

Women's Mobilization, Activism and Policy-Making in Myanmar's Transition

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In January 2020, the government of Myanmar published the long-anticipated bill on Prevention of Violence against Women (PoVAW) on state-run media. This was an important move for a country with no existing comprehensive law to penalize violence against women (VAW), in particular in relation to Intimate Partner Violence (IPV). Myanmar remains one of only two countries in Southeast Asia region without specific laws on domestic violence (UN WOMEN 2013). Since 2014, activists in Myanmar had been advocating that the government should pass this law, given its urgency and in recognition of VAW as a public health and human rights concern (Faxon, Furlong and Sabe Phyu 2015; Miedema, San Shwe and Aye Thiri Kyaw 2016b). Women's rights activism around PoVAW is significant both because it has worked to counter a dangerous form of gender discrimination, and because it has represented engagement with the transitional government. Thus, the law's publication was a noteworthy milestone for the women's rights activists who actively participated in the drafting process. However, the military coup on 1 February 2021 ended the decade of policy advocacy in which women's rights activists had engaged since the transition. Shortly after the coup, women's groups announced their withdrawal from the government-led technical working groups, including the VAW technical task force that was responsible for the VAW thematic area, stating their firm stance against the coup.

After the democratic transition took off in 2011, Myanmar saw the rise of a growing independent women's movement that was active inside the country. During the previous period of military rule, the government's approach, in the name of protecting women, was to promote traditional customs and cultural norms. This makes it important to explore the ways in which women's groups seized opportunities to engage in policy advocacy

within Myanmar. The opportunities that presented themselves for the expansion of women's political participation during the ten years after 2011 were vital and helped to bring about a more gender-equal environment. There were increasing prospects for political participation, which enabled women's groups to amplify their voices as a means of influencing institutions and policy making (Viterna and Fallon 2008). The changes led to women's activism being focused towards the state and to the use of laws as tools for change (which ultimately led to the formulation of the draft PoVAW law). Even after the coup, the story of the PoVAW law demonstrates the potential – as well as the limits – of policy advocacy for gender equality during transitional times.

In this chapter, I first examine changes in women's activism and in their strategies to end gender-based violence in relation to changes in the broader political context. Secondly, I present an assessment of the role of the women's movement during the transition and discuss how women's groups seized the policy space and window of opportunity presented by the ten years of democratic transition to advocate for the PoVAW law. Finally, I discuss the challenges that women's groups faced collectively throughout their policy advocacy. This analysis is partly informed by key informant interviews conducted for an MSc dissertation, supervised by Associate Professor Tania Burchardt, at the London School of Economics and Political Science (Aye Thiri Kyaw 2020). More importantly, this analysis has benefitted from the author's nearly ten years of experience of working with preventing violence against women and being involved with the Gender Equality Network's two major policy research projects, which contributed to the drafting of the Prevention of Violence against Women's law in 2013 and 2014.

Women's Mobilization and Activism in Myanmar

Myanmar women's movements have shifted and expanded during the different periods of the country's recent history, both within and beyond national borders. Nationalism and feminism were intertwined in the early days of women's mobilizations during the colonial period. These mobilizations, such as the nationalist Burmese women's association led by elite women, were established to strengthen the nationalist agenda of the General Council of Burmese Associations. However, the nationalist Burmese women's association only played a supportive role in relation to the nationalist

movement, reinforcing its activities and objectives (Ikeya 2013). Throughout the socialist and authoritarian periods, many women's movements were led by elite Bamar and Buddhist women who were detached from grassroots and ethnic minority concerns (Tharaphi Than 2015).

The government's brutal crackdown on the political uprising in 1988 marked a watershed moment for contemporary women's rights activism in Myanmar. The founding of the Women's League of Burma in 1999, which incorporated 11 exiled ethnic minority women's groups, was a significant milestone in the women's rights movement in Myanmar (Women's League of Burma 1999). Informed by the global women's rights movement, exiled activist groups strategically challenged the military government's authority and brought attention to human rights violations in ethnic minority areas (Cárdenas this volume; Pepper this volume)

Advocacy efforts were not just limited to the military government's (in)actions regarding women; concerns were also raised about women's subordination in the opposing armed groups, male dominance, and domestic violence (Hedström 2016). This is historically relevant because it was a notable precursor wherein the women's groups aimed for liberation through a mass movement within their own society.

