make those kits readily available, in particular in rural and ethnic areas.

### Concluding Observation:

#### Combat HIV/AIDs

*The Committee recommends that the State party: (a) Intensify efforts to combat HIV and AIDS, in particular preventive strategies, and increase the provision of free antiretroviral treatment to all women living with HIV or AIDS, in particular pregnant women, in order to prevent mother-to-child transmission, as well as to men living with HIV or AIDS. (COB ¶139(a))*

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*Recommended Implementation Actions:*

- Develop (with the input of a broad array of CSOs), adequately fund and implement on a national, regional and local level comprehensive and effective policies to increase awareness of and prevent transmission of HIV and AIDs, including by developing education and awareness-raising materials and programs, in all local languages and for the illiterate and disabled and to by ensuring that all women, including pregnant women and women in prisons, and men living with HIV or AIDs receive free antiretroviral treatment and are not subject to coerced sterilization.
- Develop (with the input of a broad array of CSOs); adequately fund and implement on a national, regional and local level a strategy and policies to: eliminate discrimination against those afflicted with HIV or AIDs and provide access to justice for those living with HIV or AIDs who are discriminated against.

**Concluding Observation:**

**Remove Restrictions on Abortion**

*The Committee recommends that the State party: (b) Amend its legislation to legalise abortion not only in cases in which the life of the pregnant woman is threatened, but also in all cases of rape, incest and severe fetal impairment, and to decriminalise abortion in all other cases. (COB ¶139(b))*

*Recommended Implementation Actions:*

- Amend legislation, the Penal Code and policies that restrict women's reproductive rights or criminalize abortion so that women do not face interference with reproductive decision-making, can access abortion not only in cases of threats to life, but also in cases of rape, incest, fetal impairment and in all other cases and are not required to obtain permission from their husband to undergo sterilization.

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## Concluding Observation:

### Reduce Maternal and Infant Mortality by Providing Adequate Resources

*The Committee recommends that the State party: (c) Strengthen the programme for the reduction of maternal, infant and child mortality and ensure the full implementation of the programme for free obstetric care, increasing its geographical coverage, by providing adequate financial and human resources;*

*(f) Adopt a comprehensive plan with clear targets and indicators aimed at eradicating infant mortality. (COB ¶139 (c), (f))*

#### Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement effective laws, plans, policies and programs to decrease maternal, infant and child mortality and to improve access to adequate maternal and child health care at the local level, including by: providing free obstetric care at the national, regional and local level; identifying factors that contribute to the high mortality rates; allowing CBOs to operate freely and providing them with adequate support; supporting ethnic-run hospices and clinics that provide care to communities that are without Government health care services; establishing hotlines or safe service centers to provide health counseling for women and girls; establishing drop-in centers that provide health advice or other women's-related services; encouraging the exchange of health experiences by establishing peer health education programs; implementing free services to check women's health every six months at the village level; and improving education (especially regarding vaccines) and availability of medical personnel.
- Drastically reduce military spending (which is more than education and health spending combined) so that at least 15% of the national budget can be spent on health in an effort to reduce maternal, child and infant mortality, and make health care budget figures widely and publicly available.

## Concluding Observation:

### Strengthen Midwife and Nurse Training to Improve Health Care

*The Committee recommends that the State party: (d) Strengthen the training of midwives and nurses to improve the access of women and girl to adequate health care. (COB ¶139(d))*

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*Recommended Implementation Actions:*

- Develop (with the input of a broad array of CSOs), adequately fund and implement at the national, regional and local level laws, plans, policies and programs to improve training of all medical personnel, including midwives and nurses, especially by increasing training of local villagers interested in medical care so that they can provide services at the local level.
- Establish a system for accountability or monitoring of doctors and medical personnel, including a complaint mechanism to take action against unethical medical personnel and practices.

