

SURVIVAL TO STIGMA:

Understanding the Causes and Consequences of Criminal Justice System Contact for Women and Girls in Myanmar



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Survival to Stigma : Understanding the Causes and Consequences of Criminal Justice
System Contact for Women and Girls in Myanmar

Executive Summary

Women and girls face distinct and deeply gendered pathways into the criminal justice system rooted in poverty, discrimination, and systemic inequality. In Myanmar, ongoing conflict, protracted displacement, and economic instability have exacerbated these vulnerabilities, pushing women to the margins of law and society.

Access to quality legal representation is a basic human right, and indispensable to the fair administration of justice. It affects a person's ability to assert any other rights they may have. In Myanmar, legal aid providers such as the International Legal Foundation (ILF) continue to serve as a critical line of defense, ensuring due process, advocating for gender-sensitive justice, and connecting clients with psychosocial support.

The ILF has operated in Myanmar since 2017 and to date has represented 5,138 people including more than 1,000 women and girls. The ILF has seen first-hand the unique challenges experienced by women and girls in conflict with the law. Drawing on case data, interviews, and legal analysis from 441 cases represented by the ILF between 2022 and 2024, this report examines the drivers that bring women and girls into contact with the criminal justice system, the barriers they face once inside it, and the stigma they continue to experience even after returning home.

KEY FINDINGS

The ILF's data show that key drivers resulting in criminal justice contact for women and girls in Myanmar are the criminalization of legal status, the criminalization of poverty, the criminalization of drug possession, the criminalization of "immorality," and the criminalization of survivors of violence. These findings also reveal that, once arrested, most women and girls have no access to legal representation, face prolonged pre-trial detention, and are held in overcrowded facilities with inadequate food, sanitation, and gender-responsive care. The consequences of criminalization extend far beyond detention—women often lose their livelihoods, face intense stigma upon release, and struggle to reintegrate into their communities.

THE CRIMINALIZATION OF WOMEN AND GIRLS: KEY DRIVERS

- 'Over 50% of women's and girls' criminal cases were related to situations of statelessness. Rohingya women and girls are prosecuted under registration and immigration laws for lacking civil documentation, traveling outside restricted areas or illegal entry into the country. These cases highlight how legal status and statelessness intersect with gender and poverty to compound vulnerability, exclusion, and criminalization.
- Around 28% of women and girls represented by the ILF were charged with crimes strongly correlated to situations of poverty, including "survival crimes" such as theft. Debt-related prosecutions target those unable to repay high-interest informal loans, while women engaged in informal work such as waste collection or working at gambling sites are disproportionately arrested for activities essential to supporting themselves and their families.
- Approximately 6% of all charges against women and girls were related to drug offenses. Women and girls face unique challenges in relation to drug-related crimes, including frequent prosecution and imprisonment due to their perceived role in drug trafficking based on their relationship with a man. Some women and girls also act as low-level couriers—often due to economic desperation, fear, or deceit.
- Slightly more than 7% of women and girls were charged with offenses related to "immorality." Social expectations surrounding women's behavior continue to shape patterns of enforcement. Some women are charged under laws regulating marriage, fidelity, or "indecent acts," thereby reinforcing patriarchal norms that police women's behavior and autonomy.
- Just 2% of women and girls were charged with serious crimes, including trafficking, kidnapping, and murder. While violent crime among women and girls is rare, where present, they are marked by experiences of abuse and coercion.

ACCESS TO LEGAL AID AND DUE PROCESS

Most women and girls have no access to legal representation, severely hindering their access to justice. Without a legal aid lawyer, women and girls are targets for coerced confessions, torture, violations of due process, illegal and prolonged detention, wrongful conviction, and disproportionate punishments. These violations not only impact the outcomes of criminal cases but inflict lasting harm on women and girls and their families.

- Only 25 cases in the ILF's dataset were referred to a lawyer by court staff, despite the fact that the right to defense is a constitutional and statutory right in all cases.
- The vast majority of women and girls—82%—were detained when their legal representation began. This occurred across nearly all offense categories, in violation of bail provisions that mandate automatic entitlement to bail and release.
- Without legal representation, very few women and girls can secure their release on bail. Only 18% of women and girls were released on bail at the time the ILF took their case. At least 30 women and girls were released on bail as a result of ILF efforts after taking the case.

CONDITIONS OF CONFINEMENT AND THE LASTING IMPACT OF CONTACT WITH THE CRIMINAL JUSTICE SYSTEM

Findings show detention centers are overcrowded and lack sanitation. Women and girls report a lack of access to basic needs, restrictions on family visitation, and discrimination.

“Due to there not being enough space for 25 detainees—no mat, no blanket, no mosquito repellent provided, no protection from bed bugs—I had to sit all night long.”

Social stigma remains a significant barrier for Myanmar's women post-incarceration. This stigmatization perpetuates cycles of vulnerability and incarceration. Women might be rejected by their communities and families on whom they are economically dependent, especially those who have been trafficked or charged with morality crimes.

Of the 30 women interviewed for this study, 66% reported being stigmatized by their family or community as a result of their contact with the legal system.

"I felt very low and I didn't fit in with the community anymore. I couldn't deal and talk with the people, and therefore, I moved to another place."

KEY RECOMMENDATIONS

In Myanmar, poverty, conflict, and discrimination have deepened women's and girls' vulnerability to criminalization. While systemic reform will take time, international actors can help reduce harm and strengthen access to justice by supporting targeted, practical interventions.

1. Engage on Access to Justice and Legal Reform

Encourage continued engagement with Myanmar to advance access to justice and rule of law, including by advocating for fair trial rights, the right to legal representation, and the protection of women, girls, and stateless populations.

2. Recognize That Women and Girls in Conflict with the Law are Often Victims

Ensure that women and girls in conflict with the law are included in programs and funding streams for gender equality, humanitarian assistance, and protection. Many have experienced poverty, violence, or exploitation and should be recognized as victims needing support.

3. Support and Elevate Holistic Legal Aid

Invest in holistic legal aid—a model that integrates legal representation with social support, trauma-informed care, and community-based advocacy. This approach recognizes that women's and girls' contact with the law is often rooted in poverty, violence, and social exclusion. Holistic legal aid plays a frontline role in preventing and addressing harm. The global community should help build a culture of respect for holistic legal aid as a form of humanitarian assistance and a cornerstone of justice reform in Myanmar.

4. Review and Reform Discriminatory Laws and Policies

Call for a review of laws, policies, and practices that criminalize poverty and status—such as offenses related to debt, informal work, and lack of documentation—and promote clear, gender-sensitive legal definitions to prevent misuse of the criminal justice system.

5. Strengthen Gender-Sensitive Justice in Myanmar

Sustained international advocacy and legal advocacy within Myanmar is needed to promote a systemic shift from a focus on punitive detention to gender-sensitive justice including strengthened implementation of laws that protect women and girls, increased use of alternatives to incarceration and sentence mitigation, and expanded access to bail.

6. Strengthen Data and Evidence Collection

Support efforts to collect and analyze data on laws, policies, and practices that disproportionately impact women and marginalized groups. Legal aid providers, civil society, and other community-based organizations are uniquely positioned to document rights violations and inform evidence-based reforms.

7. Expand Non-Carceral and Community-Based Alternatives

Myanmar lacks social programs to serve women and girls in conflict with the law. Promote the prioritization of alternatives to detention for women and girls, including diversion, mediation, and community programs. Expanded social services and rehabilitation support will reduce overcrowding, stigma, and recidivism.

8. Protect and Support the Rohingya Community

Acknowledge ongoing discrimination against Rohingya and the misuse of the criminal justice system to criminalize them for lack of documentation. Call for reforms to eliminate laws and policies that penalize Rohingya, ensure access to fair trials and legal representation, and provide sustained international funding for organizations defending their rights.

INTRODUCTION

Around the world, women and girls face distinct and often overlooked pathways into, through, and out of the criminal justice system. Their interaction with the criminal justice system is influenced by gender, discrimination, poverty, and inequality. Women and girls are more often penalized for behaviors linked to their survival, economic desperation, and caregiving responsibilities,⁽¹⁾ as well as violent acts of resistance or self-defense against domestic abuse.⁽²⁾ As women and girls are more likely to experience poverty and its adverse effects,⁽³⁾ this also includes the use of criminal charges in response to poverty-related circumstances such as unpaid debts, informal labor, or lack of housing.⁽⁴⁾ In many contexts, the criminal justice system fails to recognize the structural and social conditions that drive these behaviors, treating them instead as criminal matters and resulting in the unjust criminalization of women and girls.

In Myanmar, these global dynamics are intensified by protracted political conflict, displacement, and economic instability. On February 1, 2021, the democratically elected government in Myanmar was overthrown by the military.⁽⁵⁾ Since then, Myanmar has been gripped by protests, protracted political conflict, and humanitarian, safety, and economic crises.⁽⁶⁾ These crises have only been exacerbated by the aftermath of the 7.7 magnitude earthquake that struck Myanmar in March 2025.⁽⁷⁾ Additionally, lack of judicial transparency, bribery, and corruption have long

(1) Penal Reform Int'l et al., *From Poverty to Punishment: Examining Laws and Practices Which Criminalise Women Due to Poverty or Status Worldwide* 6–7 (2025) [hereinafter PRI et al., *From Poverty to Punishment*], https://cdn.penalreform.org/wp-content/uploads/2025/03/PRI_WBW_Gender-decrim_WEB-2_MR.pdf.

(2) See, e.g., Penal Reform Int'l, *Women Who Kill in Response to Domestic Violence* 4 (2016), https://cdn.penalreform.org/wp-content/uploads/2016/04/Women_who_kill_in_response_to_domestic_violence_Full_report.pdf (“Where women are imprisoned for violent offences, there is often a background of domestic and/or sexual abuse, which, in many cases, motivates the crime.”); Savannah Plaisted, *Battered Woman Syndrome: A Legal Defense to Homicide*, 2 Nw. L.J. Refusés 11, 13 (2025) (noting that at least one study found that as many as 90% of women who are imprisoned for killing a man had been previously been battered by that man).

(3) See, e.g., PRI et al., *From Poverty to Punishment*, supra note 1, at 13 (reporting that an estimated 383 million women and girls were living in extreme poverty in 2022 compared to 368 million men and boys and noting that “the actual gendered poverty gap is likely much wider” due to economic disparities within households and the unequal distribution of power and opportunities between men and women); U.N. Women & World Bank Grp., *Gender Differences in Poverty and Household Composition Through the Life Cycle* 2 (2018) [hereinafter U.N. Women & WBG, *Gender Differences in Poverty*], <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2018/SDG-report-Spotlight-01-Gender-differences-in-poverty-and-household-composition-en.pdf> (finding that “there are 104 women for every 100 men living in poor households” and reporting that 12.8% of women live in poor households compared to 12.3% of men).

(4) PRI et al., *From Poverty to Punishment*, supra note 1, at 6–7.

(5) Press Release, Foreign, Commonwealth & Dev. Off. & Rt. Hon. Lord Cameron, *Three Years Since the Military Coup in Myanmar: Foreign Ministers’ Joint Statements* (Jan. 31, 2024), <https://www.gov.uk/government/news/three-years-since-the-military-coup-in-myanmar-foreign-ministers-joint-statement>.

(6) See generally Ctr. for Preventative Action, *Civil War in Myanmar*, Council on Foreign Rels. (Oct. 1, 2025), <https://www.cfr.org/global-conflict-tracker/conflict/rohingya-crisis-myanmar>.

(7) Jack Burgess & Rachel Hagan, *Myanmar Earthquake: What We Know*, BBC News (Apr. 1, 2025), <https://www.bbc.com/news/articles/>

been common in Myanmar, but since February 2021, lack of due process and judicial independence, deeply-entrenched institutional bias, and systemic corruption have further eroded access to justice across the country.⁽⁸⁾

These protracted and compounding crises have particularly impacted women and girls. The United Nations reported in 2024 that 9.7 million women and girls in Myanmar are in urgent humanitarian need while relatively few humanitarian organizations are able to meet those needs⁽⁹⁾. A UNDP survey in 2024 revealed that women-headed households are 1.2 times more likely than men-headed households to live in poverty.⁽¹⁰⁾ Lack of access to training and education, lack of employment opportunities,⁽¹¹⁾ and lack of protections for children and survivors of gender based violence have increased the vulnerability of women and girls to violence, neglect, and exploitation.⁽¹²⁾ These intersecting pressures of economic desperation, political turmoil, lack of protection, and gender discrimination increasingly drive women and girls into conflict with Myanmar's criminal legal system. In fact, Myanmar ranks among the top ten countries with the highest numbers of women and girls in penal institutions.⁽¹³⁾ Women constitute approximately 12.3% of Myanmar's prison population, a figure nearly double the global average of 6.9%.⁽¹⁴⁾ This figure does not account for the many women and girls held in prolonged pretrial detention at police stations due to lack of alternative shelters or the many girls confined in Myanmar's Training Schools⁽¹⁵⁾ —institutions meant to shelter children in conflict with the law but which effectively function as juvenile detention centers.

crxlxd7882o.

(8) See generally Freedom in the World 2024: Myanmar, Freedom House, <https://freedomhouse.org/country/myanmar/freedom-world/2024> (last visited Oct. 24, 2025).

(9) U.N. Off. for the Coordination of Humanitarian Affs., Myanmar: Humanitarian Needs and Response Plan 30 (2023), <https://myanmar.un.org/en/256164-myanmar-humanitarian-needs-and-response-plan-2024-december-2023>.

(10) U.N. Dev. Programme, Poverty and the Household Economy of Myanmar: A Disappearing Middle Class 6 (2024) [hereinafter UNDP, Myanmar Poverty Survey], <https://www.undp.org/publications/poverty-and-household-economy-myanmar-disappearing-middle-class>.

(11) See Sutirtha Sinha Roy, World Bank Grp., A Growing Crisis: Work, Workers, and Wellbeing in Myanmar (2023), <https://thedocs.worldbank.org/en/doc/e55b0419cac8496066a948a1fa86967c-0070062023original/A-Growing-Crisis-Work-Workers-and-Wellbeing-Myanmar.pdf> (finding that the labor participation rate in Myanmar fell by 1.6% while the employment rate fell by 4.8% and reporting that “[f]emale employment in Myanmar has particularly suffered in recent years”).

(12) Press Release, Ye Htet Aung, U.N. Myanmar, For All Myanmar Women and Girls: Rights. Equality. Empowerment (Mar. 7, 2025), <https://myanmar.un.org/en/290409-all-myanmar-women-and-girls-rights-equality-empowerment>.

(13) Dania Perti et al., Transnat'l Inst., Women and Drugs in Myanmar: A Primer 4 (2022), https://www.tni.org/files/publication-downloads/primer_womenanddrugs_hires.pdf.

(14) Press Release, Inst. for Crime & Just. Pol'y Rsch., World Female Prison Population Up By 60% Since 2000 (Oct. 9, 2022), <https://www.icpr.org.uk/news-events/2022/world-female-prison-population-60-2000>. <https://www.icpr.org.uk/news-events/2022/world-female-prison-population-60-2000>.

(15) See U.N. Secretary-General, Children and Armed Conflict in Myanmar, ¶¶ 28–30, U.N. Doc. S/2025/81 (Mar. 12, 2025).

The International Legal Foundation (ILF) has operated in Myanmar since 2017 and to date has represented 5,138 people including more than 1,000 women and girls. The ILF has seen firsthand the unique challenges experienced by women and girls in conflict with the law. For instance, we have witnessed the additional hurdles for women and girls to access legal aid, the impact of caregiving responsibilities and fears for safety on decision-making, the distinct and gendered experiences of women and girls in detention, and the intense stigma and mistreatment that they experience when leaving the criminal justice system. In 2024, with the support of UN Women, the ILF expanded its holistic legal services for women and girls through the establishment of specialized Gender Justice Units in Yangon, Mandalay, Patheingyi, and Sittwe. These units were designed to provide quality legal representation and to also address the underlying non-legal barriers faced by women and girls in conflict with the law. Recognizing the complex and intersecting needs of its clients, the ILF developed networks of social service providers to ensure referrals for psychosocial support, thereby advancing a more integrated and trauma-informed approach to legal aid.

To more deeply understand the scale, patterns, and impact of the criminalization of women and girls in Myanmar, the ILF conducted a mixed-methods study examining how women and girls enter and navigate both the adult and juvenile legal systems. The findings offer critical insights to ensure women and girls in conflict with the law receive quality legal aid and meaningful access to justice.

METHODOLOGY

This study examines the drivers of women and girls into the criminal justice system, their experiences and pathways through the legal system (including detention), and their experiences after exiting the system. It also contributes to the growing body of research on Myanmar's post-2021 humanitarian crisis, with a focus on the legal system's role in shaping the experiences, vulnerabilities, and reintegration challenges faced by women and girls.

