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**Submission to CEDAW regarding the General Recommendation on the Trafficking of Women and Girls in the Context of Global Migration**

**February 2019**

Kachin Women’s Association of Thailand (KWAT) welcomes the opportunity to provide input into the half day general discussion on the General Recommendation on the Trafficking of Women and Girls in the Context of Global Migration by the Committee on the Elimination of Discrimination against Women (CEDAW).

Since 2000, KWAT has been documenting the trafficking of ethnic women and girls primarily from the Kachin community and Shan communities, as well as within Myanmar and neighbouring China. In this time, Myanmar authorities’ failure to provide protections to Myanmar residents, those considering risky migration and survivors of trafficking has allowed the trafficking of women and girls to continue unabated.[[1]](#footnote-1)

In June 2013, KWAT issued a report titled “*Pushed to the Brink: Conflict and Human Trafficking on the Kachin-Burma Border*,” which documented 24 cases of trafficking from Kachin border areas since conflict with Myanmar government forces re-escalated in 2011.[[2]](#footnote-2) Most came from IDP camps near the China border and all had been trafficked to destinations in China, mostly Yunnan Province. Ages of the victims ranged from 4 to 54, and all but two were female. The summaries of the cases varied, but 9 of the 24 cases made some reference to being “tricked into marrying a Chinese man.”

Compounding the problems facing Kachin who moved across borders was the Myanmar government’s failure to provide citizen ID cards, which prevented Kachin migrant workers from securing border passes that would have facilitated safe migration and legal employment in China. Lacking these key documents increases migrants’ vulnerability to trafficking and exploitation.[[3]](#footnote-3)

The Government of Myanmar enacted the Anti-Trafficking in Persons Law in 2005 and has established a Central Body for the Suppression of Trafficking in Persons.[[4]](#footnote-4) Despite this, the U.S. State Department’s 2018 Trafficking in Persons (TIP) Report ranked Myanmar’s efforts to combat trafficking at Tier 3, the lowest rank.[[5]](#footnote-5) Myanmar was ranked at Tier 2 Watch-list status in 2017, but reported complicity of Myanmar government officials in the occurrence of trafficking prompted the drop in ranking in 2018. The TIP Report notes the transportation of Myanmar women to China, stating that ‘’Burmese women are increasingly transported to China and subjected to sex trafficking and domestic servitude through forced marriages to Chinese men; Burmese government officials are occasionally complicit in this form of trafficking.” The TIP Report also noted that displaced women and girls in Kachin State are particularly vulnerable to trafficking via “forced or fraudulent marriages to Chinese men arranged by deceptive or coercive brokers.” Other prevalent means of trafficking in Myanmar are forced labor and child soldier recruitment and use.[[6]](#footnote-6)

This submission outlines the findings of our documentation efforts in 2017 and 2018 in conjunction with the Johns Hopkins Bloomberg School of Public Health’s Center for Humanitarian Health to estimate the prevalence of trafficking for forced marriage and childbearing among women and girls from Myanmar (specifically Kachin State and Shan State) to China (specifically Yunnan Province).[[7]](#footnote-7) We have also included an appendix of relevant publications by KWAT in recent years.

For the purposes of this submission, KWAT understands the definition of ‘forced marriage’ to be the formal or informal union of two persons, at least one of whom did not have the option of (i) refusing the marriage without suffering a penalty (or the menace of penalty), OR (ii) exiting the marriage without suffering a penalty (or the menace of penalty).[[8]](#footnote-8) The definition of ‘human trafficking’ is understood to mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.[[9]](#footnote-9) Forced childbearing is defined as any pregnancy that occurs in a forced marriage, regardless of whether the sex or pregnancy occurred with the woman’s consent.

