Daring to defy Myanmar’s patriarchy

An assessment of the risk of challenging gender taboos for Myanmar’s women human rights defenders

2018
Acknowledgements

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About FEM

Free Expression Myanmar (FEM) is a national human rights organisation that is expert in free expression and information, engaging in legal reform, defending victims of violations, and promoting best international standards.

This report forms part of FEM’s objective to build evidence of violations and promote appropriate and needed reforms. See:

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FEM’s supporters

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Design

The cover design takes the traditional LGBT icon of the multi-colour flag and changes positions, shapes, and transparencies to represent how gender identities are different, fluid, and overlapping. © Oliver Spencer.
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Executive summary

“..."The easiest way for [perpetrators] to attack me is by phoning me. I have received everything from abuse to death threats. In one case they said, ‘You are a woman and we can easily destroy your life while you are travelling at night.’”

- Anonymous WHRD

Across Myanmar, women human rights defenders (WHRDs) exercise their right to freedom of expression to expose discrimination and injustice, name-and-shame perpetrators, and speak uncomfortable truths to power.

In doing so, they risk retaliation including physical, sexual, and psychological gender-based violence (GBV).

The risk of GBV is heightened when WHRDs confront gender-related taboos or patriarchal power, which are often labelled “sensitive” by society with the intention of shutting down any discussion of widespread discrimination and misogyny.

The Myanmar government does little to enable WHRDs to work free from the risk of GBV, despite domestic law and the government’s international obligations. In many cases, the government condones and increases the risk of GBV.

For this report, FEM set out to better understand the risks faced by WHRDs working on the most “sensitive” gender-related taboos and challenges to patriarchal power in Myanmar. FEM’s research has come to several conclusions, including:

- All human rights defenders (HRDs) face risks when exercising their right to freedom of expression in Myanmar, but WHRDs face the added risk of GBV due to widespread gender-based discrimination.
- WHRDs expressing themselves on the most “sensitive” of gender-related taboos or challenges to patriarchal power face heightened levels of risk. This
includes: campaigning for the rights of lesbians, bisexuals, and transgender people; challenging sexual violence in conflict; promoting sexual and reproductive rights; and advocating for women’s participation and leadership.

- There are several distinct types of GBV. The most commonly-reported by WHRDs in Myanmar are: attacks on life, bodily and mental integrity; attacks on personhood and reputations; and violations of privacy. All types are interlinked and WHRDs rarely face only one.

- The risk of GBV is aggravated by Myanmar’s background of patriarchy, militarisation, and religious extremism.

- The risk of GBV comes from all parts of the government and security services, as well as from community and family.

- State, community, and family “protection” mechanisms generally seek to control WHRDs and limit their rights rather than reduce the risks that they face.

- WHRDs have risk mitigation and management strategies and tactics, but these are mostly informal, rather than based on risk management training, and not widely shared.
**Recommendations**

**Laws**

- Ratify the ICCPR, the ICCPR’s Optional Protocol, and the CEDAW Optional Protocol on complaints.
- Adopt an Anti-Discrimination Law that explicitly prohibits discrimination based on “tradition”, culture, or religion. Publicly commit to reforming all customs and laws that encourage de jure or de facto discrimination.
- Adopt a Gender-Based Violence Law.
- Adopt a Public Service Broadcasting Law with a clear mandate to promote equality and anti-discrimination, including by addressing stereotyping.
- Amend the Myanmar National Human Rights Commission Law to bring it in line with the Paris Principles.¹

**Government policy**

- Implement the National Strategic Plan for the Advancement of Women, with proper budget allocations and a robust annual operational plan with measurable indicators.
- Ensure public prosecutors and the police presume allegations of GBV against WHRDs are a crime against freedom of expression. Ensure prompt, transparent, impartial, and efficient investigations.
- Establish a National Commission to investigate women’s access to justice.
- Give police, public prosecutors, prison staff, military, and judges gender-sensitivity training. Reform all recruitment and human resources policies to ensure equal access and representation at all levels of government.
National Human Rights Commission

- Ensure new Commissioners include WHRDs proposed by civil society. Train all Commissioners in gender-sensitivity.
- Establish an expert sub-Commission mandated to accept complaints of GBV and issue statements.
- Conduct an open review of GBV against WHRDs²

Broadcasters, film industry and other media

- Train all staff in gender-sensitivity.
- Conduct reviews of content to identify and remove gender-bias and gender-stereotyping.
- Create more content that addresses gender-specific concerns and issues, including those regarded by some as "sensitive". Create the content in partnership with civil society and evaluate it for lessons learned.

WHRDs and civil society

- Further investigate GBV aimed at WHRDs working on the most "sensitive" of gender-related taboos and challenges to patriarchal power.
- Continue to build capacity in developing and implementing gender-sensitive risk management strategies, sharing lessons learned with other WHRDs.
- Build mechanisms and campaigns to support those WHRDs working on the most "sensitive" of gender-related taboos and challenges to patriarchal power.
The default assumption in Myanmar and worldwide is that human rights defenders (HRDs) are men. Women are assumed to be passive participants in society, victims of violence and poverty, and concerned only with domestic duties, rather than agents of change.

The result of this deeply engrained discrimination is that women human rights defenders and those who campaign for women’s rights (WHRDs) are marginalised as not “normal” and therefore little attention has been paid to their risk of gender-based violence (GBV). Their marginalisation has left a persistent gap in legal frameworks and proposals for reform that could and should support WHRDS to work freely.

FEM set out to better understand WHRDS’ risk of facing GBV, particularly those working on what are regarded as “sensitive” gender-related taboos and challenges to patriarchal power in Myanmar. FEM wanted to ask:

- How common is GBV against WHRDS in Myanmar?
- What types of WHRDS face the greatest risk of GBV?
- What types of GBV are the most common in Myanmar? What factors aggravate the risk of GBV against WHRDS?
- How do WHRDS mitigate and manage the risk of GBV in Myanmar? What do they need to better manage that risk?