**Concluding Observation:**

**Improve Access to Health Information, including Sexual and Reproductive Services**

*The Committee recommends that the State party: (e) Ensure the access of women and girls to information on their sexual and reproductive health and rights, as well as their access to related services, including contraceptives. (COB ¶139(e))*

*Recommended Implementation Actions:*

- In connection with actions undertaken under Article 10 above, develop, adequately fund and implement effective laws, plans, policies and programs on a national, regional and local level to ensure that women and girls have complete access to sexual and reproductive health, education, services and rights, including by: implementing a comprehensive public reproductive health education program and providing free contraceptives to women, men and adolescents throughout the country, in school and otherwise; ensuring that teachers receive adequate training to provide reproductive health education; ensuring that the special needs of women in rural areas are addressed so that they can attend family planning education programs; and eliminating language barriers by publishing and widely disseminating materials in local languages and in audio for illiterate women (e.g. illustrated, pictorial and non-print materials).

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## Article 13 (Economic & Social Benefits)

### Contextual Background:

According to the Asian Development Bank, Myanmar has the highest poverty rate in the region, at 25.6% and 85% of those living in poverty live in rural areas, according to the Framework for Economic and Social Reforms. Women are especially impacted by this lack of economic opportunity and the Organisation for Economic Co-operation and Development's analysis on the gender dimension of poverty identifies restrictive laws and limited access to natural resources, land, and financial resources, such as loan and credit facilities, as important factors. CEDAW's General Recommendations 16 and 17 and the Sustainable Development Goals suggest poverty reduction strategies such as taking into account unpaid and household work, collecting data regarding unremunerated domestic activities of women to integrate into Gross National Product, recognizing the value of unpaid care and domestic work through provision of public services infrastructure and social protection policies and the promotion of shared responsibility within the household. Therefore, it is important to think about multiple strategies for eliminating poverty, reducing the gendered impacts of poverty and encouraging sustainable development which improves the lives of women throughout the country.

### Concluding Observation:

#### Increase Efforts to Reduce Poverty and Remedies for Loss of Land and Natural Resources

*The Committee recommends that the State party intensify its efforts aimed at poverty reduction and sustainable development by facilitating the participation of women in the formulation of economic development plans and their access to credit and loan facilities. It also recommends that the State party further intensify its efforts to eliminate all customs and traditions which negatively affect women's access to economic resources. The Committee requests the State party to provide in its next periodic report information on the applicability of the Social Security Law (2012) to women in the informal employment sector and on proper legal remedies for women to contest the granting of concessions and/or to obtain adequate compensation for the loss of land. (COB ¶41)*

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*Recommended Implementation Actions:*

- Develop (with the input of a broad array of CSOs), adequately fund and implement on a national, regional and local level laws, plans, policies and programs to reduce poverty and increase the participation of women in the development of all poverty reduction strategies, economic development plans, natural resource and land management laws and plans, including by: ensuring that all development projects are scrutinized by independent and transparent Gender, Environmental, Social and Health Impact Assessments that are inclusive of local stakeholders, especially women; instituting sustainable agricultural policies and allowing local communities, with equal participation of women, to manage natural resources; ensuring that the income generated by resource extraction and development projects is spent on local development and on public service sectors; ensuring affordable electricity, clean water, health care and education at the local level; (e) eliminating arbitrary taxation and demands for bribes; developing and implementing Government policies to provide childcare for working mothers; and providing means of livelihoods – including access to markets for agricultural produce and vocational skills training – at the local level.
- Eliminate customs and traditions that impede women’s access to economic resources, including by ensuring that all women, especially at the local level, have access to land, natural resources and credit and loan facilities.
- Develop a methodology and means to gather data regarding the applicability of the Social Security Law (2012) to women in the informal sector of employment; assign a specific department with collecting and analyzing such information and preparing information for the next periodic report.
- Ensure the ability of women to access a functioning and responsive complaint mechanism for the loss of lands and harms suffered as a result of development projects, and to access legal remedies and obtain compensation for those harms in a timely manner; develop a methodology and means and assign a specific department to collect data regarding such mechanisms and remedies so that such data can be including in the next periodic report.

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## Article 14 (Rural Women)

### Contextual Background:

As gender considerations should be mainstreamed across all subject areas, such as education and health, the specific and special needs of rural women should be mainstreamed within that analysis. CEDAW recognizes the special needs of rural women by devoting an entire Article to the topic and the Committee issued its General Recommendation 34 on the rights of Rural Women in March 2016 to emphasize this point. The needs of rural women are especially salient in Myanmar, given the high percentage of the rural population and the low participation rate of women in formal state and regional parliaments and informal local level decision-making bodies. The special challenges faced by rural women were noted across multiple Shadow Reports in the CEDAW process. Therefore, any gender impact assessment should have a special sub-category to determine the specific impact on and needs of rural women and a COB implementation strategy should incorporate the needs of rural women across all substantive areas.