After Cyclone Nargis devastated large swathes of the country in 2008, the space for activism changed in important ways. The post-Nargis period in Myanmar saw major growth in women's rights activism inside the country. A new UN/INGO and civil society taskforce was set up to assist in the response to humanitarian needs, and recovery effort identified gaps in the post-Nargis era. This taskforce would later expand to become a leading women's rights network in the country. The network, which had more than 100 international and national organizations and individual experts as members, came to be known as the Gender Equality Network (GEN) (Faxon, Furlong and Sabe Phyu 2015; Gender Equality Network 2018). Playing a contributory role in the democratic transition since it took off in 2011, women's groups over the years evolved to form the building blocks for feminist civil society comprising both local and international non-governmental organizations and individual experts in Myanmar.

Different women's movements and activists responded to the changing political context and to opportunities using different strategies. For example, the exiled women groups led by the WLB focused their policy and advocacy efforts on eliminating VAW, in particular sexual violence, in the conflict-af-

affected areas. Although starting off with direct relief efforts, women's groups inside Myanmar interpreted the changes as an opportunity to engage in policy efforts to change the state and its laws. The ten years of democratic transition from 2010–2020 saw both of these strands of the broader women's movement drastically changing their strategies, while keeping their focus on women's rights and the eradication of VAW. In a changing political context, women's organizations and activists had to consider how they wanted to go about influencing societal change, choosing between maintaining an independent position in relation to the state, outside of the policy-making architecture, and serving in available policy-making roles once the transition had begun. Exiled women groups continued international advocacy to hold the military accountable for their perpetration of sexual violence, while women's groups inside the country sought the opportunity to expand greater gender equality through the law and policy reforms. This presented a dilemma, as both maintaining a level of independence and playing a political role within state structures entails both opportunities and risks for feminist advocacy (Waylen 1994). For example, maintaining independence means that women's groups may sometimes be seen as dissenting voices; on the other hand, the direct involvement in government of women may be tokenistic rather than truly being based on a gender-sensitive approach. In the case of Myanmar, the exiled groups were vocal in relation to their overt critique of gender inequality (Hedström 2016, Olivius 2019) while women's groups inside the country were more limited by the traditional views predominant in policy institutions (Maber 2016; Khin Khin Mra and Livingstone, this volume). Below, I focus on policy advocacy for women's rights conducted from inside the country, and aimed especially at eliminating violence against women.

Women's Policy Advocacy during the Transition: Opportunities and Spaces

Women's groups, spearheaded by GEN, seized opportunities to leverage the space for civil society and its potential to promote gender equality that emerged after the transition took effect in 2011. As part of their efforts since the start of the transition, GEN, along with other new women's networks, such as the Women's Organizations Network Myanmar (WON), began cel-

celebrating International Women's Day with campaigns to promote awareness around violence against women.

Although social movements do not directly make or change policy, those movements can position themselves as the initial drivers of changes in social values within the society. Through these mechanisms, there is a range of possibilities that helps in rethinking the most pressing social problems and how best to tackle them (Rochon and Mazmanian 1993). Women's groups may, for instance, indirectly influence policy making by questioning long-held views that reflect public opinion and by helping to raise awareness about these social issues. Helping to replace old norms is one of the ways through which the feminist agenda is advanced (Weldon and Bahu 2011). This applies in Myanmar just as it does elsewhere. In the process of developing their advocacy messages, Myanmar feminists were informed by the voices of grassroots civil society in pushing for gender-responsive, fit-for-purpose policies to be implemented by the national government.

