Women Peace Network – Arakan
Submission to the 64th Session CEDAW Committee for Consideration of Myanmar’s Combined Fourth and Fifth Periodic Reports

June 2016

In its 2008 Concluding Observations on the Second and Third Periodic Report of Myanmar, the CEDAW Committee expressed concerns regarding multiple forms of discrimination against women in Myanmar in general and Rohingya women in particular. The Government of Myanmar (“the Government”) has not taken significant steps to address these concerns in the eight years since, and instead has exacerbated discrimination against Rohingya women by restricting their most basic rights and failing to prevent and address violence against them.

Women throughout Myanmar face discrimination. Targeted for their religion and ethnicity in addition to their gender, Rohingya women confront multidimensional discrimination, as each form of discrimination compounds the other. Since the Concluding Observations in 2008, the conditions for Rohingya and other Muslim women have deteriorated precipitously, making the already oppressive situation desperate for many. The Government has continued, expanded, and entrenched policies limiting Rohingya freedom of movement, marriage, childbirth, and access to education, healthcare, and livelihoods—policies that often have a heightened impact on women. The Government has continued to deny Rohingya citizenship and gone further to revoke their right to vote and participate in elections for the first time. It has also failed to adequately protect victims or address large scale violence against Rohingya. The largest waves of violence occurred in 2012, resulting in hundreds of deaths and the displacement of over 100,000. The conditions in the internally displaced person (IDP) camps and the highly militarized villages in northern Rakhine State have led hundreds of thousands to flee the country, despite the risk of death and sexual abuse at the hands of trafficking gangs during the dangerous journey. The perilous situation prompted the Human Rights Council to adopt a resolution on July 3, 2015 condemning “gross violations of human rights and abuses … in Rakhine State, in particular against Rohingya Muslims,” and called upon the Government to address, prevent, and ensure accountability for widespread discrimination and its related impact.1

The new Government led by the National League for Democracy (“NLD”), which took power on April 1 of this year, should immediately work to ensure compliance with CEDAW and end violations of Rohingya and other women’s basic human rights, including:

- **Violence against Rohingya women.** The government should investigate and prosecute

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perpetrators of physical and sexual violence against Rohingya women, and pass legislation to protect women from gender-based violence and to protect reporters of violence against women from retaliation.

- **Lack of access to education.** The Government should immediately identify different barriers to accessing quality education at all levels that displaced and non-displaced women and girls face, and take all necessary steps to remove such barriers.

- **Lack of access to healthcare.** The Government should ensure access to localized preventative and emergency care for all women by increasing healthcare facilities and providers, by lifting restrictions on movement, ending discriminatory and abusive practices by health care providers, and by providing access to adequate nutrition.

- **Restrictions on marriage and reproductive freedom.** The Government should ensure that any laws and policies on marriage and family life are non-discriminatory on the basis of race, ethnicity, gender and/or religion, and do not restrict the reproductive rights of Rohingya women and girls.

- **Trafficking and exploitation.** The Government should take action to prevent human trafficking by ending the persecution of Rohingya, eliminating assistance to trafficking gangs, facilitating the return of nationals who fell victim to trafficking and providing adequate psychological support services for them.

- **Lack of citizenship status and identification.** The Government should revise the 1982 Citizenship Law so that it does not discriminate on the basis of ethnicity and should implement all laws and policies related to citizenship or documentation on a non-discriminatory basis. Policies should immediately be put in place to register all children and recognize their right to a nationality.

- **Exclusion from the political process.** The Government should uphold the right of Rohingya to vote in and run for office in national and local elections, and ensure that Rohingya women are represented in decision-making bodies.

This report is submitted by Women Peace Network – Arakan (WPNA). WPNA is a Myanmar-based organization founded by a group of Rohingya women in 2012. It is dedicated to promoting and protecting the rights of women from marginalized communities in Arakan (Rakhine) State and elsewhere in Myanmar and empowering them so that they can enjoy justice, equality, and peace. While WPNA is deeply concerned about all women’s rights, this report focuses on Rohingya women, as well as other Muslim women, such as Kaman, who in some instances face similar barriers as Rohingya, despite differences in legal status. The observations described in this submission are based upon reports from news media, non-governmental organizations (“NGOs”), and United Nations entities and supported by WPNA research conducted by coordinators on the ground in Rakhine State and during two focus group discussions with Rohingya and Kaman women who had recently relocated to Yangon from Rakhine State. Additionally, WPNA held a consultation with Rohingya and Kaman women in Yangon that informed the final recommendations.

