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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Sexual violence committed by the Myanmar Army against ethnic women

Society of Threatened People is highly concerned about the ongoing sexual violence against women from ethnic minorities in Myanmar, which is committed by members of the Myanmar Army.

The ongoing internal conflicts in Myanmar have lasted since 1948. For decades, there have been accusations of sexual violence against women of ethnic groups committed by the Myanmar military. Most of the violent acts, including but not limited to rape, gang-rape, torture and sexual slavery, are not spontaneous phenomena, but committed in a widespread and systematic pattern as a means to punish and control people belonging to the opposition. From 2002 to 2007 there were about 400 cases reported, which were committed between 1988 and 2006, with 875 victims identified. From 2011 to early 2014, there were at least 104 cases documented by the Women's League for Burma (WLB), 47 of which were brutal gang-rape cases. Many of them even involve high-level officers, such as captains, commanders or majors.

Sexual violence in conflict constitutes a grave violation of both international humanitarian and human rights law. Myanmar itself is a party to the Geneva Conventions, Convention on Elimination of Discrimination against Women (CEDAW), Slavery Convention and signed the Declaration of Commitment to End Sexual Violence in Conflict. In recent reports to the CEDAW Committee, Myanmar claimed to have "a zero-tolerance policy against any sexual misconduct by the military personnel" and have sent members of the military who reportedly committed rape cases to civilian courts. However, sexual violence committed by Myanmar military soldiers still continues, even in ceasefire zones, complaints by survivors as well as victims' family members are often ignored and until now most perpetrators are still enjoying impunity.

Among the most recent cases is the rape of a nine-year-old Rohingya girl by a military enlistee in Buthidaung Township. On 28th February 2016, the enlistee attacked the under-age girl while she was looking after her cattle, forced her into a room in the battalion premise and raped her. He was reportedly arrested by the police, but the military refused to take any responsibility or action against the criminal. Earlier that month, on 5th February, a group of Myanmar Border Guard Police (BGP) raided two homes of Rohingyas in northern Maungdaw and gang-raped the women. The victims were in serious health conditions after the incident due to the beatings and gang-rapes. Reports were lodged to the concerned higher authorities, however no actions have been taken against the perpetrators.

Another notable case is the rape and murder of two Kachin volunteer teachers in a village of the Northern Shan State (Kawng Kha case). Their bodies were found on the morning of 20th January 2015, a day after Myanmar Army soldiers arrived at the village. There were signs of rape and torture on the crime scene. According to the report "Justice Delayed, Justice Denied" documented by Legal Aid Network (LAN) and Kachin Women's Association in Thailand (KWAT), the police investigation procedure was not carried out in a proper manner and the military used its influence to intervene and block the investigation. Until now, over a year after the incident, no suspect has been identified and no progress has been made. The above-mentioned cases are not the only ones. From April to November 2015, the Shan Human Rights Foundation reported eight other cases involving military soldiers, which concern rape, attempted rape, gang-rape, torture and robbery. None of those involved in these cases have been brought to court. The survivors are either too scared to press charges, denied access to court, paid an amount of money or threatened to remain silent. Apart from the mentioned cases, many similar cases which took place years ago are still left unsolved.

One of the main reasons for the delay of justice is the controlling power of the military in Myanmar. According to the provisions of the Myanmar Constitution, which was drafted under the military government, the military has a significant influence on the legislation and its members enjoy impunity for any acts committed during their term of service. Myanmar's police force and judiciary often fall under the pressure of the military and fail to carry out independent investigations as well as impartial and transparent trials. Moreover, survivors and their family members are often threatened and arrested for accusing the military. Given the fact that the possibility of bringing the perpetrators to justice is low, while the risks and costs for legal proceedings are high, survivors of sexual violence committed by military members often feel unprotected and hesitate to report the cases.

Society for Threatened Peoples calls on Human Rights Council to urge the Myanmar government to:

- Amend the Constitution's provisions which provide the military power over the civilian government and impunity for human rights violations and adopt new laws which specifically focus on women protection and sexual violence.
 - Reform the judiciary to be impartial and independent of the military.
 - Ensure effective implementation of international treaties to which Myanmar is a party into national law, including the recognition of sexual violence in armed conflicts as war crime and crime against humanity.
 - Adopt measures to support and protect survivors and witnesses of sexual violence in conflicts.
 - Increase woman participation and take into account women's needs in peace process.
 - Reinvestigate pending cases, including Kawng Kha case, with a neutral police force and prevent the influences of the military on the investigation procedure.
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