Below we have organized some of the key findings from our research since 2017 in response to the request for input into the half day discussion by CEDAW:

1. A total of 157 (39.8%) out of 394 respondents interviewed by KWAT have experienced forced marriage. About one-third (n=131) were unable to refuse the marriage at the time the union was formed while 14.2% (n=56) were unable to exit the marriage without menace or threat of a penalty.[[10]](#footnote-10) It should be noted that, among respondents, 56.4% (n=110) of women interviewed in Kachin State and Northern Shan State (after having returned from China), experienced forced marriage, as compared to 23.6% (n=47) of women interviewed in China. This suggests either that returnees felt more open in disclosing these experiences (as compared to women still living in China) or that experiencing a forced marriage in China might be a reason for returning to Myanmar.[[11]](#footnote-11) Among the 157 respondents in situations of forced marriage, 103 (65.6%) also used a recruiter or broker and, thus, met the criteria specified for being trafficked into forced marriage.[[12]](#footnote-12)
2. A total of 306 respondents (77.7%) bore a child with their current or most recent Chinese husband (in the last five years), and 119 respondents (30.2%) reported bearing children while in a forced marriage to a Chinese man.[[13]](#footnote-13)
3. The rates of migration to China and marriages to Chinese men documented exceed the typical ranges that are reported by the Myanmar and Chinese governments, which suggests several things: First, the vast majority of migrants go to China through informal routes and are unregistered. Second, official statistics may significantly underestimate the scale of migration to China, the population of Myanmar women married to Chinese men, as well as the number of victims of forced marriage and forced childbearing.[[14]](#footnote-14)
4. Based on assumptions that our study site data would apply to populations in larger administrative units[[15]](#footnote-15), Johns Hopkins and KWAT extrapolated that in Myanmar, 5,000 female returnees from China were in forced marriages, including 3,900 who have been trafficked. An estimated 2,800 of the female returnees have been forced to bear children. In China, we estimated that 2,500 female migrants were in forced marriages, including 1,000 who have been trafficked into forced marriage; and that 2,300 of the female migrants have been forced to bear children.[[16]](#footnote-16)
5. The qualitative data suggests that conflict and displacement (internal and cross-border) does increase the risk of forced marriage due to weakened social networks and the lack of protection systems. Conflicts and humanitarian emergencies exacerbate girls’ vulnerability to child marriage due to the increased risk of poverty and sexual violence in contexts where social support systems and protection mechanisms are dismantled. Qualitative data illustrates the central role that displacement plays in terms of increasing a Myanmar women’s/girl’s risk of forced marriage.[[17]](#footnote-17)
6. The qualitative and quantitative findings suggest that arranged marriage functions as a coping strategy for families living in poverty or financial insecurity. Bride price creates an additional economic incentive for arranged marriage, particularly with younger females, as they are typically considered more desirable and therefore command a higher bride price. The data also suggests that the younger a bride at her first marriage, the more children she has given birth to at the time of the interview.[[18]](#footnote-18)
7. Approximately half (49.7%) of the Household Survey respondents reported that they migrated for economic reasons.[[19]](#footnote-19) Respondents often became interested in migrating due to stories of financial gains by moving to China, either as a result of marriage with a wealthy Chinese husband or because of well- paying employment opportunities in China.[[20]](#footnote-20)
8. Forced marriage was most prevalent among respondents with low educational attainment (i.e. none or incomplete primary education (39.4%)) and respondents from rural areas (64.3%).[[21]](#footnote-21)
9. Respondents who first married before the age of twenty faced a heightened risk of forced marriage and intimate partner violence. On average, respondents in forced marriages were aged 21.2 years at first marriage (versus 26.6 years among respondents in autonomous marriages). Among respondents whose first marriage occurred before they were 20 years of age, 65.3% experienced intimate partner violence, compared to 33.3% among those who first married at age 30 years and older.[[22]](#footnote-22)