FEM hopes that this research will build more informed national dialogue and greater public support for challenging the risks faced by WHRDS, so that they can exercise their right to freedom of expression without fear of the consequences.
Structure

The report is split into four parts. The first part explains the status of WHRDs and outlines the right to freedom of expression. The second part describes the types of risks faced by WHRDs in Myanmar. The third part identifies the riskiest gender-related taboos that WHRDs work on. The fourth part compares risks and looks at the risk management strategies used by WHRDs in Myanmar.

Methodology

The qualitative research for this report was collected between January 2015 and May 2018. More than 50 WHRDs from diverse backgrounds were interviewed in-depth both individually and in groups. The majority of WHRDs interviewed were based inside Myanmar, but several interviewed were working abroad due to their heightened risk. The research was carried out with due regard to the ethical principles of confidentiality and informed consent. No WHRDs have been named and all research documentation has been encrypted or destroyed.

Limitations

The report is not intended to show all the issues and concerns of every WHRD nationwide, but to take a first step in identifying the risks that they face. All risk assessments have been done with the best of the available information.
Using the term “WHRD”

It is important to use “WHRD” rather than “activist” because the Myanmar government has international legal obligations to protect WHRDs from gender-based violence (GBV) by the state and other perpetrators.

International law says that WHRDs have the right to:

- Seek, obtain, receive, and hold information relating to human rights, and communicate it to others including the media or intergovernmental organisations.
- Assemble peacefully and conduct advocacy.
- Conduct human rights work individually and with others, and form CSOs or NGOs.
- Give legal assistance and advice, as well as attend and monitor court proceedings.
- Make complaints about official policies and have complaints reviewed.
- Ask for, receive, and use resources, including funds from abroad.
Terminology

Sex: Biological characteristics of males and females limited to physiological reproductive functions.

Gender: Social characteristics assigned to men and women that define their identities, status, roles, responsibilities, and power relations. These are not static and differ between cultural, age, and social groups. People are born as female or male sex, but they learn how to be girls and boys. Society teaches gender.

WHRDs (WHRD = အိမ်ထောင်သောများကြီးမှာ) = ဗိုလ်ချုပ်များကြီးကြားများ ဌာနက အလုပ်စုစည်းထောက်သောကြောင့် ဗိုလ်ချုပ်ကြီး ကြိုးအားထားကြောင်း ကျော်ကြားသည်

Gender (ဂေါ်ဒ်) = ဗိုလ်ချုပ်သောကြားကြားနှင့် ဗိုလ်ချုပ် များကြားသည် ဌာနများကြား အလုပ်စုစည်းထောက်

Gender based violence (GBV) = ဗိုလ်ချုပ်သောကြားကြားများ ကျွန်ုပ်တို့

Gender-related issues (ဂေါ်ဒ်ပြပါသည်) = ဗိုလ်ချုပ်များကြားကြားများ ကျွန်ုပ်တို့ ကျွန်ုပ်တို့

Gender-related taboos (ဂေါ်ဒ်ပြပါသည်) = ဗိုလ်ချုပ်များကြားကြားများ ကျွန်ုပ်တို့ ကျွန်ုပ်တို့

Patriarchy (ရောဂါထိ) = ဗိုလ်ချုပ်များကြား ကျွန်ုပ်တို့

Misogyny = ဗိုလ်ချုပ်များကြား ကျွန်ုပ်တို့

Lesbians, bisexuals, and transgender people (LBT ဂေါ်ဒ်) = ဗိုလ်ချုပ်များကြား ကျွန်ုပ်တို့...
Freedom of expression

The right to freedom of expression is guaranteed in international law under Article 19 of both the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR). This guarantee is made regardless of sex.10 Myanmar’s Constitution guarantees the right to freedom of expression under Article 354, and the Myanmar government committed to the international community 30 years ago that any discrimination on the grounds of sex should be prohibited.11

Freedom of expression includes the right to seek information, to receive that information, and to impart information in any medium of choice. This means that under international law, WHRDs have the right to speak their minds through the media, online and in protests, to raise awareness of injustice and discrimination, and to make sure that their opinions are listened to and influence decision-making.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

- Article 19 of the Universal Declaration of Human Rights

International law says that:

• WHRDs have a right to freedom of expression on an equal basis to men and without discrimination.12 “Discrimination” is any distinction, exclusion or restriction which impairs the equal exercise of any right.13

• WHRDs’ right to freedom of expression can never be restricted based on discriminatory traditional, historical, religious or cultural attitudes,14 including those of minorities.15
International standards for WHRDs

WHRDs face the risk of regular and systematic gender-based violations of their right to freedom of expression. WHRDs face restrictions because of their gender, are often invisible in decision-making, and are left reliant on men to represent their views and protect their interests.

Under international standards, the Myanmar government has a responsibility to both support WHRDs and end the atmosphere of fear created by discriminatory customs and culture that dissuades women from exercising their right to freedom of expression. This atmosphere of fear is particularly clear online, in stereotypes, for girls, in elevated levels of impunity, and in peace-building.
The Myanmar government has a number of specific responsibilities to guarantee WHRDs’ right to freedom of expression. They include:

- Protecting WHRDs’ voices in political decision-making.\(^{33}\)
- Protecting WHRDs’ voices in civil society,\(^ {34}\) including in professional associations, women’s organisations, trade unions, and community-based organisations.\(^ {35}\)
- Ending discrimination against WHRDs in social and cultural life,\(^ {36}\) including WHRDs in rural areas.\(^ {37}\)
- Protecting WHRDs in the workplace from sexual harassment,\(^ {38}\) and refraining from obstructing WHRDs’ access to healthcare.\(^ {39}\)
- Separating WHRDs from men when they are in detention.\(^ {40}\)
- Guarding WHRDs that are in detention only by women.\(^ {41}\)
- Stopping restrictions on WHRDs’ right to movement.\(^ {42}\)
- Guarantying WHRDs’ right to express their religion.\(^ {43}\)
- Stopping any regulation of WHRDs’ clothing.\(^ {44}\)
Gender-based violence

Women human rights defenders (WHRDs) often face hostility when exercising their right to freedom of expression because they are perceived as challenging accepted socio-cultural norms. These include traditions, perceptions and stereotypes about femininity, and the role and status of women in society.45

Any hostility that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to WHRDs is called gender-based violence (GBV).46 GBV is a form of discriminatory violence that is directed against a WHRD because she is a woman or that affects WHRDs disproportionately.47 This includes threats of GBV, coercion, and arbitrary deprivations of liberty. GBV can occur in public or in private life.