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2 Because of government restrictions on travel, WPNA did not attempt to hold focus groups or conduct larger-scale fact-finding in Rakhine State.
Violence against Women and Access to Justice (General Recommendation 19 and 33)

Myanmar has neither anti-violence-against-women laws nor any effective means to report sexual violence. It is also one of only two ASEAN states lacking a law criminalizing domestic violence, despite its prevalence.

Rohingya women in northern Rakhine State, like women in other highly militarized ethnic areas, have been subject to rape and brutal killings. The UN has documented many instances of rape, and even gang rape, of Rohingya women by security forces, sometimes in women’s homes. “Justifications” for rape include punishment for alleged membership of their sons or husbands in insurgent groups or for their failure to fulfill their forced labor duties. There are also allegations of brutal killings and rape of women and children during a police operation in Du Chee Yar Dan village in Northern Rakhine in January 2014, which the Government has denied.

Rohingya women who were displaced after the 2012 communal violence have been particularly vulnerable to sexual violence. Overcrowding in IDP camps increases the risk of sexual violence and abuse, especially for single women and women heads of household. Further, local state-run facilities are often unwilling to care for Muslim patients; the few accessible hospitals have minimal capacity to handle sexual violence cases, and psychological counseling is extremely limited across Rakhine State.

The Government’s failure to investigate and prosecute the perpetrators of sexual violence, especially for ethnic nationality and Rohingya survivors, empowers perpetrators to act with

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4 GJC Promises Report, p. 63.
5 Domestic violence is common in Myanmar—69% of women reported one or more incidents within a year. See ARTICLE 19 Asia Programme, “Censored Gender: Women’s right to freedom of expression and information in Myanmar” (June 2015), p. 72.
8 ICHR Crimes Against Humanity Report, p. 74.
12 See id.
impunity. In addition, survivors face retaliation if they report and thus often choose not to. For example, according to an unpublished UN report, Maungdaw community elders who reported the rape of two girls were detained for three days. The multi-faceted discrimination against Rohingya women, including a lack of citizenship documentation, further undermines their ability to seek redress for sexual violence, and in turn fosters the perpetration of sexual violence.

**Recommendations:**

- Immediately hold perpetrators, including state actors, accountable for violence against Rohingya women and girls;
- Conduct independent, credible investigations into incidents such as the communal violence in 2012 and the 2014 Du Chee Ŷar Dan police operation;
- 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;
- Institute reforms in the judicial system to make courts more independent, impartial, and accessible;
- Enact legislation that protects women from acts of violence and protects those who report incidents of violence from retaliation by the perpetrator or from the community;
- Establish at the village and township-level community education programs aimed at understanding and preventing violence against women and an effective and accessible reporting mechanism to encourage women who want to report violence to do so in a manner that does not jeopardize their safety; and
- Strengthen the ability of the healthcare sector to respond to survivors of sexual violence by expanding access to hospitals for the treatment of physical and psychological trauma.

**Education (Article 10)**

Rohingya girls and women face multiple barriers to access education at all levels. In townships in the northern region of Rakhine State, there is a great disparity between school attendance rates of Muslim and Buddhist children at all levels, with the greatest disparity in middle school, which is attended by approximately three-quarters of all Buddhist students but only one-quarter of all Muslim students. More than 40,000 Rohingya children born of unauthorized marriages or from parents who exceeded the two-child limit (discussed below) are “blacklisted.” These children

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14 See ICHR Crimes Against Humanity Report, p.68.
15 Yale Genocide Report, p. 20.
17 REACH, “Joint Education Sector Needs Assessment, North Rakhine State, Myanmar” (November 2015) [hereinafter “REACH report”], p. 29. The townships included in the assessment were Maungdaw, Rathedaung, Buthidaung, Kyauktaw, Mrauk-U, Sittwe, Pauktaw, Minbya, and Myebon.
18 UNHRC Written statement submitted by the Maarij Foundation for Peace and Development, A/HRC/24/NGO/126 (September 2013), p. 3.
do not have formal birth registration and thus do not have the necessary documentation required for school enrollment.  Moreover, even those Rohingya children who are not “blacklisted” face high barriers to access education, in particular due to government refusal to issue necessary identification documents for school enrollment, restrictions on freedom of movement, low teacher attendance rates, poor preparation for teachers, and lack of income to cover educational costs.  Rohingya living in IDP camps face particularly high barriers to accessing quality education opportunities, formal or informal.  According to a study, 60,000 IDP Rohingya children aged 3-17 years old have no access to formal education.  Since 2012, Rohingya students have been blocked from attending university in Sittwe and elsewhere.