However, like other countries experiencing a democratic transition, Myanmar faced a huge challenge in terms of the scarcity of reliable data on gender based-violence and rights. Indeed, Myanmar did not have national prevalence data on violence against women. Therefore, the causes and pathways of VAW were yet to be comprehensively measured, and therefore largely unknown. One consequence of this is that it is not possible to effectively design policies to remedy violence if neither the extent of violence nor the root causes of it are well known. GEN saw this as an opportunity to collaborate with the Department of Social Welfare, the governmental department responsible for women's and children's affairs. In 2013, GEN carried out the first qualitative research study on VAW, which revealed different types of partner violence including economic, emotional, physical and sexual intimate partner violence or marital rape. Most women experience violence not as a one-off incident, but as a continuous feature of intimate relationships. In addition to partner violence, women described rape by other perpetrators than their partners; sexual assault; and harassment. The key findings of the study resulted in targeted policy advocacy and to recommendations that led to the PoVAW bill (Gender Equality Network 2015).

The year 2015 saw a change in the government's perspective; it recognized that violence against women is a serious social problem, and committed to preventing all forms of violence and to eliminating harmful social and

cultural norms. Collaboration between women's groups and the Union Solidarity and Development Party (USDP)-led government were established even before the NLD government took office. This led, for example, to the ten-year National Action Plan for the Advancement of Women, which listed VAW as one out of ten priority areas for the government in 2013 (Ministry of Social Welfare, Relief and Resettlement 2013). Five years after the democratic transition took off, the government's Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) report recognized the role of women's organizations and their continued collaboration in addressing all forms of violence against women (Government of Myanmar 2015). This was a major shift, since previous official government reports to the CEDAW committee had claimed that discrimination, including violence against women, was non-existent in Myanmar, and had denied that there was gender inequality (Government of Myanmar 2007; Government of Myanmar 1999). This new recognition was the result of advocacy, which led to a change in the perception of VAW among policy makers.

Consistent advocacy pushed the policy makers to shift their perspective and to recognize the lack of protection for women. Commissioning qualitative research to show systematically that VAW is a problem is an example of a strategy that was adopted by women's organizations (Gender Equality Network 2015). A key women's rights activist explained that the plans for a long-anticipated national prevalence survey should open new doors for prevention programmes:

The Department of Social Welfare has the administrative record on the incidence of violence reported from different states and regions. They also have a commitment at the ASEAN and global level to collect the VAW survey. The department will collaborate with women's groups, which will be responsible for the qualitative part of national prevalence research.¹

This work would culminate with the publication of the draft Prevention of Violence Against Women (PoVAW) bill on state-run media in 2020. The year 2020 even witnessed an appearance on the part of the Minister of Department of Social Welfare and Relief and Resettlement department, alongside his wife, a senior government official, in an awareness campaign video by the UNFPA encouraged non-violent behaviour and positive relationships between couples, to highlight the devastating impacts of violence

1 Leading women's rights activist, Yangon, 30 July 2020.

against women in the context of Covid-19 pandemic. This was the result of years of unwavering advocacy by women's organizations, which culminated in the official public announcement of the PoVAW bill.

Women's Policy Advocacy during the Transition: Challenges and Obstacles

Gender-related scholarship reflects, to some degree, an optimistic attitude towards the changes brought by the democratic transition, since this provided new spaces in which to advance pertinent discussions on women's rights and women's political participation (Jaquette 1994). These new-found opportunities have the potential to strengthen the ability of women's rights activists to influence the restructuring of institutions and policy changes. The changes in the perspective towards VAW and the recent call for public consultation regarding the draft PoVAW bill were quite significant feminist wins, which stand in sharp contrast to pre-transition politics. New spaces became available in which opposition groups could expand their activism in relation to gender equality and women's rights (Khin Khin Mra and Livingstone 2020). However, these changes were not without challenges. Despite the progress in women's rights activism brought about by the transition, I present below certain specific bottlenecks and obstacles that have accompanied the PoVAW law drafting.

