

Transitional justice and women's representation in peacebuilding: Myanmar and the case for Feminist Foreign Policy

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Executive Summary

February 2024 marks three years since the start of the military coup which ignited Myanmar's Spring Revolution. For the first time in the nation's history, women have been at the forefront of the resistance, making up over 60 percent of the resistance movement.ⁱ The unprecedented number of women in the movement signals women's refusal to live under patriarchal military rule. The modest yet critical gains made towards gender equality during the democratic period enabled a generation of women to see the value of their participation in broader functions of society. Reverting back to military rule would not just hinder progress on gender equality, it threatens the hard-won fundamental rights of women and girls.

In a country shaped by decades of militarization, this war, like those before it, has compounded women's experience of patriarchal violence. As Ethnic Armed Organisations (EAO) and the Civil Disobedience Movement (CDM) inch closer to defeating the Myanmar military (herein referred to as the 'junta'), attention is turning to post-coup peace and nation building processes. At this important juncture in Myanmar's political history, women are demanding adequate representation and genuine participation in peace-building processes, including transitional justice initiatives that adequately address violence against women in conflict.

Over the decades of political instability, women have been repeatedly told that a democratic union must come before gender equality.ⁱⁱ The de-prioritisation of women's participation in public life is embodied in the Constitution 2008, which clearly proscribes that 'nothing in this section shall prevent appointment of men to positions that are naturally suitable for men only.'ⁱⁱⁱ

This subjugation of women's rights to political stability is mirrored in traditional foreign policy approaches that prioritise the security of the nation state, rather than the security of the individuals within that state. A feminist foreign policy approach inverts the traditional hierarchy, understanding that security is not possible absent the conditions required for all people to flourish. Without addressing the structural roots of pervasive violence that has oppressed both women and ethnic minorities in Myanmar society for decades, there can be no durable peace. Countries that have adopted a feminist foreign policy – or those with a values-based foreign policy such as Australia – must invest in, and advocate for, the inclusion of women from all ethnic groups in future peace and transitional justice processes.

Background

Myanmar is a multiethnic country; it is a nation of many nations with the most diverse ethnic population in continental Southeast Asia.^{iv} The dominant Burmese population have attempted to build a nation in their image, denying other ethnic nationalities the right to self-determination. Since its independence from British colonisation, Myanmar has suffered through persistent military rule, poor governance, and high rates of poverty.^v The first multi-party elections in 2015 brought hope that military rule would be relegated to the nation's past, however racially motivated violence against ethnic nationalities - most significantly the genocide of the Rohingya population^{vi} - highlighted the deeply entrenched power the Myanmar military retained.

On 1 February 2021, the junta launched what would become a failed coup, igniting Myanmar's Spring Revolution. Following the overthrow of the government, women and men from all ethnic populations, including a

large percentage of the Burmese majority, went to the streets in protest, and organised by all means to oppose and resist junta control. The people's resistance movement is more than a movement for regime change. It is a movement that represents an awakening, the unveiling of decades of lies that have informed belief systems and the nation's identity; an identity that excludes, silences and discriminates against women, LGBTI people and diverse ethnic populations.

Over the last three years, the junta have committed countless atrocity crimes, killing over 4472 people,^{vii} including 144 massacres,^{viii} razing thousands of villages, and causing mass displacement of 2.3 million people from relentless aerial bombardment.^{ix} Women have experienced extreme acts of conflict-related sexual violence, including violent gang rape by junta soldiers.

[On 26 August 2023,] A pregnant woman in her 20s called Shwe Mann Thu was raped repeatedly before being killed in Wetlet Township [...]. The woman was abducted by junta soldiers near the village of Kyeekan along with her mother, sister-in-law and father. The soldiers gang-raped Shwe Mann Thu in front of her father before taking them both to the mango grove where they were later found dead alongside the mother and sister-in-law. Shwe Mann Thu was found with a bottle inserted into her vagina and with multiple stab wounds and bruises.^x

The torment that Shwe Mann Thu experienced before she was murdered is not an uncommon story. It is well documented that the junta have used sexual and gender-based violence as a weapon to oppress ethnic minority women and girls for decades.^{xi} Deeply held patriarchal values and beliefs are pervasive throughout both Bamar and ethnic communities, and seventy years of militarization has moulded a culture of systemic sexual and gender-based violence. Entrenched gender inequality is normalised in everyday life, embedded within institutions; from the family home and village customary laws, to state and national laws and institutions.^{xii}

Women in Conflict and Post-Coup Justice

The experience of women, especially ethnic women, in conflict has too often been ignored and yet their experience as victims, survivors, soldiers and activists is key to addressing the deep inequalities that exist in Myanmar and overcoming decades of instability and conflict.

Since the coup, ethnic women have been subjected to increased rates of conflict-related sexual violence (CRSV), gender-based violence (GBV), including domestic violence. The devastating impact of GBV and CRSV is compounded by the collapse of formal justice systems. Without formal systems, survivors' only remedy is through traditional local justice systems which are grossly inadequate to the harm caused, such as requiring the perpetrator to apologise over a pot of tea, or perform symbolic cleaning services. Women also carry the responsibility of caring for children during humanitarian crises, where access to food, clean water and healthcare is scarce. Economically worse off, women are the first to

become exploited, or trafficked to work as domestic servants, or forced into sex work.^{xiii}

Accountability for crimes committed against women must be made a priority in the post-coup era. Without adequate accountability for these crimes, faith in future political mechanisms will be impossible to establish. Documentation of CRSV is currently being conducted across Myanmar by women's rights organisations. While there have been significant improvements in the legal prohibition of CRSV, it remains difficult to establish under international law,^{xiv} with only two convictions being made by the International Criminal Court to date.^{xv}

There is a critical role for Australia and feminist foreign policy governments in supporting transitional justice processes that prioritise justice for women, particularly CRSV. During the interim phase leading up to democratic transition, support should focus on resourcing women's rights organisations to carry out crisis response efforts for survivors, such as maintaining and establishing new safe houses, healthcare, cash assistance and livelihood support, and psychosocial support. Providing technical support to women's rights organisations is also critical during this phase to ensure local CSOs have the resources and skills to carry out data collection and further documentation efforts on CRSV, in a trauma-informed and survivor-centric manner.^{xvi} Feminist foreign policy governments should also use their diplomatic leverage to advocate for an administrative reparation programme, and the recognition of State responsibility by referring cases to the ICC, and working with women's rights organisations and the National Unity Government (NUG) to establish alternative transitional justice processes.