### Concluding Observation:

#### Increase Women's Participation in Policy Formulation; Improve Access to Basic Services

*The Committee recommends that the State party eliminate all barriers that restrict the participation of rural women in policy formulation and expand programmes aimed at facilitating their access to education, employment and health care in order to promote their economic empowerment. The Committee also recommends that the State party ensure effective consultations with affected communities before granting concessions to companies or third parties for the economic exploitation of lands and territories traditionally occupied or used by women, and that it secure the free, prior and informed consent of the women affected. (COB ¶143)  
[Also discussed Under Article 13]*

### Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement a strategy and plan to ensure rural women's access to education, employment and health care and ability to contribute to the development of education, employment and health care delivery in rural areas



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- Develop (with the input of a broad array of CSOs), adequately fund and implement a strategy to eliminate all barriers - such as the negative impact of drug production, trade and addiction - faced by rural women in accessing adequate education, employment and health care; for example, in the context of drug abuse, prosecute all those invested in the cultivation, production, and distribution of narcotic and psychotropic substances in ethnic communities; support local organizations that provide drug eradication and treatment services; provide programs to encourage farmers to eradicate poppy production; and support programs for families affected by drug abuse (especially women who must become primary breadwinners) and services for drug abusers.
  - Ensure that local communities and women are consulted in all development and investment projects; impose a temporary moratorium on all development and investment projects until communities give free, prior and informed consent undertaken inclusive of women's voices at every stage of the consultation process.

### **Concluding Observation:**

#### **Ensure Basic Services for IDPs**

*Recalling its previous recommendations (see CEDAW/C/MMR/CO/3, para. 43), the Committee recommends that the State party: (c) Ensure that internally displaced women and girls have access to basic services, including education and health care, and intensify efforts for their resettlement in the context of the Rakhine State government resettlement plan. (COB 45(c))*

### *Recommended Implementation Actions:*

- Ensure that the Government and military respect international humanitarian law at all times, and that their actions adhere to international humanitarian law standards.
- Develop (with the input of a broad array of CSOs), adequately fund and implement a strategy and plan to: ensure that IDPs receive adequate basic services and can contribute to the development of education, employment and health care delivery plans to IDPs; ensure that all IDPs receive equal treatment and have equal access to basic services; allocate sufficient budgetary resources for the provision of services to IDPs; and allow free and unimpeded access by humanitarian actors, international human rights organizations, journalists and other credible international observers.

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- Develop (with the input of a broad array of CSOs), adequately fund and implement a strategy and plan to resettle IDPs while respecting the rights and special needs of women and girl IDPs.

## **Article 16 (Marriage & Family Life)**

### **Concluding Observation:**

*The Committee urges the State party: (a) To amend or repeal the Buddhist Women Special Law, the Monogamy Law, and the Population Control Health-care Law in order to ensure that marriage laws comply with articles 2 and 16 of the Convention. (COB ¶47(a)) [Also Discussed Under Article 2]*

*The Committee urges the State party: (b) To raise the minimum legal age of marriage with parental consent in order to eliminate child marriage and ensure that women who enter into marriage under customary and religious laws are afforded protection. (COB ¶47(b))*

### *Recommended Implementation Actions:*

- Develop (with the input of a broad array of CSOs), adequately fund and implement a strategy and plan on a national, regional and local level to eliminate child marriage, including by raising the minimum legal age of marriage to 18 (regardless of parental consent), eliminating factors (especially religious and customary practices) that contribute to the prevalence of child marriage and ensuring legal and other protections are available to victims.

