

**HUMAN RIGHTS DOCUMENTATION  
MANUAL SERIES:**

**DOCUMENTING RAPE AND OTHER FORMS OF  
SEXUAL VIOLENCE IN BURMA**

**NETWORK FOR HUMAN RIGHTS DOCUMENTATION – BURMA**

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## ACKNOWLEDGEMENTS

This manual is a product of the Network for Human Rights Documentation – Burma (ND-Burma), a collaborative group of 12 member organizations documenting human rights violations committed in Burma. ND-Burma is developing a human rights database that will serve to centralize information collected by Burma human rights groups through interviews and other forms of fact-finding. ND-Burma embarked on this project in order to enhance the analysis of trends of human rights violations, to engage in advocacy to prevent the occurrence of human rights violations, and eventually to assist in the development of transitional justice measures in Burma. To these ends, this manual is part of a series of manuals designed to provide guidelines on how to document violations in Burma in accordance with international human rights law and based on the experience of ND-Burma members.

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The primary author of this manual is Amy Alexander. Members of ND-Burma provided extensive content supervision and editorial oversight to ensure the accuracy, completeness, and cohesion of this manual.

It is the sincere hope of ND-Burma that this manual will serve as an effective tool for human rights defenders of Burma, who are tirelessly working towards a day when the human rights of all the peoples of Burma are realized.

## PREFACE

This manual is focused on rape and other forms of sexual violence. It provides information on how to document violations, perform interviews, analyze whether there has been a breach of international law, and increase advocacy on these issues.

**Chapter 1: Documentation:** Chapter 1 sets out the relevant international law concerning rape and other forms of sexual violence and provides guidelines on possible ways to document these violations. It then provides information about the historical and political context of rape and other forms of sexual violence in Burma. Chapter 1 also provides a sample good and bad interview based on a hypothetical fact pattern involving rape and other forms of sexual violence.

**Chapter 2: Analysis:** Chapter 2 discusses how to assess the evidence in order to establish a violation of international law. It discusses how to identify trends and patterns that will strengthen the evidence of violations. Chapter 2 also includes information on establishing serious crimes under international law such as genocide and crimes against humanity.

**Chapter 3: Advocacy:** Chapter 3 includes information on how to present evidence of human rights violations to international actors and bodies. This Chapter focuses on the role of the United Nations and provides an overview of the mechanisms that are available to deal with violations of rape and other forms of sexual violence.

This manual covers only violations concerning rape and other forms of sexual violence. It does not provide information about other abuses that may occur in conjunction with rape and other forms of sexual violence, such as killings, arbitrary arrests, or torture. These violations are dealt with in the other manuals of this series.

### *About ND-Burma*

ND-Burma formed in 2003 in order to provide a way for Burma human rights organizations to collaborate on the human rights documentation process. The 12 ND-Burma member organizations seek to collectively use the truth of what communities in Burma have endured to challenge the regime's power through present-day advocacy as well as prepare for justice and accountability measures in a potential transition. ND-Burma conducts fieldwork trainings; coordinates members' input into a common database using Martus, an open-source software developed by Benetech; and engages in joint-advocacy campaigns. When possible, ND-Burma also collaborates with other human rights organizations in all aspects of its work. Membership in ND-Burma, as of September 2008, includes the following organizations:

- All Arakan Student and Youth Congress (AASYC)
- Assistance Association for Political Prisoners (AAPP)
- Burma Issues
- EarthRights International (ERI)
- Human Rights Documentation Unit (HRDU)
- Human Rights Education Institute of Burma (HREIB)
- Human Rights Foundation of Monland (HURFOM)
- Kachin Women's Association of Thailand (KWAT)
- Lahu Women's Organization (LWO)
- Palaung Women's Organization (PWO)
- Palaung Youth Network Group (PYNG)
- Yoma-3

The range of human rights violations in Burma is extensive, and each ND-Burma member focuses on certain violations that are particularly relevant to their mission. One of the first tasks in developing a framework for collaboration among members was to develop a “controlled vocabulary,” listing the categories of human rights violations on which the network would focus. Based on that list, ND-Burma has developed this documentation manual series consisting of 13 violation-specific manuals and a general documentation manual:

1. Killings & Disappearance
2. Arbitrary Arrest & Detention
3. Recruitment & Use of Child Soldiers
4. Forced Relocation
5. Rape & Other Forms of Sexual Violence
6. Torture & Other Forms of Ill-Treatment
7. Forced Labor
8. Obstruction of Freedom of Movement
9. Violations of Property Rights
10. Forced Marriage
11. Forced Prostitution
12. Human Trafficking
13. Obstruction of Freedoms of Expression and Assembly
14. General Documentation

Additional manuals may be developed if ND-Burma expands the common vocabulary list.

## TABLE OF CONTENTS

<b>ACKNOWLEDGEMENTS .....</b>	<b>I</b>
<b>PREFACE.....</b>	<b>II</b>
<b>CHAPTER 1: DOCUMENTATION – ESTABLISHING THE VIOLATION.....</b>	<b>1 -</b>
I.    VIOLATIONS OF HUMAN RIGHTS: RAPE AND OTHER FORMS OF SEXUAL VIOLENCE..	- 1 -
II.   DEFINING RAPE .....	- 1 -
A. <i>What are the elements of rape under international law?</i> .....	- 1 -
B. <i>What is a “physical invasion of a sexual nature”?</i> .....	- 1 -
C. <i>What are examples of non-consensual or coercive circumstances?</i> .....	- 1 -
D. <i>What is state action?</i> .....	- 2 -
III.  DEFINING SEXUAL VIOLENCE.....	- 2 -
A. <i>What are the elements of sexual violence under international law?</i> .....	- 2 -
B. <i>What are “acts of a sexual nature”?</i> .....	- 2 -
IV.   ASKING THE CRITICAL QUESTIONS.....	- 3 -
V.    PRACTICING DOCUMENTATION.....	- 3 -
A. <i>Understanding the Context</i> .....	- 4 -
B. <i>Fact Pattern</i> .....	- 5 -
C. <i>Sample Interviews</i> .....	- 6 -
VI.   CONCLUSION .....	- 9 -
<b>CHAPTER 2: ANALYSIS – EVALUATING THE EVIDENCE.....</b>	<b>10 -</b>
I.    ORGANIZING THE EVIDENCE .....	- 10 -
II.   STRENGTHENING THE EVIDENCE .....	- 10 -
III.  SERIOUS CRIMES UNDER INTERNATIONAL LAW: GENOCIDE AND CRIMES AGAINST HUMANITY.....	- 11 -
A. <i>Understanding the Magnitude of the Crimes</i> .....	- 11 -
B. <i>Defining Genocide</i> .....	- 12 -
C. <i>Defining Crimes against Humanity</i> .....	- 14 -
IV.   CONCLUSION .....	- 15 -
<b>CHAPTER 3: ADVOCACY – USING THE EVIDENCE .....</b>	<b>16 -</b>
I.    PRESENTING THE EVIDENCE.....	- 16 -
II.   ROLE OF THE UNITED NATIONS .....	- 16 -
A. <i>UN Special Rapporteur on the Situation of Human Rights in Myanmar</i> .....	- 17 -
B. <i>UN Special Rapporteur on Violence against Women, Its Causes, and               Consequences</i> .....	- 18 -
C. <i>UN Committee on the Elimination of Discrimination against Women</i> .....	- 18 -
D. <i>Commission on the Status of Women (CSW)</i> .....	- 19 -
E. <i>Relevant Bodies at the United Nations</i> .....	- 20 -
III.  CONCLUSION .....	- 22 -
<b>APPENDIX 1 – MODEL QUESTIONNAIRE FOR RAPE AND OTHER FORMS OF SEXUAL VIOLENCE .....</b>	<b>23 -</b>
<b>ENDNOTES.....</b>	<b>26 -</b>

## CHAPTER 1: DOCUMENTATION – ESTABLISHING THE VIOLATION

### I. Violations of Human Rights: Rape and Other Forms of Sexual Violence

For a human rights abuse to be a violation under international human rights law, it is necessary to satisfy the essential key elements of a violation. Elements are the specific criteria or set of circumstances that must be present in order for an action to be against the law. The elements of human rights violations are derived from international human rights legal instruments. Before beginning to document any human rights violation, it is helpful to have a clear understanding of the elements necessary in order to establish a violation. This chapter explains the elements that are required in order to demonstrate a violation of rape and other forms of sexual violence.

### II. Defining Rape

#### A. What are the elements of rape under international law?

In order to document rape as a human rights violation, evidence of *three elements* must be present:<sup>1</sup>

1. A physical invasion of a sexual nature
2. Coercion or lack of consent
3. State action

#### B. What is a “physical invasion of a sexual nature”?

A physical invasion can be described as a penetration, however slight, of the human body by an object or body part of the perpetrator. For example, the physical invasion element of rape includes penetration of the genital openings, anus, or mouth.<sup>2</sup>

#### C. What are examples of non-consensual or coercive circumstances?

Non-consensual or coercive circumstances are situations where a victim is deprived of their free choice.\* This includes situations of:

- Intimidation
- Use of force
- Threats of negative treatment, such as threats of being denied a necessary benefit or service or threats of harm to the oneself or others
- Physical or mental impairment, such as a disability, age limitation, or influence of

#### International Law: Rape



Rape is prohibited as an act of sexual violence. Therefore, the legal instruments prohibiting sexual violence also prohibit rape. Some instruments, however, explicitly define rape, including:

- *Geneva Convention*, Article 27
- *Rome Statute of the International Criminal Tribunal*, Article 8(2)
- *Statute of the International Criminal Tribunal for Rwanda*, Article 3(g) and 4(e)
- *Statute of the International Criminal Tribunal for Yugoslavia*, Article 5(g)

Rape is also prohibited by customary international law.

#### Vocabulary Alert: Rape



The term rape is often understood only to mean forced vaginal intercourse between a man and a woman. Rape, however, is not limited to women. Men are also victims of rape. The definition includes oral and anal intercourse. Furthermore, a rape includes acts perpetrated through the use of objects or body parts other than the penis.