Discrimination against Rohingya in access to education has a disparate impact on Rohingya women and girls, resulting in lower school attendance rates compared with their male counterparts, particularly at the high school level.  Across several townships in Rakhine State, children and their parents have reported safety concerns in attending school; in Myebon Township, for example, female students have reported being harassed by drivers on their way to school.  While no formal statistics are available for the literacy level of Rohingya women, their significantly lower access to either formal or informal education at all levels would suggest an even lower literacy rate than the average of 55% for women across Rakhine state (the lowest in Myanmar) where primary and secondary schools are under-resourced and overcrowded.

**Recommendations**

- Immediately identify barriers of access to education for Rohingya women and girls in northern Rakhine State and in IDP camps, and identify and address reasons for higher female drop-out rates; and
- Take all necessary steps to address the barriers that restrict the access to education for Rohingya women and girls, and in particular, take immediate steps to address any safety concerns in attending schools for Rohingya women and girls, increase community awareness regarding the importance of education for women and girls, ensure that there are an adequate number of qualified teachers, including Rohingya women teachers, and improve the access to education for Rohingya girls and women living in IDP camps.

**Healthcare (Article 12)**

Rohingya and other Muslim women in Rakhine State lack adequate access to healthcare.  Restrictive policies or orders, including restrictions on freedom of movement, prevent Rohingya

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19 Id.
21 REACH report, p. 25-26
22 REACH Report, p. 9.
23 See id., p. 29.
24 Id., p. 43.
women in IDP camps and in northern Rakhine from accessing localized healthcare, in particular emergency healthcare. In March 2014, the Government ordered Médecins Sans Frontiers (MSF), the largest non-governmental healthcare provider in northern Rakhine State, to cease all activities in the country. Within three weeks of MSF’s departure, the lack of adequate access to health care, including emergency healthcare, reportedly led to the death of 150 people, including over 20 pregnant women.

Local state-run structures are often unwilling to provide healthcare to Rohingya from IDP camps. Muslims are in some places barred from neighboring hospitals and are often required to obtain referrals from doctors, travel authorization, and/or costly security force escorts. WPNA has received reports that Muslim patients are subject to discrimination, abuse, and neglect even when they are permitted access. In northern Rakhine, Rohingya patients continue to be denied access to township hospitals and health facilities. Urgent healthcare services for Rohingya women have been extremely limited and sometimes impossible to access.

In Rakhine State in 2010, the maternal mortality rate, at 380 women per 100,000 births, was significantly higher than the rest of Myanmar. Major causes for maternal deaths in Myanmar include difficulties traveling to appropriate care providers and lack of skilled birth attendants, far below the level recommended by the World Health Organization (“WHO”). Rohingya women in northern Rakhine have reportedly died because they did not have a safe place to give birth. Reports indicate the lack of healthcare for IDPs has resulted in preventable chronic and pregnancy-related conditions, as well as deaths of women from complications during childbirth and deaths of children from diarrhea.

Rohingya women and their children suffer from a serious lack of adequate nutrition. Acute malnutrition is a serious concern for children under age five in IDP camps. In northern Rakhine State, where humanitarian access has been restricted and livelihood access has been even more curtailed due to severe restrictions on movement, Global Acute Malnutrition levels have been as high as 19%, and the rate of Severe Acute Malnutrition as high as 3.9%, far above the WHO emergency threshold of 15% and 2%, respectively.