## **General Recommendation 19 (Violence Against Women)**

### **Contextual Background:**

The Government asserted at the Constructive Dialogue that the draft Prevention (and Protection) of Violence against Women (“PoVAW”) bill was in line with CEDAW but there are significant ways in which the current draft law does not meet CEDAW standards. (Summary Record, ¶13). The most recent draft, for example, does not provide a comprehensive definition of rape or an easily understood process for obtaining restraining orders. Further, violations of reproductive and sexual rights are included yet comprehensive pre-trial and testimonial safeguards are not. It is crucial to make passage of a CEDAW-

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compliant PoVAW law a priority so that women in Myanmar are protected from all forms of violence. Without a comprehensive PoVAW law, for example, women are not protected from workplace harassment nor do they have means of obtaining protection orders. Furthermore, it is crucial to hold broad-based consultations with CSOs in order to ensure a comprehensive law that meets with international human rights standards.

During the review in Geneva, the Government asserted that “no one is above the law,” and that sexual violence against women by the military was investigated, appropriate action was taken and victims could apply for damages. Yet, the law in fact presents barriers to holding military actors accountable, for example Article 445 of the Constitution and the Former President’s Security Law. Moreover, the current draft PoVAW law does not allow for trials of accused military personnel in civilian courts which would exempt conflict-related sexual violence, create conditions for impunity to thrive and allow for different legal frameworks to be applied depending upon the position of the perpetrator. Furthermore, civilian jurisdiction over military crimes can only be invoked in situations where the crimes were committed by the military during “non-active duty” and through a process that lacks transparency making it impossible to know which crimes military actors were prosecuted for and the resulting penalties. It is essential that all instances of military-perpetrated acts of violence against women are under the ambit of civilian justice, ideally a CEDAW-compliant PoVAW Law, and that the process and standards used are made public and transparent.

### **Concluding Observation:**

#### **Adopt a CEDAW-Compliant PoVAW Law and Curb Use of Traditional Justice Mechanisms**

*Recalling its general recommendation No. 19 (1992) on violence against women, and its previous recommendations (see CEDAW/C/MMR/CO/3, para. 25), the Committee recommends that the State party: (g) Ensure that the bill on the prevention and protection of violence against women complies with the Convention and is adopted without further delay, and curb the use of traditional justice mechanisms that do not provide effective redress for women and girls who are victims of violence. (COB ¶127(g))*

#### *Recommended Implementation Actions:*

- Prioritize and adopt a comprehensive PoVAW Law that incorporates the comments of civil society and the public and includes, *inter alia*: comprehensive protection against all forms of violence, including emotional, economic, domestic and sexual violence (including marital rape) and sexual harassment; a comprehensive definition of VAW as defined in General Recommendation 19 and the Council of Europe

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Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention); clear criminal penalties for perpetrators as well as civil remedies, and rehabilitation and reparations for victims; provisions which adhere to accepted international conventions; provisions to ensure the integrity and dignity of women who have experienced violence, including during the investigation and prosecution of cases; effective protective measures and health, psychosocial and other support for victims; specific penalties for offenders of sexual violence depending on the degree and severity of the offense; clear implementing and accountability mechanisms; a very limited use of mediation; and rehabilitation mechanisms and services for the perpetrators of VAW.

- Ensure that an adequate budget is allocated for the implementation of the PoVAW law and that related initiatives are developed, such as crisis shelters and one-stop service centers, and that linkages with police, medical personnel, legal service providers and psychosocial counselors who have been trained to effectively respond to incidents and support women are available.
- Ensure that the PoVAW law provides for an accessible, streamlined and gender-sensitive legal process for victims, including by reducing costs and the length of time and number of court visits required.
- Develop (with the input of a broad array of CSOs), adequately fund and implement a comprehensive strategy, plan and policies to raise awareness of the PoVAW law in order to ensure that the general public in all geographic areas is made aware of the protections and requirements of the law.
- Ensure that the application of the PoVAW law is not hampered by the application of traditional, customary, tribal or religious laws that discriminate against women, do not hold men accountable for violence or are in contravention of CEDAW.

### **Concluding Observation:**

#### **Definition of Rape and Marital Rape**

*Recalling its general recommendation No. 19 (1992) on violence against women, and its previous recommendations (see CEDAW/C/MMR/CO/3, para. 25), the Committee recommends that the State party: (a) Make full use of the Convention, the general recommendation and related jurisprudence when reforming domestic laws, including the Penal Code, to ensure that the definitions of rape and marital rape are in full compliance with the Convention. (COB ¶27(a))*

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*Recommended Implementation Actions:*

- Immediately amend the Penal Code to ensure that the definition of rape is in full compliance with CEDAW, ideally by adopting a definition of rape that meets international standards, such as the definition contained in the Rome Statute, and to clarify that marital rape is included in the definition of rape such that the relationship between the parties is not a defense to rape.