**We recommend that CEDAW call upon the government of Myanmar to:**

1. Enforce laws and ensure accountability for traffickers, regardless of position or status. Regulate and monitor recruitment agencies, migration agents, marriage brokers, and others involved in the trafficking of persons as a means of preventing illegal and/or exploitative practices and holding offenders accountable.
2. Institute policies to protect Myanmar residents, and would-be migrants, including the issuance of personal identification documents that would provide them with proof of citizenship and nationality and enable them to obtain travel passes and work authorization in China.
3. Ensure that effective support reaches victims, provide repatriation to a victim’s home area, and give support such as vocational training free from gender stereotypes. Provide trafficked women and girls with adequate medical care, counselling, financial support, housing and opportunities for further training, as well as free legal services.
4. Provide training on anti-trafficking and safe migration to border officials at major crossings, as well as to local police in at-risk communities where there are high rates of migration to China. Allocate sufficient budget to effective awareness-raising campaigns to prevent trafficking, including radio programs and materials in all ethnic languages and appropriate materials for those who are illiterate, and incorporate anti-trafficking messages into school curriculums, health services and microfinance initiatives.
5. Engage with the Government of China to promote policies and programs to protect Myanmar migrant worker rights in China. Develop joint procedures to safely repatriate migrants who experience forced marriage, forced childbearing and/or trafficking.
6. Allow CBOs, particularly women’s organizations, to assist trafficked women and girls without restriction and participate in developing Government anti-trafficking policy.
7. Allow the United Nations and international NGOs to independently monitor anti-trafficking programs without Government interference and control to ensure that the Government is fulfilling its obligations to regional and international anti-trafficking initiatives.
8. Take immediate steps to end the armed conflict in Kachin State and Northern Shan State by declaring a unilateral nationwide ceasefire, and lift all restrictions on humanitarian access to internally displaced persons in all areas.
9. Ratify legal instruments, conventions and protocols relevant to forced marriage including, but not limited to: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

**We recommend that CEDAW call upon the government of China to:**

1. Allow women, girls, men and boys fleeing the conflict in Myanmar to access safe refuge and humanitarian aid in China, thereby reducing their vulnerability to being exploited and trafficked.
2. Strengthen and enforce laws and regulations against forced marriage, forced childbearing, and trafficking as well as domestic violence. This includes training local police officers and judicial personnel to investigate reported cases, prosecute offenders and seek compensation for victims.
3. Provide training on anti-trafficking and safe migration to border officials at major crossings, such as Ruili and Longchuan, as well as to local police in destination towns where there are large populations of female migrants from Myanmar.
4. Engage with the Government of Myanmar to coordinate cross-border policies, including migration for work, marriage, and family reunification and reintegration, and the licensing of migration and marriage brokers.
5. Ratify legal instruments, conventions and protocols relevant to forced marriage including, but not limited to: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

**Appendix of Publications**

Johns Hopkins Bloomberg School of Public Health’s Center for Humanitarian Health and Kachin Women’s Association of Thailand*, Estimating trafficking of Myanmar women for forced marriage and childbearing in China*, December 2018, <https://kachinwomen.com/estimating-trafficking-of-myanmar-women-for-forced-marriage-and-childbearing-in-china/>

Kachin Women’s Association of Thailand, *Driven Away: Trafficking of Kachin women on the China-Burma border*, May 2005, <https://kachinwomen.com/driven-away-trafficking-of-kachin-women-on-the-china-burma-border/>

Kachin Women’s Association of Thailand, *Eastward Bound: An update on migration and trafficking of Kachin women on the China-Burma border,* December 2007, <https://kachinwomen.com/eastward-bound/>

Kachin Women’s Association of Thailand, *Pushed to the Brink: Conflict and Human Trafficking on the Kachin-Burma Border*, June 2013, <https://kachinwomen.com/pushed-to-the-brink-conflict-and-human-trafficking-on-the-kachin-china-border/>

“Statement on Myanmar’s Anti-Trafficking in Persons Day: Human trafficking on China border can only be addressed by ending Burma Army offensives and war crimes”, news release, Kachin Women’s Association of Thailand, September 13, 2018, <https://kachinwomen.com/myanmar-human-trafficking-on-china-border-can-only-be-addressed-by-ending-burma-army-offensives-and-war-crimes/>