\* Consent and coercion should be determined from the perspective of the victim rather than the perpetrator. Actions that may not be considered coercive to the perpetrator may be highly coercive to the victim. Accordingly, it is important to focus on the experience of the victim to determine if the situation was non-consensual or coercive.

drugs, alcohol, or medication

#### D. What is state action?

State action is necessary for rape to be a violation under international human rights law. State refers to “the national entity based in the capital city that attempts to regulate and reorder populations and resources throughout an internationally-recognized territory.”<sup>3</sup> State action, therefore, means that this entity was in some way responsible for or involved in the violation. For example, if a rape was perpetrated by a public official, the state action requirement would be satisfied.<sup>†</sup> State action also includes instances when a violation takes place with official knowledge or consent, or when the state fails to prevent or adequately respond to the violation.<sup>‡</sup> For example, a state may be in violation of international law when private perpetrators of rape go unpunished.

#### Perpetrators: Non-State Actors



Non-state actors (NSA) are individuals or groups that are not part of the state but that operate with state-like authority. They may include organized civilians, resistance groups, private corporations, local militias, and others performing state-like functions. NSAs should be held accountable for their actions under domestic law. However, NSAs may be held accountable under international law if state action is not required to prove a violation or if they commit a violation that can be categorized as genocide or crimes against humanity. To create a complete human rights record, it is good practice to document all violations regardless of whether the perpetrator is a state or non-state actor.

### III. Defining Sexual Violence

#### A. What are the elements of sexual violence under international law?

In order to document an act of sexual violence as a human rights violation, evidence of *three elements* must be present:<sup>4</sup>

1. An act of a sexual nature<sup>§</sup>
2. Coercion or lack of consent
3. State action

#### B. What are “acts of a sexual nature”?

The Special Rapporteur on Violence against Women describes sexual violence as including “all forms of sexual threat, assault, interference and exploitation.”<sup>5</sup> In accordance with this definition, sexual violence includes:<sup>\*\*</sup>

- Domestic violence

#### Vocabulary Alert: Rape versus Sexual Violence



The basic elements of rape and other forms of sexual violence are the same. However, rape requires additional evidence establishing “a physical invasion of a sexual nature.” Sexual violence, on the other hand, has a broader definition and applies to “any act of a sexual nature.”

<sup>†</sup> Public officials may include members of any organization operating with state authority, such as members of law enforcement agencies, paramilitary groups, and death squads.

<sup>‡</sup> Note that the element of state action is not required to prove genocide or crimes against humanity. For more information on proving genocide or crimes against humanity, see Chapter 2.

<sup>§</sup> Note that the definition of sexual violence is more broadly defined than rape. Whereas rape is limited to a physical invasion, sexual violence can include any act of a sexual nature. Physical invasion is not necessary for there to be a violation of sexual violence.

<sup>\*\*</sup> This list of examples is non-exhaustive. It is important to keep in mind **any** act of a sexual nature committed coercively or against a person’s will and involving state action is likely to qualify as a violation of international law.



- Sexual mutilation
- Forced prostitution
- Forced sterilization

## IV. Asking the Critical Questions

Asking questions and interviewing is vital to gathering information about human rights violations. The usefulness of an interview will depend largely on the experience and ability of the fact-finder to ask meaningful and substantive questions. Knowing and understanding the essential elements of a violation should help a fact-finder develop critical questions in order to establish a violation of international law. The elements of a violation may provide a useful framework to ensure necessary information is collected.

### 1. *Establishing an act or physical invasion of a sexual nature*<sup>††</sup>

- What happened?
- When did the incident occur?
- Where were you touched? On what body parts?
- How were you touched?
- How many times did this happen?

### 2. *Establishing a lack of consent or coercive circumstances*

- What did you do before/during/after the incident?
- Where did the incident occur?
- Were you threatened? How? By whom?
- Why do you think this happened?
- How did the incident occur?
- How do you know this information?

### 3. *Establishing state action*

- Who carried out the incident? Who ordered it? Who knew about it? Who assisted in it?
- Did you report the incident? Why or why not?
- What did the state do to prevent or respond to the incident?
- How do you know this information?

#### Interview Tips: Do's



- Be sure to address issues of security and confidentiality.
- Start with background and work up to the more sensitive topics.
- Be a good listener. Let the witness tell his/her account.
- Be sensitive to emotional reactions.
- Be alert for inconsistencies.
- Be patient.

#### Interview Tips: Don'ts



- Don't be judgmental or express opinions.
- Avoid leading questions.
- Don't refer to other witnesses.
- Don't make promises that you can't keep.
- Avoid aggressive or interrogation style questioning.
- Avoid influencing the story.

## V. Practicing Documentation

Finding the information necessary to establish a violation of international law takes time and practice. The essential elements of a violation are not always readily apparent. A fact-finder must be able to elicit information about human rights abuses and properly identify the essential elements of a violation from the information collected.

<sup>††</sup> Note that to establish a violation of rape, there must be evidence of a physical invasion of a sexual nature. However, any act of a sexual nature is sufficient to demonstrate a violation of sexual violence.

To practice identifying the elements of a violation, this section provides a fact pattern containing evidence of a typical rape and other forms of sexual violence in the Burma context. Based on this fact pattern, this section also offers examples of good and bad interviewing techniques. For more information on interviewing and tips on conducting effective fact-finding, please see the manual in this series entitled, “Documenting Human Rights Violations in Burma.”

### **A. Understanding the Context**

Before beginning any fact-finding mission or conducting an interview to uncover human rights information, it is important to understand the historical and political context in which violations are taking place. Understanding the context may help the fact-finder to develop meaningful questions and gain insight into the current situation. Even for experienced fact-finders, it can be helpful to review background information before starting a fact-finding mission. Below is some background information on the historical and political context of rape and other forms of sexual violence in Burma.



#### **Historical and Political Context of Rape and Other Forms of Sexual Violence in Burma**

Since 1962, when General Ne Win led a military coup to gain control over Burma, successive military regimes have ruled the country through tactics of intimidation and unspeakable brutality. Despite having signed onto international conventions agreeing to prevent and reduce incidents of sexual violence, such as the Geneva Conventions and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the regime has failed to uphold its obligations under international law. In fact, the regime is largely responsible for the most serious violations of rape and other forms of sexual violence in Burma. Evidence of hundreds, if not thousands, of incidents of sexual violence including rape committed by members of the military have been collected and documented throughout the years.<sup>6</sup> Perpetrators include rank-and-file soldiers as well as high-ranking officers.<sup>7</sup>

Although most violations are concentrated in the ethnic conflict zones, rape and other forms of sexual violence also occur in areas fully dominated by the military, including in urban centers. Incidents can occur at any time in any location. They are committed in the day as well as at night, in public areas, in private homes, on military bases, in places of work, during celebrations, while performing daily tasks, while working in farms or fields, etc.<sup>8</sup>

Rape and other forms of sexual violence perpetrated by the military in Burma are generally committed with extreme brutality and often involve other types of human rights abuses such as torture and killings. Victims have reported being beaten, suffocated, slashed, scalded with hot water, and otherwise physically mutilated. Many incidents involve gang-rape situations, where a victim is raped consecutively by several different perpetrators. Other victims have reported being forcibly conscripted by the military into situations of sexual slavery where they are repeatedly molested over an extended period of time.<sup>9</sup> Violations are also perpetrated in the presence of the victim’s family, who are forced to witness the abuse. Many victims of sexual violence are killed or are left to suffer serious medical and psychological problems. Some are forced to seek out illegal and medically unsound abortions or bear the children of their assailants. Victims are often ashamed and are stigmatized by their communities.<sup>10</sup>

Most violations of rape and other forms of sexual violence perpetrated by the military are committed with impunity. Despite widespread documentation of incidents of sexual violence, the regime refuses to acknowledge or investigate reports. Rather, complaints of sexual violence are either ignored or met with retaliation. In general, violators are not punished. Meanwhile, complainants alleging violations of rape or other forms of sexual violence have been subject to fines, detention, torture and even death at the hands of the military regime.<sup>11</sup> Fear of retaliation has largely silenced victims from reporting violations to state officials. Villagers have also been warned by the regime not to report violations to international monitoring agencies.<sup>12</sup>

## B. Fact Pattern

Below is a fact pattern of a typical rape and other forms of sexual violence in the Burma context. This fact pattern may be useful to practice identifying the key elements of a violation. Remember, in order to establish a violation of rape and other forms of sexual violence in accordance with international human rights standards, there must be:

1. An act or a physical invasion of a sexual nature<sup>\*\*</sup>
2. Coercion or lack of consent
3. State action

### Fact Pattern: Rape and Other Forms of Sexual Violence<sup>§§</sup>



Naw Laung was preparing dinner for her two children and husband when she heard a loud knock on the door. When she answered the door, she was confronted by a Burma Army commander and five soldiers. The commander pushed her out of the way and entered the house. He demanded to see her husband. Naw Laung informed the soldiers that her husband was still at work in the fields but that he would be home any minute for dinner. The commander slapped Naw Laung saying, “You think I would believe the wife of a KNLA supporter.”

Two soldiers were ordered to search the house. When the soldiers came to the back room where Naw Laung’s children were playing, Naw Laung heard one of the soldiers tell them to keep quiet and not to move. As they resumed their search of the rest of the house, Naw Laung’s son quietly slipped from the room and ran to the back door. The commander saw the boy and shot him in the head. Naw Laung screamed and ran towards her son but two soldiers grabbed her. They threw her to the ground. Another soldier grabbed Naw Laung’s daughter and locked her in the back room. The soldiers holding Naw Laung began kicking and hitting her with their gun butts. As she was being beaten, she heard her husband return from the fields and yell for the soldiers to stop.

Two soldiers quickly grabbed Naw Laung’s husband. They tied his hands behind his back. Naw Laung then heard the commander question her husband about his involvement with the KNLA. The commander said they knew he had given them food from their farm and

<sup>\*\*</sup> Note that to establish a violation of rape, there must be evidence of a physical invasion of a sexual nature. However, any act of a sexual nature is sufficient to demonstrate a violation of sexual violence.