This report is based on a mixed-methods methodology based on the following sources and supplemented by desk research:

- The ILF case management database, which tracked intake circumstances, offenses, and legal processes for 441 women and girls' cases represented by the ILF from January 2022 through December 2024. Though the ILF's database includes women and girls charged for political offenses, those have been excluded from this report because the context, drivers, and impacts of such offenses vary from the other crimes analyzed.
- Detailed case reviews of 102 cases to examine rights violations through the legal process—arrest, detention, pre-trial, trial, and post-trial. Of the 102 cases analyzed, 10 have been cited as case highlights in this report.
- Detailed interviews with 30 women and girls out of the 441 cases represented by the ILF from Mandalay, Yangon, Patheingyi and Sittoung.
- Key Informant interviews with 9 legal aid and social services providers operating throughout Myanmar to discuss the needs of women and girls, identify resources and infrastructure challenges, and to identify recommendations.

The quantitative data from the ILF's database was analyzed using MS Excel with results summarized through descriptive statistics and organized into tables for interpretation. The qualitative data from the interviews were transcribed in Myanmar and later translated into English. The data was then entered in MS Word and analyzed for recurrent themes using deductive and inductive coding. The answers from the interviews were also analyzed using the Consensual Qualitative Research-M (CQR-M) method which uses frequencies to report qualitative data. The analysis is based on findings from all four sources of data. To protect privacy and maintain the

safety of all respondents, data is maintained and reported anonymously and aggregated wherever possible. All participants were informed of the possible benefits and risks of participation, and all subsequently consented. All women and girl participants were provided with legal services by the ILF prior to or contemporaneous with the research.

One limitation of this research was the lack of official data and prison statistics. The data is limited to the ILF database, which covers only five locations in Myanmar. (A fifth site, Lashio, had to be closed in 2023 due to active conflict.) It is important to note that the ILF's dataset may reflect individual experiences in relatively better conditions within the country, largely due to the presence and advocacy of legal aid services in those areas. Consequently, these may not accurately represent the broader national reality, which is likely far more severe (especially in regions without legal aid support). Furthermore, the restricted access to certain regions and court systems, especially military tribunals in areas under martial law or regions controlled by ethnic armed organizations, also hindered our ability to present a truly comprehensive national picture. The perspective of women still detained in prison or in other locations are not part of the study. The ongoing civil unrest has further limited opportunities for engagement with affected populations. Many potential participants refused to participate in the research due to fear of reprisal.

The women who participated in this research were those who had been released from prison, had access to mobile phones, were able to maintain contact with the ILF, and provided informed consent to participate in the study. The research does not reflect the experiences of women who remain incarcerated or those facing extreme economic hardship. To avoid re-traumatization, the questions were intentionally kept broad and did not delve deeply into traumatic experiences. Respondents had the autonomy to decide whether to respond to trauma-related questions and were not pressured to elaborate beyond their comfort level. It is also important to note that Myanmar is a conflict-affected context, where individuals are frequently exposed to various forms of violence within society. As a result, participants' perceptions and definitions of violence and torture are shaped by their personal experiences and broader social context. Therefore, the accuracy of data related to instances of torture and other forms of violence is limited and likely underrepresented in this study.

Country conditions continued to decline during this research. We faced numerous hurdles in data collection due to the dire country conditions, such as lack of electricity and internet, under which legal aid, social services, and human rights organizations function. Basic needs such as water and electricity are scarce, as the country's infrastructure has been impacted by military action. Armed conflict has intensified in Rakhine. Sittwe, one of the project areas, is reeling

under constant threat of attack and has had no electricity or internet since February 2024. The massive earthquake in March 2025 has added to the hardship of the Myanmar people, which devastated parts of the country, particularly Mandalay (one of the ILF project areas that was also part of this study). Despite these dire conditions, legal aid and social services providers continue their critical work bravely and with grace. While research is essential to document the vast human rights violations and tremendous need in Myanmar, it is important to acknowledge the difficult conditions under which this work is undertaken.

STUDY DEMOGRAPHICS

This study focuses primarily on a subset of women and girls in conflict with the law who were accused of “ordinary” crimes (meaning political crimes are not included in this report). The ILF represented these women and girls in the courts across Lashio, Mandalay, Patheingyi, Sittwe, and Yangon. From January 1, 2022 to December 31, 2024, the ILF provided legal representation to 303 women ages 19 to 75 and 138 girls ages 8 to 18. These 441 women and girls are the broad population from which we draw the data in this report.

Number of Women & Girls Represented by the ILF in Myanmar

January 1, 2022 to December 31, 2024



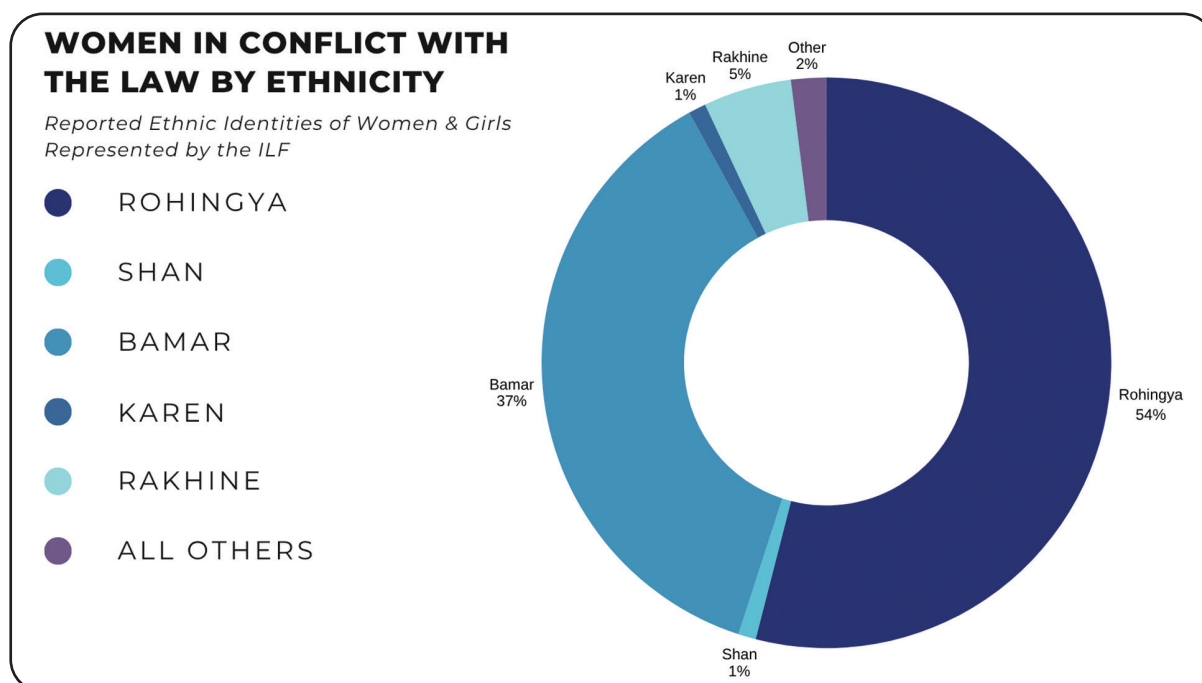
303
Women



138
Girls

Ethnicity

Myanmar recognizes 135 ethnic groups and categorizes them into eight national races: Bamar, Kachin, Kayah, Karen, Chin, Mon, Rakhine and Shan.⁽¹⁶⁾ Among the 441 women and girls represented by the ILF, 54% were from the Rohingya community (a profoundly marginalized ethnic community in Myanmar which is not officially recognized by the government); 37% identified as Bamar (the largest ethnic group in Myanmar); and most of the remaining women and girls identified as either Rakhine, Karen, and Shan. For simplification, ethnicities with fewer than two women/girls belonging to those groups are listed as "other."



Because Rohingya is not a recognized ethnicity in Myanmar and due to political sensitivity and potential repercussions associated with identifying as "Rohingya," some women preferred to identify themselves as "Muslim" in courts. However, not all those in Myanmar who are Muslim are Rohingya. Women and girls categorized as Rohingya in the context of the above graph were identified through a combination of self-identification, and language spoken.

(16) See Burma Citizenship Law, 1982, § 3 (Myan.), translated in Burma Citizenship Law, U.N. High Comm'r for Refugees, <https://www.refworld.org/legal/legislation/natlegbod/1982/en/49622> (last visit Oct. 16, 2025).

Economic Status, Education, and Employment

In terms of economic status, 100% of women and girls represented by ILF legal aid offices come from poor communities with limited access to education or formal employment.

The study is supplemented with detailed interviews with 29 women and one girl from Mandalay, Yangon, Patheingyi, and Sittwe (out of the 441 cases represented by the ILF). All of these interviews provided deeper insights into the lives and demographics of the women and girls represented by the ILF. Of the 30 women interviewed, the majority were married, had children, and lived with extended family members. Most households relied on multiple earners, like husbands, adult children, or other relatives living in the household. The majority of those interviewed—60%—contributed to household income, and one woman was the sole breadwinner for her family. A super majority—73%—were either not formally educated or had only studied up to primary school, and many reported that they and their husbands (for those married) had inconsistent, low-paying, informal work such as factory labor, selling vegetables or firewood, market vending, or collecting and selling scrap.

ACCESS TO LEGAL AID

Access to quality legal representation is a basic human right, and indispensable to the fair administration of justice. It affects a person's ability to assert any other rights they may have.

The right to legal aid is a feature of international law, as described in the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.⁽¹⁷⁾ In addition, the Myanmar Constitution and statutory criminal law establish a judicial principle guaranteeing the right to legal defense.⁽¹⁸⁾ Myanmar's Legal Aid Law, 2016 (as amended in 2017) details this principle and aims to guide the creation of a state-funded legal aid system to ensure fair and equal access to justice for all children and indigent adults.⁽¹⁹⁾

However, amendments to the law in 2021 significantly curtailed this right by introducing significant changes including:

- (i) restricting eligibility for state-funded legal aid services to indigent people and other specific categories of people facing prosecution or conviction (for the purpose of appeal), effectively excluding many of the most marginalized, particularly Rohingya women and girls;
- (ii) removing eligibility for state-funded legal aid services at the critical early stages of the case, including at police stations and preliminary remand hearings, effectively limiting access to a lawyer at police stations, training schools, and other detention centers in politically motivated cases (e.g., military detention camps) at the time of arrest and police investigation, as well as representation at remand hearings in politically motivated cases;
- (iii) undermining the independence of legal aid bodies and legal aid lawyers; and
- (iv) making it more difficult for non-state actors, including pro bono lawyers, law firms, and civil society organizations, to cooperate with the state legal aid system.⁽²⁰⁾

(17) G.A. Res. 67/187, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, annex ¶¶ 10, 13 (Dec. 20, 2012) [hereinafter UN Principles and Guidelines on Access to Legal Aid], <https://undocs.org/E/CN.15/2012/L.14/Rev.1>.

(18) Constitution of the Republic of the Union of Myanmar (2008), art. 19(c), translated in Myanmar 2008, Constitute, https://www.constituteproject.org/constitution/Myanmar_2008 (last visited Oct. 16, 2025); see also id. art. 375 ("An accused shall have the right to defence in accord with the law."); Code of Criminal Procedure § 340 (1) (Myan.), translated in The Code of Criminal Procedure, VERTIC, https://www.vertic.org/media/National%20Legislation/Myanmar/MM_Code_Criminal_Procedure.pdf (last visited Oct. 16, 2025) ("Any person accused of an offence before a criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader."); The Courts Manual ¶ 455(1) (4th ed. 1999) [hereinafter The Courts Manual], https://www.burmalibrary.org/docs14/Courts_Manual-PtIV-en.pdf ("Every person accused may of right be defended by a pleader.").

(19) See generally Legal Aid Law, 2016 (Myan.).

(20) These conclusions are based on the ILF's own experiences and the analysis found in Int'l Legal Found., Analysis of the Amendments Dated 28 April 2021 to the Myanmar Legal Aid Law 2016 (as Amended in 2017) (2021).

As a result of these amendments, those most in need of legal representation are now systematically denied access to state legal aid. This gap highlights the critical role of independent legal aid organizations in Myanmar, which serve as the only line of protection for the most marginalized women and girls embroiled in the criminal justice system.

Legal Aid Access and Gender

Lack of access to legal aid particularly impacts women and girls. The ILF's experience in Myanmar indicates that women and girls are less likely than their male counterparts to be employed and have their own sources of money, based at least in part on societal expectations and traditions. Even if their families have the financial resources to afford a lawyer, women and girls often lack access to and/or control over how those resources are used. Unfortunately, due to the stigma surrounding contact with the criminal justice system, many families have completely abandoned women and girls or decided on their behalf that legal representation is unnecessary, leaving even previously well-resourced women and girls without access to a lawyer.⁽²¹⁾ Despite the problematic 2021 amendments to the legal aid law, certain categories of people remain eligible for legal aid services regardless of indigence, including children, women, elderly persons, and disabled persons, among others. Other categories—including stateless persons, asylum seekers, foreigners, migrants, migrant workers, and refugees—have been removed by amendment and so are no longer automatically eligible for state-funded legal aid. However, as per our legal analysis, any person in these categories will still be eligible if they meet either of the statuses eligible for legal aid—that is, either indigent persons or children, women, or members of other qualifying groups facing prosecution, regardless of other status.

While women and girls remain eligible for legal aid, in practice, access to legal aid is inconsistent and not in line with international standards. As an initial matter, there is no functioning legal aid lawyer appointment mechanism set up by authorities to enable access to legal aid in detention facilities or even court.⁽²²⁾ Women and girls are not automatically provided with a lawyer when brought to the court. Neither the legal aid board nor police, prosecutors, or remand judges regularly inform the accused persons of their right to legal aid and other procedural

(21) Similar experiences have been documented amongst women prisoners in India. See generally Sudha Bharadwaj, *From Phansi Yard: My Year with the Women of Yerawada* (2023).

(22) The UN Principles and Guidelines on Access to Legal Aid provides that states should consider establishing a legal aid body or authority to coordinate access to legal aid. UN Principles and Guidelines on Access to Legal Aid, *supra* note 17, annex ¶ 59. It further prescribes that such a body should inter alia “[h]ave the necessary powers to provide legal aid, including but not limited to the appointment of personnel” *Id.* annex ¶ 59(b).

safeguards.⁽²³⁾ Lawyers also report women and girls being denied family visits during remand, which further limits avenues to accessing legal assistance. Even though women and children are eligible for state-appointed legal aid, such aid is largely inaccessible in practice due to the lack of clear direction, procedure, and political will. Civil society organizations like the ILF are filling that gap by visiting court lockups and police lockups to identify unrepresented women and providing them legal assistance.

Of the 441 cases in our dataset, all of whom were eligible for legal aid, only 25 were referred to a lawyer by court staff, despite the fact that the right to defense is a constitutional and statutory right in all cases.⁽²⁴⁾

Training schools referred an additional 15 girls to a lawyer. In contrast, almost 89% (392/441) of these clients were referred to the ILF by individuals outside of the official channels, including clients or their families, community members, civil society organizations, private or pro bono lawyers, and the ILF itself. In fact, the ILF directly contacted 119 of these women and girls while they were in detention. These individuals would have otherwise gone unrepresented. Unfortunately, as the ILF is one of only a few legal aid organizations in Myanmar providing representation in criminal cases, the majority of women and girls in conflict with the law in Myanmar go unrepresented.

Most women interviewed for this study were not aware that they had any rights and so did not know that they could request a lawyer—a reflection of limited education, the climate of fear in Myanmar, and the disparity in power between these women and girls and the police and judiciary. **Out of 30 interview respondents, none were informed of any rights during arrest, and only two were informed of their rights by the judge at their first appearance in court.**

It is important to note that all of the women included in this study were represented by the ILF and as such, had representation at some point in their case. However, many did not have representation at the critical early stages of their case due to previously mentioned barriers.

Only 10% of all cases represented by the ILF began legal representation at the remand stage, which is after the first appearance before a judge and occurs when a person is held in custody during the police investigation stage of a case. Just over 60% of women and girls received ILF

(23) International law formally recognizes the obligation to inform defendants of their right to legal aid. Id. annex ¶ 2.

(24) The Courts Manual, *supra* note 18, § 455(1); Code of Criminal Procedure § 340(1); Constitution of the Republic of the Union of Myanmar (2008), art. 375.

legal representation at the pre-charge-framing stage, which is the initial stage of the case before the court. Meanwhile, 20% were represented only after charges had already been framed, meaning a formal declaration of the charges had already been made after examining prosecution witnesses.⁽²⁵⁾

At the pre-trial stage, ILF lawyers frequently discovered that witnesses had already been examined in the absence of legal counsel, with no opportunity for cross-examination, undermining the defendants' right to a fair trial and effective defense. At the post-charge stage, all witnesses have been examined, and the detainees have already lost the right to defend themselves at the critical stage of framing of charge.