All women in Myanmar risk some form of GBV regardless of their work or what they express.48 GBV is found in women’s homes,9 in the community,50 and in government spaces.51 Perpetrators include public officials, security services, employers, colleagues, as well as community and family members.52 Women rarely take formal action,9 due to feelings of guilt, shame, and fear,54 and the media rarely reports on it.55 Impunity for GBV is high,56 and no specific laws exist.57

“[GBV in Myanmar is] socially legitimised and accompanied by a culture of silence and impunity.”

- United Nations, CEDAW Committee58
Seven distinct types of GBV

FEM has discovered that WHRDs face a heightened risk of GBV when exercising their right to freedom of expression. GBV against WHRDs often involves:

- Attempts to dissuade WHRDs from challenging traditional and discriminatory social norms and power structures.
- Elements of a sexual nature, including disrespect for WHRDs’ bodies and the sexuality that their bodies represent.
- Casting doubts on WHRDs’ credibility, integrity and character by instilling notions of shame, dishonour, and humiliation.
- Promoting feelings of isolation, vulnerability, powerlessness, and disempowerment in the WHRDs.
- Instilling notions of shame and dishonour with the intention of provoking a WHRD’s family and community to withdraw support and instead stigmatise and ostracise them.
- Claims that policies and practices which cover up or ignore discrimination are “gender-blind”. For example, only women HRDs face social repercussions from their family and community when being detained by men police officers.

GBV against life, bodily and mental integrity

WHRDs risk rape, sexual assault, the mutilation of their bodies, and other humiliating practices with sexual connotations. WHRDs’ risk sexual harassment attacks on their mental integrity online and offline. The risk of sexual attacks on WHRDs’ bodily integrity is so ingrained into WHRDs’ psyche that the mere possibility or the slightest implied threat is a powerful and effective attack on WHRDs’ mental integrity.
GBV against physical and psychological liberty

WHRDs risk being detained alone and by only male members of the state security services. WHRDs risk being incarcerated in psychiatric institutions.

GBV against personhood and reputations

WHRDs risk being shamed in front of their families and communities by deliberate smears against their sexual integrity. This can include distribution of knowingly false information intended to harm the WHRDs, such as doctored imagery of a sexual or intimate nature, sometimes followed by blackmail or extortion. WHRDs also risk “sexuality-baiting” by being labelled as “bad women”, “women of low morality”, “man-haters”, “extremists”, “prostitutes”, “lesbians”, “anti-Buddhist”, “Western”, or “shaming Myanmar”. WHRDs with children are branded as “bad mothers” for having interests outside the family.

GBV against privacy and violations involving personal relationships

WHRDs risk their privacy being invaded through online and offline surveillance. This includes home and office raids, either by the police or staged as common burglary, as well as mobile phone robbery, cyber-stalking, phishing, and hacking. The perpetrators’ intention is often to extract WHRDs’ personal information, photos, and videos of an intimate or sexual nature with which to threaten, blackmail or distribute.

GBV using legal provisions and practices

WHRDs risk being prosecuted or facing other forms of legal harassment in a system dominated by patriarchal interests. Risks come from MPs in the creation of the law, from police, prosecutors, and officials in implementation of the law, and from judges in the interpretation of the law. Problematic legal provisions include those covering sexual relationships, marital choices, prohibited areas, and dress that they must or must not wear. So-called legal “protections” for WHRDs emphasise surveillance and control, rather than empowerment.
More marginalised WHRDs sometimes risk problems due to their comparative lack of experience or official language skills with which to interact with public officials. WHRDs face legal questions over whether they can really be HRDs, whether they have the autonomy to work, and whether they are prepared for public visibility.

**GBV against association, assembly, and movement**

WHRDs are regarded as working against social norms by going outside the private home, travelling alone, and interacting with men. They are accused of voluntarily placing themselves at risk of sexual violence, while at the same time ignoring their domestic duties. WHRDs face the risk from their families and community of restrictions on their freedom of movement and on their opportunity to take part in or lead public activities such as protests. More marginalised WHRDs also face risks due to a lack of experience, knowledge, and ability to create and run organisations within Myanmar’s complex bureaucracy.

**Impunity and non-recognition of GBV**

GBV is considered, particularly within a private domestic space, as a normal and socially-acceptable consequence of WHRDs’ abnormal and socially-unacceptable work. WHRDs risk elevated levels of impunity for GBV as society often regards GBV as an acceptable punishment for breaking social norms. WHRDs risk being ignored, victim-blamed, and their allegations disbelieved due to police, public officials’, and community indifference to recognise or prioritise GBV. This is particularly the case when the perpetrators are linked to the government. Attempts to criminalise violence against women have floundered in parliament for years.
Factors that increase GBV towards WHRDs

Three factors increase or aggravate WHRDs’ risk of facing GBV when exercising their right to freedom of expression in Myanmar.

Patriarchy

The risk that WHRDs will experience GBV is increased by the deep-rooted dominance of patriarchal beliefs in social, economic, and political structures in Myanmar. Patriarchal beliefs can be seen in restrictions placed upon WHRDs’ autonomy, particularly sexual autonomy, and upon their freedom to make decisions about their own lives.