<sup>§§</sup>Please note that this hypothetical fact pattern was developed from a variety of people’s experiences for the purposes of this manual and does not reflect the experience of any one person or of one particular event.

supported their activities. When Naw Laung's husband denied the charges, they began beating him.

Naw Laung cried out for help as she was still being held down by the two soldiers. Hearing her cries, the commander turned to her and told her husband, "And this is what we do to wives of rebels." He walked over and slapped Naw Laung across the face. Then he tore open her shirt and ripped off her skirt. Naw Laung tried to struggle to get free but could not. Naw Laung's husband was forced to watch as the commander violently raped his wife while she was held down by two soldiers. When he finished, he ordered the soldiers to take Naw Laung's husband to the truck. He then warned Naw Laung that her husband would be killed if she reported anything.

Naw Laung has not heard from her husband since that evening. Afraid for her husband and of being ostracized by other villagers, Naw Laung never told anyone in the village what happened. Fearing the soldiers might return she fled to the Thai border where she now lives in a refugee camp with her daughter. She continues to suffer emotional distress and has trouble sleeping due to the events of that evening.

### C. Sample Interviews

Interviewing is the principal method of fact-finding primarily because people hold the most amount of information about an event. Because interviewing is fundamental to the fact-finding process, developing excellent interviewing skills is a key to uncovering comprehensive details of human rights abuses. Below are two sample interviews, which are based on the above fact pattern. The first is an example of a bad interview and the second is an example of a good interview. Following each sample is an analysis of the interview.

#### 1. Sample Interview: Bad

You were raped, right?

*Naw Laung:* Yes. It's difficult for me to talk about. My son was killed and my husband was arrested. I don't know if he is alive or dead. My daughter still doesn't understand what happened and I don't know how to explain it to her.

Were you held against your will when the rape occurred?

*Naw Laung:* Two soldiers held me down while the commander raped me. I couldn't get free.

Were you raped by someone in the Burma Army?

*Naw Laung:* Yes.

Do you think you were raped because you are Karen?

*Naw Laung:* Yes. I think so.

Did you report this incident to anyone?

*Naw Laung:* No.

**Why is this interview bad?**



This is a bad interview for several reasons. **First**, it is too short, and the questions do not accomplish the main goal of the interview, which is to document the elements necessary to show a violation. There are not enough questions to get a detailed account of what happened. Follow-up questions are essential to develop a full picture of the events.

**Second**, most of these questions are “leading” questions. This means that they suggest to Naw Laung how she should answer. If she answers simply “yes” or “no,” she may be leaving out important details and the interviewer will miss important pieces of information. Also, Naw Laung may be less likely to speak freely and more likely to give answers that she believes the interviewer wants to hear.

**Third**, this interview focuses only on the violation the interviewer initially suspected, and does not ask questions that would provide evidence of other violations. Incidents of rape and other forms of sexual violence, like this example, often occur in addition to other human rights abuses. Conducting a detailed interview may provide evidence of numerous crimes, such as the killing of Naw Laung’s son or the arbitrary arrest of her husband.

**Finally**, this interview does not provide any information to corroborate Naw Laung’s account. Asking Naw Laung if there were witnesses or other evidence available to check her story is an important part of good documentation.

## 2. *Sample Interview: Good*

Naw Laung, can you tell me what happened to you a few weeks ago?

*Naw Laung:* Yes. A commander and five soldiers came to my house looking for my husband. My husband was not home but they searched the house. My son tried to run away and he was shot and killed. When my husband came home, they beat him. After the commander raped me, they took my husband away. I have not heard from him since. My daughter doesn’t understand what happened to her brother and father. I don’t know how to explain it to her.

I’d like to hear more about what happened to your son and husband later, if you feel up to it. But I’d like to start with your experience. You said you were raped. I know this can be a difficult thing to talk about so please take your time and we can stop the interview at any time. Can you tell me how the rape happened?

*Naw Laung:* I was held down by two soldiers while the commander questioned my husband about his involvement in the KNLA. When my husband didn’t answer the questions properly, the commander started hitting him and kicking him. I cried out. Then the commander came over to me. He slapped me, tore my clothes off, and undid his pants. Then he pushed his penis inside me. It hurt very badly.

Did he say anything?

*Naw Laung:* He told my husband that this is what they do to wives of rebels. Then he raped me. Afterwards, he warned me that if I told anyone what had happened, he would kill my husband. I was so scared.

*Chapter 1: Documentation- Establishing the Violation*

How many times were you raped?

*Naw Laung:* Just the one time by the commander.

Do you know the commander's name or his battalion number?

*Naw Laung:* I don't know his name but I know he is from LIB 273 because he was in his uniform and that battalion is stationed near my village.

Did anyone else touch you in a sexual way?

*Naw Laung:* No. However, I was beaten badly by the soldiers. They kicked me, slapped me, and hit me with the butts of their guns.

Did you suffer from any injuries?

*Naw Laung:* My entire body was bruised and swollen from the beating. I was also bleeding from my vagina and I had a lot of pain in my abdomen.

Did you go to see a doctor afterward?

*Naw Laung:* Immediately afterwards I was too afraid to tell anyone what happened. I did not tell anyone about what happened until I came to Thailand. When I got here, I was still having a lot of pain in my abdomen so I saw a doctor. He told me that I had internal injuries and an infection had set in. He gave me medicine.

Is it okay if I contact this doctor to get a copy of your medical report?

*Naw Laung:* It is not a problem.

Did you report the incident to anyone?

*Naw Laung:* Like I said, I was too afraid to file a complaint when I was in Burma, especially because the commander had told me he would kill my husband if anyone found out. Also, I heard that people have been arrested who have reported problems with the military.

Is there anything else you would like to add or do you have any questions for me?

*Naw Laung:* Just that I am so ashamed of what happened. I am afraid no one from my village will understand what happened. I am afraid they will blame me and think I am dirty. I keep having nightmares about that evening. I don't think I'll ever recover from it.

Thank you so much for sharing your experience with me. I know it must be very difficult to talk about. If you'd like, there are people I can refer you to who you can speak with and who might be able to help you deal with some of your thoughts.

*Naw Laung:* Yes, I would like that.

And if I need to speak with you again, how can I contact you?

*Naw Laung:* My daughter and I live in this refugee camp. Please come back and talk to me any time.

### Why is this interview good?



This interview is good because Naw Laung has told her story. The initial questions were open-ended and there were follow-up questions. Her answers help document each element to establish a violation. For example, Naw Laung has provided the following information about the rape:

**First**, Naw Laung provided information to establish that her body was physically invaded. She said that the commander tore off her clothes and pushed his penis inside her. Records from her doctor of her injuries from this incident will help to verify her account.

**Second**, Naw Laung provided details to establish the non-consensual and coercive nature of the rape. She indicated that she was being held down by two soldiers. She also indicated that she was beaten along with her husband and that her son was killed during the incident. Based on her testimony, it appears that the act was carried out in a way that was non-consensual and under coercion.

**Lastly**, Naw Laung indicated that the rape involved state actors. Naw Laung was able to clearly identify the commander as the perpetrator. Although she did not know the name of the commander, she was able to provide the commander's battalion number. This information is sufficient to show state involvement.

The interview also provides evidence of other violations in connection with the rape, such as an arbitrary arrest and killing. She indicated that her husband was arrested without cause. She also said that her son was shot and killed. Interviewing her daughter will help to verify Naw Laung's account. Further questions may be necessary to establish other violations. The interview ends well because Naw Laung has agreed to answer further questions and the interviewer knows how to contact her.

## VI. Conclusion

After reading this Chapter, you should be able to:

- recognize the elements of rape and other forms of sexual violence under international law,
- develop critical questions in order to collect information about rape and other forms of sexual violence, and
- conduct an effective interview in order to determine if a violation has taken place.

The next Chapter of this manual discusses how to evaluate evidence of rape and other forms of sexual violence in more detail.

## CHAPTER 2: ANALYSIS – EVALUATING THE EVIDENCE

### I. Organizing the Evidence

Once a sufficient amount of evidence has been gathered, it is important to organize and evaluate it in a way that clearly and persuasively demonstrates a violation under international law. Remember that to establish a violation under international human rights law, every element of the violation must be satisfied. When beginning to analyze the information, it may be helpful to organize the evidence using the elements of the particular violation as a framework. For example, to establish rape and other forms of sexual violence:

- What evidence exists to show a physical invasion or other act of a sexual nature?
- What evidence exists to show that it was non-consensual or under coercive circumstances?
- What evidence exists to show state action was involved?

After picking out the essential elements, additional evidence may be used to more fully describe the violation. In addition to the elements, it is also important that who, what, where, why, when, and how is completely answered. For example:

- *Who*: Identify the victim(s) and perpetrator(s) and witness(es).
- *What*: Identify any potential violation(s) and the events surrounding the violation(s).
- *Where*: Indicate the location of the event.
- *Why*: Determine the cause(s) or possible cause(s) of the event.
- *When*: Determine when the event took place.
- *How*: Explain how the events unfolded.

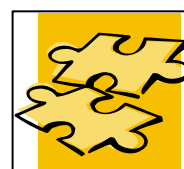
Using this method to organize the evidence helps to ensure the information is presented in a clear and persuasive way.

### II. Strengthening the Evidence

Evidence of human rights violations can be strengthened when it is possible to show a trend or pattern of violations, rather than focusing on one, single incident. While all violations are significant and deserve international attention, responsive action may be more forthcoming if there are numerous, connected violations. For example, a report drawing conclusions from 50 cases of members from a particular ethnic group who experienced rape and other forms of sexual violence by the authorities would likely have a greater impact than isolated incidents that do not indicate a pattern.

Accordingly, when evaluating the evidence, it is important to determine whether the violations were isolated incidents or whether they share similarities, for example:

- The same type of victim is targeted, such as members of the same political party or ethnic group.<sup>\*\*\*</sup>
- The same type of violation is committed, such as multiple instances



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<sup>\*\*\*</sup> When members of a group are targeted specifically for their membership in the group, the harm they suffer may constitute a more serious crime under international law because of the discriminatory nature of the violation(s). The issue of discrimination will be taken up in future editions of this manual and the others in this series.



of rape and other forms of sexual violence in a particular area.