27 Medecins Sans Frontieres, Press Release: Tens of Thousands of Patients at Risk in Myanmar After MSF Ordered to Cease Activities (28 February 2014).
31 See UN OCHA, Myanmar Humanitarian Needs Overview (2016) [hereinafter “OCHA HNO”], p. 16.
34 GJC Promises Report, p. 80–81.
38 OCHA HNO, p. 17.
Recommendations

• Ensure localized access to health care by requiring all health facilities and hospitals to accept all patients, including in particular Muslims, on a non-discriminatory basis and to allocate care and hospital beds based on need;
• Expand and allocate financial resources over time to improve the healthcare infrastructure for all residents of Rakhine State, including by hiring medical staff from all communities, especially Rohingya women, and provide reproductive health education;
• Cease the practice of requiring state authorization to travel for medical care so that all residents of Rakhine State can access preventative and emergency healthcare; and
• Ensure that women and their children in Rakhine State are able to access quality food sources by lifting restrictions on freedom of movement and removing undue obstacles to humanitarian aid.

Marriage and Family Relations (Article 16 and General Recommendation 21)

The Government has promulgated laws and policies that have restricted Rohingya couples’ freedom in family planning, resulting in a disparate impact on the reproductive health of Rohingya women.

In northern Rakhine State, Muslim marriages have required governmental permission, with lengthy and expensive procedures, and have been subject to quotas. Couples have faced up to 10 years imprisonment for marrying without a permit. The Government issued a regional order in 2005 requiring couples to limit the number of children they have. The policy has only been applied to Rohingya and reportedly has forced married couples to sign a statement agreeing not to have more than two children and women to take a pregnancy test before receiving marriage permission. Children of parents who married without permission or exceeded the two-child limit may not be registered, leading to bans on accessing healthcare, education, and other basic services.

An addendum to the order provided a penalty of up to ten years imprisonment for violating the two-child policy. This penalty has put many women in a double bind because abortion is illegal in Myanmar, even in cases of rape and incest, unless the woman’s life is in danger. According to an assessment conducted in 2011, 14.3% of Rohingya women in northern Rakhine had undergone at least one abortion, and 26% of those women had multiple abortions. Abortion is the third most common cause of maternal death in Myanmar. Some pregnant Rohingya women

39 Yale Genocide Report, p. 17.
42 Id.
43 See id., p. 29.
44 Id., p. 28.
45 Fortify Persecution Report, p. 28.
46 GJC Promises Report, p. 81.
have risked their lives as they fled to Bangladesh, Malaysia, or Thailand.\footnote{Fortify Persecution Report, p. 28.}

The Population Control Healthcare Law, one of the four “Protection of Race and Religion” laws passed in 2015, allows authorities to enforce mandatory birth-spacing of 36 months between pregnancies.\footnote{Library of Congress, “Burma: Four ‘Race and Religion Protection Laws’ Adopted” (14 September 2015).} The law restricts women’s reproductive freedom, and there have been widespread concerns that it will be implemented in a discriminatory manner against Muslims, including Rohingya, similar to the two-child policy in northern Rakhine State.

**Recommendations**

- Revoke all local orders and policies placing restrictions on Rohingya women’s ability to marry and form a family;
- Repeal the Race and Religion Protection Laws, including especially The Population Control Healthcare Law; and
- Ensure that any laws, policies, or orders related to marriage and family planning embody the principle of non-discrimination, particularly on the basis of gender, race, religion, ethnicity, and national or ethnic origin.

**Trafficking and Sexual Exploitation (Article 6)**

The dire conditions imposed upon Rohingya women in Rakhine State have forced many to flee Myanmar, often arriving to find circumstances that are just as harmful, if not worse. Between January and June 2014, more than 1,100 Rohingya are believed to have perished due to both the dangerous journey and mistreatment by traffickers and smugglers, who reportedly collude with local authorities in various countries.\footnote{UN SR Report (October 2015), p. 12.} Reports allege the involvement of security officials in Myanmar and the receiving countries at every stage of the journey.\footnote{UN SR Report (April 2013), p. 13.}

Women who are trafficked are at risk of sexual exploitation and subjected to brutal conditions. From 2014 to 2015, the UN reported a significant increase in dangerous migration practices and the trafficking of adolescent girls.\footnote{UNSG 2015 Sexual Violence Report, p. 13.} Many Rohingya women and girls, some only teenagers, have been tricked, coerced, or abducted into marriage or labor bondage.\footnote{See “Rohingya women flee violence only to be sold into marriage,” New York Times (2 August 2015).}