Women's Groups are not Homogenous

Although women's groups tend to be pluralistic in nature, what seems to be a general agreement among the different groups is that addressing women's subordination is a major priority (Phillips 2002). Thus, one women's rights activist to whom I spoke said that women's groups are driven by the same goals of achieving gender equality despite their differences.² However, differences and the unequal status of women have often been the sources of conflict within the women's movement. Divisive tendencies such as power differences, cultural differences and socio-economic differences are often overlooked in the context of women's rights movements working on policy advocacy (Richards 2006).

2 Leading gender and peace advocate, Yangon, 28 October 2020.

In relation to Myanmar, there was a lack of a consensus among the women's groups in exile and those groups based centrally inside Myanmar on how to engage constructively with the military-backed government. One respondent, a long-time leading women's rights activist on VAW policy advocacy, told me that the main source of the difference between the women's groups derives from each group's stance in relation to the 2008 constitution (Cardenas, this volume; Naw K'nyaw Paw and Quadrini, this volume)

Exiled women groups opposed the 2008 constitution and advocated that it should be abolished, whereas groups inside the country sought a way to collaborate with the government policy makers and pushed for law reforms through research and advocacy. It could also be that government officials were careful when it came to deciding whom to engage with, due to the plural nature of the movement. Exiled women's groups were seen as relatively radical compared with the groups inside the country (Barrow 2015). For instance, the concerns of WLB revolve, quite justifiably, around sexual violence committed by the military in the ethnic minority areas (Women's League of Burma 2020). Inside Myanmar, GEN and WON, along with other leading networks, focused on issues such as domestic violence as a starting point, but also addressed sexual violence by non-partners. There was no easy solution to this. The decision to stay outside of governmental policy-making as opposition groups or to work together to influence policy processes through the government is multi-faceted. In general, exiled women's groups continued to promote international advocacy, while the women's groups inside Myanmar focused on internal advocacy aimed at changing policy and governance. Instead of approaching sexual violence in conflict as a standalone topic of advocacy, women's groups working with the government focused on different types of VAW. In their view, domestic violence was the most pervasive form of VAW and should be the focus of advocacy. Therefore, sexual violence in conflict areas was treated as one form of violence under the umbrella term of VAW.

It should be noted here, in relation to sexual violence in conflict-affected areas, that there was a question around the inclusion of the most marginalized populations, such as Hindu and Rohingya women, in the PoVAW bill. The Myanmar military is listed in the 2018 United Nations Secretary General list of parties involved in conflict-related sexual violence, because it is clear that it used sexual violence, including rape, as a weapon of war against Rohingya women and girls, as well as in other ethnic areas such as Kachin and Shan

state (Frydenlund and Wai Wai Nu, this volume). As rightly pointed out by WLB in its analysis, there was nothing in the PoVAW bill stating how military perpetrators of sexual violence in conflict-affected areas would be held accountable. However, it would have been challenging for groups like GEN and WON to be too outspoken about these issues because they worked through the government, and the government remained under (some) military influence. Although GEN and other women's advocacy groups inside the country did not publicly speak out about the plight of Rohingya women, they felt that their informal working relationships with exiled women groups made clear what their stand was. As a result, the government began to view both exiled groups and groups inside the country in a similar way. The NLD government rejected outright the use of the term 'Rohingya', which affected women's advocacy, whether they were focusing on sexual violence in conflict or marital violence, and this in turn exposed the intertwined oppressiveness of the military and of patriarchy in Myanmar. As a result, the government began to distance themselves from the women's groups in the final round of the consultations. Finally, the PoVAW bill became a secretive document, as the government scaled back their engagement with women's civil society groups.

Rising Nationalism and Protection of 'Race and Religion'