Sources of Referrals of Cases to Legal Aid

Referral Source	Total
Client/ Client's Family/ Community	147
ILF Contacted in Court or Police Lockup	119
Non-ILF Private or Pro Bono Lawyer	106
Court Judge/ Clerk	25
Another Civil Soci- ety Organization	20
Training School	15
Other	9
Total	441

(25) In Myanmar, after framing of charges, the defense lawyers get an opportunity to recall the prosecution witnesses to cross-examine.

Impact of Lack of Access to a Lawyer

Without a legal aid lawyer, women and girls are targets for coerced confessions, torture, illegal and prolonged detention, wrongful conviction, and disproportionate punishments. These violations not only impact the outcomes of criminal cases but inflict lasting harm on women and girls and their families.

Just over 46% of women interviewed reported that they were subjected to either physical or psychological abuse to admit to a crime.

Case Highlight 1: Lack of Timely Access to a Lawyer

A 16-year-old girl who earned a living by collecting discarded items (also called “rag-picking”) was arrested and charged with theft. She spent one month in police detention without access to a lawyer and faced the start of her trial alone. During this period, the owner of the stolen property was examined in court, leaving no opportunity for her lawyer to cross-examine him once representation was finally secured. By the time ILF lawyers found her in the court lockup, the prosecution’s key witness had already been heard, significantly limiting her defense and the lawyer’s ability to fight for her pre-trial release. The girl was detained for a total of five months throughout her trial.

Despite these barriers, the ILF lawyer cross-examined the remaining witnesses and provided critical legal assistance at the sentencing stage. While the girl made the decision to plead guilty, the lawyer was able to present a mitigation argument at sentencing. As a result, the girl avoided imprisonment and was released on a bond of good behavior—entrusted to her parents on the condition that she commit no further offenses for two years.

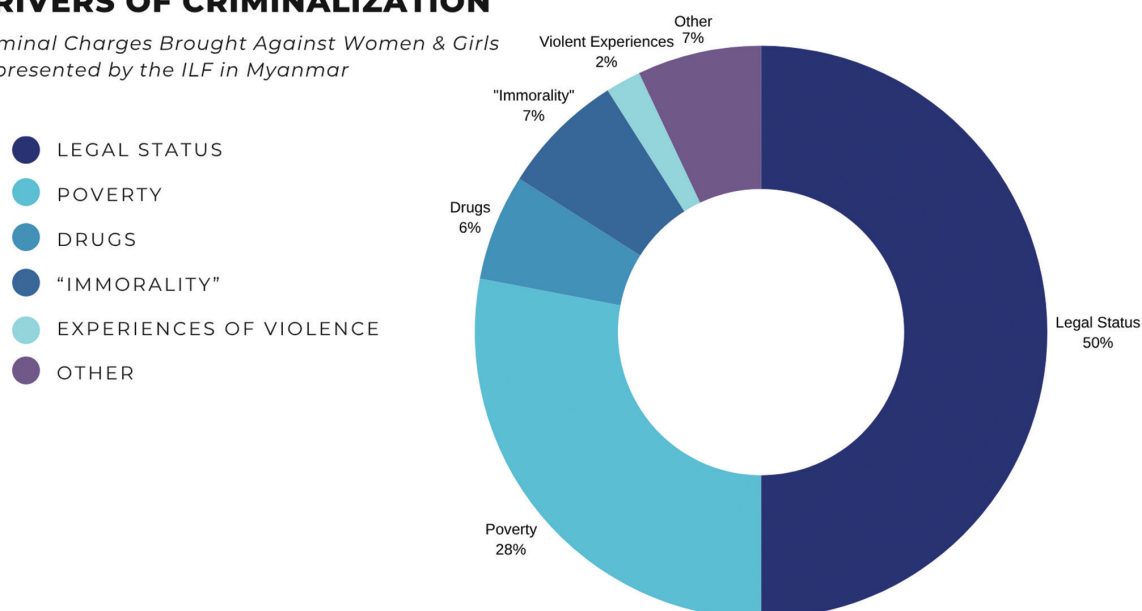
THE CRIMINALIZATION OF WOMEN AND GIRLS: KEY DRIVERS

The analysis of 441 cases of women and girls entering the justice system reveals five key drivers of contact with the criminal justice system for women and girls.

The two primary and intersecting drivers resulting in criminal justice contact for women and girls in Myanmar are the criminalization of legal status (50%) and the criminalization of poverty (28%), which collectively account for 78% of all cases. Additionally, the criminalization of drug possession accounts for 6% of cases, while the criminalization of "immorality" accounts for another 7% of cases. Serious crimes such as murder and trafficking account for just 2% of cases, and case analysis revealed that the main driver in these cases is the criminalization of survivors of violence. 7% of cases under "Other" category includes offences such as forgery, minor disputes, assault, and unlicensed activities. These pathways into the justice system are all heavily gendered and substantially contribute to the criminalization of women and girls, as will be discussed in this report.

DRIVERS OF CRIMINALIZATION

Criminal Charges Brought Against Women & Girls Represented by the ILF in Myanmar



Because this report aims to highlight the key drivers of criminalization based on analysis of the data collected, it does not discuss every case or offense represented by the ILF. All cases that do not fall within the five main drivers discussed below are represented in this graph by the "other" category.

The “Girlfriend Problem”

Though not categorized as a driver of criminalization in this report, it is important to note that women and girls are often charged with criminal offenses based on their association with the men in their lives—a phenomenon known as the “girlfriend problem.”⁽²⁶⁾ Though initially coined in the context of drug offenses,⁽²⁷⁾ in Myanmar the “girlfriend problem” applies to many other crimes as well, including theft and assault.

A pattern emerged in analyzing cases for this report in which women and girls were held responsible for actions and circumstances that were often beyond their control, a pattern which held true across offenses. For example, in one case two girls were detained and charged with theft. The stolen item was found in the possession of a boy, but the girls were still convicted based on their association with the boy despite no involvement in the crime. In another example detailed later in this report, a woman was arrested when drugs belonging to her husband were found in the home. Case analysis also revealed instances where women were arrested for assaults committed by their husbands, even though they were bystanders.

(26) See, e.g., Press Release, Am. C.L. Union, “Girlfriend Problem” Harms Women and Children, Impacted Families Call Mandatory Sentences Unfair and Destructive (June 14, 2005) [hereinafter ACLU, Girlfriend Problem], <https://www.aclu.org/press-releases/girlfriend-problem-harms-women-and-children-impacted-families-call-mandatory>; Matt Alston, Mandatory Minimum Sentencing Might Have a ‘Girlfriend Problem,’ *Rolling Stone* (Nov. 18, 2018), <https://www.rollingstone.com/culture/culture-features/mandatory-minimum-sentencing-girlfriend-problem-757690>;

(27) See Marylyn Harrell, Note, *Serving Time for Falling in Love: How the War on Drugs Operates to the Detriment of Women of Circumstance in Poor Urban Communities of Color*, 11 *Geo. L.J. & Mod. Crit. Race. Persp.* 139, 156 (2019) (discussing the “girlfriend problem” in the context of drug offenses); *Women and Girls in the Criminal Justice System: Hearing Before the Subcomm. on Crime, Terrorism & Homeland Sec. of the H. Comm. on the Judiciary*, 116th Cong. 4–5 (2019) (statement of Rep. Jerrold Nadler, Chairman, H. Comm. on the Judiciary) (describing the “girlfriend problem” as holding “a woman in a relationship . . . responsible through conspiracy charges for the entirety of a criminal scheme orchestrated by her partner, often involving drug distribution, in which the woman had minimal involvement”); ACLU, *Girlfriend Problem*, *supra* note 26 (“This little known side effect is often called the “girlfriend problem” - the propensity of arrest and prosecution of low-level, minimally or unknowingly involved individuals for crimes associated with drug trafficking operations.”).

►► The Criminalization of Poverty

Around the world, women regularly face criminal penalties for life-sustaining activities and acts of survival.⁽²⁸⁾ As previously noted, women and girls make up a disproportionate number of people experiencing extreme poverty today.⁽²⁹⁾ Women and girls are also significantly more likely to experience the negative effects of poverty due to disparities both within households and within societies more generally.⁽³⁰⁾ Numerous studies over the past four decades have documented how women who come into contact with criminal justice systems overwhelmingly experienced “uniquely high levels of poverty” before coming into conflict with the law.⁽³¹⁾ Women are particularly likely to be incarcerated for poverty-related offences, such as the failure to pay fines,⁽³²⁾ vagrancy,⁽³³⁾ begging,⁽³⁴⁾ and working in informal economies.⁽³⁵⁾

The criminalization of poverty does not exist in a vacuum; it intersects with every other form of criminalization. For example, experiences of poverty are also strongly correlated to drug and property crimes,⁽³⁶⁾ both of which are covered in this report. In addition, individuals and communities subjected to conditions of “statelessness” often experience generational cycles of poverty because they are systematically denied basic rights and services.⁽³⁷⁾ Stateless children

(28) PRI et al., *From Poverty to Punishment*, supra note 1, at 6.

(29) See, e.g., *id.* at 13 (reporting that an estimated 383 million women and girls were living in extreme poverty in 2022 compared to 368 million men and boys); U.N. Women & WBG, *Gender Differences in Poverty*, supra note 3, at 2 (finding that “there are 104 women for every 100 men living in poor households”).

(30) See Ginette Azcona & Antra Bhatt, *Poverty Is Not Gender-Neutral*, SDG Action (Mar. 6, 2023), <https://sdg-action.org/poverty-is-not-gender-neutral>.

(31) Merry Morash & Deborah A. Kashy, *The Relevance of Women’s Economic Marginalization to Recidivism*, 49 *Crim. Just. & Behav.* 330, 331 (2022), <https://journals.sagepub.com/doi/full/10.1177/00938548211039545>; see also U.N. Off. on Drugs & Crime, *Handbook on Women and Imprisonment*, at 50, U.N. Sales No. E.14.IV.3 (2d ed. 2014), https://www.unodc.org/documents/justice-and-prison-reform/women_and_imprisonment_-_2nd_edition.pdf (“In a majority of cases [incarcerated women] commit an offence due to poverty.”).

(32) PRI et al., *From Poverty to Punishment*, supra note 1, at 22–24.

(33) *Id.* at 25–27.

(34) *Id.* at 19–20.

(35) *Id.* at 20–22.

(36) See, e.g., *id.* at 18–19, 27–30 (discussing the intersection between poverty, petty theft, and drug-related activities); Women and Girls in the Criminal Justice System: Hearing Before the Subcomm. on Crime, Terrorism & Homeland Sec. of the H. Comm. on the Judiciary, 116th Cong. 8 (2019) (statement of Jesselyn McCurdy, Deputy Director, Wash. Legis. Off., Am. C.L. Union) (“Drug and property offenses are often fueled by conditions of poverty, addiction, and untreated mental health issues, which is experienced by many of the women cycling through the criminal justice system.”); Hélio Manhica et al., *Association Between Poverty Exposure During Childhood and Adolescence, and Drug Use Orders and Drug-Related Crimes Later in Life*, 116 *Addiction* 1747, 1754 (2021) (finding that “poverty exposure early in life increases the risk of drug use problems in young adulthood”).

(37) See, e.g., *Ending Statelessness*, U.N. High Comm’r for Refugees, <https://www.unhcr.org/us/what-we-do/protect-human-rights/ending-statelessness> (last visited Oct. 24, 2025) (“[Stateless persons] often are not allowed to go to school, see a doctor, work legally, open a bank account, buy a house or even get married. This creates and perpetuates generational cycles of poverty.”); Inst. on Statelessness & Inclusion, *All About Statelessness: What Development Actors Need to Know* 7–8 (2017) [hereinafter ISI, *Statelessness*], <https://files.institutesi.org/statelessness-for-development-actors.pdf> (identifying common problems associated with conditions of statelessness and concluding that “[s]tateless communities often find themselves trapped in poverty’s vicious cycle”).

are also often denied access to education, without which they struggle to find gainful, dignified work.⁽³⁸⁾ And stateless communities tend to be especially vulnerable to discrimination and victimization, meaning that laws criminalizing poverty pose a particularly acute risk for stateless persons.⁽³⁹⁾ For this reason, this report discusses the criminalization of poverty first, even though poverty is actually the second most common driver of criminalization.

As of 2024, Myanmar's poverty rate was 49.7%, with another 25% of the population dangerously close to reaching the poverty threshold.⁽⁴⁰⁾ The country's worsening economic crisis, driven by escalating conflict, labor shortages, and a rapidly depreciating currency, has disproportionately impacted women. With limited access to education, income, protection, or mobility, many women are increasingly pushed to engage in illegal activities.⁽⁴¹⁾ The ILF has observed that the March 2025 earthquake in Central Myanmar has deepened this crisis.

Poverty emerged as the second-most significant driver of criminalization among women and girls with 28% of women and girls represented by the ILF charged with crimes strongly correlated to situations of poverty.

The offenses in this category are typically known as “survival crimes” resulting from economic hardship and lack of livelihood opportunities, committed either to supplement meagre earnings or in desperation.⁽⁴²⁾ The criminalization of life-sustaining activities and acts of survival is a common feature of criminal justice systems across the world.⁽⁴³⁾ Examples include laws prohibiting begging, vagrancy, homelessness, non-payment of fines, petty theft, and working in the informal economy.⁽⁴⁴⁾ In practice, these criminal prohibitions disproportionately impact women

(38) ISI, Statelessness, supra note 37, at 7–8; Brad Blitz, Neither Seen nor Heard: Compound Deprivation Among Stateless Children, in *Children Without a State* 43, 50 (Jacqueline Bhabha ed., 2011).

(39) See ISI, Statelessness, supra note 37, at 7 (“Perceived as outsiders, the stateless can be vulnerable to victimisation, discrimination and exploitation.”).

(40) UNDP, Myanmar Poverty Survey, supra note 10, at 5.

(41) Id. at 6.

(42) See PRI et al., *From Poverty to Punishment*, supra note 1, at 6–7 (describing laws that criminalize women for “life-sustaining activities and acts of survival” including those that punish petty theft, begging, working in the informal economy, non-payment of fines or debts, vagrancy, loitering, idleness, and homelessness).

(43) Olivier De Schutter (Special Rapporteur on Extreme Poverty and Human Rights), *Breaking the Cycle: Ending the Criminalization of Homelessness and Poverty*, ¶¶ 1–2, U.N. Doc. A/HRC/56/61/Add.3 (June 26, 2024).

(44) Id. ¶ 2; PRI et al., *From Poverty to Punishment*, supra note 1, at 6–7; *The Compatibility of Vagrancy Laws with the African Charter on Human and Peoples’ Rights and Other Human Rights Instruments Applicable in Africa* (Vagrancy Laws Advisory Opinion), No. 001/2018, Advisory Opinion, Afr. Ct. Hum. & Peoples’ Rts. [Afr. Ct. H.P.R.], ¶¶ 3–4 (Dec. 4, 2020), <https://www.african-court.org/cpmt/storage/app/uploads/public/5fd0c6/49b/5fd0c649b6658574074462.pdf>.

and girls.⁽⁴⁵⁾ Some criminal laws impact women and girls because of their disproportionate involvement in specific sectors of the informal economy, such as sex work⁽⁴⁶⁾ or street trading.⁽⁴⁷⁾ Other laws disproportionately impact women and girls because they target individuals dealing with extreme poverty or homelessness⁽⁴⁸⁾ —a category which includes an inordinate number of women and girls.⁽⁴⁹⁾ Still other laws, such as “public order offenses,” are disproportionately deployed against women and girls because they impose only vague standards that allow law enforcement officials to extort marginalized and vulnerable individuals.⁽⁵⁰⁾ The common thread connecting these offenses is that they are often used to criminalize women and girls for engaging in acts of survival.

Survival-related charges in our study include theft, gambling, non-repayment of loans, and breaking curfew. Among the ILF’s clients charged with poverty-related crimes, 90% were women and 10% were girls.

(45) See PRI et al., *From Poverty to Punishment*, supra note 1, at 18–30; De Schutter, supra note 43, ¶ 26(b); Vagrancy Laws Advisory Opinion, No. 001/2018, ¶ 133.