- The same type of perpetrator is responsible, such as the same military unit consistently targeting a particular group of people.
- The state provides the same types of responses, such as repeated denials of knowledge of rape and other forms of sexual violence.

These patterns can assist in deciding if the state took a leading role in the violations. They may also assist in recognizing other human rights violations to produce a stronger message for international action.

### III. Serious Crimes under International Law: Genocide and Crimes against Humanity

Patterns of extreme violations may result in the determination that a more serious human rights violation has occurred. For example, evidence of widespread or systematic rape and other forms of sexual violence against political opponents or statements from a particular commander that “soon anyone suspected of supporting the Karen resistance movement will no longer exist” may indicate a discriminatory intent, or the intent to target a specific group, and the possible existence of acts of genocide or crimes against humanity and require further research.

#### A. Understanding the Magnitude of the Crimes

Genocide, crimes against humanity, and war crimes are among the most serious crimes in international law.<sup>13</sup> They represent severe violations of the most basic principles of human rights. As such, the prohibition against genocide, crimes against humanity, and war crimes is universally applicable. Therefore, in principle, states and individuals can be held accountable for acts of genocide, crimes against humanity, or war crimes without formally agreeing to abide by particular standards.<sup>14</sup> This manual and others in this series address genocide and crimes against humanity. War crimes will be covered in future editions.

Due to the seriousness that genocide and crimes against humanity represent, very strong evidence is generally required before international action is taken. Sometimes, even with strong evidence, regional and international political issues inhibit the political will to take action to protect survivors and punish those responsible. At the same time, many groups may be suffering from abuse that rises to the level of such crimes but may not realize that it meets the requirements to establish such a serious violation. It is important for human rights organizations to understand the legal definition of genocide and crimes against humanity in order to understand the range of options available under international law and to improve their analysis of the situation. Knowledge of the elements of genocide and crimes against humanity will help in this task.

#### Analysis Tip: Seeking Advice



Experience shows that an organization’s reputation and credibility could come into question if allegations of genocide or crimes against humanity are made without strong evidence. When dealing with a difficult case, a case that is a borderline violation or does not clearly rise to the level of extremity necessary to justify an allegation of an act of genocide or crime against humanity, it is always a good idea to ask for advice. A number of resources are available to assist in the analysis. Consultation and discussion can improve advocacy and prevent strategic blunders.

## B. Defining Genocide

### 1. What are the elements of genocide?

Genocide involves grave human rights violations designed to destroy a particular group of people, in whole or in part. To establish genocide under international law from evidence of human rights violations, the following evidence is needed:<sup>15</sup>

1. The victims belong to a particular national, ethnical, racial, or religious group.<sup>†††</sup>
2. Any of the following acts were committed:
  - Killing members of the group
  - Causing serious bodily or mental harm to members of the group
  - Deliberately inflicting on the group living conditions calculated to bring about its physical destruction in whole or in part
  - Imposing measures intended to prevent births within the group
  - Forcibly transferring children of the group to another group
3. The acts were committed with the intention to destroy that particular group, in whole or in part.

#### Vocabulary Alert: Genocide



Genocide is typically understood to refer to only large-scale killings. However, under international law, the definition of genocide refers to an intention to destroy a particular group (national, ethnic, racial, or religious) in whole or in part. According to the legal definition, certain human rights violations that do not automatically bring to mind a crime of genocide, such as rape and other forms of sexual violence, *may* meet the requirements of genocide.

### 2. Can rape and other forms of sexual violence qualify as an act of genocide?

It is possible. There may be sufficient evidence to show that rape and other forms of sexual violence amount to genocide. Genocide includes “causing serious bodily or mental harm to members of a group,” “deliberately inflicting conditions of life calculated to bring about physical destruction,” and “imposing measures intended to prevent births within the group.” When any of these acts have been committed and when the other elements of genocide are met, rape and other forms of sexual violence may amount to genocide. Based on this definition, international tribunals have held rape and other forms of sexual violence to qualify as a crime of genocide.<sup>16</sup>

### 3. Does there need to be evidence of deaths to prove genocide?

No. The common perception of genocide is that the term refers only to mass killings and, in the past, international tribunals have largely focused on cases involving the actual deaths of a significant number of people in findings of genocide.<sup>17</sup> However, an act of genocide does not necessarily require evidence of actual death. The definition of genocide includes conditions that are imposed in order to cause a slow death of a group or even conditions which do not amount to death, such as acts of torture or of rape.<sup>18</sup>

### 4. What does it mean “to commit an act with intention?”

“With intention” means purposeful. A person acts purposefully towards a result when his or her conscious objective is to cause that result. To prove this element of genocide, one must

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<sup>†††</sup> Some commentators argue that genocide should be defined more broadly as including groups and membership in such groups as defined by the perpetrator. This definition would include political and social groups. See Frank Chalk and Kurt Jonassohn, *The History and Sociology of Genocide: Analysis and Case Studies*. New Haven: Yale University Press, 1990.

show that the alleged perpetrator had a particular reason for acting, i.e. that he or she intended to bring about the destruction, in whole or in part, of a national, racial, ethnic, or religious group. This element is particularly difficult to prove because it requires one to demonstrate what an alleged perpetrator was intending when he or she committed the crime.

### 5. *Whose intention is relevant in order to prove genocide?*

The perpetrator's intention is crucial to whether the crime can be defined as genocide. The question is whose intention is relevant. The general rule is that both the people who directly and publicly incite genocide; plan or order an act of genocide, such as high ranking government officials; and those who carry out the act, such as soldiers or even next door neighbors, can be prosecuted, even if the soldiers or other individuals were "just following orders."<sup>19</sup> Alleged perpetrators have been found guilty of genocide-related crimes for "knowingly and substantially" aiding others who committed genocide, even if it was not proven that they themselves intended destruction of a group.<sup>20</sup>

### 6. *Is direct evidence required to prove the perpetrator's intention to commit genocide?*

Evidence is necessary to demonstrate the intentions of the perpetrator, and direct evidence such as government statements or army orders is extremely helpful for proving genocide. However, intent can also be inferred from the situation.<sup>21</sup> For example, intent may be inferred from a systematic pattern of coordinated acts, such as the use of derogatory language against a group or by the physical targeting of a group or their property.<sup>22</sup> Direct evidence showing intention, such as a document stating that certain members of a religious group suffered rape and other forms of sexual violence on a certain date in order to bring about their destruction, may not be necessary if strong circumstantial evidence of intention exists.

#### Documentation Tip: Proving Intention



If a particular group feels they are being persecuted, ask if they know of any official documents or actions to demonstrate intention. Have they heard a particular government official or commander speaking publicly about destroying the group? Or are certain members of the group, especially leaders, constantly targeted?

#### Analysis Tip: Some of the differences between genocide and crimes against humanity



- **Mental Element:** To prove a crime against humanity you do not need to prove the perpetrator intended to bring about the destruction of a particular group. Instead, you need to show they "knew" that they crime they committed was part of a widespread or systematic attack against a civilian population.
- **Types of Victims:** Genocide requires that members of a religious, racial, ethnic or national group be targeted while crimes against humanity may also include other groups, such as social or political groups.
- **Types of Violations:** Acts that constitute genocide and crimes against humanity overlap but also have some differences.

## C. Defining Crimes against Humanity

### 1. *What are the elements of crimes against humanity?*

A crime against humanity has to be committed as part of a widespread or systematic attack against a civilian population. To establish crimes against humanity, the following evidence is needed:<sup>23</sup>

1. Any of the following acts were committed:
  - Murder and extermination (including imposing living conditions that are likely to cause death)
  - Enforced disappearances
  - Enslavement (including trafficking)
  - Deportation or forcible transfer of population (both within and outside national borders)
  - Imprisonment or other severe deprivation of physical liberty in violation of international law
  - Torture
  - Rape, sexual slavery, enforced pregnancy, and enforced sterilization
  - Persecution against any identifiable group on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law
2. The act(s) were part of a widespread or systematic attack.
3. The attack was against a civilian population.
4. The perpetrator knew about the attack.

### 2. *Can rape and other forms of sexual violence qualify as a crime against humanity?*

It is possible. Rape and other forms of sexual violence are explicitly defined as a crime against humanity in the Rome Statute of the International Criminal Court.<sup>24</sup> The International Criminal Tribunals also recognize rape and other forms of sexual violence as a crime against humanity. Affirming this principle, the tribunals in Rwanda and Yugoslavia have held perpetrators accountable for offenses of rape and other forms of sexual violence.<sup>25</sup>

### 3. *What qualifies as “a widespread or systematic attack” for purposes of proving a crime against humanity?*

“**Widespread**” commonly means that a large number of people have been affected.<sup>26</sup> As with genocide, however, there is no specific number designated to deem an attack as widespread.

“**Systematic**” means that an attack is part of a common plan involving substantial private or public resources.<sup>27</sup> However, it is not necessary to prove that the plan was part of the state’s or the organization’s official policy. For example, if the state or other organization committed rape or other forms of sexual violence against civilians based on an informal policy or practice, there may be sufficient evidence to establish that a “system” is in place.<sup>28</sup>

“**Attack,**” for the purposes of establishing a crime against humanity, is not restricted to conduct during hostilities but extends to the treatment of those not involved in the conflict. However, there must be evidence that an attack was **either** widespread **or** systematic. There is no need for evidence that an attack was widespread *and* systematic.<sup>29</sup> Further, a widespread or systematic attack can be something other than a military attack, such as an administrative or legal measure, e.g. forced displacement.<sup>30</sup>

**4. How to decide if a civilian population has been targeted as part of a crime against humanity?**

A population will still be considered “civilian” even if there are a few combatants among its population. Evidence must show that the population was “predominantly civilian” and that the civilians were the “primary object” of the abuse.<sup>31</sup>

**5. How to prove that the perpetrator “knew” about the attack in relation to a crime against humanity?**

To prove that the perpetrator “knew” about the attack, it is not necessary to prove that he or she knew about all of the details of the attack. Evidence that the perpetrator intended to assist or allow the attack to proceed is sufficient evidence of “knowledge” for crimes against humanity.<sup>32</sup> Specific documentation setting out such knowledge or intention is helpful, but not essential.