No Peace Without Gender Equality

Despite the many obstacles women face, their leadership has made a significant impact on the pro-democracy movement. The Gender Equality Network estimates that women make up between 70-80 percent of CDM leaders.^{xvii} For decades ethnic women from Myanmar have been advocating for a full, federal democracy and have challenged ethnic prejudices by building a strong intersectional movement, inclusive of LGBTI people and diverse ethnic nationalities. The movement has worked across political and ethnic divides and should be recognised for its powerful diplomacy and work on reconciliation.

Women leaders bring decades of experience working with armed actors and rights groups to provide security and protection for their communities. Their leadership must be recognized, encouraged, and accelerated. Without women, there is no sustainable development and consideration of gender perspectives during operations, service provision, or other political developments.^{xviii}

Women have taken on more political positions in bodies and structures that have emerged since the start of the coup, including the national (National Unity Consultative Council Joint Coordinating Committees), subnational (e.g. Karenni State Consultative Council, Ta'ang Political

Consultative Council) and local level (e.g. women taking on camp leadership roles in IDP camps).^{xix} Despite their expertise, there is a genuine fear that once the junta has been defeated, the role for women in these institutions will vanish.

“When there is conflict and men are afraid, women are welcome. But when peace is restored, it’s back to the usual gender discrimination” - Wah Khu Shee^{xx}

It has been twenty-four years since the UN Security Council adopted resolution 1325 – the first formal resolution that requires parties in conflict to increase participation of women in peace-building and incorporate gender perspectives in peace and security initiatives.^{xxi} The resolution reaffirms that ‘peace is only sustainable if women are fully included, and that peace is inextricably linked with equality between women and men’.^{xxii} Despite progress of a comprehensive international framework, very little has changed for women in conflict areas, reducing UN member states commitments to little more than lofty statements.^{xxiii}

True meaningful participation cannot be narrowly defined as one woman at the negotiation table or bringing in some technical expertise; it must be truly representative, throughout the entire peace-building process. Sceptics on women’s participation in peace-building have claimed that it overloads, or complicates the process, risking derailment. They claim the role of mediator is not about inclusion, rather about effectiveness.^{xxiv} Women in Myanmar are all too familiar with this line of thinking; there must be peace before there is gender equality. This sentiment is deeply rooted in patriarchal belief systems, belief systems that have fuelled conflict in Myanmar for decades. There is indisputable empirical evidence that women’s participation in peace processes is essential for peace agreements to be upheld. In cases where women had influence in peace-building processes, an agreement was almost always reached.^{xxv} One international study indicates that peace processes where women are included are more effective and durable, with a 35 percent increase of a peace agreement lasting at least 15 years.^{xxvi}

Governments with a feminist foreign policy, or values-aligned foreign policy have a responsibility to focus resources and diplomacy efforts to reverse traditional approaches to peace-building, and prioritise inclusive and meaningful participation of women throughout the entire peace-building process. A peace-building processes that is aligned with a commitment to intersectionality and inclusion of diverse women is the only pathway to achieve durable peace and full democracy in Myanmar.

Recommendations

Without addressing the structural roots of violence, and the intersections of ethnicity and gender in times of conflict and peace, durable peace will not be realised in Myanmar. Feminist foreign policy approaches to peace-building and transitional justice, requires nations to take an intersectional approach to peace-building, and prioritise justice for those most marginalised and impacted by conflict.

Governments with feminist and values-based foreign policies must:

- Support transitional justice processes that prioritise justice for women, particularly CRSV by:
 - o Resourcing women’s rights organisations to collect data and document cases of CRSV,
 - o Referring cases of CRSV to the International Criminal Court, and
 - o Working with women’s rights organisations inside Myanmar and in border countries, and the NUG to establish alternative transitional justice processes, including initiatives that strengthen access, safety and accountability at the local justice system level.
- Demand inclusive and meaningful participation of women throughout the entire peace-building process by:
 - o Resourcing women’s rights movements with core, flexible and multiyear funding to ensure they are able to engage in peace-processes,
 - o Providing training to women mediators and negotiators from diverse ethnicities,
- Use diplomatic levers in bilateral, regional and multilateral for a to push for inclusion of women throughout the peace-process.

Women, especially ethnic women, have been most impacted by the conflict, and yet they are proven leaders in the resistance and pro-democracy movement. Their voice and meaningful participation are critical to the success of future dialogues and peace-building.

THE AUSTRALIAN FEMINIST FOREIGN POLICY COALITION

The Australian Feminist Foreign Policy Coalition is diverse network advancing feminist foreign policy in Australia. Convened by IWDA, its members work across a range of sectors including foreign policy, defence, security, women's rights, climate change and migration.

Feminist foreign policy is an approach which places gender equality as the central goal of foreign policy, in recognition that gender equality is a predictor of peaceful and flourishing societies. This Issues Paper Series aims to explore the opportunities and challenges for Australia in applying a feminist lens to a range of foreign policy issues, and provide practical ways forward.

Endnotes

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