(46) See U.N. Working Grp. on Discrimination Against Women & Girls, *Eliminating Discrimination Against Sex Workers and Securing Their Human Rights*, ¶ 3, U.N. Doc. A/HRC/WG.11/39/1 (Dec. 7, 2023) (“Sex work is a gendered phenomenon and arrangements within sex work sectors tend to follow existing patriarchal, racial, class-based and nationalistic hierarchies. In many sex work sectors, most of those who sell sexual services are women, and most of those who buy them are men.”); see also Lisa Cameron, Jennifer Seager & Manisha Shah, *Crimes Against Morality: Unintended Consequences of Criminalizing Sex Work*, 136 Q.J. Econ. 427, 428–29 (2021) (finding evidence that criminalizing sex work adverse impacts female sex workers’ health and economic well-being).

(47) Vagrancy Laws Advisory Opinion, No. 001/2018, ¶¶ 133, 139.

(48) PRI et al., *From Poverty to Punishment*, supra note 1, at 18–30; De Schutter, supra note 43, ¶ 26(b).

(49) U.N. Women & WBG, *Gender Differences in Poverty*, supra note 3, at 2; PRI et al., *From Poverty to Punishment*, supra note 1, at 13.

(50) De Schutter, supra note 43, ¶ 26(b); Vagrancy Laws Advisory Opinion, No. 001/2018, ¶¶ 4, 133.

Theft

Within the context of Myanmar's deepening poverty, theft emerges as a survival strategy in the face of extreme deprivation. Women, often the primary caregivers of their families, are pushed to steal food or small valuables to earn an income or supplement other means of meager earnings. Additionally, a common means of work for women and girls experiencing poverty is known as "ragpicking." It involves collecting discarded items such as bottles, batteries, or scrap metal for resale. Though not illegal, women who engage in this informal work are often arrested for theft.

Theft-related charges against women and girls account for 58% of all poverty-related offenses.

Women and girls accused of theft in our data set are prosecuted under two laws: the Penal Code, and the Public Property Act.

Penal Code

Sections 379 and 380 of the Penal Code⁽⁵¹⁾ are commonly used to criminalize theft. Theft offenses under the Penal Code carry a penalty of three to seven years, depending on the nature of alleged theft (e.g., theft versus theft in dwellings or buildings or vehicle).⁽⁵²⁾ Women and girls in our data set were accused exclusively of petty theft, including stealing car parts, food, or items from a shop.

(51) Penal Code §§ 379–80 (Myan.), translated in Myanmar: The Penal Code, Univ. of Minn. Hum. Rts. Libr., <https://hrlibrary.umn.edu/research/myanmar/Annex%20K%20-%20Myanmar%20Penal%20Code.pdf> (last visited Oct. 16, 2025).

(52) The punishment for theft in Myanmar depends on the circumstances of the crime. Section 379 of the Penal Code states that "[w]hoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both." Id. § 379. Section 380, which applies to "[t]heft in [a] dwelling - house, etc.," provides that "[w]hoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine." Id. § 380.

Public Property Act

The Public Property Protection Act⁽⁵³⁾ criminalizes the taking of government fixtures. The definition of government fixtures is broad and can mean public property such as wire, metal lids, poles, or wooden planks, as well as anything considered “suspicious” by the authorities. Police have the power to arrest a person without a warrant based solely on “reasonable” suspicion.⁽⁵⁴⁾ In practice, this vague language and police discretion often results in the arrest of women and girls engaged in ragpicking.

Case Highlight 2: The Criminalization of Survival Strategies—“Ragpicking”

A group of seven women and three men were working as “ragpickers.” The men had hired the women to collect recyclables in a popular resort area in Myanmar. The ILF represented two 19-year-old women from the group. The police conducted a search of the groups’ vehicle without a warrant. The police found an old battery and water pump causing them to “suspect that they had stolen them from some buildings,” according to their report, and charged them with theft despite no theft being reported.

Investigations revealed that the discarded items originated from the hotel’s garbage. The hotel owner, called as a prosecution witness, conceded under cross-examination that the items were indeed discarded, and no complaint had been filed regarding any loss. The police still pursued the case. Despite the weak evidentiary basis, the two women were convicted. According to the law, the sentence could have been as much as seven years, but they were sentenced to one year in prison after the lawyer vehemently advocated for a lesser sentence. One of the convicted women, who was the sole provider for her family, had to bring her one-month-old child with her for the duration of her incarceration. Another woman was pregnant and delivered her baby while in detention.

(53) See Public Property Protection Act, 1947, § 6(1) (Myan.), translated in The Public Property Protection Act, Myan. L. Libr., https://myanmar-law-library.org/IMG/pdf/the_public_property_protection_act.pdf (last visited Oct. 16, 2025) (“Notwithstanding anything contained in any existing law, whoever possesses or steals or misuses or destroys public property shall be sentenced to jail which may extend to 7 years or whipping or both imprisonment or whipping or fine.”).

(54) See id. § 7(1) (providing that police may “arrest without warrant any person whom he suspects of having committed or of committing” theft, misappropriation, mischief, or unauthorized possession of public property).

Gambling

Gambling of any kind is illegal in Myanmar; however gambling in the form of lottery tickets, dice games cards or other activities remain a popular past-time, and for many, working in gambling dens can be a way to earn daily wages. For women, financial burden and lack of formal economic opportunities perpetuate their presence in these gambling dens, a fast-growing business in Myanmar.⁽⁵⁵⁾

Around 12% of women and girls charged with poverty-related crimes were charged with gambling.

All of the women in our data set charged with gambling offenses were charged under section 16(a) of the Gambling Law.⁽⁵⁶⁾ This law criminalizes gambling or one's presence in a gambling den and carries a penalty of six months to one year imprisonment and fine.⁽⁵⁷⁾

Case Highlight 3: The Criminalization of Survival Strategies—Gambling

A woman from Mandalay was arrested while working for a daily wage at a road-side gambling site. Like many others at the site, she was earning a small income—about 5,000 kyat per day (around 1.5 USD)—by assisting with basic tasks. Her work at the gambling site was not out of choice, but necessity: she and her husband are both casual construction workers, called for jobs only when day labor is available. On days without work, she turned to the gambling site to help feed her family of four.

When police arrived, they arrested everyone present. The woman was charged under section 15(a) of the Gambling Law, a minor offense carrying a maximum sentence of six months' imprisonment.⁽⁵⁸⁾ Although the offense is bailable as of right, her family was required to make multiple unofficial payments to secure her release on bail—first to obtain police bail, and later to process her bail application in court. These costs pushed the family into debt, forcing her children to leave school to help support the household. She was ultimately sentenced to one month in prison, which further impacted the economic stability of her family.

(55) For more on the proliferation of gambling dens in Myanmar, see Post-Coup Myanmar Flush with Illegal Gambling Dens, Frontier (Oct. 24, 2022), <https://www.frontiermyanmar.net/en/post-coup-myanmar-flush-with-illegal-gambling-dens>.

(56) Gambling Law, 2018, § 16(a) (Myan.), translated in Gambling Law 2018, Lincoln Legal Servs. (Myan.) Ltd. (2019), <https://www.lincoln-myanmar.com/wp-content/uploads/2019/05/Gambling-Law-2019-.pdf>.

(57) See id. (providing that anyone found to have gambled in or been presented at a gambling house “shall be sentenced to imprisonment from 6 months to 1 year and, in addition, to a fine from Ks. 50,000 to Ks. 100,000” and shall forfeit the money and any evidence attached to the crime).

(58) Id. § 15(a).

Loan Non-Repayment

Within economically disadvantaged communities in Myanmar, money lending remains an essential survival mechanism for women who either contribute to or solely shoulder the family's economic responsibilities, especially when other family members are unemployed or engaged in irregular work. As observed by the ILF's lawyers in several cases, there is a cultural perception that borrowing money undermines a man's role as the breadwinner, leading many women in need to engage formal borrowing channels and secure informal loans from neighbors or local moneylenders. The ILF's lawyers found that these informal lenders often impose exorbitant interest rates, exploiting women's vulnerability and lack of bargaining power. When women fail to repay, the matter, which is essentially a civil dispute, frequently escalates into criminal proceedings.

In our dataset 15% of women and girls charged with poverty-related crimes were charged with non-repayment of loans. They were all over the age of 18.

These women were charged with the offenses of Cheating, Criminal Misappropriation of Property, or Criminal Breach of Trust. These offenses are defined under the Penal Code and are often used interchangeably to criminalize non-payment of money.⁽⁵⁹⁾ They carry penalties ranging from a fine to imprisonment that may extend to a two- or three-year sentence.⁽⁶⁰⁾ Each of these charges implies fraud, dishonesty, or malintent, when in reality the "offense" is simply poverty and an inability to meet crushing repayment terms.

The use of criminal law in such cases entrenches the stark power imbalance between moneylenders (typically more powerful people in the community) and borrowers (often more vulner-

(59) Sections 415 to 420 of the Penal Code address the crime of "Cheating." See Penal Code §§ 415–20. Section 415 provides that

Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat."

Id. § 415. Section 403 concerns the "Criminal Misappropriation of Property" and provides that "[w]hoever dishonestly misappropriates or converts to his own use any moveable property shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both." Sections 405 to 409 concern "Criminal Breach of Trust," which applies whenever someone who is "in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property . . . , or willfully suffers any other person so to do" Id. § 405.

(60) See id. § 403 (prescribing the punishment for criminal misappropriation as a fine, a term of imprisonment for up to two years, or both); id. § 406 (prescribing the punishment for criminal breach of trust as a fine, a term of imprisonment for up to three years, or both); id. § 417 (prescribing the punishment for cheating as a fine, a term of imprisonment for up to one year, or both).

able individuals in the community). As evidenced by the case analyses, lenders often avoid formal agreements—which require a license under the Money Lenders Act, 1945⁽⁶¹⁾—and instead draft money-borrowing contracts. These documents misrepresent the total borrowed amount as the sum of both the principal and interest to circumvent legal restrictions. In court, such manipulated contracts are presented as legitimate claims, shifting the narrative away from predatory lending practices and onto the supposed failings of the borrower. Women prosecuted for these crimes face the stigma of being brought to criminal court and the loss of income from attending repeated hearings.

In practice, the majority of these cases were resolved through reconciliation. These minor offenses are defined as “compoundable” in the Criminal Procedure Code, which means that a criminal case can be withdrawn if the case is settled between the two parties in conflict with permission from the court.⁽⁶²⁾ While none of the women in this study were detained for offenses related to loan-non repayment, the fact remains that each of the related offenses carries a penalty that includes time in detention. For the women prosecuted for these crimes, the threat of detention remains a very real possibility, which creates significant fear and can therefore be used coercively.

Case Highlight 4: The Criminalization of Non-Payment of Loans

A 25-year-old woman and mother of two toddlers borrowed 300,000 Kyat (equivalent of around \$86 USD)⁽⁶³⁾ from a woman in her neighborhood. The loan carried exorbitant interest of 60% per month—which imposed an impossible burden for her family, as the woman’s husband was unemployed at the time. For a year she managed to pay only the interest, but when she failed to repay the principal, the lender filed a complaint at the police station seeking total amount of 3,600,000 Kyat (summing principal and interest, equivalent to about \$1,029 USD). Although she was never arrested or detained, the case was pursued in criminal court under the charge of “cheating,” a compoundable offence under

(61) Money Lenders Act, 1945, § 5 (Myan.), translated in The Money Lenders Act, Online Burma/Myan. Libr., <https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/1945-11-02-GB-No.27-tu-en.pdf> (last visited Oct. 27, 2025).

(62) See Code of Criminal Procedure, § 345(1) (Myan.), translated in The Code of Criminal Procedure, VERTIC, https://www.vertic.org/media/National%20Legislation/Myanmar/MM_Code_Criminal_Procedure.pdf (last visited Oct. 16, 2025).

(63) The conversion rates have been fluctuating in Myanmar over the years due to economic crisis. The standard conversion of 1 USD = 3500 Kyat is used for this report.

the Code of Criminal Procedure that can be negotiated between the parties with the court's permission. The ILF lawyer represented her in the criminal proceedings and advised her regarding the civil lawsuit that was also filed by the lender. In criminal court, negotiations failed when the woman offered to repay in small monthly installments and the lender rejected the terms. At the same time, the lender pursued a civil case demanding 6,000,000 MMK (summing principal and interest, equivalent to about \$1,700 USD). The civil court ultimately ordered repayment of 5,000,000 MMK—an amount the woman herself could never afford. Her father-in-law stepped in and promised to pay, and the lender then withdrew the criminal complaint. Although the woman was not convicted, the experience left her family in debt and caused lasting stigma in the community.

Breaking Curfew

In Myanmar, night-time curfews have been put in place in many parts of the country for security reasons since the military takeover in February 2021. Violating curfew is an offense under section 188 of the Penal Code (for violating an order promulgated by a public servant) and is punishable with maximum of six months imprisonment and a minimum sentence of a fine.⁽⁶⁴⁾ In conflict zones, like Sittwe (capital of Rakhine state), authorities have imposed curfews from 9 pm to 5 am since 2024. These curfew restrictions most severely impact the informal workforce. Small vendors, beachside food stalls, and drivers of three-wheeler or trishaws that once stayed open late while families gathered along the beachfront until late in the evenings are now forced to close their business before nightfall or risk arrest. Additionally, for fishermen and fisherwomen, the most critical hours for landing fish and setting nets are before dawn and in the evening hours. These periods typically fall outside of curfew hours, leaving them very little time to successfully earn their living.

In our dataset, three women were arrested for curfew violations.

All three women were fisherwomen engaged in family fishing businesses—catching fish and selling it fresh in local markets. They were arrested along with their husbands as they returned from the sea during restricted hours.

⁽⁶⁴⁾ Penal Code § 188.

►► The Criminalization of Legal Status

Lack of documentation, such as proof of nationality, legal residency, or citizenship, is increasingly criminalized around the world.⁽⁶⁵⁾ Rather than being treated as civil or administrative issues, people without documentation are often detained, prosecuted, or excluded from access to services and protections.⁽⁶⁶⁾ In many cases, people are targeted simply because of who they are or where they were born.⁽⁶⁷⁾ Women and girls face unique obstacles to obtaining identity documents⁽⁶⁸⁾ and are particularly likely to be prosecuted for crimes relating to their legal status.⁽⁶⁹⁾ This criminalization of legal status turns issues of identity into criminal justice matters, deepening marginalization⁽⁷⁰⁾ and stripping individuals of dignity and due process.⁽⁷¹⁾

In Myanmar, the Rohingya population is disproportionately affected by the criminalization of legal status. Myanmar's Rohingya community primarily resides in Rakhine State.⁽⁷²⁾ The Myanmar

(65) See, e.g., Vicki Prais, *Proving Who I Am: The Plight of People in Detention Without Proof of Legal Identity*, Penal Reform Int'l (Oct. 9, 2020), <https://www.penalreform.org/blog/proving-who-i-am-the-plight-of-people> (discussing the trend of criminalizing the estimated 1.1 billion individuals worldwide who lack formal documentation); Manfred Nowak, *The United Nations Global Study on Children Deprived of Liberty* 231 (2019), <https://www.refworld.org/reference/themreport/un/2019/en/123245> (finding that one of the most common reasons why girls are detained is for not carrying proper identification).

(66) See Nowak, *supra* note 65, at 232 (finding that "[g]irls have a high rate of interaction with police authorities" and "are often purposefully targeted for specific offences" including not carrying proper identification); Prais, *supra* note 65 ("In some cases people may be detained solely on the grounds of lack of ID or are detained for an indefinite period of time due to lack of identity documents, and therefore at risk of arbitrary detention."); *Nowhere to Call Home: Statelessness and Detention*, Int'l Det. Coal. (Apr. 5, 2024) [hereinafter *Nowhere to Call Home*], https://idcoalition.org/news_features/nowhere-to-call-home-statelessness-and-immigration-detention (discussing the relationship between detention of stateless persons and lack of identity documents); Julia Clark et al., *850 Million People Globally Don't Have ID—Why This Matters and What We Can Do About It*, World Bank Blogs (Feb. 6, 2023), <https://blogs.worldbank.org/en/digital-development/850-million-people-globally-dont-have-id-why-matters-and-what-we-can-do-about> (discussing the challenges in accessing basic services without formal ID).

(67) See generally Mohsin Alam Bhat, (Un)Credible Citizen: Citizenship Dispossession, Documents and the Politics of the Rule of Law, 50 *J. Ethnic & Migration Stud.* 4867 (2024) (documenting how bureaucratic practices threaten the citizenship status of more than 3 million people in the northeastern Indian state of Assam); *Nowhere to Call Home*, *supra* note 66 (discussing the discriminatory targeting of stateless persons for detention); see also Nowak, *supra* note 65, at 231–37 (discussing discriminatory criminalization of girls for status and lack of proper ID).