**Recommendations**

- Prevent trafficking of all people by eradicating the trafficking networks and eliminating alleged participation by government security forces at all stages of trafficking;
- Allow trafficking survivors who are now in other countries and who wish to return to Myanmar to do so, and assist in their reintegration; and
- Address the root causes of discrimination and denial of access to citizenship and basic services that encourage Rohingya women to flee the country.
Nationality (Article 9, General Recommendations 21 and 32)

The Government stripped Rohingya of citizenship rights using the 1982 Citizenship Law and has used lack of citizenship as a pretense for denying freedom of movement, access to education and health care, and other abuses. As part of the implementation of the law, the Government collected from Rohingya national registration cards—the same held by other Myanmar citizens—and replaced them with temporary verification cards (“white cards”), which they held until last year. In February 2015, the Government announced the expiration of the white cards, leaving hundreds of thousands without official documentation. 53 The Government has since tried to issue a new green verification card to Rohingya, which is widely regarded as an attempt to cast them as foreigners. 54

A citizenship verification process for Rohingya in IDP camps that began in 2014, but which has since effectively stalled, 55 has raised numerous concerns. The process required Rohingya to identify as “Bengali,” 56 consistent with a larger campaign to deny Rohingya the right to self-identify and suggest they are from Bangladesh. It appears that few Rohingya have received full or naturalized citizenship through this process, 57 and even those whose citizenship has been confirmed have continued to face discrimination. 58 WPNA has received reports that non-Rohingya Muslims, especially Kaman, have in recent years also been denied documentation, despite their legal recognition, or have been forced to carry identification cards that label them as Bengali or Pakistani regardless of how they identify.

Recommendations:

• Implement laws, policies, and procedures on a non-arbitrary and non-discriminatory basis, including by ensuring that Rohingya are granted national identification documents without unreasonable impediment, such as onerous evidentiary requirements;
• Repeal or amend the 1982 Citizenship Law so that it omits any criteria based on race, ethnicity, or religion, provides for only one class of citizens, and ensures children’s right to a nationality;
• Remove religion and ethnicity from national registration and citizenship documents;
• Ensure that all children born in Myanmar are registered at birth and granted a birth certificate; and
• Ensure that any law, policy, or procedure related to the acquisition, verification, or issuance of citizenship does not contravene the right to self-identification and includes safeguards against arbitrary judgments and discriminatory implementation.

55 UN SR Report (October 2015), p. 11.
57 See id.
Participation in Political and Public Life (Article 7, General Recommendation 23)

Women throughout Myanmar are severely underrepresented and marginalized in government.\(^{59}\) Most Rohingya women lack the opportunity to participate in any political process whatsoever. Although Rohingya voted in previous elections, they suffered mass disenfranchisement in the November 2015 general election. While this election was ostensibly the first genuinely contested election in 25 years, the dictated expiration of the temporary identification cards resulted in the disenfranchisement of hundreds of thousands of Rohingya.\(^{60}\) Furthermore, the Election Commission targeted Rohingya candidates for disqualification, and neither the military-backed Union Solidarity and Development Party nor the opposition NLD ran a single Muslim candidate for Parliament.\(^{61}\) As a result, the new Parliament, seated in January 2016, has no Muslim members for the first time since independence in 1948.\(^{62}\)

Outside public office, Rohingya women’s participation in decision-making in their local villages and IDP camps has been extremely rare.\(^{63}\) Members of the IDP Camp Management Committees have been government-appointed and almost exclusively male.\(^{64}\) The few women who have been able to participate in a camp management committee have been assigned the role of “Women’s Representative,” and precluded from employing broader decision-making power.\(^{65}\)

**Recommendations:**

- Uphold the right of Rohingya to vote in national and local elections, and for Rohingya candidates to run and be elected to government office;
- Adopt state and national level policies to enable and encourage women to participate in all levels of government, including in villages, townships, and IDP camps; and
- Implement UN Security Council Resolution 1325 to increase participation of women, including Rohingya women, in developing peace and security plans for Rakhine State.

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\(^{62}\) Id.

\(^{63}\) WASH Sub-Cluster Partners in Sittwe, Gender Equality Programming in WASH, (February–March 2015), p. 5.

\(^{64}\) Id., p. 10.

\(^{65}\) Id., p. 11.