Democratic transitions can be accompanied by a resurfacing of traditional gender expectations (Jaquette 1994). In Myanmar in the 2010s, there were competing interests at play, as there was in the country both an embracing of women's rights and at the same time a desire to preserve religious and traditional values. On the one hand, women's rights groups made considerable progress in influencing the government's policymaking and obtaining official commitments at the regional and global level (Htun and Jensenius 2020). On the other hand, conservative groups also had legislative wins (ibid.). The nationalist groups enjoyed a strong voice, which enabled them to push against liberal ideologies. The 969 movement and Ma Ba Tha (the 'Organization for the Protection of Race and Religion') sought general public support in suppressing minority Muslim groups. This led to the drafting of the so-called four laws: the religious conversion law, the Buddhist women's special marriage law, the population control healthcare law, and the monogamy law. These are collectively known as the Race and Religion Protection Laws. The proponents of these laws justified them as necessary in order to

protect young, impoverished Buddhist women from exploitation by men from other religious backgrounds. The four laws met with strong opposition on the part of both civil society and the international community, due to the potential discrimination against women and religious minorities that was implied by the laws. However, they were passed, and this gives an indication of the ideology of the Union Solidarity and Development Party (USDP)-led government, juxtaposed as it was between nationalism and religion on the one hand and women's rights on the other. Although the USDP-led government embraced liberal concepts such as gender equality, the adoption of the four laws seemed to conflict with the cause being championed by women's groups (Barrow 2015).

The passing of the package of the so-called Four Race and Religion Protection Laws was opposed by international human rights groups and women's groups. However, attitudes to the laws were complex, and not all women in Myanmar were opposed to the laws. Some Myanmar women voiced their support of the four laws (Walton, McKay and Khin Mar Mar Kyi 2014). For instance, some women saw the laws as protection for women whose husbands marry more than one wife, but who are afraid to tell their husbands about their feelings. One leading women's rights peace advocate, who was extensively involved in earlier PoVAW discussions, pointed out that women who supported the four laws did not see the associated long-term risks. For instance, they are attracted to the polygamy law because the law criminalizes men's polygamy; however, as she pointed out: "The proposed four laws trick women who are not in favour of men's practice of polygamy."³

In 2015, the National League for Democracy (NLD) assumed office following a landslide victory in the general polls conducted the same year. However, the 2008 constitution provided the military with significant privileges, including dedicated seats in the parliament. Although Daw Aung San Suu Kyi was the *de facto* leader of the country, she was not widely seen as the personification of gender equality in Myanmar (Minoletti 2014). It was observed that her position was not a representation of freedom for women in Myanmar. A notable women's rights activist described how their hopes were shattered, since the NLD-led government showed no sign of withdrawing the four laws, especially as there had been high hopes in terms of women's rights in the early days of NLD-led government. What had disappointed

3 Leading women's rights and peace advocate, Yangon, 28 October, 2020.

them even more was seeing the NLD-led government prioritizing building a relationship with the Union Solidarity and Development Party, the political party backed by the Myanmar military:

In my opinion, the Suu Kyi government prioritised national reconciliation with the military backed USDP who had passed the four Race and Religion protection laws and abandoned women's rights. This is heart-breaking for us. We understand that a five-year term will not bring many changes, but the government's unwillingness to remove the four laws is too much to bear.⁴

The nationalist promotion of illiberal ideologies and conservative views on gender inequality hampered the progress made by the women's rights groups. Democratic transition in Myanmar provided space for women's groups to influence and get involved in policy making processes, but it also saw a resurfacing of traditional beliefs around womanhood. The opening of Myanmar to the world has led to an identity crisis, creating a desire to protect its race and religion during the democratic transition (Walton, Mckay and Khin Mar Mar Kyi 2015). This might explain why some women are in support of these laws. Strong sentiments relating to the protection of religious values, and the fear that Buddhist values might disappear due to outside influence, were widespread among the nationalists who promoted illiberal ideologies (Walton and Hayward 2014). Yet, as pointed out by rights groups, the laws do not respect to freedom of choice for women in relation to whom they marry. In the view of women's rights groups, women's support for these laws was due to this nationalist agenda. This might explain why some women were misled to support these laws. These laws are discriminatory towards religious minorities.