## **IV. Conclusion**

After reading this Chapter, you should be able to:

- organize the evidence to clearly and persuasively demonstrate a human rights violation,
- strengthen the evidence of violations by identifying patterns and trends, and
- recognize and identify the elements of more serious crimes under international law, such as genocide and crimes against humanity.

The next Chapter of this manual discusses advocacy strategies for dealing with rape and other forms of sexual violence.

## CHAPTER 3: ADVOCACY – USING THE EVIDENCE

### I. Presenting the Evidence

Presenting human rights information persuasively in order to induce change or remedial action is often the ultimate goal for any human rights organization. Once evidence of a violation or violations has been collected, organized, and analyzed, the information is typically presented to an audience or audiences to accomplish a specific advocacy goal or objective.

There is a limitless number of potential audiences that may receive and act on human rights information. For example, some audiences commonly targeted by human rights groups include:

- Local communities (e.g., the Karen community, the refugee community)
- Regional or international NGOs (e.g., Asian Human Rights Commission, Amnesty International, Human Rights Watch)
- Government officials or agencies (e.g., the SPDC, the Government of Thailand, the President of the United States)
- Members of the international community (e.g., Europeans, Americans, Singaporeans)
- United Nations officials and bodies (e.g., Special Rapporteur on Torture, Working Groups, Human Rights Council)

Each audience is different in terms of how it will view information, be persuaded by information, and use the information. Therefore, the most effective presentation of information will largely depend on the audience. For that reason, it is a good idea to determine in advance the targeted audience before determining how to present the evidence.

The United Nations (UN) is a particularly significant audience to address when dealing with human rights violations. By raising issues to the UN, human rights organizations are able to make violations more visible to the international community, which in turn helps to increase pressure on the targeted government. Because there are several UN bodies able to respond to violations of rape and other forms of sexual violence, this Chapter focuses on UN-based advocacy. For more information on addressing other audiences and detailed information on the enforcement mechanisms of the UN, please see the manual in this series entitled, “Documenting Human Rights Violations in Burma.”

### II. Role of the United Nations

In Burma, UN action is highly circumscribed due to regime-imposed restrictions on access and movement throughout the country. The regime imposes strict visa regulations on international staff of NGOs as well as UN staff and also limits access within the country for those who have acquired visas. There are only a small number of UN agencies operating inside Burma and those operations are highly restricted. The UN, however, continues to monitor Burma and is generally receptive to information on human rights violations occurring there.

#### Advocacy Tip: Benefits of Contacting the United Nations



At times, states simply ignore recommendations of UN officials and agencies. However, the UN provides a strong mechanism to report violations to the international community. Repeated reports by the UN on human rights violations in a particular country may also pressure that state to take action to prevent violations.

There are two main ways that NGOs and human rights groups can submit information to the UN:<sup>\*\*\*</sup>

1. To the UN Human Rights Treaty-Based Monitoring Bodies
2. To the UN Human Rights Council's Special Procedures

Unlike the UN monitoring bodies, the UN Human Rights Council's Special Procedures process does not have ratification prerequisites for groups and individuals to submit individual complaints or communications. Claims of human rights violations can be addressed to the Special Rapporteur on the Situation of Human Rights in Myanmar in addition to the various thematic rapporteurs, special representatives, and working groups.<sup>33</sup> For more information on the UN human rights system, please see the manual in this series entitled, "Documenting Human Rights Violations in Burma."

Below are brief descriptions of some of the major UN-level agencies and individuals that are working on issues related to rape and other forms of sexual violence in Burma.

### **A. UN Special Rapporteur on the Situation of Human Rights in Myanmar<sup>§§§</sup>**

#### ***1. What is the Special Rapporteur's role?***

The Special Rapporteur is responsible for monitoring and reporting on the human rights situation in Burma and following any progress made towards transfer of power to a civilian government, the drafting of a legitimate constitution, the end of restrictions on personal freedoms, and the restoration of human rights in Burma.<sup>34</sup> Based on information received from various sources, including governments, the Special Rapporteur makes general recommendations and submits annual reports to the Human Rights Council and General Assembly.<sup>35</sup>

#### ***2. Who may give information to the Special Rapporteur?***

The Special Rapporteur receives information on all aspects of human rights related to Burma from NGOs, governments, other UN agencies and monitoring bodies, and individuals. Provided there are no credibility or reliability issues, the Special Rapporteur will generally send allegations of violations to Burma's government with requests for further information.<sup>36</sup>

#### ***3. What types of violations will the Special Rapporteur consider?***

The Special Rapporteur will consider evidence of all human rights violations occurring in Burma, including rape and other forms of sexual violence.

#### **Sending Information to Special Rapporteurs**



Submissions to Special Rapporteurs should be submitted in writing and provide **at least** the following information pertaining to the violation(s):

<sup>\*\*\*</sup> Of the nine core international human rights treaties, at the time of writing Burma has signed and ratified (with reservations) only two – the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC). Therefore, the only treaty-based monitoring bodies currently accepting information from NGOs and human rights groups are the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child.

<sup>§§§</sup> As of May 2008, Thomás Ojea Quintana is the UN Special Rapporteur on the Situation of Human Rights in Myanmar.

- **Incident:** date and place of the incident; how the incident occurred; and a description of any law, practice or policy contributing the violation
- **Victims:** number of victims; victims' names, ages, sexes, professions; victims' residences or places of origin
- **Perpetrators:** any information regarding the alleged perpetrators, including why they are suspected; if they are not a government official, include information about how the government failed to act with due diligence to prevent, investigate, punish, or ensure compensation
- **Violation:** identify the rights that were violated, referring to specific provisions of international law if possible, and a detailed description of the violation
- **Source:** the reporting organization's full name and address

\*\* For **urgent appeals**, provide the above information **and** the reasons why there is a fear of imminent violations.

#### Address Details

Individual communications can be emailed, mailed, or faxed to: Special Procedures Division, c/o Office of the High Commissioner for Human Rights, OHCHR-UNOG, 8-14 Avenue de la Paix, 1211 Geneva 10, Switzerland; **Fax:** + 41 22 917 9006; **Email:** [SPDInfo@ohchr.org](mailto:SPDInfo@ohchr.org) or [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org). Remember to specify the relevant Special Rapporteur on the envelope or in the subject line of e-mail or fax communications.

## **B. UN Special Rapporteur on Violence against Women, Its Causes, and Consequences**\*\*\*\*

### ***1. What is the Special Rapporteur's role?***

The Special Rapporteur is responsible for investigating and responding to reports of violence against women, including rape and other forms of sexual violence. Based on information received from various sources, including governments, the Special Rapporteur makes general recommendations and submits annual reports to the Human Rights Council.<sup>37</sup>

### ***2. Who may give information to the Special Rapporteur?***

The Special Rapporteur receives information from NGOs, governments, other UN agencies and monitoring bodies, and individual communications. Provided there are no credibility or reliability issues, the Special Rapporteur will generally send allegations of violations to the relevant government with requests for further information.<sup>38</sup> The Office of the Special Rapporteur on Violence against Women, Its Causes, and Consequences provides a model questionnaire to assist individuals in submitting complaints.

A copy of this questionnaire is provided in the Appendix and may be accessed online at <http://www.ohchr.org/english/issues/women/rapporteur/complaints.htm>.

### ***3. What if there is an urgent need to speak with the Special Rapporteur?***

If an imminent threat exists to the personal integrity or the life of a person, it is possible to ask the Special Rapporteur to lodge an urgent appeal to the relevant government. The Special Rapporteur will ask the government to protect the person(s) at risk.<sup>39</sup>

## **C. UN Committee on the Elimination of Discrimination against Women**

### ***1. Who are its members and when does it meet?***

The Committee on the Elimination of Discrimination against Women is composed of 23 independent experts in the field of women's issues.<sup>††††</sup> Each member serves a four year term. The Committee meets for two weeks each year.<sup>40</sup>

\*\*\*\* As of August 2003, Dr. Yakin Erturk is the UN Special Rapporteur on Violence Against Women, its Causes, and its Consequences.



## **2. What is the Committee's role?**

The Committee monitors the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to ensure states are in compliance with international standards. The Committee receives and reviews states' reports and provides recommendations. The Committee submits annual reports to the Economic and Social Council through the Commission on the Status of Women.<sup>41</sup>

## **3. Who can submit information to the Committee?**

The Committee receives periodic reports from states relating to the progress of implementing provisions contained in CEDAW. Only states that have signed onto CEDAW are obligated to submit reports to the Committee.<sup>42</sup> The Committee is also receptive to information from human rights organizations. To submit information to the Committee, organizations must write to the Secretariat of the Committee several months prior to the Committee's meeting. The Committee also accepts oral testimony from human rights organizations usually on the first day of the pre-sessional working group meeting as well as on the second day of its regular session. It may also be possible to schedule informal meetings with Committee members by contacting the Secretariat.<sup>43</sup>

## **4. Is there an individual complaint process for the Committee?**

Yes. Under Article 2 of the Optional Protocol of CEDAW, the Committee may receive communications by individuals or groups.<sup>44</sup> However the complaint must concern a state that has ratified the Optional Protocol to CEDAW.<sup>45</sup> Burma has not ratified the Optional Protocol, therefore the complaint mechanism is not available to individuals from Burma under CEDAW.

## **D. Commission on the Status of Women (CSW)**

### **1. Who are its members and when does it meet?**

The Commission is composed of 45 members elected by the Economic and Social Council.<sup>\*\*\*\*</sup> Each member serves a four year term. The Commission meets once a year in February-March.<sup>46</sup>

### **2. What is the Commission's role?**

The Commission monitors the implementation of measures to promote the advancement of women. The Commission is responsible for developing recommendations and initiatives to respond to concerns in the field of women's issues. The Commission reports to the Economic and Social Council.<sup>47</sup>

### **3. Who may give information to the Working Group?**

The Commission receives and reviews reports from the Committee on Elimination of Discrimination against Women. The Commission also receives information and accepts oral testimony from human rights organizations. Human rights organizations may also participate in Commission round-tables and special events. To submit information and participate in Commission events, organizations must be accredited with the Economic and Social Council.<sup>48</sup> The Commission also provides comprehensive guidelines for organizations interested in submitting information or participating in Commission sponsored activities.<sup>49</sup>

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<sup>\*\*\*\*</sup> As of March 2008, Dubravka Šimonović is the Chairperson of the Committee.