(68) See generally Identification for Dev. & World Bank Grp., *Achieving Universal Access to ID: Gender-Based Legal Barriers Against Women and Good Practice Reforms* (2019), <https://openknowledge.worldbank.org/server/api/core/bitstreams/7c098519-9192-585c-b2aa-a43c9e750e99/content>.

(69) See, e.g., PRI et al., *From Poverty to Punishment*, *supra* note 1, at 31–44 (discussing criminalization of statuses that specific target women and girls); Nowak, *supra* note 65, at 231–32 (finding that girls are often detained and prosecuted for status offences and for failing to carry proper ID); Council on Crim. Just., *Women's Justice: A Preliminary Assessment of Women in the Criminal Justice System* (2024), <https://counciloncj.org/womens-justice-a-preliminary-assessment-of-women-in-the-criminal-justice-system/#398> (reporting that girls accounted for 37% of all youth being held for status offences in the United States).

(70) De Schutter, *supra* note 43, ¶ 26.

(71) For example, U.S. courts have long held that status-based offences are unconstitutional violations of due process. See generally John M. Murtagh, *Status Offences and Due Process of Law*, 36 *Fordham L. Rev.* 51 (1967).

(72) Abu Faisal Md. Khaled & Anas Ansar, *Myanmar's Rakhine State at a Crossroads: Regional Power Struggles and Bangladesh's Rohingya Dilemma*, *Geo. J. Int'l Affs.* (May 20, 2025), <https://gja.georgetown.edu/2025/05/20/myanmars-rakhine-state-at-a-crossroads-regional-pow->

Citizenship Law, 1982, deprived Rohingyas of their status as citizens.⁽⁷³⁾ Rohingya are today considered stateless, as they are not recognized as citizens by any country.⁽⁷⁴⁾ The legal invisibility of the Rohingya people makes them especially vulnerable to exploitation and abuse. As a result of systemic marginalization, members of the Rohingya community are unable to access government services, formal employment, and education, and are more likely to experience poverty and discrimination.⁽⁷⁵⁾ Additionally many have been forced to flee their homes due to conflict or forced displacement, with many living in camps for refugees or internally displaced persons (IDPs).⁽⁷⁶⁾ The impacts of these intersecting challenges are acutely felt by Rohingya women and girls.

The criminalization of legal status was the number one driver of contact with the criminal justice system for women and girls. **Just over 50% of women's and girls' criminal cases represented by the ILF were related to their legal status.** These cases are exclusively Rohingya women and girls prosecuted for lack of civil documents or illegal entry into the country. Many of the women and girls represented were victims of trafficking.

Lack of Documentation

The Residents of Burma Registration Act, 1949, is a post-colonial law that requires all residents of Myanmar to register with the registration authority. Though still applicable to the entire population, the ILF's lawyers report that the archaic Registration Act is now solely used to criminalize Rohingyas. Sections 6(2) and 6(3) of the Residents of Burma Registration Act are most frequently used to press charges⁽⁷⁷⁾ against Rohingya individuals for traveling outside their

er-struggles-and-bangladeshs-rohingya-dilemma.

(73) Press Release, Hum. Rts. Watch, Burma: Amend Biased Citizenship Law (Jan. 13, 2015), https://www.hrw.org/news/2015/01/13/burma-amend-biased-citizenship-law?utm_source.

(74) Rohingya: The World's Largest Stateless Population, Medecins Sans Frontiers, <https://msf.org.au/rohingya-worlds-largest-stateless-population> (last visited Oct. 17, 2025).

(75) See, e.g., Md Mahbubur Rahman, New Line Inst., *Statelessness – the Root Cause of the Rohingya Crisis – Needs to Be Addressed* 25–28 (2024), <https://newlinesinstitute.org/state-resilience-fragility/statelessness-the-root-cause-of-the-rohingya-crisis-needs-to-be-addressed>.

(76) See Report of the Independent Investigative Mechanism for Myanmar, ¶¶ 19–28, U.N. Doc. A/HRC/60/18 (July 14, 2025) [hereinafter IIMM 2025 Report] (summarizing investigations into international crimes in Rakhine state and against the Rohingya).

(77) Section 6(2) of the Residents of Burma Registration Act provides that “[w]hoever fails to comply with a summon duly issued under this Act or violates any rules thereunder or fails to comply the manner as prescribed in the rules is said to commit an offence under this Act.” Residents of Burma Registration Act, 1949, § 6 (2) (Myan.), translated in *The Residents of Burma Registration Act, 1949* (Unofficial Translation), Online Burma/Myan. Libr. https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs25/1949-Residents_of_Burma_Registration_Act-en.pdf (last visited Oct. 16, 2025). Section 6(3) then provides that “[w]hoever is guilty of any provisions of this Act shall on conviction be punished with imprisonment for a term not exceeding two years with rigorous imprisonment, or simple imprisonment, or to a fine not exceeding 500 kyats, or to both.” Id. § 6(3). However, “notwithstanding anything contained in the criminal procedure code, if the said

place of residence without proper registration documentation (identity cards). The offense is punishable with at minimum a fine or a maximum sentence of up to two years.⁽⁷⁸⁾

Around 94% of women and girls charged with crimes related to statelessness were charged with violations of the Registration Act. Notably, while this law technically applies to all residents of Myanmar, all of the women and girls charged with this offense identified as Rohingya. None of the non-Rohingya women represented by the ILF were arrested for violations of the Registration Act.

Although members of the Rohingya community are arrested primarily for failing to carry identification while travelling, Rohingya often do not have (and most are not even eligible for) the required documentation.⁽⁷⁹⁾ Rohingya are denied the status of “recognised ethnicity” required for acquiring citizenship by birth and therefore are unable to obtain citizenship documents.⁽⁸⁰⁾ Moreover, the exorbitant fees and bribes that Rohingya may be asked to pay to obtain civil documents by immigration authorities, and the literacy needed to navigate registration bureaucracy, place traveling documentation out of reach of many.

Notably, minors under 18-years-old are not required to register or carry registration cards under the Registration Act,⁽⁸¹⁾ as their parents are responsible for them. Consequently, a large proportion of girls in this study were charged with crimes that they, by legal definition, cannot commit.

Despite this legal impossibility, 45% of women and girls charged under the Registration Act were under 18 years of age. Four of the girls were under the age of 12. Girls criminalized based on legal status are younger than any other offense category in our data set.

offender is tried as a summon case then, on conviction, he shall be punished to a term not exceeding 6 months with rigorous imprisonment, or simple imprisonment, or to a fine not exceeding 200 kyats, or both.” Id.

(78) Id. § 6(3).

(79) Deanna Davy, U.N. Children’s Funds & Eur. Union, Analysis of Protection Frameworks, Referral Pathways and Service Availability for Myanmar Migrant Children (2019).

(80) Section 4 of the 1982 Citizenship Law grants the President or Union government power to determine whether or not groups are recognized. Burma Citizenship Law, 1982, § 4 (Myan.), translated in Burma Citizenship Law, U.N. High Comm’r for Refugees, <https://www.refworld.org/legal/legislation/natlegbod/1982/en/49622> (last visited Oct. 16, 2025). Although Article 3 lists eight groups, the text is clear that other unlisted groups fulfilling the relevant criteria could also be included. See id. § 3 (“Nationals such as the Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine or Shan and ethnic groups as have settled in any of the territories included within the State as their permanent home from a period anterior to 1185 B.E., 1823 A.D. are Burma citizens.”) (emphasis added).

(81) See Residents of Burma Registration Rules, 1951, § 14 (Myan.), translated in Residents of Burma Registration Rules, 1951 (Unofficial Translation), Online Burma/Myan. Libr., https://www.burmalibrary.org/docs12/Residents_of_Burma_Registration_Rules-1951.pdf (last visited Oct. 16, 2025).

Illegal Entry and/or Residence

Many in the Rohingya community, who primarily reside in Rakhine near Myanmar's border with Bangladesh, have been displaced by violence and conflict to refugee camps in Bangladesh.⁽⁸²⁾ Because Rohingya are not officially recognized in Myanmar and are therefore not considered citizens,⁽⁸³⁾ Rohingya who might identify themselves as being from camps in Bangladesh are treated as foreigners by Myanmar authorities.⁽⁸⁴⁾ As a result, some Rohingya women and girls are charged under section 13(1) of the Immigration Act, which criminalizes illegal entry to or overstaying in Myanmar and provides that such entry is punishable with a minimum of six months and a maximum of five years in detention.⁽⁸⁵⁾

Just 6% of women and girls charged with crimes related to statelessness were charged under section 13(1) of the Immigration law. All except one were under the age of 18.

The Criminalization of Legal Status: Impact on Survivors of Trafficking

The criminalization of legal status particularly impacts women and girls who are survivors of trafficking in Myanmar. Rohingya women and girls are particularly vulnerable to trafficking due to poverty, lack of education, and lack of access to employment to earn money for the dowry needed for marriage. For example, the limited work in fishing or factories in the Rakhine state is not available to them.⁽⁸⁶⁾ Traffickers or "brokers" in the region exploit their vulnerability. They smuggle women and children across the borders with the promise of employment in Thailand or Malaysia, where they are instead often sold for sex.⁽⁸⁷⁾ Many Rohingya do not have docu-

(82) IIMM 2025 Report, supra note 76, ¶ 21.

(83) See Burma Citizenship Law, 1982, § 3.

(84) See, e.g., Amal de Chickera, Stateless and Persecuted: What Next for the Rohingya?, Migration Pol'y Inst. (Mar. 18, 2021), <https://www.migrationpolicy.org/article/stateless-persecuted-rohingya>.

(85) See Burma Immigration (Emergency Provisions Act, 1947, § 13(1) (Myan.), translated in The Burma Immigration (Emergency Provisions) Act, 1947, Ass'n of Se. Asian Nations, https://asean.org/wp-content/uploads/2016/08/MY6_Te-Burma-Immigration-Emergency-Provisions-Act-1947.pdf (last visited Oct. 27, 2025).

(86) Kathy Win & Natalie Brinham, Inst. on Statelessness & Inclusion, Dangerous Journeys Through Myanmar: Insecurities and Immobilities for Rohingyas and Muslim Women in Post-Coup Myanmar 9–10 (2022), <https://www.institutesi.org/resources/dangerous-journeys-through-myanmar>; Rohingya Women Dev. Network et al., Joint Submission to the Special Rapporteur on Trafficking in Persons, Especially Women and Children ¶ 13 (2023) [hereinafter Rohingya Women Dev. Network et al., Joint Submission], https://files.institutesi.org/Submission_SP_Trafficking.pdf.

(87) See generally U.S. Dep't of State, Trafficking in Persons Report July 2022 (2022), <https://www.state.gov/wp-content/up->

mentation, and the brokers do not inform their victims of the need, under the Registration Act, to carry their identification documents while traveling.⁽⁸⁸⁾ When these caravans (typically large groups of 20 to 40 women and girls) are stopped, the trafficked women and girls are arrested for lack of identification. Lawyers report these women and girls being so disoriented that they are unaware of whether they have reached the promised destination and ask where they are.

Under Myanmar's Anti-Trafficking in Persons Law, 2005 (most recently amended in 2022), survivors of trafficking who enter or move across borders due to trafficking can be exempted from prosecution under immigration and registration laws, as their movement is "a direct consequence of trafficking."⁽⁸⁹⁾ These women and girls meet the statutory definition of trafficked persons as they are transported for exploitation—with or without consent—through means such as coercion, fraud, deception, or threat.⁽⁹⁰⁾ Despite this legal clarity, Rohingya women and girls are not recognized as victims of trafficking and protected by the system. They are instead criminalized for their forced movement.

loads/2022/10/20221020-2022-TIP-Report.pdf; Human Rights in Southeast Asia: A Regional Outlook: Hearing Before the Subcomm. on Foreign Affs., the Pac. and Nonproliferation of the H. Comm. of Foreign Affs., 116 Cong. (2019); Trudy Jacobsen, *Sex Trafficking in Southeast Asia: A History of Desire, Duty and Debt* (2017); Labour Migration and Human Trafficking in Southeast Asia: Critical Perspectives (Michele Ford et al. eds., 2012); U.N. Off. on Drugs & Crime, *Global Report on Trafficking in Persons* (2009), https://www.unodc.org/documents/Global_Report_on_TIP.pdf.

(88) Residents of Burma Registration Act, 1949, § 6(2)–(3) (Myan.), translated in *The Residents of Burma Registration Act, 1949* (Unofficial Translation), Online Burma/Myan. Libr., https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs25/1949-Residents_of_Burma_Registration_Act-en.pdf (last visited Oct. 16, 2025).

(89) Anti Trafficking in Persons Law, 2005, § 13(b) (Myan.), translated in State Peace & Dev. Council, *The Anti Trafficking in Persons Law*, Online Burma/Myan. Libr., https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs15/2005-SPDC_Law2005-05-Anti_Trafficking_in_Persons_Law-en.pdf (last visited Oct. 16, 2025). The Anti Trafficking in Persons Law (ATIP) was last amended in 2022. See *Prevention and Suppression of Trafficking in Persons Law, 2022* (Myan.).

(90) See Anti Trafficking in Persons Law, §§ 3(c), 12, 13(b). As amended, section 3(c) of the ATIP defines a human trafficking victim as "a person on whom trafficking in person has been committed." Id. § 3(c). Meanwhile, section 3(a) defines trafficking in persons as "recruitment, transportation, transfer, sale, purchase, lending, hiring, harbouring or receipt of persons after committing any of the following acts for the purpose of exploitation of a person with or without his consent [through]: . . . (3) fraud; (4) deception; [or] abuse of power or of position taking advantage of the vulnerability of a person . . ." Id. § 3(a)(3)–(5). The first explanation accompanying section 3 defines exploitation as including the "receipt or agreement for receipt of money or benefit for the prostitution of one person by another, other forms of sexual exploitation, forced labour, forced service, slavery, servitude, debt-bondage or the removal and sale of organs from the body." Id. § 3, explanation (1).

►► The Criminalization of Drug Possession

The global war on drugs has significantly contributed to the increased criminalization of women and girls. Although they make up only a small fraction of drug users,⁽⁹¹⁾ women and girls are disproportionately imprisoned for drug-related offenses.⁽⁹²⁾ While concrete data is hard to come by, the UN Office on Drugs and Crime (UNODC) estimates that 35% of women in prison worldwide are imprisoned for drug offenses, compared to only 19% of their male counterparts.⁽⁹³⁾ If correct, that implies that around 259,000 of the more than 740,000 women incarcerated today are imprisoned for drug offenses,⁽⁹⁴⁾ though the scope of the problem varies dramatically from place to place. In some countries, as many as 82% of women in prison were convicted of a drug offense.⁽⁹⁵⁾ Women and girls also face unique forms of discrimination in the context of drug crimes. For example, they are often prosecuted and imprisoned for “conspiracy” to commit drug offenses solely because their male partner or family member was found to possess or distribute illicit drugs.⁽⁹⁶⁾ They also face gender-specific stigmas (e.g., the perception that drug users are unfit mothers) that implicate particularly harsh legal and social consequences (e.g., losing custody of their children).⁽⁹⁷⁾

As a major producer of illicit drugs,⁽⁹⁸⁾ Myanmar has high rates of female incarceration for low-level drug-related crimes.⁽⁹⁹⁾ Drug offenses illustrate the intersection of poverty, gender, and the criminal legal system. Poverty is a major driver of illicit drug production. For example,

(91) See U.N. Off. on Drugs & Crime, *World Drug Report 2025: Special Points of Interests 3* (2025), https://www.unodc.org/documents/data-and-analysis/WDR_2025/WDR25_Special_points_of_interest.pdf (finding that women made up only 14% of opiate users, 25% of cocaine users, 24% of cannabis users, 32% of ecstasy-type substance users, and 29% of amphetamine users).

(92) Rashida Manjoo (Special Rapporteur on Violence Against Women, Its Causes and Consequences), *Pathways to, Conditions and Consequences of Incarceration for Women*, ¶¶ 23–27, U.N. Doc. A/68/340 (Aug. 21, 2013).

(93) U.N. Off. on Drugs & Crime, *World Drug Report 2018*, at 21 (2019), <https://www.unodc.org/wdr2018>.

(94) See Emily Widra & Aleks Kajstura, *Prison Pol’y Initiative, States of Women’s Incarceration: The Global Context 2025* (2025), <https://www.prisonpolicy.org/global/women/2025.html>.

(95) Penal Reform Int’l & Int’l Drug Pol’y Consortium, *Gender-Sensitive Drug Policies for Women 1* (2021), https://cdn.penalreform.org/wp-content/uploads/2021/07/PRI_10-point-plan_Women-drugs-WEB.pdf; see also PRI et al., *From Poverty to Punishment*, supra note 1, at 27 (estimating that 50% to 80% of the female prison population in some Latin American and Asian countries were sentenced for drug-related offences).