WHRDs exercising their right to freedom of expression are often seen as challenging patriarchal beliefs, ignoring social norms, and undermining so-called “traditional values”. Young WHRDs risk being labelled “angry young women” who should “know their place” in society. A commonly-held misconception is that WHRDs want a world without men or want to turn women against their families.

Patriarchal beliefs also prioritise a type of “protection” that prevents WHRDs from working or moving around, rather than supporting them to overcome potential risks.

Militaryisation

The risk that WHRDs will experience GBV is increased due to decades of conflict and military government that have engrained military values, behaviours, and institutions into Myanmar. Militarisation has resulted in highly gendered rules for WHRDs, including how they behave and how they express themselves.

Militarisation sees WHRDs as “traitors” and a threat to discipline and order, and requires that WHRDs are targeted, monitored, and profiled. Because violence is the military solution to any dispute, GBV has become a normalised form of interaction towards WHRDs. The
risk of GBV is particularly heightened during conflicts when it is used to “punish” WHRDs and “shame” their communities.

Militarisation also emphasises the need to “protect” WHRDs from harm by prioritising security over WHRDs’ freedom.

**Extremism**

The risk that WHRDs will experience GBV is increased due to extremist groups within all religions in Myanmar. Extremists have promoted highly conservative religious interpretations that subordinate all women and emphasise women’s roles as servile and symbolic of family and society honour.

WHRDs are demonised by religious extremists as “bad” women, wives, or daughters, or as unbelievers or lesbians. Transgender WHRDs are particularly demonised for having given up their superior male power ‘Pone’ in exchange for being an inferior female. WHRDs’ dissenting views are labelled as blasphemy and copying “Western” ideas, often linking WHRDs with colonialism.
**Most at risk**

FEM has discovered that WHRDs working on gender-related taboos or challenging patriarchal power face a heightened risk of GBV. Such gender-related taboos or challenges to patriarchal power are often labelled as too “sensitive” or “hot” with the implication that WHRDs should self-censor. These are “sensitive” because they have the potential to subvert gender roles and norms, undermining power structures based on discrimination and inequality. The most “sensitive” issues for WHRDs to work on include:

- Sexual orientation and gender identity, particularly in challenging “traditions” that subjugate women.
- Sexual and reproductive health, particularly in confronting control of women’s bodies.
- Sexual violence, particularly in naming-and-shaming perpetrators acting with impunity in conflicts.
- Women’s participation and leadership in decision-making, particularly in promoting the importance of tackling discrimination and holding perpetrators of discrimination accountable.

**Sexual orientation and gender identity**

WHRDs campaigning for the rights of lesbian, bisexual, and transgender people (LGBT) risk significant GBV.

LGBT WHRDs include those challenging discrimination and raising awareness on a range of health issues such as HIV/AIDS.

**Risk from the government and the law**

Myanmar’s Constitution prohibits discrimination based on sex, but does not explicitly prohibit discrimination based on sexual orientation or gender identity.
Myanmar has no laws covering discrimination, hate speech, changing genders, or sex reassignment.

LGBT WHRDs risk being arrested and prosecuted under a range of different laws including: on “abnormal” sexual activity; negligently spreading sexual diseases; committing a public nuisance; wearing a disguise or covering the face between sunset and sunrise, acting suspiciously at night and negatively affecting the morality of an individual or society.

LGBT WHRDs report hearing regular demands from public officials for the police to use the legal framework to supress LGBT WHRDs and restrict their freedom of movement. One of the most common legal risks faced by LGBT WHRDs is the Rangoon Police Act, or so-called “Darkness Law”, which provides the police with extensive powers to arrest anyone thought to be acting “suspiciously” at night. Threats of arrest are often made by undercover police officers and accompanied by verbal harassment intended to either silence the LGBT WHRDs or elicit financial or sexual bribes.

LGBT WHRDs risk both overt and covert surveillance online and offline, intended to dissuade them from working or being too outspoken. For example, police officers attend uninvited to press conferences called by LGBT WHRDs to either highlight violence towards LGBT people and the related widespread impunity, or ceremonies to respect elderly people. The police know that LGBT WHRDs will self-censor for fear that they or their participants will be arrested. Arresting LGBT WHRDs and shutting down their events are easy because most WHRDs are unable to get the required government permission to hold such events. Getting permission via formal letter from the township authorities requires that organisers agree to criminal liability if their activities become “political”.

LGBT WHRDs are at constant risk of being detained without reason or explanation, handcuffed, and taken to somewhere hidden from public view. Once LGBT WHRDs are isolated, they risk police using physical force, coercion, and abuse of authority to demand financial bribes or “free sex”. LGBT WHRDs report gang-
LGBT WHRDs are forced to undergo various forms of violence, including rape, penetrative sexual assault using objects such as police batons or bottles, forced oral sex, touching of breasts or genitals, head-shaving, and beatings.

Even if the LGBT WHRD is taken to a police station, they risk cruel, inhuman, or degrading treatment such as frog jumps, beatings, touching genitals, squeezing breasts, ripping, and pulling clothes off, taking nude photographs, and being forced to do “catwalks” for the police’s entertainment.

LGBT WHRDS that demand their rights risk worsening their situation because police officers do not even try to justify their actions on any legal basis, and are therefore act with impunity. LGBT WHRDS often report being arrested as sex workers, even when they have evidence that they are working on HIV/AIDS for example, and police refuse to inform their families or colleagues.

Complaints against the police are ignored even when there is unambiguous evidence of wrongdoing, and LGBT WHRDS are often told that they were arrested on suspicion of a general crime, even without any evidence. LGBT WHRDS who complained to the Myanmar National Human Rights Commission say that they had never received a reply.