<sup>\*\*\*\*</sup> In 2008, Olivier Belle is the Chairperson of the Bureau of the Commission.

**4. Is there an individual complaint process for the Commission?**

Yes. The Commission does receive communications and complaints from individuals and groups. The Commission, however, does not take direct action against violators. Rather, they rely on communications and complaints to analyze trends and patterns of discrimination in order to develop policy recommendations.<sup>50</sup>

**E. . Relevant Bodies at the United Nations**

This section provides contact details for some of the main UN bodies responsible for monitoring Burma.

 <b>Contact Information</b>		
<b>Organization</b>	<b>Contact Details</b>	<b>Useful Websites</b>
UN Secretary General, Ban Ki-Moon	Secretary General: Ban Ki-Moon Headquarters: 1st Ave. and 46th street New York, NY 10017 USA Tel: +1 (212) 963 1234 Fax: +1 (212) 963 4879	To learn more about the Secretary-General, visit: <a href="http://www.un.org/sg/biography.shtml">http://www.un.org/sg/biography.shtml</a>  For contact details of the permanent missions to the United Nations in New York see: <a href="http://www.un.org/Overview/missions.htm">http://www.un.org/Overview/missions.htm</a>
Human Rights Council <sup>§§§§</sup>	To submit complaints to the Council under the 1503 Procedure:  Treaties and Human Rights Council Branch OHCHR-UNOG 1211 Geneva 10, Switzerland Fax: (41 22) 917 90 11 E-mail: <a href="mailto:CP@ohchr.org">CP@ohchr.org</a>  To submit communications to the Council under the Special Procedures:  Office of the United Nations High Commissioner for Human Rights Palais des Nations 8-14, avenue de la Paix CH-1211 Geneva 10 Switzerland Fax: +41 (0)22 917 90 06 E-mail: <a href="mailto:urgent-action@ohchr.org">urgent-action@ohchr.org</a>	To learn more about the Human Rights Council, visit: <a href="http://www.ohchr.org/english/bodies/hrcouncil/">http://www.ohchr.org/english/bodies/hrcouncil/</a>  To learn more about the complaint mechanism available under the Council's 1503 Procedure, visit: <a href="http://www2.ohchr.org/english/bodies/chr/complaints.htm">http://www2.ohchr.org/english/bodies/chr/complaints.htm</a> To learn more the Special Procedures of the Council, visit: <a href="http://www2.ohchr.org/english/bodies/chr/special/index.htm">http://www2.ohchr.org/english/bodies/chr/special/index.htm</a>
UN Office of the High Commissioner for Human Rights, Navanethem Pillay	UN Office of the High Commissioner for Human Rights 8-14 Avenue de la Paix 1211 Geneva 10	To learn more about the UN Office of the High Commissioner for Human Rights, visit:

§§§§ The Human Rights Council replaced the Commission on Human Rights on 27 March 2006 when the Commission was formally dissolved and the Council effectively took over all the functions and responsibilities of the Commission. Previously, the Commission was a subsidiary organ of ECOSOC. The Council now reports directly to the General Assembly. The Commission membership was also reduced from 53 state members to the Council's 47. To better carry out its mandate, the Council also adopted the Universal Periodic Review (UPR) mechanism which enables the Council to review the human rights obligations of all countries.

Chapter 3 Advocacy- Using the Evidence

	Switzerland Tel: +41 22 917 9000	<a href="http://www.ohchr.org/EN/Pages/WelcomePage.aspx">http://www.ohchr.org/EN/Pages/WelcomePage.aspx</a>
UN Office of the High Commissioner for Human Rights, Southeast Asia Office, Regional Representative Homayoun Alizadeh	OHCHR Southeast Asia Regional Office UNESCAP UN Secretariat Building, 6th Fl., Room A-601 Rajdamnern Nok Av. Bangkok 10200, Thailand Tel.: (66) 2 288 1235 Fax: (66) 2 288 3009 <a href="mailto:ohchr.bangkok@un.org">ohchr.bangkok@un.org</a> Homayoun Alizadeh: <a href="mailto:alizadeh@un.org">alizadeh@un.org</a>	To learn more about the UN Office of the High Commissioner for Human Rights Southeast Asia Regional Office, visit <a href="http://www.un.or.th/ohchr/index.html">http://www.un.or.th/ohchr/index.html</a> .
UN Special Rapporteur on the Situation of Human Rights in Myanmar, Thomás Ojea Quintana	UN Special Rapporteur on the situation of Human Rights in Myanmar OHCHR-UNOG 8-14 Avenue de la Paix 1211 Geneva 10 Switzerland Fax: +41 22 917 90 06  For urgent appeals, email: <a href="mailto:urgent-action@ohchr.org">urgent-action@ohchr.org</a>	For documents on the Special Rapporteur, visit: <a href="http://www.unhcr.ch/html/menue2/7/a/mmya.htm">http://www.unhcr.ch/html/menue2/7/a/mmya.htm</a>
UN Special Envoy of the Secretary-General for Myanmar	There is no specific process for sending information to the Special Envoy.  Currently, the post of the Special Envoy is vacant.	To get updated information on the post of the Special Envoy, visit: <a href="http://www.un.org/News/oss/g/rsg/table.htm">http://www.un.org/News/oss/g/rsg/table.htm</a>
UN Special Rapporteur on Violence against Women, Its Causes, and Consequence, Dr. Yakin Ertürk	Special Rapporteur on Violence against Women OHCHR-UNOG 8-14 Avenue de la Paix 1211 Geneva 10 Switzerland Fax: +41 22 917 90 06  For urgent appeals, email: <a href="mailto:urgent-action@ohchr.org">urgent-action@ohchr.org</a>	To learn more about the Special Rapporteur, visit: <a href="http://www.ohchr.org/english/issues/women/rapporteur/">http://www.ohchr.org/english/issues/women/rapporteur/</a>
Committee on Elimination of Discrimination against Women	The Committee on the Elimination of Discrimination Against Women c/o Division for the Advancement of Women Room DC2-1220 P.O. Box 20 United Nations New York, NY 10017 USA Fax: +1-212-963-3463	To learn more about the Committee, visit: <a href="http://www.un.org/womenwatch/daw/cedaw/committee.htm">http://www.un.org/womenwatch/daw/cedaw/committee.htm</a>
Commission on the Status of Women	Commission on the Status of Women c/o Division for the Advancement of Women Room DC2-1220 P.O. Box 20 United Nations New York, NY 10017 USA Fax: +1-212-963-3463 Email: <a href="mailto:daw@un.org">daw@un.org</a>	To learn more about the Commission, visit: <a href="http://www.un.org/womenwatch/daw/csw/index.html">http://www.un.org/womenwatch/daw/csw/index.html</a>

### **III. Conclusion**

After reading this Chapter, you should be able to:

- present the evidence in a clear and precise manner,
- identify who to address at the UN regarding violations of rape and other forms of sexual violence, and
- understand how to submit information to the UN.

For more information on presenting evidence of human rights violations to the UN, please see the manual in this series entitled, “Documenting Human Rights Violations in Burma.”

**APPENDIX 1 – MODEL QUESTIONNAIRE FOR RAPE AND OTHER  
FORMS OF SEXUAL VIOLENCE \*\*\*\*\***

**Confidential Violence against Women Information Form**

**1. PETITIONER :** *(This information, if taken up by the Special Rapporteur, will remain confidential)*

(a) Name of person/organization:

.....  
.....  
.....

(b) Relationship to victim(s).....

(c) Address:

.....  
.....  
.....  
.....  
.....

(d) Fax/tel/e-mail, web-site:.....

(e) Date petition sent:.....

(f) Other:

.....  
.....  
.....

**2. ALLEGED INCIDENT**

**(i) Information about the victim(s):**

(a) Name: .....

(b) Sex: .....

(c) Date of Birth or Age: .....

(d) Nationality:.....

(e) Occupation:.....

(f) Ethnic / religious / social background, if relevant:.....

(g) Address:

.....  
.....  
.....  
.....  
.....

(h) Other relevant information: *(such as passport, identity card number)*:

.....

(i) Has the victim(s) given you her consent to send this communication on her behalf? .....

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(j) Has the victim(s) been informed that, if the Special Rapporteur decides to take action on her behalf, a letter concerning what happened to her will be sent to the authorities?  
.....

(k) Is the victim(s) aware that, if this communication is taken up, a summary of what happened to her will appear in a public report of the Special Rapporteur?  
.....

(l) Would the victim(s) prefer that her full name or merely her initials appear in the public report of the Special Rapporteur?  
.....

*(Please note that the full names of victims appear in communications with governments unless it is indicated that exposing the victims' names to the government would place the victims at risk of further harm. In the public report, the names of victims under the age of 18 and victims of sexual violence will not be disclosed, but initials will be used)*

**(ii) Information regarding the incident:**

(a) Detailed description of human rights violation:  
.....  
.....  
.....  
.....  
.....

(b) Date: ..... (c) Time: .....

(d) Location/country: .....

(e) Number of assailants: .....

(f) Are the assailant(s) known or related to the victim? If so, how?  
.....  
.....  
.....

(g) Name or nickname of assailant(s) (if unknown, description, scars or body marks such as tattoos, clothes/uniform worn, title/status, vehicle used):  
.....  
.....  
.....

(h) Does the victim believe she was specifically targeted because of her sex? If yes, why?  
.....  
.....  
.....

(i) Has the incident been reported to the relevant State authorities?.....

If so, which authorities?  
.....  
.....  
.....

When? .....

(j) Have the authorities taken any action after the incident? .....

If so, which authorities?.....

What action?  
.....  
.....  
.....

When?.....

(l) If the violation was committed by private individuals or groups (rather than government officials), include any information which might indicate that the Government failed to exercise due diligence to prevent, investigate, punish, and ensure compensation for the violations.

.....  
.....  
.....  
.....  
.....

(m) Has the victim seen a doctor after the incident took place? Are there any medical certificates/notes relating to the incident concerned?