*Lack of Evidence-Based Policy-Making in
Relation to Violence against Women*

The prevention of violence against women was also challenged by the lack of evidence-based VAW policymaking, as Myanmar does not have national prevalence data on VAW. The military coup halted the first national prevalence VAW survey, which was underway, commissioned by UNFPA and Gender Equality Network under the leadership of the Department of Social

4 Leading women's rights and peace advocate, Yangon, 28 October, 2020.

Welfare. A respondent who is involved with PoVAW draft committee as a UN representative told me that there has not been any cooperation regarding the VAW survey since the coup occurred.⁵

That said, the Demographic and Health Survey in Myanmar in 2015 did include a section on domestic violence and provided some data about the breadth of the phenomenon. One in five women in Myanmar reported having experience of violence in their responses to the Demographic and Health Survey (DHS). Experts point out that the real number of incidents may be under-reported due to social norms that prevent women from sharing their experience of violence (Miedema and Tharaphi Than 2018). Multi-purpose studies such as the DHS are not a substitute for VAW specialized surveys, as the DHS may not be best-suited to present detailed questions that are intended to collect women's experiences of violence (Ellsberg et al 2001). Myanmar women's rights experts unanimously expressed the view that the actual number of women survivors of violence may be higher than the prevalence figures from the DHS data. Based on their experiences working in this area, they said that survivors do not normally speak of their experience of violence due to social norms and stigma:

Domestic violence was not the focus of the DHS. But their findings are useful. I think it has had some impact. We just don't have the evidence – that is why it may be under-reported. However, based on cultural norms, I can say that [as an insider]. Since people do not see the violence [psychological violence], they do not make a drama out of it. Therefore, I think it is not reflected in the DHS findings.⁶

More importantly, evidence is political in Myanmar – as it is everywhere – since different actors frame the evidence differently and use it politically (Cairney 2016). Although there is general acceptance of the use of evidence relating to violence against women in Myanmar, different actors do not always have the right technical capacities and seldom apply good international practice in using objective and ethical methodologies to collect this type of sensitive information in Myanmar (Schomerus and Seckinelgin 2015). During the military regime, VAW was not seen as a serious social or public health issue in Myanmar. As a result, there was little evidence to support its significance of the problem in the past.

5 UN representative on Prevention of Violence Against Women draft committee, Yangon, 15 June 2021.

6 Leading women's rights activist, Yangon, 30 July 2020.

When I started working, we didn't use the term violence for this issue. We understood it as the family problem. It was until not many years later that I realized that the issues we dealt with in the past were violence-related issues. Nowadays, women's organizations and the government is dealing with these issues. The cases are now more visible. We were not equipped with this type of knowledge before.⁷

In 2014, the first qualitative research using a rigorous methodological approach provided an initial understanding of patterns of violence, including both marital rape by women's intimate partners and rape by strangers (Miedema, San Shwe and Aye Thiri Kyaw 2016a; San Shwe, Miedema and Aye Thiri Kyaw 2015). The author of this chapter was part of the first qualitative research approved by the government team that employed rigorous methodological and ethical research practices. It is important to note that there was a distrust of foreign ideas and influence during the research period. The research team members were often informally reminded by government officials not to interpret the research findings in a way that would be critical of the government. This sentiment was echoed by our respondent's reflection that the government wanted to suppress the number of cases visible on paper – but was not committed to reducing the actual number of cases.

Our situation is desperate. Even [in relation to] obvious cases like rape, advocacy groups have to justify a comprehensive definition of rape. As we can see, the data for sexual violence is low because the definition is very narrow. Officials are afraid that if the definition of rape is revised, the rate of sexual violence will rise dramatically. They are only interested in suppressing the numbers, not in the main causes of rape.⁸

In interviews we carried out, it was pointed out that the delay in the passing of the Prevention of Violence Against Women law (PoVAW) was partly because some policy makers were not in favour of the PoVAW bill (Metro this volume). Through the interviews, respondents told us about their experiences of working with different actors in the law-drafting process. The draft law was first proposed by the Ministry of Social Welfare with technical support from civil society actors and the international community. As a follow-up, different ministries and departments in the government that had conservative tendencies also contributed to the reviews of the proposed draft

7 Psychological support counsellor, Yangon, 12 June 2020.

8 Leading women's rights activist, Yangon, 30 July 2020.

law. Respondents who were involved in this lengthy law-drafting process told us that working with different stakeholders meant that they had to strike a balance: ‘There were two competing versions of the PoVAW bill: one that was favoured by the government and one that was favoured by the [women’s] rights groups. Which of the two versions would come out at the end was unknown.’⁹ They explained that the inputs from multiple departments watered down the contents of the original proposal, but said that they had stood firm about maintaining the key protection (of rights) elements in the draft bill.