(96) See, e.g., Harrell, supra note 27, at 143–45 (discussing emblematic cases of “women of circumstance” who were found guilty by their familial or romantic association with a male loved one).

(97) See PRI et al., *From Poverty to Punishment*, supra note 1, at 28; Suzanne Allen et al., *Throwaway Moms: Maternal Incarceration and the Criminalization of Female Poverty*, 25 *J. Women & Soc. Work* 160, 161 (2010).

(98) According to the UNODC, Myanmar had 45,200 hectares of land devoted to cultivating opium poppies in 2024. U.N. Off. on Drugs & Crime, *World Drug Report 2025: Key Findings 16* (2025) [hereinafter UNODC, *Drug Report Findings 2025*], https://www.unodc.org/documents/data-and-analysis/WDR_2025/WDR25_B1_Key_findings.pdf. It also estimated that Myanmar produced 995 tons of opium in 2024. *Id.* Myanmar also acts as a key regional hub for the production of methamphetamine. *Id.* at 30.

(99) Purti et al., supra note 13, at 23.

the cultivation of opium poppies makes up an inordinate percentage of Myanmar's total GDP (as high as 2.4%), spurred in large part by the ongoing armed conflict.⁽¹⁰⁰⁾ The UNODC estimates that as many as 35% of households in some states are directly involved in cultivating opium poppies.⁽¹⁰¹⁾ Critically, the UNODC has also found that the villages and households involved in poppy cultivation report worse socioeconomic conditions and higher levels of insecurity than their non-poppy-producing counterparts.⁽¹⁰²⁾ Opium-producing households most frequently identify food insecurity, medical expenses, and the cost of education as the primary reasons why they resort to producing poppies.⁽¹⁰³⁾ The dynamic has, in turn, contributed to the unusually high number of women and girls in Myanmar prisons. Though there is little recent data available, there were approximately 10,000 women and girls incarcerated in Myanmar in 2017, accounting for 12.3% of the country's prison population.⁽¹⁰⁴⁾ The United Nations estimated that between 50% and 70% of incarcerated persons in Myanmar in 2020 were sentenced for drug offenses,⁽¹⁰⁵⁾ implying that 5,000 to 7,000 women and girls were imprisoned for drug-related crimes. Unfortunately, this trend has likely accelerated since 2021.⁽¹⁰⁶⁾

Drug offenses accounted for 6% of all charges against women and girls.

All of the women in our study charged with drug offenses were arrested under one of two provisions of the Narcotic Drugs and Psychotropic Substances Law (NDPS).⁽¹⁰⁷⁾ Section 19(a) of the NDPS punishes possession of narcotics with the intent to sell and carries a mandatory

(100) UNODC, Drug Report Findings 2025, *supra* note 98, at 82.

(101) U.N. Off. on Drugs & Crime, Myanmar Opium Survey 2024: Cultivation, Production, and Implications 30 (2024), https://www.unodc.org/roseap/uploads/documents/Publications/2024/Myanmar_Opium_Survey_2024_web.pdf.

(102) *Id.* at 30–49.

(103) *Id.* at 35.

(104) Purti et al., *supra*, note 13, at 23.

(105) U.N. Off. on Drugs & Crime & UNAIDS, Alternatives to Imprisonment: Reducing Drug-Related Prison Overcrowding and Promoting Public Health Responses to Drug Use in Myanmar 6 (2020), <https://drive.google.com/file/d/1bbvyAfUDMdbPpaZ7SUsT1U7ngBDLG93s/view>.

(106) See, e.g., Monthly Data Fact Sheet as of December 31, 2024 Since Coup, Assistance Ass'n for Pol. Prisoners (Jan. 1, 2025), <https://aappb.org/?p=30709> (reporting that 5,809 women and 587 children had been arrested in Myanmar out of 28,051 total persons arrested since the coup); Thomas H. Andrews (Special Rapporteur on the Situation of Human Rights in Myanmar), Report of the Special Rapporteur on the Situation of Human Rights in Myanmar - Advance Unedited Version, ¶ 1, U.N. Doc. A/80/490 (Oct. 20, 2025) (reporting that the junta has arrested nearly 30,000 people since 2021 for resisting military rule and that 22,000 political prisoners remain behind bars); Myan. Witness, Mapping Myanmar's Prisons, Ctr. for Info. Resilience (Jan. 21, 2024), <https://www.info-res.org/myanmar-witness/reports/mapping-myanmars-prisons> (reporting that prisons in Myanmar have expanded since the 2021 coup to account for an influx of prisoners); Andrew M. Jefferson, Myanmar's Prison System Is an Overt Tool of Repression, Himal Mag. (Jan. 12, 2024), <https://www.himalmag.com/politics/myanmar-prison-junta-coup-political-prisoner-insein> ("The facade of reform projected before the military takeover has peeled away. The law, the courts and the prisons have been turned into overt tools of oppression, through which the regime seeks to quash dissent and acquire control.").

(107) Narcotic Drugs and Psychotropic Substance Law, 1993 (Myan.), translated in The Narcotic Drugs and Psychotropic Substance Law (1993), Myan. L. Lib., <https://www.myanmar-law-library.org/IMG/pdf/the-narcotic-drugs-and-psychotropic-substances-law-1993.pdf> (last visited Nov. 4, 2025).

minimum sentence of ten years, extending up to life imprisonment.⁽¹⁰⁸⁾ Section 16 of the NDPS applies to simple possession for personal use and carries a lower, though still severe, minimum sentence of five years.⁽¹⁰⁹⁾

Out of 27 drug-related cases, 14 women were charged with possession with intent to sell while 6 women and 7 girls were charged with simple possession.

Deeper analysis of these cases reflects a pattern where women, particularly those in poverty, are apprehended for their perceived role in drug trafficking based on their relationship with a man or because they—either due to economic desperation, coercion or fear, or deceit—acted as low-level couriers. These women typically have little to no control over or information about the operations in which they are entangled.

Case Highlight 5: The Criminalization of Drug Possession

In Yangon, woman with three children was coerced by her husband's family to confess to possession of drugs found in their family home. Pressured by familial obligations and cultural norms, she was told that as a "Hindu wife," her sacrifice was expected for the family's survival, because the husband was needed to feed the children. Consequently, she confessed and signed search documents admitting to ownership of the drugs. Despite her lawyer's efforts to withdraw the confession, the initial documents influenced the court, leading to a minimum ten-year sentence.

(108) Id. § 19(a).

(109) Id. § 16.

Case Highlight 6: The Criminalization of Drug Possession

In Sittwe, a Muslim Rohingya woman was arrested for drug charges after police found drugs in her shared household. Despite her protests of innocence and lack of knowledge about the drugs, she was detained while her alcoholic husband absconded. Police falsely assured her that she would be released once her husband was captured. However, even after his arrest, she remained incarcerated. The woman, a mother of seven, was forced to keep her infant with her in prison. After spending 251 days in custody, she was acquitted, and the husband was convicted. By the time she was released, Rakhine state was engulfed in active conflict, and her family had already fled Sittwe. The ILF social worker provided her with material support and, with the assistance of an international humanitarian organization, helped her return to her hometown.

►► The Criminalization of “Immorality”

Many countries continue to impose prison sentences for “moral” crimes that effectively act as status crimes for women and girls.⁽¹¹⁰⁾ Certain crimes against “honor” or “morality” are explicitly targeted to women and girls, such as laws that criminalize abortion.⁽¹¹¹⁾ Other laws that are facially gender neutral—including those that criminalize adultery, prostitution, and premarital sex—are disproportionately employed against women and girls,⁽¹¹²⁾ in many cases because these laws provide only vague standards of what constitutes “immoral” or “obscene” conduct.⁽¹¹³⁾ Women and girls are also disproportionately charged with certain gender-neutral status offenses such as truancy, vagrancy, or “running away from home,” which likely reflects societal gender norms.⁽¹¹⁴⁾ Taken as a whole, “morality” and “honor” crimes unjustly criminalize women and girls, both in law and in practice, in myriad contexts around the world, including in Myanmar.

In Myanmar, the legal system is deeply influenced by traditional gender norms and societal expectations surrounding female conduct.⁽¹¹⁵⁾ At the same time, criminal prohibitions against immoral conduct, indecency, or prostitution are vague, open to interpretation, and disproportionately enforced against women.⁽¹¹⁶⁾

A little more than 7% of women and girls represented by the ILF were charged with offenses related to immorality. Almost 18% (5/28) of those charged were under the age of 18.

Women and girls represented by the ILF were charged for morality-based offenses under four laws: The Electronic Transactions Law, 2004; the Suppression of Prostitution Act, 1949; the Monogamy Law; and the Obscene Acts and Songs provision under section 294 of the Penal Code.⁽¹¹⁷⁾

(110) See PRI et al., From Poverty to Punishment, *supra* note 1, at 32.

(111) Working Grp. on the Issue of Discrimination Against Women in L. & in Prac., Women Deprived of Liberty, ¶¶ 36–37, 40, U.N. Doc. A/HRC/41/33 (May 15, 2019) [hereinafter WGIDAW, Women Deprived of Liberty]; see also Working Grp. on Arbitrary Det., Arbitrary Detention, ¶ 17, U.N. Doc. A/HRC/48/55 (Aug. 6, 2021) [hereinafter WGAD, Arbitrary Detention] (“[L]aws which criminalize forms of behaviour that can be performed only by women are *prima facie* discriminatory.”).

(112) WGIDAW, Women Deprived of Liberty, *supra* note 111, ¶ 33; Manjoo, *supra* note 92, ¶ 16; PRI et al., From Poverty to Punishment, *supra* note 1, at 32; WGAD, Arbitrary Detention, *supra* note 111, ¶ 66.

(113) See, e.g., Manjoo, *supra* note 92, ¶¶ 16–18; WGIDAW, Women Deprived of Liberty, *supra* note 111, ¶ 36.

(114) WGIDAW, Women Deprived of Liberty, *supra* note 111, ¶¶ 31, 36; Manjoo, *supra* note 92, ¶¶ 19–20.

(115) See Andrew M. Jefferson, Gender and Imprisonment in Contemporary Myanmar 13–29 (2022).

(116) *Id.* at 25–27.

(117) Section 294 of Myanmar’s Penal Code, which deals with “Obscene Acts and Songs,” states that “[w]hoever, to the annoyance of others, -- (a) does any obscene act in any public place, or (b) sings, recites or utters any obscene songs, ballad or words in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”

Electronic Transactions Law

The Electronic Transactions Law was ostensibly enacted to regulate and support all forms of electronic transaction, applying to “any kind of electronic record and electronic data message used in the context of commercial and non-commercial activities”⁽¹¹⁸⁾ In the context of morality, section 33 of the Electronic Transactions Law criminalizes acts that are detrimental to Myanmar’s “national culture.” The Law provides no detail regarding what constitutes “national culture”⁽¹¹⁹⁾ and what acts harm that culture, allowing for arbitrary enforcement. In practice, this law has been selectively used against women who are generally expected to uphold cultural norms regarding their attire, particularly against women and girls posting photographs on social media that may be considered inappropriate or revealing by authorities. The punishment can extend from seven to fifteen years’ imprisonment.⁽¹²⁰⁾

Four women and four girls in our dataset were charged under the Electronic Transactions Act.

This group included victims of trafficking who were charged and criminalized despite protections under international law and Myanmar’s Anti-Trafficking in Persons Law.

Case Highlight 7: The Criminalization of “Immorality” Online

A group of four women fled their conflict-ridden hometowns in rural Myanmar in search of work. Their families were homeless due to the ongoing violence, placing immense pressure on them to find work. They found what they believed to be a legitimate factory job through an online advertisement. However, the

Penal Code § 294 (Myan.), translated in Myanmar: The Penal Code, Univ. of Minn. Hum. Rts. Libr., <https://hrlibrary.umn.edu/research/myanmar/Annex%20K%20-%20Myanmar%20Penal%20Code.pdf> (last visited Oct. 16, 2025). Section 294 is often charged along with trespassing for entering premises and speaking abusively.

(118) Electronic Transactions Law, 2004, § 4(a) (Myan.), translated in The Electronic Transactions Law, Myan. Trade Portal, [https://www.myanmartradeportal.gov.mm/uploads/legals/2018/12/Electronic%20Transactions%20Law%202004\(English\).pdf](https://www.myanmartradeportal.gov.mm/uploads/legals/2018/12/Electronic%20Transactions%20Law%202004(English).pdf) (last visited Oct. 17, 2025).

(119) Id. § 33(a).

(120) Id. § 33.

job was actually at a massage parlor operating as a front for sex work. These women, who had limited education and were not proficient in the Myanmar (Burmese) language, were unable to understand the nature of the work they were lured into. Their phones were confiscated, and they were locked in a room, unable to leave.

The massage parlor owner uploaded six photographs of the clients wearing what was described in police documents as “inappropriate clothing,” along with text soliciting prostitution on the official telegram channel of the parlor. The “inappropriate” clothing in question consisted of short skirts and string tops—clothing they were forced to wear at the massage parlor. The women were accused of assisting in uploading the images, despite a lack of evidence proving their involvement.

Despite being victims of deception and trafficking, the women were arrested when the police raided the massage parlor. The owner—who was responsible for posting the images and accompanying text—remains at large, while the women are imprisoned. Their arrest and prosecution have been traumatic; one of the women has become completely unresponsive, unable to speak to her lawyers.

The cases are presided over by a female judge, who treats them with disrespect and who refuses to be present during witness examinations (which is required by law and has been requested repeatedly by the defense lawyers). When lawyers raise legal objections, she responds with hostility, stating that such cases are a waste of her time, (because of the nature of the offenses).

The women’s families have abandoned them. Most were left without any support or resources due to the family’s poverty and an inability to visit. However, one of the women’s husbands, who had previously abused her, refused to provide any support calling her lawyer only to confirm whether she was a “prostitute.” The women fear returning to their communities where they are likely to be ostracized and face lifelong stigma.

Misuse of Monogamy Law

Myanmar's Monogamy Law⁽¹²¹⁾ criminalizes polygamous marriages and cohabitating with someone in the context of an extramarital affair.⁽¹²²⁾ Those convicted of these offenses are subject to imprisonment for up to seven years.⁽¹²³⁾ In addition to this draconian penalty, the law provides that polygamy is grounds for divorce (for the non-offending spouse) and revokes the offending spouse's rights to his or her share of any jointly-owned marital property.⁽¹²⁴⁾ While the stated objective of the law is to promote family stability and protect a woman from being an "illegal wife by [enforcing] monogamy,"⁽¹²⁵⁾ it effectively allows the state to intervene in this personal, domestic matter and enforce it as a criminal offense. Moreover, authorities disproportionately target women under the Monogamy Law, particularly those from marginalized backgrounds, by unlawfully punishing extramarital intimate relationships.⁽¹²⁶⁾

Married women in Myanmar may choose to endure problematic marriages rather than seeking divorce. This is often due to a combination of social and economic pressures. Financially, women may lack the independent means to support themselves after a divorce, especially in the face of rising living costs and limited job opportunities.⁽¹²⁷⁾ Societal factors are also significant,

(121) The Monogamy Law was one of four "race and religion" laws proposed in 2015 that faced international condemnation. See Press Release, Off. of the High Comm'r on Hum. Rts, Myanmar: UN Rights Experts Express Alarm at Adoption of First of Four 'Protection of Race and Religion' Bills (May 27, 2015), <https://www.ohchr.org/en/press-releases/2015/05/myanmar-un-rights-experts-express-alarm-adoption-first-four-protection-race-burma-discriminatory-laws-could-stoke-communal-tensions>, Hum. Rts. Watch (Aug. 23, 2015), <https://www.hrw.org/news/2015/08/23/burma-discriminatory-laws-could-stoke-communal-tensions>.

(122) Law on the Practice of Monogamy, 2015, §§ 10–13 (Myan.), translated in The Law Relating to the Monogamous System, Scribd, <https://www.scribd.com/document/872433984/The-Law-Relating-to-the-Monogamous-System-2015> (last visited Oct. 27, 2025). Sections 10 through 12 provide as follows:

10. The man or woman who has legally married with one or more according to any Law, religion or custom shall not remarry with another or illegally live together as husband and wife during the marriage is valid from the date of coming into force of this Law.

11. The man or woman may remarry with another by declaring such former marriage and submitting the proof of legal divorce with the former spouse if he or she is married.

12. No one shall remarry or illegally live together as husband and wife during the marriage is valid according to any Law, religion or custom.

Id. §§ 10–12.

(123) Id. § 13.

(124) See id. §§ 14–15.

(125) Id. § 4.