.....  
.....  
.....  
.....

**(iii) Laws or policies which are or are likely to cause or contribute to violence against women**

(a) If your submission concerns a law or policy, please summarize it and the effects of its implementation on women's human rights. Provide concrete examples, when available.

.....  
.....  
.....  
.....

*Please inform the Special Rapporteur of any further information which becomes available after you have submitted this form, including if your concern has been adequately addressed, or a final outcome has been determined in an investigation or trial, or an action which was planned or threatened has been carried out.*

**PLEASE RETURN TO:  
THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN  
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
OHCHR-UNOG  
1211 GENEVA 10  
SWITZERLAND  
Fax: +41 22 917 9006  
E-mail: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org)**

## ENDNOTES

<sup>1</sup> There is no single accepted definition of rape under international law. Rather, rape is a particularly egregious violation of sexual violence. Therefore, the same international instruments that prohibit sexual violence prohibit rape under international law. Some instruments, however, are explicit in definition rape as a violation of international law including:

- *Geneva Convention*, Article 27
- *Rome Statute of the International Criminal Tribunal*, Article 8(2)
- *Statute of the International Criminal Tribunal for Rwanda*, Article 3(g) and 4(e)
- *Statute of the International Criminal Tribunal for Yugoslavia*, Article 5(g)

For copies of these documents, see <http://www2.ohchr.org/english/law/> (last visited 27 July 2008).

For the purposes of this manual, the definition applied by the International Criminal Tribunal of Rwanda (ICTR) is adopted because it provides the least restrictive and a gender-neutral interpretation of rape. According to the ICTR, the violation of rape adds the element of a physical invasion to the definition of sexual violence. *See, Prosecutor v. Jean-Paul Akayesu*, ICTR Trial Judgment, 2 September 1998. This definition is supported by more explicit definitions supplied by the International Criminal Tribunal of Yugoslavia (ICTY) and the World Health Organization (WHO). *See, Prosecutor v. Furundzija*, ICTY Trial Judgment, 10 December 1998 (defining rape as: “(1) sexual penetration, however slight; (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) of the mouth of the victim by the penis of the perpetrator; (2) by coercion or force or threat of force against the victim or a third person.”); Jewkes R, Garcia-Moren C, Sen P., *World Report on Violence and Health: Sexual Violence*, World Health Organization, 2002, p. 149-181 (defining rape as the “physically forced or otherwise coerced penetration—even if slight—of the vulva or anus, using a penis, other body parts or an object.”)

Burma is also subject to customary international law (CIL). CIL is a body of legal rules that comes from general state practice which over time has become accepted as binding law. However, a state may not be bound by a particular rule if that state has persistently objected to the rule. So, even if Burma has not signed some of the above treaties, it will still be subject to associated CIL norms (unless it can demonstrate a pattern of persistent objections to be bound by the law).

<sup>2</sup> *Prosecutor v. Furundzija*, ICTY Trial Judgment, 10 December 1998; Radhika Coomaraswamy, Special Rapporteur on Violence Against Women *Sexual Violence Against Refugees: Guidelines on Prevention and Response*, 1995; Jewkes R, Garcia-Moren C, Sen P., *World Report on Violence and Health: Sexual Violence*, World Health Organization, 2002, p. 149-181.

<sup>3</sup> Mary Callahan, *Political Authority in Burma’s Ethnic Minority States: Devolution, Occupation, and Coexistence*. Washington, DC: East-West Center Washington, 2007, p. vix, explaining that in Burmese, there is no equivalent for this meaning of state. Instead one might use *asoya* (government) or *naing-ngan* (country), depending on the context.

<sup>4</sup> The main international agreements that prohibit sexual violence as a violation of international law are:

- *Charter of the United Nations* (Article 1);
- *Universal Declaration of Human Rights* (Article 2);
- *The Rome Statute of the International Criminal Court* (Article 8(2)(b) and 8(2)(e));
- *The International Covenant on Civil and Political Rights* (ICCPR) (Article 3 and 9(1)), not yet signed by Burma;
- *Convention Against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment* (CAT)
- *Geneva Conventions* (Common Article 3) which are part of the Laws of War, of which Burma is a party;
- *The Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) (Article 1 as expanded by General Recommendation No. 19). Burma is a party to this treaty with reservations.
- *The Covenant on the Rights of the Child* (Article 6) which applies where a victim is under 18. Burma is a party to this treaty, with reservations.

Other relevant instruments aiming to protect the right to be free from sexual violence includes, the Declaration on the Elimination of Violence Against Women; the Declaration on the Protection of Women and Children in



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Emergency and Armed Conflict; and the Slavery Convention. To view these documents, see the Office of the High Commissioner on Human Rights, <http://www.ohchr.org/english/law/index.htm> (last visited 15 August 2006).

Burma is also subject to customary international law. Sexual violence is prohibited as a grave breach of the Geneva Conventions, which is considered to be a codification of customary international law. Expressing the essence of customary international law, the commentary to the Convention indicates that the provision prohibiting sexual violence “codifies notions which date back to ancient times.” A state may be exempted from a particular customary law rule only if the state has persistently objected to the rule. Although Burma has not signed some of the above treaties, Burma has not demonstrated a sufficient level of opposition with regard to sexual violence to be absolved from the customary rule.

There is no single definition of sexual violence in international law. For example, the Declaration on the Elimination of Violence Against Women defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” See Article 1, 20 December 1993. The World Health Organization (WHO) meanwhile defines sexual violence as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.” (*First World Report on Violence and Health*, 2002, p. 149). While CEDAW does not explicitly prohibit sexual violence, in General Recommendation No. 19, the Committee recognizes that gender-based violence seriously inhibits the ability to enjoy the rights and freedoms guaranteed by CEDAW and therefore is included as a severe form of discrimination. The definition of gender-based violence according to the committee is “violence that is directed at a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty...”

For the purposes of this manual, the definition of sexual violence is based on the definition applied by the International Criminal Tribunal for Rwanda, which provides a gender-neutral interpretation that is both practical and sufficiently broad. See, *Prosecutor v. Jean-Paul Akayesu*, ICTR Trial Judgment, 2 September 1998.

<sup>5</sup> Radhika Coomaraswamy, Special Rapporteur on Violence Against Women, *Sexual Violence Against Refugees: Guidelines on Prevention and Response*, 1995. See also, Declaration on the Elimination Against Women, Article 2, 20 December 1993, <http://www.ohchr.org/english/law/eliminationvaw.htm>, (last visited 23 August 2006); *Rome Statute of the International Criminal Court*, Article 7 (1)(g), 17 July 1998, <http://www.un.org/law/icc/statute/rome.htm> (last visited 23 August 2006); Amnesty International, *Rape as a Tool of War: A Fact Sheet*, <http://www.amnestyusa.org/women/> (last visited 23 August 2006); Radhika Coomaraswamy, Special Rapporteur on the Violence Against Women *Sexual Violence Against Refugees: Guidelines on Prevention and Response*, 1995.

<sup>6</sup> See, *Licence to Rape*, Shan Women's Action Network, June 2002; *System of Impunity: Nationwide Patterns of Sexual Violence by the Military Regime's Army and Authorities in Burma*, Women's League of Burma, September 2004; *Catwalk to the Barracks: Conscripted Women for Sexual Slavery and Other Practices of Sexual Violence by Troops of the Burmese Military Regime in Mon Areas*, Woman and Child Rights Project, July 2005, *Shattering Silence*, Karen Women's Organization, April 2004; *Hidden Crimes Against Chin Women*, Women's League of Chinland, 2006.

<sup>7</sup> *Women in and from Conflict Areas of Burma*, Women's League of Burma, June 2000.

<sup>8</sup> *Catwalk to the Barracks: Conscripted Women for Sexual Slavery and Other Practices of Sexual Violence by Troops of the Burmese Military Regime in Mon Areas*, Woman and Child Rights Project, July 2005.

<sup>9</sup> *Women in and from Conflict Areas of Burma*, Women's League of Burma, June 2000.

<sup>10</sup> *Gathering Strength – Women from Burma on their Rights*, Images Asia, January 2002.

<sup>11</sup> *Women in and from Conflict Areas of Burma*, Women's League of Burma, June 2000.

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<sup>12</sup> *System of Impunity: Nationwide Patterns of Sexual Violence by the Military Regime's Army and Authorities in Burma*, Women's League of Burma, September 2004.

<sup>13</sup> Recently, the international community has reiterated the importance of preventing genocide. For example, as well as the International Criminal Court's focus on the crime, the Secretary General of the United Nations recently established the position of Special Adviser on the Prevention of Genocide, currently held by Francis Deng. See Office of the Special Adviser on the Prevention of Genocide, [http://www.un.org/Depts/dpa/prev\\_genocide/index.htm](http://www.un.org/Depts/dpa/prev_genocide/index.htm) (under construction when last visited 27 July 2008). Further, the Secretary General's High-level Panel on Threats, Challenges and Change has suggested that the Security Council should authorize military intervention where a country is unwilling or powerless to prevent genocide. The International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) have both prosecuted genocide and crimes against humanity as part of their jurisdiction. See generally for the ICTY, [www.un.org/icty/](http://www.un.org/icty/) (last visited 27 July 2008) and for the ICTR, [www.un.org/icttr/](http://www.un.org/icttr/) (last visited 27 July 2008).

<sup>14</sup> As the most serious of offenses in international law, it is generally accepted that the violation of genocide is universally applicable, meaning that it applies to states and individuals even if they have not signed onto a treaty or agreement to prevent genocide. This idea has been referenced by the International Court of Justice, the 1971 Barcelona Traction and in several statements by the U.N. Secretary General. Regardless, Burma is a party to the Convention on the Prevention and Punishment of the Crime of Genocide (with reservations).

Crimes against humanity have also been deemed to be part of customary international law and are therefore universally applicable. See, Bassiouni, C. and Hampson, F. et al., "Crimes against Humanity and Universal Jurisdiction," in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/crimes-against-humanity.html> (last visited 27 July 2008).