It has been noted that male reception to the VAW also needs to be considered since men are hesitant to cooperate in such arrangements. Rather than seeing the law as being about protecting women, it is seen as a potential threat to men’s existing authority and to the traditional family structure. A respondent with extensive VAW policy advocacy told me that ‘even senior government officials – who are mostly men – see the bill as something privileging women. They fear that their male authority could be challenged by the proposed bill.’¹⁰

Many officials are conservative, and they expressed long-held conservative views around IPV, in particular marital rape, portraying these issues as too ‘foreign’. The text in the bill states that ‘marital rape means when a husband rapes his wife’. However, there is a deep-rooted belief in Myanmar that the husband is the lawful ‘owner’ of the wife, and that this gives a man the power to punish his wife if she refuses to have sex with him when he wants. Therefore, the text in PoVAW bill challenges the husband’s entitlement to sex, which has not been questioned before in Myanmar culture. According to the respondents, what was even more troubling was that this view was held even among some rights activists, whose job is to promote the women’s freedom and gender equality. The most pervasive belief, which came up frequently during discussions in meetings about the prevention and protection of violence against women, related to attitudes towards wife-beating:

We have the term *karma paing lin*, which means that the husband has ownership of his wife’s body and sex. If a woman is not well-behaved, her husband can punish her by beating her, according to wide-spread

9 Leading women’s rights and peace advocate, Yangon, 28 October 2020.

10 Leading women’s rights activist, Yangon, 30 July 2020.

social beliefs. Even among the CSO groups working on women's rights and LGBT rights, this belief is deep-rooted.¹¹

Historically, elite women in Myanmar have been known to reject gender inequality in Myanmar, instead asserting that western scholars misunderstand the Burmese form of feminism (Khaing 1984). Recent research suggests that this sentiment continues to be present among elite women, who reject the notion that forms of gender-based violence are a social problem (Barrow 2015). This resulted in debate in the context of the law-drafting process. Data from my interviews confirm that while patriarchy is a system that favours men and maintains male privilege, it has the support of both men and women. One respondent, who works for a shelter service for women victims, told me that 'even women in the official meetings resist the PoVAW bill; they fear that the new bill will give power to women and that men will feel threatened by this.'¹²

The Myanmar constitution defines women based on their sex and it therefore rejects the existence of transgender women. Transgender women are often the victims of the corrupt legal system, through the so-called 'shadow laws', formally known as the Rangoon Police Act of 1899 and the Police Act of 1945. These permit the police to punish 'any person found between sunset and sunrise, within the precincts of any dwelling-house or other building whatsoever, or on board any vessel, without being able satisfactorily to account for his presence' (Chua and Gilbert 2015). In addition, Section 377 of the penal code, a British colonial legacy, still penalizes same-sex sexual relations. Furthermore, for cultural reasons conservative policymakers oppose any discussion of protection for transgender women. A longtime activist who served on the VAWG technical working group stated that:

When we propose that transgender women be included in the category of 'women', the policy makers are not comfortable. They comment that this is against Myanmar culture. They only abide by the Myanmar 2008's constitution definition of women based on her 'sex'. The penal code and the Myanmar constitution is the bible for them.¹³

This binary and fixed understanding of 'sex' served to discriminate against transgender women in the drafting of the bill and this shows how hard it is

11 Leading women's rights activist, Yangon, 30 July 2020.

12 Shelter service provider, Yangon, 1 July 2020.

13 Shelter service provider, Yangon, 1 July 2020.

to subvert dominant ideas about what is 'appropriate'. As there is no legal recognition for same-sex relationships and no mention of transgender women in the bill, any mistreatment or oppression that occurs in relation to them will go unrecognized. Transgender women's vulnerability to violence in romantic relationships is understudied in Myanmar. Existing research from other countries suggests, however, that domestic violence incidents are more common in relationships where one or both partners are transgender or gay (Greenberg 2012). As a result, a lack of legal protection can place transgender women in a vulnerable position in abusive relationships, and abusers can use these relationship to exert control over them. Not being protected by the law therefore renders them vulnerable to violence. The women (including transgender women) of Myanmar remain unprotected from the threat of violence.