**Concluding Observation:**

**Protections for Victims Filing Complaints**

*Recalling its general recommendation No. 19 (1992) on violence against women, and its previous recommendations (see CEDAW/C/MMR/CO/3, para. 25), the Committee recommends that the State party: (c) Investigate cases in which women who accuse members of the military and armed groups of sexual violence are threatened and/or revictimized, and punish the perpetrators, and ensure that comprehensive and effective victim and witness protection programmes are in place. (COB ¶127(c))*

*Recommended Implementation Actions:*

- Develop (with the input of a broad array of CSOs), adequately fund and implement a comprehensive strategy, plan, policies and laws to ensure that women victims of gender-based violence (“GBV”) can access at the national, regional and local level comprehensive and effective witness protection programs, are protected when they report incidents of violence from threats, intimidation or retaliation from the perpetrator (even a state actor) or the community, and can rely on confidentiality when they file complaints, including to the MNHRC.
- Ensure that the law provides immediate protections mechanisms for victims of sexual violence, including the ability to obtain temporary protections orders and the availability of other measures to ensure the safety of complainants and their families.
- Ensure that all cases of threats, intimidation or retaliation of victims are investigated swiftly by an independent, competent judicial authority which can provide adequate remedy and which is available at the national, regional and local level.

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## Concluding Observation:

### Data Regarding Protection Orders

*Recalling its general recommendation No. 19 (1992) on violence against women, and its previous recommendations (see CEDAW/C/MMR/CO/3, para. 25), the Committee recommends that the State party: (d) Provide information in the next periodic report on the legal procedure for the issuance of protection orders and provide data with respect to the use of such orders that are disaggregated by age, ethnicity and relationship between the victim and perpetrator. (COB ¶27(d))*

#### Recommended Implementation Actions:

- Develop a methodology and means to gather data on the issuance of protection orders at the national, regional and local level, and to disaggregate data by age, ethnicity and relationship between the victim and perpetrator; assign a specific department with collecting and analyzing such data and preparing data for the next periodic report

## Concluding Observation:

### Encourage Reporting and Provide Shelters

*Recalling its general recommendation No. 19 (1992) on violence against women, and its previous recommendations (see CEDAW/C/MMR/CO/3, para. 25), the Committee recommends that the State party: (e) Encourage reporting by victims of all forms of gender-based violence against women and girls, in particular ethnic minority women, and ensure that shelters are adequately equipped and available to women who are victims of violence. (COB ¶27(e))*

#### Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement a strategy, policy, plan or program to encourage reporting of gender-based violence crimes, including by guaranteeing the safety of all GBV victims and to establish at the national, regional and local level education and awareness-raising programs to eliminate both the stigma and discrimination experienced by survivors of sexual violence and the gender stereotypes that underlie such violence.

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- Establish and adequately fund support mechanisms for women victims of all forms of violence, including GBV, including by: establishing in all states and divisions of the country temporary and permanent shelters and one-stop service centers for survivors of violence at which victims can receive legal aid, health care, psychological counseling, economic assistance and other support.
  - Allow CSOs to operate freely to empower and provide services to victims without restrictions or harassment, including by eliminating barriers to the registration process.

### Concluding Observation:

#### Gender Sensitivity Training of Medical and Justice Personnel

*Recalling its general recommendation No. 19 (1992) on violence against women, and its previous recommendations (see CEDAW/C/MMR/CO/3, para. 25), the Committee recommends that the State party: (f) Ensure training of law enforcement and other relevant personnel on the strict application of relevant provisions of criminal law and in gender-sensitive handling of complaints of gender-based violence against women, including domestic violence. (COB ¶127(f))*

### Recommended Implementation Actions:

- In connection with actions undertaken under other Articles above, develop (with the input of a broad array of CSOs), adequately fund and implement gender-sensitivity education and awareness-raising programs that include information on: all forms of violence against women, including domestic violence; the protections for victims of GBV afforded by criminal and international law; and the best practices for gender-sensitive and culturally-sensitive treatment, including medical treatment, of victims.
- Ensure that such awareness-raising and gender sensitivity programs are provided on a non-discriminatory basis and include information regarding respect for the safety, security and confidentiality of victims.
- Ensure that such awareness-raising and gender sensitivity programs target multiple platforms and multiple audiences, including the Government, legislature, military, police, medical personnel, judiciary, justice implementers, teachers, service providers and the general public at the national, regional and local level and are conducted in all local languages, as well as for the illiterate and disabled (e.g. by developing illustrated, pictorial and non-print materials).