<sup>15</sup> Genocide is prohibited under several treaties, including the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) and the Rome Statute for the International Criminal Court (ICC), as well as customary international law. It is prohibited during times of war and peace. Both state and non-state actors, such as armed opposition groups, may be guilty of genocide.

Since 1956, Burma has been a party to the Genocide Convention and is also subject to customary international law.

The International Criminal Court provides a useful summary of the elements of genocide. See, *Elements of Crimes*, Article 6, [http://www.icc-cpi.int/library/about/officialjournal/Elements\\_of\\_Crimes\\_120704EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Elements_of_Crimes_120704EN.pdf) (last visited 29 July 2008).

<sup>16</sup> *Prosecutor v. Jean-Paul Akayesu*, ICTR Trial Judgment, 2 September 1998, *Kosovo Backgrounder: Sexual Violence as International Crime*, Human Rights Watch, 10 May 1999, <http://www.hrw.org/backgrounder/eca/kos0510.htm> (last visited 23 August 2006).

<sup>17</sup> See, *Prosecutor v Jelisic*, ICTR Trial Judgment, 14 December 1999, para 82; *Prosecutor v Akayesu*, ICTR Trial Judgment, 2 September 1998.

<sup>18</sup> Regarding the number of people who need to be harmed for genocide to apply, the International Criminal Court suggests that the number simply needs to be one or more, highlighting that there does not need to be evidence of the extermination of the whole or even most of the population. See, *Elements of Crimes*, [http://www.icc-cpi.int/library/about/officialjournal/Elements\\_of\\_Crimes\\_120704EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Elements_of_Crimes_120704EN.pdf) (last visited 29 July 2008).

<sup>19</sup> *Prosecutor v. Jean-Paul Akayesu*, ICTR Trial Judgment, 2 September 1998; *Kosovo Backgrounder: Sexual Violence as International Crime*, Human Rights Watch, 10 May 1999, <http://www.hrw.org/backgrounder/eca/kos0510.htm> (last visited 27 July 2008); Stiglmayer, Alexandra, "Sexual Violence: Systematic Rape," in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/sexual-systematic-rape.html> (last visited 27 July 2008).

<sup>20</sup> Orentlicher, Diane F., "Genocide," in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/genocide.html> (last visited 1 August 2008).

<sup>21</sup> See, *Elements of Crimes*, [http://www.icc-cpi.int/library/about/officialjournal/Elements\\_of\\_Crimes\\_120704EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Elements_of_Crimes_120704EN.pdf) (last visited 29 July 2008).

<sup>22</sup> *Prosecutor v Akayesu*, ICTR Trial Judgment, 2 September 1998, para 523; *Prosecutor v Kayishema and Ruzindana*, ICTR Trial Judgment, 21 May 1999; *Krstic Judgment*, ICTY Trial Judgment, August 2001, para 580 (considering evidence of the destruction of mosques and houses belonging to members of the group to prove the necessary intent).

<sup>23</sup> The definition is taken from the *Rome Statute of the International Criminal Court*, Article 7. Crimes against humanity were identified formally as breaching international law in the Charter of the Nuremberg Tribunal in 1945. In 1946, the United Nations' General Assembly recognized that international law prohibits crimes against humanity. The ICC also prosecutes crimes against humanity. Burma is not directly subject to the ICC's jurisdiction but is subject to the prohibition against crimes against humanity under customary international law. See, *Rome Statute of the International Criminal Court* (1998), Article 7, [http://untreaty.un.org/cod/icc/statute/english/rome\\_statute\(e\).pdf](http://untreaty.un.org/cod/icc/statute/english/rome_statute(e).pdf) (last visited 2 August 2008); Amnesty International, *The International Criminal Court: Fact Sheet 4 – Prosecuting Crimes Against Humanity*, <http://web.amnesty.org/library/index/engior400052000> (last visited 27 July 2008); see also, Bassiouni, C. and Hampson, F. et al., "Crimes against Humanity and Universal Jurisdiction," in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/crimes-against-humanity.html> (last visited 27 July 2008).

<sup>24</sup> *Rome Statute of the International Criminal Court*, Article 7(1)(g), 17 July 1998 (defining as an act of a crime against humanity as "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity").

<sup>25</sup> Rape and sexual violence were first treated as a crime against humanity by the International Criminal Tribunal of Yugoslavia when the court found three Bosnian Serb commanders guilty for guilty of crimes against humanity for raping, enslaving and torturing Muslim women and girls. See *Prosecutor v. Kunarac*, ICTY Trial Judgment, 12 June 2002.

<sup>26</sup> See, Diego Garcia, *A Crime Against Humanity? Public Debate at the House of Commons*, 16 November 2004, citing *Prosecutor v. Tadic*, Trial Judgment, paras 644-648; *Prosecutor v Akayesu*, ICTR Trial Judgment, 2 September 1998, para 580.

<sup>27</sup> *Ibid.*

<sup>28</sup> See, Human Rights Watch, *Targeting the Anuak: Human Rights Violations and Crimes against Humanity in Ethiopia's Gambella Regio*, section on Crimes Against Humanity in International Law, citing *Prosecutor v. Akayesu*, ICTR Trial Judgment, 2 September 1998, para 580, [http://hrw.org/reports/2005/ethiopia0305/10.htm#\\_fn201](http://hrw.org/reports/2005/ethiopia0305/10.htm#_fn201) (last visited 28 July 2008).

<sup>29</sup> *Ibid.*

<sup>30</sup> See, Amnesty International, *The International Criminal Court: Fact Sheet 4 – Prosecuting Crimes Against Humanity*, <http://web.amnesty.org/library/index/engior400052000> (last visited 28 July 2008); Bassiouni, C. and Hampson, F. et al., "Crimes against Humanity and Universal Jurisdiction," in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/crimes-against-humanity.html> (last visited 28 July 2008).

<sup>31</sup> *Prosecutor v. Naletilic and Martinovic*, ICTY Trial Judgment, 31 March 2003, para 235, <http://www.un.org/icty/cases-e/index-e.htm> (last visited 28 July 2008).

<sup>32</sup> See *Elements of Crimes*, [http://www.icc-cpi.int/library/about/officialjournal/Elements\\_of\\_Crimes\\_120704EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Elements_of_Crimes_120704EN.pdf) (last visited 29 July 2008).

<sup>33</sup> A full list of human rights concerns of UN thematic rapporteurs, representatives of the UN Secretary-General, and working groups can be accessed online at: <http://www2.ohchr.org/english/bodies/chr/special/themes.htm> (last visited 5 October 2008).

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<sup>34</sup> Office of the High Commissioner for Human Rights. "Situation of human rights in Myanmar," Commission on Human Rights Resolution 1992/58, 3 March 1992, [http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.RES.1992.58.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.RES.1992.58.En?Opendocument) (last visited 1 August 2008).

<sup>35</sup> Office of the High Commissioner for Human Rights. "Special Procedures of the Human Rights Council," <http://www2.ohchr.org/english/bodies/chr/special/> (last visited 1 August 2008).

<sup>36</sup> Office of the High Commissioner for Human Rights. "Situation of human rights in Myanmar," Commission on Human Rights Resolution 1992/58, 3 March 1992, [http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.RES.1992.58.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.RES.1992.58.En?Opendocument) (last visited 1 August 2008).

<sup>37</sup> *Special Rapporteur on Violence Against Women, its Causes, and Consequences - Introduction*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/issues/women/rapporteur> (last visited 3 August 2006).

<sup>38</sup> *Ibid.* The Special Rapporteur may also include information in the annual report to the Human Rights Council.

<sup>39</sup> *Ibid.* The Special Rapporteur will aim to prevent the loss of life and therefore will usually make the appeal even if there are still domestic remedies available.

<sup>40</sup> Proposals have been submitted and are currently under consideration by the General Assembly to extend the meeting time for the Committee. These proposals have not yet taken effect. See, *Meeting of States parties to the Convention on the Elimination of All Forms of Discrimination against Women*, 14<sup>th</sup> Meeting, 23 June 2006, <http://www.un.org/womenwatch/daw/cedaw/statesmeeting/fourteenth.htm> (last visited 14 August 2006).

<sup>41</sup> See, CEDAW, Article 21, 18 December 1979; *Fact Sheet No. 22- Discrimination Against Women: The Convention and the Committee*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/about/publications/docs/fs22.htm> (last visited 23 August 2006).

<sup>42</sup> Burma is a signatory to CEDAW and, therefore, is responsible for submitting periodic reports. As of November 2007, Burma has submitted an initial report and a combined second and third report. To view these reports, visit, *Country Reports*, Division for the Advancement of Women, <http://www.un.org/womenwatch/daw/cedaw/reports.htm#m> (last visited 20 November 2007).

<sup>43</sup> *Fact Sheet No. 22 - Discrimination Against Women: The Convention and the Committee*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/about/publications/docs/fs22.htm> (last visited 23 August 2006).

<sup>44</sup> *Optional Protocol to CEDAW*, Article 2, 22 December 2000.

<sup>45</sup> *Ibid.*

<sup>46</sup> See, CEDAW, Article 21, 18 December 1979; *Fact Sheet No. 22 - Discrimination Against Women: The Convention and the Committee*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/about/publications/docs/fs22.htm> (last visited 23 August 2006).

<sup>47</sup> *Ibid.*

<sup>48</sup> For information on becoming accredited with the Economic and Social Council, visit *How to Obtain Consultative Status with ECOSOC*, Economic and Social Council, NGO Section, <http://www.un.org/esa/coordination/ngo/> (last visited 20 November 2007)

<sup>49</sup> For more information on how to submit information or participate in Commission sponsored activities, visit, *NGO Participation in CSW Sessions*, Commission on the Status of Women, Division for the Advancement of Women, [http://www.un.org/womenwatch/daw/csw/csw51/NGO.html#not\\_received](http://www.un.org/womenwatch/daw/csw/csw51/NGO.html#not_received) (last visited 20 November 2007)

<sup>50</sup> *Fact Sheet No. 22- Discrimination Against Women: The Convention and the Committee*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/about/publications/docs/fs22.htm> (last visited 23 August 2006). See also, *Women's Rights the Responsibility of All: Basic Information Kit No. 2*, Commission on the Status of Women, 10 November 1997.