“Those who try to demand their rights are forced to stand naked, put betel nuts in their mouths, and shout, ‘I am a man not a woman!’ while being slapped to, ‘Shout like a man! Sound like a man!’”

- Anonymous LGBT WHRD

Risk from family and the community

LGBT WHRDS risk physical attacks within their local community. Violent attacks such as being chased, beaten, or stabbed, and verbal attacks using openly abusive language about genitalia or being called “Ball Pyar” (“flat ball”) are all common. These attacks also come from within the family, and LGBT WHRDS report being beaten with sticks or metal chains, being cut, facing financial extortion, and being subject to sexual assault by family members or close relations.

Attacks can also take place inside supposedly safe spaces.
LGBT WHRDs face regular abuse online particularly on Facebook where anonymous users use fake accounts to distribute intentionally false and malicious information. A considerable number of LGBT WHRDs report sensitive images, real or manipulated, being distributed online with the intention to shame them.

“My sports teacher shouted in front of the whole class ‘I will shave your head if you do not start wearing bras within a week!’”

- Anonymous LGBT WHRD

such as in schools. For example, young LGBT WHRDs report being threatened in class by both teachers and fellow students. Discrimination within schools is particularly concerning for LGBT WHRDs who believe that it is the main reason many LGBT people have low or no qualifications.

"အကြောင်းအရင်း "တိုင်ရိုက်မှုင်းမှုကိုအလိုအပြောင်း လိုပြီးပြီးတိုးတက်ရွက်မှုများ" ပြောထားကြပြီး အပြုအမူများကို လိုပြီးပြီးတိုးတက်ရွက်မှုများ

- Anonymous LGBT WHRD
Sexual and reproductive rights

WHRDs campaigning for the right to sexual and reproductive health (SRH) risk distinct types of GBV. SRH WHRDs include those raising awareness on sex, family planning and contraception, promoting access to health services, preventing HIV/AIDS and sexually transmitted infections (STIs) and protecting sex workers. Many of the SRH WHRDs involved in this research are also sex workers.

Risk from the government and the law

Myanmar’s Constitution gives equal rights for mothers and pregnant women but has limited provisions on human dignity and equality, and does not include rights to privacy or security of the person.72

SRH WHRDs risk prosecution under the Suppression of Prostitution Act,73 and under the Penal Code which criminalises the creation and distribution of “obscene” materials.74 The Penal Code also criminalises abortion and helping an abortion, with up to a three-year jail term.75 There are no laws regulating use of contraception, and no nationwide provisions for sex education in school.

SRH WHRDs report a significant risk of the authorities’ unwillingness or inability to distinguish between SRH WHRDs and the illegal actions of women conducting sex work or having an abortion, resulting in SRH WHRDs facing regular police harassment, arbitrary detention, and prosecution. For example, police harass and arrest SRH WHRDs raising awareness of STIs, HIV and AIDS on the basis that carrying condoms is evidence that they are sex workers. SRH WHRDs are particularly concerned that the police’s intention is give them a criminal record that effectively destroys their future opportunities.

SRH WHRDs risk being targeted with covert and overt police surveillance. Police watch them closely with the intention to arrest anybody that the SRH WHRDs meet, as well as to destroy any relationships or trust between
Risk from family and the community

SRH WHRDs risk disapproval and accusations of being “dirty”, “immoral”, and “depraved” from their community with some reporting that even their close family members do not know the real work that they do.

SRH WHRDs report being teased and abused by members of the public in public spaces, including just outside their offices, and are often accosted for sexual services. When SRH WHRDs attempt to conduct awareness raising of puberty or sex education in schools, they often report having aggressive parents and community members trying to prevent them from working and in some cases, harassing them until they are forced to leave.

SRH WHRDs are particularly concerned by the risk of being publicly identified in the media or by religious groups in the community. SRH WHRDs have been named in the media and accused of being sex workers, causing reputational damage that has resulted in a significant increase in risk.

SRH WHRDs report that one extremist religious group
Sexual violence in conflict areas

WHRDs raising awareness of sexual violence in conflict (SVC) risk significant GBV. SVC WHRDs include those documenting cases and campaigning for justice.

Risk from the government and the law

Myanmar’s Constitution effectively ensures impunity for sexual violence in conflict by giving immunity to perpetrators. Despite Myanmar’s international promises, Article 445 grants immunity to public and military officials, and Articles 319, 294 and 343 set up military courts guaranteeing that members of the military never appear before civilian courts regardless of the crime.

SVC WHRDs that register complaints risk legal delays, demands for bribes, cases hidden in military courts, and the threat of being prosecuted under Penal Code Article 211 for falsely reporting a crime with intent to cause injury. The Myanmar National Human Rights Commission has refused to address SVC, saying that
investigating human rights violations in conflict areas would not be appropriate at this time, as the "national reconciliation process" is still ongoing. In case the Commission has made the SVWHRs report that they face the same risks as those SVC WHRDs, they are trying to defend the integrity and security of the country by participating in armed groups and being targeted or killed. The military and armed groups concerned with the risk of being labeled as "wolves of the military" act with impunity. SVC WHRDs are particularly concerned with the risk of being accused of criminal activity.

As a result, many SVC WHRDs operate under the guise of being underground or based outside of Myanmar. Despite being hidden or abroad, SVC WHRDs report receiving threats and being targeted. SVC WHRDs also report being questioned and detained by military and armed groups. SVC WHRDs are particularly concerned with the risk of being accused of criminal activity.

For the SVC WHRDs that remain in Myanmar, they report being regularly visited by unknown security officials who seize documentation. SVC WHRDs are particularly concerned with the risk of being accused of criminal activity. SVC WHRDs are also concerned with the risk of being accused of criminal activity.
cause “trouble” by talking with SVC WHRDs and victims are sometimes bribed to buy their silence.86

“At the time when the perpetrators can be identified, legal action will be taken against those who mistakenly write [making accusations] about the army.”