Since the women's groups announced their withdrawal from the VAW technical working groups, the passage of the PoVAW law has remained an unfinished business. However, in his speech on Myanmar Women's Day on 3 July 2021, Senior General Min Aung Hlaing stated that efforts were being made to enact the PoVAW law. The Ministry of Social Welfare, Relief and Resettlement (MoSWRR) has been advancing the PoVAW legislation processes through regular internal ministry meetings as well as meetings with related ministerial departments. The timing of this dramatic move is problematic, not least given that the PoVAW bill has experienced continued resistance since its drafting was initiated in 2014. An analyst interviewed after the coup offered some insights:

The SAC [State Administrative Council] knows that the PoVAW law was backed by the international community as well as by WROs [women's rights organizations] in Myanmar. Therefore, it is likely that the SAC may use the PoVAW law as a tool to gain political credit.¹⁴

Thus, advocacy around women's rights is always tied up with specific power dynamics, which do not always serve the interests of women. As this example shows, it may instead further the intertwined oppressiveness of military and patriarchy in Myanmar.

14 Analyst working on women's rights and governance, Yangon, 16 June 2022.

Conclusion

The goal of this chapter has been to provide an account of how different women's groups used different strategies to advocate for an end to VAW during the 10 years of Myanmar's transition. It began with a brief background to women's movements and activism in Myanmar. Historically, the women's rights movement was latent until 1999. The founding of the WLB in 1999 and the emergence of the women's network GEN in the aftermath of cyclone Nargis provided platforms, once the transition began to take place, for women's rights activists to work together towards achieving a shared vision for gender equality, while focusing their policy advocacy with different strategies. The chapter went on to examine how different women's movements reacted to the changes brought by the democratic transition. While exiled women's groups focused on international advocacy on VAW, women's groups inside the country targeted the state and pushed for legal reforms.

This chapter is a case study of PoVAW specifically, using it as a way to discuss how women's activism has changed over time in relation to shifting power dynamics and in different political contexts. The draft PoVAW bill, which was introduced for public consultation in 2020, turned a new page in the advancement of women's rights in Myanmar, ending almost six years during which the law was being drafted. The democratic transition in Myanmar provided opportunities for women's rights activists to participate in discussions on government policies and reforms. These opportunities were used to translate aspirations into the development of the PoVAW draft law. That said, Myanmar's democratic transition also saw a rise in the expression of views relating to traditional expectations of women as well as increasing nationalism. During the transition, exposure to the world's liberal views revealed an emerging identity crisis. The passing of the protection of race and religion laws demonstrates, to an extent, that nationalist views are widespread in Myanmar. The rise of nationalist views delayed the process of passing of PoVAW law in Myanmar. This could be taken as a lesson for the future, both in Myanmar and elsewhere. Moreover, evidence was sometimes used to satisfy political and vested interests. The lack of national prevalence survey data on violence against women in the country also highlights the limited capacity to gather evidence to inform policies. Women's rights advocacy groups took the space of VAW policy advocacy and became a driving force

of PoVAW, using this as an opportunity to systematically show the magnitude of the problem. This led to the publication of the PoVAW bill.

The coup d'état on 1 February 2021 has reversed the ten-year-long VAW policy advocacy in Myanmar. The coup has grave policy implications in relation to women rights, in particular in relation to the issue of VAW in Myanmar. Meanwhile, the PoVAW Bill, which was not adopted, remains in limbo, as women's groups have firmly opposed providing technical support to the military regime, which is an institution known internationally for its perpetration of sexual violence. As a result, survivors and victims of domestic violence continue to remain unprotected.

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