(126) See, e.g., Yanghee Lee (Special Rapporteur on the Situation of Human Rights in Myanmar), Report of the Special Rapporteur on the Situation of Human Rights in Myanmar, ¶ 33, U.N. Doc. A/HRC/31/71 (Mar. 18, 2016) (drawing attention to the discriminatory impacts of the four "race and religion" laws on minorities and women); Glob. Just. Ctr., *Discrimination to Destruction: A Legal Analysis of Gender Crimes Against the Rohingya* 18 (2018), <https://www.globaljusticecenter.net/discrimination-to-destruction-a-legal-analysis-of-gender-crimes-against-the-rohingya> (asserting that the Monogamy Law and its three companion laws discriminate against minorities and women).

(127) See, e.g., Russell Kabir et al., Domestic Violence and Decision-Making Power of Married Women in Myanmar: Analysis of a Nationally Representative Sample, 39 *Annals Saudi Med.* 395, 398 & tbl. 1 (2019) (finding that 38.9% of married female respondents reported not being employed and reporting that those who were employed had measurably more decision-making power in their relationships than those who were not); id. at 396 ("There is also a strong negative reaction to economic activity generated by women among poorer and

as families and communities (particularly in rural areas and small towns) may pressure women to tolerate a husband's infidelity or behavior such as alcoholism, substance abuse, or domestic violence.⁽¹²⁸⁾ There is societal stigma against divorced women and single mothers that can lead to their condemnation and disrespect, causing some to suffer in silence.⁽¹²⁹⁾ Consequently, these marriages persist, with the wife sometimes choosing to find partners outside of marriages rather than legally dissolving the marriage itself.

In monogamy cases in our dataset, women from marginalized communities had either been abandoned by their husbands or were in abusive marriages and were seeking new relationships. Women were frequently arrested on the basis of evidence of an extramarital affair but without any evidence of polygamy or co-habitation. Women convicted under this morality law suffer severe stigma, making it difficult for them to remarry, find jobs, or reintegrate into their community. The impact of the law is to restrict women's autonomy in marriage and their personal choices about intimate relationships.

Case Highlight 8: The Criminalization of Non-Monogamy

A 30-year-old woman was living with her two young children in a small annex attached to her in-laws' home. Her husband, who struggled with alcoholism, had left to work on a fishing raft and had not contacted the family for eight months. With no financial support, she worked as a farm laborer, earning barely enough to feed her children. After months of abandonment, she began a relationship with another man in her village and became pregnant.

middle-class families in Myanmar.”); Stephanie Spaid Miedema, San Shwe & Aye Thiri Kyaw, *Social Inequalities, Empowerment, and Women's Transitions into Abusive Marriages: A Case Study from Myanmar*, 30 *Gender & Soc'y* 670, 679 (2016) (reporting that many women “viewed marriage as an opportunity to alleviate social insecurity or isolation from larger kinship networks or as a way to attain financial stability”).

(128) See Thomas H. Andrews (Special Rapporteur on the Situation of Human Rights in Myanmar), *Courage Amid Crisis: Gendered Impacts of the Coup and the Pursuit of Gender Equality in Myanmar*, ¶¶ 38–45, U.N. Doc. A/HRC/56/CRP.8 (July 1, 2024) [hereinafter *Andrews, Courage Amid Crisis*] (discussing the gender hierarchy and patriarchal norms underlying gender inequalities and discrimination in modern Myanmar); Kabir et al., *supra* note 127, at 396 (asserting that “[w]omen in Myanmar are not considered decision makers in the community” and noting that several social factors decrease married women's decision-making power).

(129) See *Stigma or Separation: The Painful Choice Facing Myanmar's Single Mothers*, Women Talk Online (Nov. 13, 2018), <https://blogs.dw.com/womentalkonline/index.html%3Fp=31647.html> (asserting that “single mothers are ostracised and deemed a ‘disgrace’” in Myanmar); Ate Myat Myat Win, *Exploring Influencing Factors on Help-Seeking Behaviors for Intimate Partner Violence: Insights from Ethnic Women Survivors in Myanmar*, 22 *Int'l J. Env. Rsch. & Pub. Health* 899, 906–07 (2025) (finding that many women in Myanmar did not seek help after experiencing intimate partner violence for fear of stigmatization from their community).

When her in-laws and village leaders discovered the relationship, they accused her of “cheating” on her absent husband and reported her to the police. She was held at the police station for eight days before being granted bail, which village leaders paid on the condition that she would not leave the village for two months. Before the two months were up, the police arrested her again for the same offense and detained her without legal representation. Abandoned by her family, shunned by her community, and without legal representation, her trial proceeded without a lawyer through critical stages, until the ILF lawyers identified her in the court lockup. Despite being eligible for bail, her request was denied on the ground that her co-accused—the man with whom she had formed a relationship—was absconding.

During the proceedings, she gave birth in a state hospital; her newborn was returned to detention with her. Through a local social service provider, the ILF was able to support her during delivery as her family did not come to visit her. Under pressure from the court to confess, and desperate to care for her baby, the woman decided to plead guilty. Her lawyer successfully argued for a reduced sentence that allowed her release after nine months—avoiding a potential seven-year sentence. Upon her return home, her in-laws refused to let her return to their house and see her children, leaving her with no place to go. The ILF ensured she connected with a cousin who provided her with a place to stay.

Obscene Acts and Songs

“Obscene Acts and Songs”⁽¹³⁰⁾ is a “quality of life,” morality-based offense with vague language that invites selective enforcement by police. Both men and women seem to be charged with this offense, but women seem to be targeted specifically for verbally insulting men. Ten of the cases in our dataset had similar fact patterns: a woman gets into a fight with another member of the community and says words such as curse words, or name calling including comments like calling someone a “useless man,” or something similar. She is subsequently charged with committing an “obscene act.” In practice, the threshold of “obscene” is quite low.

(130) Penal Code § 294, (Myan.), translated in Myanmar: The Penal Code, Univ. of Minn. Hum. Rts. Libr., <https://hrlibrary.umn.edu/research/myanmar/Annex%20K%20-%20Myanmar%20Penal%20Code.pdf> (last visited Oct. 16, 2025).

►► The Criminalization of Survivors of Violence

Serious, violent crimes committed by women are rare.⁽¹³¹⁾ But while general predictors for violence like substance abuse or family conflict apply to all genders,⁽¹³²⁾ women's reasons for committing assault are often distinct from men's.⁽¹³³⁾ Research indicates that women are more likely to use violence when it is economically motivated for survival,⁽¹³⁴⁾ as a defensive reaction to abuse,⁽¹³⁵⁾ or as an act of revenge.⁽¹³⁶⁾ Domestic abuse by an intimate partner is a particularly powerful and harmful driver of violent crimes by women and girls. Multiple studies have found that the most commonly reported motivation for women's use of violence is self-defense against an abusive intimate partner,⁽¹³⁷⁾ particularly in homicide cases.⁽¹³⁸⁾ Research also indicates a strong link between experiencing domestic abuse and the likelihood of women committing a wide range of other crimes.⁽¹³⁹⁾ In some cases, women commit crimes under duress in response to threats from an abusive partner.⁽¹⁴⁰⁾

(131) See, e.g., Natalie J. Jones & Shelley L. Brown, Female Offenders: Gender Differences in Criminal Offense Characteristics, in *The SAGE Encyclopedia of Criminal Psychology* 499, 499 (Robert D. Morgan ed., 2019) ("The gender gap in crime is most pronounced in the context of serious violent crimes such as homicide, sexual assault, forcible confinement, robbery, and aggravated assault. Compared to males, the vast majority of justice-involved females perpetrate offenses that are relatively minor in severity . . ."); Ross Pomeroy, Why Do Women Commit Far Less Crime Than Men?, *BigThink* (Feb. 27, 2024), <https://bigthink.com/the-present/why-women-commit-much-less-crime> (reporting that women commit only around 20% of violent crimes in the United States).

(132) See generally Thomas F. Denson et al., Aggression in Women: Behavior, Brain and Hormones, 12 *Frontiers Behav. Neurosci.* 1 (2018), <https://www.frontiersin.org/journals/behavioral-neuroscience/articles/10.3389/fnbeh.2018.00081/full> (reviewing scientific literature on aggression in women); Gina Fedock & Stephanie Covington, Theoretical Models of Female Violent Offending, in *The SAGE Encyclopedia of Criminal Psychology*, supra note 131, at 515 (discussing risk factors for predicting whether a woman will be more likely to commit a violent crime).

(133) See Jones & Brown, supra note 131, at 499 ("When girls and women commit violent offenses, these incidents typically involve common assaults of marginal severity that occur in school or domestic settings."); Shelley L. Brown, Kelley Blanchette & Shreena Thapa, Female Offenders: Prevalence and Statistics, in *The SAGE Encyclopedia of Criminal Psychology*, supra note 131, at 506, 508 ("Qualitative research suggests that female-perpetrated assaults are motivated by a myriad of reasons including intense emotions (anger, revenge, and jealousy), perceived slights and injustices, self-defense, and within the context of instrumental robberies.").

(134) See, e.g., Shelley L. Brown, Kelley Blanchette & Robyn Dean, Female Offenders: Patterns and Explanations, in *The SAGE Encyclopedia of Criminal Psychology*, supra note 131, at 502, 503 (reporting a "noticeable increase in seemingly economic-motivated crimes (e.g., robbery, burglary, theft/larceny) perpetrated by females" in the United States between 2005 and 2014); see also Prison Reform Trust, *Bromley Briefings Prison Factfile: February 2025*, at (2025), <https://prisonreformtrust.org.uk/publication/bromley-briefings-prison-factfile-february-2025> (finding that 81% of women imprisoned in England and Wales were unemployed in the four week before custody compared to 67% of men).

(135) See, e.g., Prison Reform Trust, "There's a Reason We're in Trouble": Domestic Abuse as a Driver to Women's Offending 4, 7 (2017) [hereinafter PRT, Domestic Abuse as a Driver to Women's Offending], <https://prisonreformtrust.org.uk/publication/theres-a-reason-were-in-trouble> (finding "strong links between women's experience of domestic and sexual abuse and coercive relationships, and their offending" and noting that 57% of women in prison in England and Wales reported having been victims of domestic violence as adults though this is "likely to be an underestimate").

(136) See, e.g., Suzanne C. Swan et al., A Review of Research on Women's Use of Violence with Male Intimate Partners, 23 *Violence & Victims* 301, 309 (2008) (reporting that multiple studies identified "retribution for real or perceived wrongdoing" as a common motivator of violent behavior by women).

(137) See, e.g., id. at 308; Fedock & Covington, supra note 132, at 516; Jones & Brown, supra note 131, at 500; Dana D. DeHart, Pathways to Prison: Impact of Victimization in the Lives of Incarcerated Women, 1362, 1365 (2008).

(138) See generally Penal Reform Int'l, Women Who Kill in Response to Domestic Violence: How Do Criminal Justice Systems Respond? (2016), https://cdn.penalreform.org/wp-content/uploads/2016/04/Women_who_kill_in_response_to_domestic_violence_Full_report.pdf (discussing how criminal justice systems in nine countries handle cases in which women are accused of murdering their partner in response to intimate partner violence); see also Plaisted, supra note 2, at 13 (noting that one study found that 90% of women who are imprisoned for killing a man were previously battered by that man).

(139) See Tim Brennan et al., Women's Pathways to Serious and Habitual Crime: A Person-Centered Analysis Incorporating Gender Responsive Factors, 39 *Crim. Just. & Behav.* 1481, 1495–96 (2012); Emily J. Salisbury & Patricia Van Voorhis, Gendered Pathways: A Quantitative Investigation of Women Probationers' Paths to Incarceration, 36 *Crim. Just. & Behav.* 451, 560 (2009); DeHart, supra note 137, at 1366; Shannon Heffernan, The Domestic Abuse Survivor to Prison Pipeline, Marshall Project (Sept. 14, 2024), <https://www.themarshallproject.org/2024/09/14/california-women-prison-domestic-abuse>; PRT, Domestic Abuse as a Driver to Women's Offending, supra note 135, at 7–8; Women's Justice: A Preliminary Assessment of Women in the Criminal Justice System, Council on Crim. Just. (July 1, 2024), <https://counciloncj.org/womens-justice-a-preliminary-assessment-of-women-in-the-criminal-justice-system>.

(140) See PRT, Domestic Abuse as a Driver to Women's Offending, supra note 135, at 7–8.

Just 2% of women and girls in the ILF's dataset were charged with serious crimes including trafficking (5 women and 1 girl), kidnapping (2 women), and murder (2 women).

Case Highlight 9: Criminalization of Survivors of Violence

After six years of marriage marked by repeated domestic violence, a woman in rural Myanmar faced prosecution for the murder of her husband. For five of those years, she endured abuse and neglect. Even during her pregnancy, her husband failed to provide food or support, leaving the community to care for her until her baby was five months old. Once able to work after giving birth, she began earning a small income to provide for her family.

One day, after her husband berated her for preparing too little food, he kicked her and raised a wooden rod to strike her. She defended herself with a knife, fatally injuring him. She was arrested and charged with murder.

Survivors of Trafficking

The unjust prosecution of victims of trafficking is a particularly alarming phenomenon. Human trafficking remains a serious and prevalent issue in Myanmar.⁽¹⁴¹⁾ Though it is impossible to know the full extent of the problem, numerous sources have reported that trafficking operations have expanded since the military takeover in 2021.⁽¹⁴²⁾ Trafficking “brokers” generally target members

(141) For example, the U.S. State Department has consistently listed Myanmar as a “Tier 3” state, meaning its government has a “policy or pattern” of trafficking. U.S. Dep’t of State, 2024 Trafficking in Persons Report 48–49 (2024), https://www.state.gov/wp-content/uploads/2025/02/TIP-Report-2024_Introduction_V10_508-accessible_2.13.2025.pdf. At the same time, demand for trafficked individuals in the region has expanded in recent years, with U.N. human rights experts recently warning that hundreds of thousands of trafficked individuals have been forced to carry out fraud in “scam centres” throughout Southeast Asia. Press Release, Off. of the High Comm’r for Hum. Rts., UN Experts Urge Immediate Human Rights-Based Action to Tackle Forced Criminality in Southeast Asia Scam Centres (May 21, 2025), <https://www.ohchr.org/en/press-releases/2025/05/un-experts-urge-immediate-human-rights-based-action-tackle-forced>.

(142) See, e.g., 2024 Trafficking in Persons Report: Burma, U.S. Dep’t of State [hereinafter 2024 Report on Trafficking in Burma], <https://www.state.gov/reports/2024-trafficking-in-persons-report/burma> (last visit Oct. 28, 2025) (concluding that trafficking has increased since the coup and explaining that efforts to combat trafficking declined after the coup even as the conflict forcibly displaced millions and prompted many to seek work in neighboring countries); Andrews, *Courage Amid Crisis*, supra note 128, ¶¶ 148–55 (describing how more women and girls have become vulnerable to trafficking since the coup); Priscilla A. Clapp & Jason Tower, *Myanmar’s Criminal Zones: A Threat*

of marginalized and vulnerable communities.⁽¹⁴³⁾ Many brokers specifically target women and girls,⁽¹⁴⁴⁾ most notably to force them to work in brothels⁽¹⁴⁵⁾ or to sell them as brides in China.⁽¹⁴⁶⁾ Brokers are known to entice women and girls with fraudulent job offers and promises of a better life, in addition to using coercive tactics and intimidation.⁽¹⁴⁷⁾ As previously noted, Rohingya women and girls are particularly at risk of being trafficked due to a potent mixture of social and economic factors.⁽¹⁴⁸⁾

On paper, Myanmar's Anti-Trafficking in Persons Law expressly precludes prosecuting the victim of trafficking for any offense related to that trafficking.⁽¹⁴⁹⁾ However, offenses related to experiences of trafficking are varied and complex. In practice Myanmar's Anti-Trafficking in Persons Law has permitted "the indiscriminate arrest and prosecution of survivors for offenses related to trafficking" by failing to set out sufficient rules and guidance for the identification and protection of survivors,⁽¹⁵⁰⁾ with authorities being particularly likely to charge women and girls from marginalized groups (especially Rohingya women and girls).⁽¹⁵¹⁾

In the context of this study, **the ILF's dataset included five women and one girl who were charged with trafficking in persons.** While these cases do not provide enough data to draw conclusive

to Global Security, U.S. Inst. of Peace (Nov. 9, 2022), <https://www.usip.org/publications/2022/11/myanmars-criminal-zones-growing-threat-global-security> (discussing how the ongoing conflict has fueled "an explosion of human trafficking").

(143) See Seunghyun Han, Human Trafficking and Ethnic Minority Problems in Myanmar, 2017 Pub. Sphere 107, 109, <https://psj.lse.ac.uk/articles/51/files/submission/proof/51-1-99-1-10-20190813.pdf> ("Ethnic minorities are the most vulnerable to trafficking due to heightened conflict with the Burmese military government, as well as the marginalisation of their rights within Myanmar").