- Government authority’s statement as reported by anonymous SVC WHRD

Risk from family and the community

SVC WHRDs risk losing the support of their families and community for upsetting “tradition”. SVC WHRDs report receiving demands and threats from community leaders, creating an environment in which they fear the risk of going out or working alone.

SVC WHRDs report that a victim’s family members are often so terrified of retaliation from the perpetrator that the family sometimes threaten to file a police complaint against SVC WHRDs for “falsely reporting a crime”.

“In our society, women are always discriminated against. For example, although I am working to protect the rights of women from our ethnic minority, the men in my community condemn me, asking ‘who ordered you to do such work for women’s rights?’”

- Anonymous SVC WHRD
Women’s participation and leadership in decision-making

WHRDs promoting women’s participation and leadership (WPL) risk distinct types of GBV. WPL WHRDs include those campaigning for their own leadership or the broader inclusion of women.

Risk from the government and the law

The Myanmar Constitution guarantees only limited equality for employment, salaries, and maternity benefits, while at the same time reserving unknown jobs to men only. The Constitution does not include any affirmative action measures to redress entrenched discrimination towards women, such as quotas. The government’s attempts to support WPL have been either ineffectual, or actively undermined WPL.

WPL WHRDs face the risk of surveillance as well as indirect threats of violence. WPL WHRDs report that members of their community, such as landlords, business owners, and public transport operators have been coerced into monitoring their activities, sometimes openly to instil maximum fear.

The more WPL WHRDs raise gender-related concerns in official settings, the more they risk exclusion, often through underhand administrative tactics such as being informed about a change only at the last minute or having gender-related concerns struck from the official record. When gender-related concerns are included they are side-lined as a fringe issue, for example relegated to a discussion timed to take place during a break. WPL WHRDs report similar trends inside political parties, where party leaders favour men with traditional viewpoints and openly discriminate against women as useless, while marginalising candidates that try to tackle gender-related issues.

WPL WHRDs also risk being regularly and derogatorily referred to within official settings, for example as “girls” or as “30 percenters”, in reference to quota systems.
Outside of official settings, WPL WHRDs face regular attacks on their reputations from their peers and colleagues, both online and offline.

“I could not leave a town on a bus [because it was being monitored] so I arranged a taxi to transport me to the nearest city where nobody knows me, and even then, when I got half way, Sa Ya Pha [part of the military] called the taxi driver who answered in speakerphone and I could hear them asking where I was going.”

- Anonymous WPL WHRD

Risk from family and the community

WPL WHRDs risk frequent anonymous attacks on social media, and via phone calls and SMS messages. Attackers make a range of claims about WPL WHRDs’ marital status or sexual promiscuity, particularly if the WPL WHRD travels as part of their work. Attackers make threats of physical violence if the WPL WHRD appears or speaks in public.

Some WPL WHRDs report that such threats are not always anonymous and that they are regularly subject to verbal attacks and campaigns by extremist religious groups sharing knowingly false allegations relating to sexual values and behaviour.

WPL WHRDs also report risks inside their own families, particularly from husbands or other men, who hide their attempts to subjugate and control under the guise that they are protecting the WPL WHRD’s safety.

“Many Facebook users have called me a prostitute and alleged that I want to promote prostitution and introduce a licence for conducting prostitution.”

- Anonymous WPL WHRD
Risk mitigation

FEM has carried out a detailed risk assessment of the level of risk of gender-based violence (GBV) faced by each type of WHRD according to two factors:

- **The likelihood** - or probability - from likely to unlikely, that each type of WHRD may experience each type of GBV.
- **The impact** - or effect - from minimal to serious, of each type of GBV upon each type of WHRD’s ability to continue their work.

FEM assessed the likelihood and impact based on WHRDs’ experiences.

**Risk Matrix - explanation**

The first column in the Risk Matrix shows each type of GBV as identified previously. The second column shows the average impact of each type of GBV upon the WHRDs’ ability to continue working, with 1 as minimal impact and 3 as serious impact. The third to sixth columns list the types of WHRD identified in this report. Each box below includes the average likelihood of that type of WHRD experiencing that type of GBV, with 1 as less likely and 3 as more likely. The number and the darkness of each box, is the total risk, and is calculated as impact plus likelihood. The highest total risk is 6 in a dark box, and the lowest is 2 in a light box.
<table>
<thead>
<tr>
<th>Impact</th>
<th>Likelihood (impact + likelihood = total risk)</th>
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<tbody>
<tr>
<td>GBV against life, bodily and mental integrity</td>
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<td>3</td>
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<td>GBV against personhood and reputations</td>
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<td>GBV against privacy and violations involving personal relationships</td>
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<td>Impunity and non-recognition of GBV</td>
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<td>GBV using legal provisions and practices</td>
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<td>GBV against association, assembly, and movement</td>
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<td>GBV against physical and psychological liberty</td>
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Types of GBV that are greatest risk

WHRDs with highest risk

WHRDs with lowest risk
Types of GBV most risked by WHRDs

According to the Risk Matrix, the types of GBV that are the greatest risk for WHRDs are GBV against life, bodily and mental integrity, and GBV against personhood and reputations.

“Sensitive” issues attracting the greatest risk

While all WHRDs face risks when working on “sensitive” gender-related taboos and challenges to patriarchal power, the greatest risk is faced by WHRDs working on Sexual orientation or gender identity, Sexual violence in conflict areas, and Sexual and reproductive rights.

Risk mitigation and management strategies

While it is important not to divulge the exact strategies used by WHRDs to address their risk of facing GBV, their strategies do commonly include two methodologies:

- They mitigate risk by reducing both the likelihood and the impact of the potential GBV.
- They manage risk by preparing ways to best deal with the impact of GBV if it cannot be mitigated.

WHRDs’ strategies commonly use several different approaches to mitigate and manage their risk of facing GBV.