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## Concluding Observation:

### Eliminate Impunity for Conflict-Related Sexual Violence and Gender Based Violence against Ethnic Women, Including for Military Perpetrators

*Recalling its general recommendation No. 19 (1992) on violence against women, and its previous recommendations (see CEDAW/C/MMR/CO/3, para. 25), the Committee recommends that the State party: (b) Repeal all laws that perpetuate impunity for sexual violence committed during and after conflict and expedite the investigation and prosecution of crimes of sexual violence perpetrated by the military and armed groups. (COB ¶127(b))*

#### Recommended Implementation Actions:

- Eliminate impunity for the military and Government actors, including by eliminating immunities provided for in the Constitution and by legislation; ensure that cases, including for conflict-related sexual violence (“CRSV”) against military personnel, including commanding officers, are tried in civilian courts, in military courts under the ambit of the PoVAW law or by an independent international authority; ensure that all prosecutions proceed swiftly and according to a transparent trial process and international standards, such as obligations under Security Council Resolutions, international humanitarian law and the Declaration of Commitment to End Sexual Violence in Conflict.
- Ensure that victims of CRSV are entitled to and receive compensation and reparation.
- Develop, adequately fund and implement policies to prohibit and prevent sexual assault and other forms of violence by security forces, including through specialized training and sensitivity programs for service providers, state and non-state actors, and by establishing an independent monitoring board of all security forces.



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## Concluding Observation:

*Recalling its previous recommendations (see CEDAW/C/MMR/CO/3, para. 43), the Committee recommends that the State party: (b) Promptly investigate and prosecute cases of gender-based violence targeting Rohingya women and other ethnic minority women, and ensure that those convicted are punished with appropriate sanctions; (f) Urgently establish an independent body to investigate allegations of violence against ethnic minority women and girls, including sexual and gender-based violence, and prosecute alleged perpetrators and, if convicted, punish them with appropriate sanctions. (COB 45(b), (f)).*

## Recommended Implementation Actions:

- Investigate and prosecute all cases of GBV against ethnic women, including those perpetrated by security forces, in civilian courts or in military courts under the ambit of the PoVAW law and ensure that all prosecutions: proceed swiftly; are conducted according to a transparent trial process and international standards; result in appropriate sanctions for perpetrators; and provide appropriate compensation and redress for victims.
- Eliminate impunity for the military and Government actors, including by eliminating immunities provided for in the Constitution and by legislation.
- Immediately establish an independent body to investigate allegations of violence against ethnic women and girls with the authority to prosecute and punish perpetrators.
- Institute policies to prohibit and prevent sexual assault and other forms of violence by security forces, including through specialized training programs, and establish an independent monitoring board of all security forces.

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## **General Recommendation 30 (Women in Conflict and Post-Conflict Situations)**

### **Contextual Background:**

The resolution of conflict is an important issue for Myanmar and is an especially important issue for women, in particular rural and ethnic women. Unfortunately, the gendered impact of conflict, recognized by CEDAW in its General Recommendation 30, has not been fully incorporated into the peace framework in Myanmar. At the 21<sup>st</sup> Century Panglong Conference, women accounted for 13% of participants (an increase, however, from 7% at the January peace talks). Of the 72 papers presented at the Conference only 21, or 29%, touched upon gender, indicating that gender has been marginalized rather than mainstreamed across negotiations. Much work still needs to be done to change the mindset of negotiators so that gender is seen as an integral component of peace negotiations. This can be accomplished by, for example, forming gender sub-committees and making opportunities for women's CSOs to interface directly with negotiators. Another method for increasing women's agency is to ensure that they are not described only as victims of conflict but are given active, decision-making roles at all stages of the process, not just "allowed" to attend the proceedings.