1. See Kachin Women’s Association of Thailand, *Driven Away: Trafficking of Kachin women on the China-Burma border*, May 2005, <https://kachinwomen.com/driven-away-trafficking-of-kachin-women-on-the-china-burma-border/> (accessed February 15, 2019); Kachin Women’s Association of Thailand, *Eastward Bound: An update on migration and trafficking of Kachin women on the China-Burma border,* December 2007, <https://kachinwomen.com/eastward-bound/> (accessed February 15, 2019). [↑](#footnote-ref-1)
2. Kachin Women’s Association of Thailand, *Pushed to the Brink: Conflict and Human Trafficking on the Kachin-Burma Border*, June 2013, <https://kachinwomen.com/pushed-to-the-brink-conflict-and-human-trafficking-on-the-kachin-china-border/> (accessed February 15, 2019). [↑](#footnote-ref-2)
3. *Id.* at p.8. [↑](#footnote-ref-3)
4. Kimberly Rogovin, International Labour Organisation, *International Labour Migration in Myanmar: Building an evidence-base on patterns in migration, human trafficking and forced labour*, December 2015, <https://www.ilo.org/yangon/publications/WCMS_440076/lang--en/index.htm> (accessed February 15, 2019). [↑](#footnote-ref-4)
5. United Nations State of America Department of State, *Trafficking in Persons Report,* June 2018, <https://www.state.gov/j/tip/rls/tiprpt/countries/2018/282623.htm> (accessed February 15, 2019). [↑](#footnote-ref-5)
6. *Id.* at p.116-120 [↑](#footnote-ref-6)
7. See Johns Hopkins Bloomberg School of Public Health’s Center for Humanitarian Health and Kachin Women’s Association of Thailand*, Estimating trafficking of Myanmar women for forced marriage and childbearing in China*, December 2018, <https://kachinwomen.com/estimating-trafficking-of-myanmar-women-for-forced-marriage-and-childbearing-in-china/>(accessed February 15, 2019). See also

   “Statement on Myanmar’s Anti-Trafficking in Persons Day: Human trafficking on China border can only be addressed by ending Burma Army offensives and war crimes”, news release, Kachin Women’s Association of Thailand, September 13, 2018, <https://kachinwomen.com/myanmar-human-trafficking-on-china-border-can-only-be-addressed-by-ending-burma-army-offensives-and-war-crimes/> (accessed February 15, 2019). [↑](#footnote-ref-7)
8. This is based principally on the definition of forced marriage stipulated in the European Parliamentary Assembly Resolution 1468: *Forced Marriages and Child Marriages (2005),* <http://assembly.coe.int/nw/xml/xref/xref-xml2html-en.asp?fileid=17380> (accessed February 15, 2019). Specific penalties considered in the study are: deprivation of food, water, and/or sleep, physical isolation or restraint, physical abuse such as hitting or slapping, sexual harassment and assault, emotional threat, verbal abuse, social exclusion, no longer able to see children, friends or family, loss of valuable goods, economic penalty, and loss of identity documents. [↑](#footnote-ref-8)
9. UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, November 15, 2000, <https://www.refworld.org/docid/4720706c0.html> (accessed February 15, 2019). [↑](#footnote-ref-9)
10. Johns Hopkins and KWAT, *Estimating trafficking*, p.25 [↑](#footnote-ref-10)
11. *Id.* at vii-viii [↑](#footnote-ref-11)
12. *Id.* at viii [↑](#footnote-ref-12)
13. *Id.* at ix [↑](#footnote-ref-13)
14. *Ibid.* [↑](#footnote-ref-14)
15. For more information on methodology for the extrapolation of population estimates, see Johns Hopkins and KWAT, *Estimating trafficking*, p.27-46. [↑](#footnote-ref-15)
16. *Id.* at x-xi [↑](#footnote-ref-16)
17. *Id.* at p.55 [↑](#footnote-ref-17)
18. *Id.* at p.54-55 [↑](#footnote-ref-18)
19. *Id.* at p.61 [↑](#footnote-ref-19)
20. *Id.* at p.63 [↑](#footnote-ref-20)
21. *Id.* at p.56 [↑](#footnote-ref-21)
22. *Id.* at p.57-58 [↑](#footnote-ref-22)