- WHRDs seek recognition. They try to raise awareness of the concept of human rights, the importance of their work and the global status of WHRDs, as well as seeking recognition of the government’s responsibilities to support and protect WHRDs from GBV.
- WHRDs work together to create support networks that can ensure safe spaces within which they can
WHRD often conceal themselves and their activities, working underground and isolating themselves from any part of the government, in the belief that the state often worsens the risk of GBV. Concealment includes using pseudonyms, hiding their offices and professions, using only high-profile spokespeople, and avoiding the use of email, phone, or postal services.

While recognising that both “security” and “protection” are synonymous with militarisation and paternalism, WHRDS use holistic capacity-building to feel safe within both public spaces and private spheres. Trainings take account of unequal power relations between genders within their historical, social, cultural, economic, and political contexts. They also address the physical, spiritual, and emotional costs of suppressing fear.
All HRDs face risks when exercising their right to freedom of expression in Myanmar, but WHRDs face the added risk of GBV due to entrenched gender-based discrimination. WHRDs face the risk of multiple distinct but interrelated types of GBV including attacks on life, bodily and mental integrity, and attacks on personhood and reputations. The sources of GBV come from all parts of the government and security services, as well as from community and family.

The risk of GBV is particularly heightened for those WHRDs working on the most “sensitive” of gender-related taboos and challenges to patriarchal power, notably: campaigning for the rights of lesbians, bisexuals, and transgender people; challenging sexual violence in conflict; promoting sexual and reproductive rights; and advocating for women’s leadership and participation. These risks are increased or aggravated by Myanmar’s atmosphere of patriarchy, militarisation, and religious extremism.

The government and state institutions do little to recognise GBV or to address legal provisions and practices that further it. State, community, and family “protection” mechanisms generally seek to control WHRDs and limit their rights rather than reduce the risks that they face.

WHRDs are not victims, however, and strive to exercise their right to freedom of expression even on the most “sensitive” of subjects. They do this by developing powerful risk mitigation and management strategies that include recognition, networks, concealment, and training.

WHRDs do not need protection - at least, not the so-called “protection” offered to them by the state - but they do need support to enable and empower them to freely do their vital work without risk.


4 The UN Declaration on Human Rights Defenders was adopted by the UN General Assembly in 1998 and is the cornerstone document that sets out international standards for the protection of human rights defenders.

5 The definition of human rights defender is purposefully broad in order not to exclude people. See report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 62nd session of the Commission on Human Rights, 23 January 2006 (E/ CN.4/2006/95).


8 The UN Declaration on Human Rights Defenders was adopted by the UN General Assembly in 1998 and is the cornerstone document that sets out international standards for the protection of human rights defenders.

9 OHCHR Fact Sheet 29 - Human Rights Defenders: Protecting the Right to Defend.

10 International law says under Article 2 of the UDHR and Article 3 of the ICCPR that human rights including freedom of expression are guaranteed regardless of sex or other status.

11 Myanmar ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) in 1987 with only one reservation to Article 29.


16 Article 2, CEDAW, 1981.


18 Article 3, CEDAW, 1981.

19 Article 2, CEDAW, 1981.

20 Article 5, CEDAW, 1981. See also Para 27, on participation in government, General Recommendation No. 23 (16th session, 1997) Article 7 (political and public life).

21 General Recommendation No. 3 (sixth session, 1987).

22 Para 44, on access to information, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr Frank La Rue A/HRC/14/23 14 April 2010.

23 Para 44, on access to information, Report of the Special Rapporteur, ibid.


27 Para 54, on fear and shame, Report of the Special Rapporteur, ibid.

28 Para 51, on supporting women, Report of the Special Rapporteur, ibid.

29 Para 47, on degrading images of women, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr Frank La Rue A/HRC/14/23 14 April 2010.


32 Para 42, on victim of violence, Report of the Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression, Mr Abid Hussain E/CN.4/1999/64 29 January 1999. See also Para 71, on peace and security, Report of the Special Rapporteur on the

31 Article 7, CEDAW, 1981.
32 Article 7, CEDAW, 1981.
33 Para 5, on political life, General Recommendation No. 23 (16th session, 1997) Article 7 (political and public life).
34 Article 13, CEDAW, 1981.
36 Para 17, on employment; Para 18, on sexual harassment, General Recommendation No.18 on violence against women (10th session, 1991).
37 Para 14, on refraining from obstructing women, General Recommendation No. 24 (20th session, 1999).
44 UN Declaration on the Elimination of Violence against Women, 1993.
45 Para 6, on gender-based violence, General Recommendation No.18 on violence against women (10th session, 1991).
49 Shattering Silences documented rape cases in Myanmar since 1988, concluding that half of the rape incidents surveyed were committed by high ranking officers, 40% were gang rapes, and women were killed after being raped in 28% of cases. Reports continue in 2015 http://www.rfa.org/english/news/myanmar/myanmar-kokang/05252015123347.html and are summarised in Women of Burma (2008) ‘In the Shadow of the Junta’.
50 Some WHRDs report being beaten by their political activist husbands because of their women’s rights work.
54 For example, participants were particularly concerned by the 19/20 January 2015 case of the sexual assault and killing of two women teachers, Marun Lu Ra and Tangbau Hkawn Nan Tsin in Northern Shan. Soldiers are suspected and as a result no proper investigation has been initiated.
55 At the time of writing, a bill on violence against women was moving through the legislative process.
57 In a publication released in 2007, the Asia Pacific Forum on Women, Law and Development (APWLD) proposed a typology of violations, risks, and constraints that women human rights defenders encounter because of their work APWLD (2007) ‘Claiming rights, claiming justice’, Thailand. This typology has been widely accepted and used by several groups of WHRDs (Barry and Naimar, 2008), including the Women Human Rights Defenders International Coalition.
58 A/59/401 Report of the Special Representative of the Secretary-General on human rights defenders, Hina Jilani.
59 Myanmar Constitution, Article 348.
60 The UN Human Rights Committee has previously ruled that reference to “sex” in relation to grounds for discrimination should be interpreted as including sexual orientation. In Toonen versus Australia, the UN Human Rights Committee found that reference to “sex” in Article 2 of the International Covenant on Civil and Political Rights included sexual orientation, thereby making sexual orientation prohibited grounds of distinction in respect of the enjoyment of rights under the ICCPR (488/1992), CCPR/C/50/D/488/1992 (1994); 1-3 IHRRR 97 (1994).
61 For more information, see http://www.refugeeegalaidinformation.org/myanmar-lgbti-resources
62 Penal Code Articles 45/1860 and 377 on carnal intercourse/ abnormal sex with any man, woman, or animal.
63 Penal CodeArticles 269 and 270.
64 Penal CodeArticle 290.
65 1945 Police Act, Article 35(c).
66 Rangoon Police Act (1899) Article 13(d).
68 In one case, a minister was reported to have publicly condemned members of the LGBT community as “unacceptable”, and in a second case a member of parliament asked a parliamentary question on how the government is “dealing” with transgender persons for “acting inappropriately”. In the latter case, the ministerial response was to explain - without reference to legal justification - the government’s policy of detention for “re-
education” and “return” to the parents on bail.