The COB call for the development of a National Action Plan on the implementation of the Security Council's Women and Peace and Security agenda. The development of this National Action Plan should not be postponed or contingent upon the conclusion of peace negotiations but occur simultaneously. In fact, the National Action Plan can help to guide the process towards a more inclusive role for women.

Finally, it is important to note that the Committee made ensuring accountability for conflict-related sexual violence ("CRSV") a priority, by calling for expedited investigations (COB ¶27(b)) and by calling for expedited follow up reporting on this issue in July 2018. Therefore, it is crucial to make accountability for CRSV a priority issue in the COB implementation plan and to ensure that the peace negotiations also deal with this topic. Accountability and reparations for CRSV, and past conflict-related human rights abuses in general, must be available at the national level and any negotiated peace agreement must not include amnesty for such crimes, even if the military and Ethnic Armed Organizations should agree upon such amnesty. Accountability and reparations are required by CEDAW as well as by other international law instruments, such as the Security Council Resolutions on Women and Peace and Security.

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## Concluding Observation:

### 1325 National Action Plan

*The Committee urges the State party: (a) To give due consideration to the Committee's general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations by developing a comprehensive national action plan for the implementation of resolution 1325 (2000) on women and peace and security to address all areas of concern in order to ensure durable peace in the State party. (COB ¶13(a))*

#### Recommended Implementation Actions:

- Develop (with the input of a broad array of CSOs), adequately fund and implement a 1325 National Action Plan.

## Concluding Observation:

### Women's Participation in Peace and Post-Conflict Reconstruction Process

*The Committee urges the State party: (b) To fully involve women at all stages of the post-conflict reconstruction process, including in decision-making, in line with resolution 1325 (2000), and take into consideration the full spectrum of the Security Council's women and peace and security agenda as reflected in its resolutions 1820 (2008), 1888 (2009), 1889 (2009), 2122 (2013) and 2242 (2015) as well as in the general recommendation No. 30. (COB ¶13(b))*

*Recalling its previous recommendations (see CEDAW/C/MMR/CO/3, para. 43), the Committee recommends that the State party: (g) Take specific measures aimed at ensuring that representatives of ethnic minority women groups participate in the peace processes, including conflict and post-conflict processes. (COB ¶45(g))*

#### Recommended Implementation Actions:

- Declare a nationwide ceasefire and an end to military attacks and anti-insurgency campaigns against ethnic civilians in order to prevent violations of human rights by security forces, including bringing to an end the use of CRSV.

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- Ensure that women, especially ethnic women, fully, equally and effectively participate in all peace negotiations, post-conflict planning and peace building, including by: mandating a quota of a least 30% women’s participation in all peace processes and negotiations, including at the decision-making level and as ceasefire monitors and commissioners; ensuring that any peace agreements represent the views of groups which are broadly representative of women’s views and interests; and promoting women’s leadership via women’s leadership training programs and financial assistance.
  - Appoint National Gender Advisors and/or gender thematic units to ensure that gender concerns are mainstreamed across all substantive and procedural aspects of the peace process.
  - Develop mechanisms for recording and reporting exclusionary practices in the peace process such as gender justice scorecards and complaints mechanisms/ ombudsperson functions.
  - Exclude, as part of ensuring accountability, amnesties for CRSV in any negotiated peace agreement and investigate and prosecute all crimes committed by security forces before independent civilian courts which meet international standards of fairness.

### Concluding Observation:

#### Provide Information on Legal Protections for Women’s Human Rights

*The Committee urges the State party: (c) To include in its next periodic report information on its legal framework, policies and programmes for ensuring the human rights of women in conflict prevention, conflict and post-conflict situations, and to provide additional information on its implementation of the Security Council’s agenda on women and peace and security in line with the general recommendation No. 30 (2013). (COB ¶13(c))*

### Recommended Implementation Actions:

- Develop a methodology and means to gather information on the legal framework, policies and programs to ensure the human rights of women in conflict prevention, conflict and post-conflict situations and implementation of the Women and Peace and Security agenda; assign a specific department with developing and collecting such data and preparing data for next periodic report.

# Considerations for Developing

a CEDAW Concluding Observations Implementation Plan

in Myanmar

January 2017