27 The Rangoon Police Act (1899) Article 30(c) states that a person who is “found between sunset and sunrise, within the precincts of any dwelling house or other building whatsoever ... without being able satisfactorily to account for his presence therein ... may be taken into custody by any police officer without a warrant, and shall be liable for imprisonment for up to three months.” This law is more colloquially known as “Hmaung Yeip Kho Hmu,” which roughly translates to “hiding in the dark shadows”.

28 Article 351.

29 The Suppression of Prostitution Act of 1949, amended in 1998, Article 2(a) states it is illegal in Myanmar to solicit prostitution, force or entice a woman into prostitution, and operate or work in a brothel. It was amended in 1998 to increase sentences and provide an expanded definition of what constitutes a brothel to “any house, building, room, any kind of vehicle/ vessel/ aircraft or place habitually used for the purpose of prostitution or used with reference to any kind of business for the purpose of prostitution”.

30 Articles 292-294.

31 Article 312. Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

32 In its 2014 Report of the UN Secretary General on Conflict-Related Sexual Violence, the UN explicitly named Myanmar as one of the 21 countries with parties “credibly suspected of committing or being responsible for acts of rape or other forms of sexual violence”. For more information, see the 2015 UN Security Council Report to the UN Secretary General on conflict-related sexual violence in Myanmar: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-5FE0E41968FD%7D/UNSC_Report_2015.pdf


35 For example, in the case of Brang Shawg who was prosecuted for damaging the dignity of the military after he sent a letter of complaint to the Myanmar National Human Rights Commission regarding the killing of his daughter by soldiers.

36 See http://www.burmapartnership.org/2012/02/head-of-hr-commission-rules-out-conflict-zone-inquiry/

37 For more information, read the civil society investigation of the case http://www.burmapartnership.org/2014/12/who-killed-ja-seng-ing/

38 In the last CEDAW review, SVC WHRDN’s reports were accused of being “black propaganda” that sought to “cause disunity among the national races” and “defame the honour of ethnic women and the armed forces”. For more information, see Burmcamapaign UK’s briefing no. 34 from July 2014.

39 In June 2016, the new government announced its intention to review the blacklist and remove political exiles from it http://www.mmtimes.com/index.php/national-news/vangon/20601-myanmar-s-blacklist-to-be-reviewed.html

40 After a woman in Matupi Township was attacked and sexually assaulted, when she and 600 other women demanded an investigation and an end to sexual violence targeted at ethnic minorities, the police, instead of investigating, arrested eight organisers who were later convicted under the PAPP law for protesting without permission. For more information on the case, see http://nd-burma.org/resources/other-press-statements/burma-eight-chin-activists-convicted-fined/

41 The statement was published in the state newspaper The New Light of Myanmar, the government’s newspaper; Jan 29, 2015, P. 13. For more information on the case, see http://kachinlandnews.com/?p=25454 or https://www.theguardian.com/world/2016/mar/09/myanmar-moment-of-truth-aung-san-su-kyi

42 For example, following the attempted rape of a woman in Karen State, the matter was settled by offering 300,000 kyat (approximately US$300) as compensation on the proviso that the incident would not be reported to the media, or any further action taken.

43 Articles 249, 350, 26, 325 respectively.

44 Supposedly to support WPL, the government set up two organisations, the Myanmar Maternal and Child Welfare Association (MMCWA) and the Myanmar Women’s Affairs Federation (MWAF) in 1991 and 2003 respectively.

45 Government institutions have prevented WPL, such as the Union Election Commission’s 2015 refusal to register a “Women’s Party” on the basis that, “the word ‘women’ alone is too broad, and could lead to the false impression that the party represents all women in Myanmar”. For more information, see http://www.burmanet.org/news/2015/05/26/democratic-voice-of-burma-womens-party-registration-bid-rejected-by-ucc/
Daring to defy Myanmar’s patriarchy

Across Myanmar, women human rights defenders (WHRDs) exercise their right to freedom of expression to expose discrimination and injustice, name-and-shame perpetrators, and speak uncomfortable truths to power.

In doing so, they risk retaliation including physical, sexual, and psychological gender-based violence (GBV).

The risk of GBV is heightened when WHRDs confront gender-related taboos or patriarchal power, which are often labelled “sensitive” by society with the intention of shutting down any discussion of widespread discrimination and misogyny.

The Myanmar government does little to enable WHRDs to work free from the risk of GBV, despite domestic law and the government’s international obligations. In many cases, the government condones and increases the risk of GBV.