(144) See, e.g., Hotspots: Myanmar, Freedom Fund, <https://www.freedomfund.org/hotspot/myanmar> (last visited Nov. 6, 2025) ("For many years, women and girls in Myanmar, especially in the more remote regions of the country, have been vulnerable to human trafficking and exploitation.").

(145) See, e.g., Andrews, *Courage Amid Crisis*, supra note 128, ¶ 152; Press Release, Int'l Just. Mission, 17 Girls and Women Now Safe from Sex Trafficking in Myanmar (Jan. 2024), <https://www.ijmuk.org/news/17-girls-and-women-now-safe-from-sex-trafficking-in-myanmar>.

(146) See Alvin Hoi-Chun Hung, Tortured Between Two Hells: A Qualitative Analysis of the Collective Social Normalization of the Trafficking of Brides from Myanmar to China, 9 J. Hum. Trafficking 363, 363–65 (2023); Andrews, *Courage Amid Crisis*, supra note 128, ¶ 152 ("The Special Rapporteur has received credible reports that young women are becoming increasingly vulnerable to sex trafficking.").

(147) Natalie Brinham et al., Inst. on Statelessness & Inclusion et al., *Surviving Statelessness and Trafficking: A Rohingya Case Study of Intersections and Protection Gaps* 15 (2023), https://files.institutesi.org/Surviving_Statelessness_and_Trafficking_a_Rohingya_Case_Study.pdf; 2024 Report on Trafficking in Burma, supra note 142.

(148) See, e.g., Rohingya Women Dev. Network et al., Joint Submission, supra note 86, ¶¶ 5–11; Andrews, *Courage Amid Crisis*, supra note 128, ¶¶ 177–78.

(149) Anti Trafficking in Persons Law, 2005, § 13(a) (Myan.), translated in State Peace & Dev. Council, *The Anti Trafficking in Persons Law*, Online Burma/Myan. Libr., https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs15/2005-SPDC_Law2005-05-Anti_Trafficking_in_Persons_Law-en.pdf (last visited Oct. 16, 2025).

(150) Int'l Legal Found., *Myanmar's Anti-Trafficking in Persons Law: Legislative Analysis Framework and Application 1* (2023), <https://www.theilf.org/Items/myanmar%27s-anti-trafficking-in-persons-law-legislative-analysis-framework-and-application>.

(151) See, e.g., Win & Brinham, supra note 86, at 16 (discussing how at least several hundred Rohingya women and girls have been arrested in Myanmar despite being victims of trafficking in many cases).

findings about motivations for involvement in this serious crime, case analysis revealed three key patterns.

First, in every case, women played low-level roles, primarily by enticing other women and girls to engage with the primary perpetrators. These women have direct contact with the victims and are usually known to them through community networks or personal references, which makes them more vulnerable to arrest. For example, in two cases, female defendants received 10-year prison sentences for telling the victims that the main trafficker knew about employment opportunities in Yangon. In another case, a woman was asked to book flight tickets for the victim by someone in the community who did not inform her about the purpose of their travel. Though the defendant had no knowledge that this travel was (allegedly) related to human trafficking, she nevertheless received a 15-year sentence. Second, in every trafficking case the women or girl arrested had a background of poverty and economic desperation. In the majority of cases, poverty and lack of access to other employment seemed to play a direct role in the involvement of women and girls in trafficking-related activities. Often women and girls were seeking means to support other family members or build a better life for themselves. Third, several of the cases also feature women and girls who were formerly or at the time of arrest seemingly victims of trafficking, in addition to being implicated as perpetrators. For example, two women and one girl (out of total six) were either engaged in sex work, employed in a Chinese factory, or married to a Chinese man.

These fact patterns align with other research on women who have been convicted of trafficking.⁽¹⁵²⁾ For example, prior research from other contexts indicates that women primarily perform low-level roles that involved more contact with victims, which in turn makes them more susceptible to arrest compared to those with high-level roles in trafficking.⁽¹⁵³⁾ Several studies of women convicted of trafficking have found that many women end up in roles as traffickers as a result of their own experiences of being trafficked.⁽¹⁵⁴⁾ In many cases, traffickers pressure these women to recruit more women and present it as a pathway to escape their own victimization, and/ or lead them to believe that providing assistance to higher level players a means of avoiding harm themselves.⁽¹⁵⁵⁾

(152) According to the UNODC, as many as 33% of individuals convicted of human trafficking globally are women. U.N. Off. on Drugs & Crime, Global Report on Trafficking in Persons 2012, at 28 fig. 10, U.N. Sales No. E/13/IV.1 (2012) [hereinafter UNODC, Global Trafficking Report 2012]. In some region, women make up closer to 50% of all individuals prosecuted and convicted of trafficking offenses. U.N. Off. on Drugs & Crime, Global Report on Trafficking in Persons 2024, at 129–30 & fig. 125, U.N. Sales No. E.24.XI.11 (2024) [hereinafter UNODC, Global Trafficking Report 2024]. The UNODC has noted that “trafficking in persons is a crime with a relatively high rate of female involvement.” UNODC, Global Trafficking Report 2012, *supra*, at 29.

(153) See, e.g., *id.* at 29–30; UNODC, Global Trafficking Report 2024, *supra* note 152, at 58; Rose Broad, ‘A Vile and Violent Thing’: Female Traffickers and the Criminal Justice Response, 55 Brit. J. Criminology 1058, 1063 (2015); Miriam Wijkman & Edward Kleemans, Female Offenders of Human Trafficking and Sexual Exploitation, 72 Crime, L. & Soc. Change 53, 57 (2019).

(154) See, e.g., Dina Siegel & Sylvia de Blank, Women Who Traffic Women: The Role of Women in Human Trafficking Networks – Dutch Cases, 11 Glob. Crime 436, 438–41 (2010); Broad, *supra* note 153, at 1065–66; UNODC, Global Trafficking Report 2024, *supra* note 152, at 58.

(155) See, e.g., Donna M. Hughes, The “Natasha” Trade: The Transnational Shadow Market of Trafficking in Women, 53 J. Int’l Affs. 625, 630

Unfortunately, the complex series of experiences, decisions, and contexts that might lead a woman or girl to be involved in trafficking offenses are not well understood by criminal justice systems,⁽¹⁵⁶⁾ including Myanmar's. As a result, the ILF has found that courts are often indifferent to these extenuating circumstances, leading to the criminalization of women and girls who are often themselves survivors of poverty, violence, and exploitation, despite the legal protections that exist to prevent this. Even though lawyers have fought to bring in mitigating circumstances, Myanmar courts generally impose harsh punishments.

Case Highlight 10: Criminalization of Survivors of Violence and Exploitation

A 17-year-old girl was working in the sex trade and residing at her employer's home. During visits to her aunt and uncle's house, she was repeatedly approached by her 14-year-old cousin, who asked for assistance finding work to help pay for her pregnant mother's delivery expenses. The girl refused multiple times to help her cousin. However, as the family's financial situation grew desperate, the girl's mother (the accused's aunt) asked for assistance directly.

Believing she was helping the family secure needed income, the accused and her aunt brought the girl to her employer's residence. The employer paid the aunt 200,000 MMK and allowed the girl to stay there. After about a week, the employer returned the girl to her home claiming that the "work" had not gone as planned. The employer gave the family an additional 800,000 MMK.

Almost a year later, the 17-year-old, her aunt, and the employer were all arrested and charged in connection with the incident.

(2000); Wijkman & Kleemans, *supra* note 153, at 56; Siegel & Blank, *supra* note 154, at 440–41; UNODC, *Global Trafficking Report 2024*, *supra* note 152, at 58.

(156) See generally Broad, *supra* note 153; Wijkman & Kleemans, *supra* note 153; Siegel & Blank, *supra* note 154.

THE FURTHER CRIMINALIZATION OF WOMEN AND GIRLS IN CRIMINAL JUSTICE PROCESSES

Once women and girls come into contact with the criminal justice system, they routinely face systemic violations of their fundamental rights, including the rights to life and liberty, the equal protection of the law, the presumption of innocence, the right to a fair trial,⁽¹⁵⁷⁾ and any safeguards against arbitrary arrest and detention.⁽¹⁵⁸⁾ This unfair treatment is shaped not only by women's poverty but also by their position in society and limited education, which directly affects their ability to navigate the legal system and leaves them vulnerable to human rights violations within the legal system as well as lasting psychological harm.⁽¹⁵⁹⁾ In this section, we examine how the impact of criminalization continues throughout the justice process in the form of discrimination, denial of due process, and poor and often degrading conditions in detention centers.

Bail

The right to bail is consistent with presumption of innocence. In Myanmar law, bail is considered a right and jail is the exception to this right.⁽¹⁶⁰⁾ All offenses in Myanmar are either bailable or non-bailable. Bailable offenses are generally minor offenses where the law gives an accused person the right to be released on bail immediately after arrest, once bail conditions are met (such as providing a personal bond or guarantor). Non-bailable offenses are more serious crimes, ranging from theft to murder, where bail is not a guaranteed right. Instead, it is at the discretion of the court to decide whether to grant bail based on factors like the severity of the offense, risk of flight, or potential harm to victims or society.

Particularly for women, Myanmar's Criminal Procedure Code allows the court to grant bail even in cases that would usually be non-bailable.⁽¹⁶¹⁾ The section of the Criminal Procedure Code

(157) G.A. Res. 217 (III) A Universal Declaration of Human Rights, art. 3 (Dec. 10, 1948).

(158) *Id.* art. 9.

(159) See generally Penal Reform Int'l, Access to Justice: Discrimination Against Women in Criminal Justice Systems (2012), <https://www.penalreform.org/resource/access-justice-discrimination-women-criminal-justice-systems>.

(160) See Bureau of Democracy, Hum. Rts. & Lab., U.S. Dep't of State, Burma 2022 Human Rights Report 7–8 (2022) [hereinafter BDHRL, Burma 2022 Human Rights Report], https://www.state.gov/wp-content/uploads/2023/02/415610_BURMA-2022-HUMAN-RIGHTS-REPORT.pdf.

(161) U Tu Jar, The Criminal Justice System in Myanmar, 10 Keio L.J. 55, 60 (2013).

concerning bail has a special provision for women directing that authorities can grant female defendants bail even though their alleged offenses may be grave, like murder.⁽¹⁶²⁾ Despite this clear guidance, women and girls almost never receive the benefit of bail. This study revealed two key reasons for this defect: lack of monetary resources and lack of guarantors.

Without legal representation, very few women and girls are able to secure their release on bail. Only 18% of women and girls were released on bail at the time the ILF took their case. At least 30 women and girls were released on bail as a result of the ILF's efforts after taking the case. This highlights both the unique obstacles that women and girls in Myanmar face in obtaining bail and the importance of access to legal aid.

Women and girls being denied bail due to a lack of monetary resources is a widespread problem. Around the world, women and girls are disproportionately impacted by bail.⁽¹⁶³⁾ Not only are they disproportionately impacted by poverty and thus often unable to afford bail,⁽¹⁶⁴⁾ but even women and girls from families with means are less likely to have access to and/or control of financial resources.⁽¹⁶⁵⁾ Women and girls are consequently more likely to be reliant on support from their families to pay bail.⁽¹⁶⁶⁾ Unfortunately, due to stigma and societal expectations of women,⁽¹⁶⁷⁾ family support may be withdrawn from women and girls in conflict with the law.⁽¹⁶⁸⁾ As a result, women and girls are less likely to be able to pay bail and more likely to be held in lengthy pre-trial detention.⁽¹⁶⁹⁾

Even when bail is granted, some poor women in Myanmar remain incarcerated for lack of guarantors. A guarantor is a person not involved in the case who is legally held responsible for

(162) Code of Criminal Procedure, § 497(1) (Myan.), translated in The Code of Criminal Procedure, VERTIC, https://www.vertic.org/media/National%20Legislation/Myanmar/MM_Code_Criminal_Procedure.pdf (last visited Oct. 16, 2025).

(163) For a global assessment of how bail practices and pre-trial detention impact women and girls, see Sabina Garahan, Unsentenced Detainees: Socioeconomic Burdens of Pre-Trial Detention, in *Peace, Justice and Strong Institutions 997* (Walter Leal Filho et al. eds., 2021).

(164) See, e.g., PRI et al., *From Poverty to Punishment*, supra note 1, at 13, 21–22 (discussing the intersection between systemic poverty and problems associated with paying bail for women in multiple countries); Aleks Kajstura, Women's Mass Incarceration: The Whole Pie 2018, Prison Pol'y Initiative (Nov. 13, 2018), <https://www.prisonpolicy.org/reports/pie2018women.html> (explaining that the growing number of women in pre-trial detention in the United States is likely due to women having lower income and thus "hav[ing] an even harder time affording cash bail"); Kate Torgovnick May, The Hidden Victims of the Bail Crisis? Women, TED (Apr. 12, 2019), <https://ideas.ted.com/the-hidden-victims-of-the-bail-crisis> (noting that one in four women in U.S. jail were there simply because they could not pay bail).

(165) See, e.g., PRI et al., *From Poverty to Punishment*, supra note 1, at 13, 50 (discussing the problems associated with the uneven distribution of wealth within families globally and recommending that countries adopt gender-sensitive legal aid systems to account for this disparity).

(166) Samantha Jeffries & Barbara Owen, *Locked Away While Innocent: Women, Human Rights, and Pre-Trial Detention*, 14 *Laws* 75, 86 (2025).

(167) See, e.g., PRI et al., *From Poverty to Punishment*, supra note 1, at 12 (discussing unique stigma against women in conflict with the law who break societal gender expectations).

(168) Relatedly, in many countries with "rigid patriarchal family structures, women are treated as expendable" when they are arrested alongside a male family member. Jeffries & Owen, supra note 166, at 86. In these circumstances, "familial resources tend to be directed towards securing men's release, leaving women to remain in detention." Id.

(169) Garahan, supra note 163, at 1001–02.

ensuring that a detained person, once released on bail, will comply with the bail conditions, such as appearing for all court hearings and not committing further offenses. The ILF has found that, in practice, the courts require two guarantors, even though the law does not specify the number of guarantors. These are often individuals with stable income, property, or social standing who sign a bond pledging to pay a specified amount of money if the accused violates bail conditions. This requirement can be particularly challenging for women, especially those from poor or marginalized backgrounds, as they often lack strong social networks, independent financial resources, or family members willing or able to act as guarantors. As a result, they remain incarcerated solely due to their inability to fulfill this condition.

Illegal Pre Trial Detention

Under the Myanmar's Child Rights Law, girls cannot be held in police custody or detained in prison⁽¹⁷⁰⁾ (except for rare circumstances when an offense is punishable with life imprisonment or capital punishment and the child's character has "deteriorated beyond reform"⁽¹⁷¹⁾). That law provides that pretrial detention of girls in Training Schools should only be used as a last resort, and for the shortest possible period.⁽¹⁷²⁾ Similarly, the police practice in Myanmar indicates that detaining women in police stations should be the last resort and that bail should be a priority.⁽¹⁷³⁾

(170) Child Rights Law, 2019, §§ 88(a), 83(e) (Myan.), translated in The Child Rights Law, Refworld, https://www.refworld.org/sites/default/files/2025-03/2019_child_rights_law_-_en.pdf (last visited Oct. 16, 2025); See also Convention on the Rights of the Child art. 37(b), adopted Nov. 20, 1989, 1577 U.N.T.S. 3, 55 (entered into force Sept. 2, 1990), https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11&chapter=4 ("The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time . . .").

(171) Child Rights Law, § 88(c).

(172) Id. § 88 (c)–(d); see also Inter-Am. Comm'n on Hum. Rts. Special Rapporteurship on the Rts. of the Child, Juvenile Justice and Human Rights in the Americas ¶ 80 (2011), <https://www.oas.org/en/iachr/children/docs/pdf/juvenilejustice.pdf> ("The Commission reiterates that the juvenile justice system—especially the deprivation of liberty of children—must be used only as a last resort and only by way of exception, and for as short a time as possible.") .

(173) Burma Police Dep't, The Burma Police Manual, Containing Orders and Rules Made for the Burma Police with the Sanction of Government ¶ 1368 (1940), <https://mgnyunt.wordpress.com/wp-content/uploads/2014/10/police-manual-vol-2-en.pdf>. The relevant provision of the Police Manual reads as follows:

1368. The following rules are prescribed for the treatment of female undertrial prisoners in Police custody :—

- (1) A woman arrested by the Police will be released on bail, with or without sureties, in all cases in which the law permits it, unless there is reason to suppose that she will abscond and she cannot find sureties.
- (2) If a female prisoner is not released on bail she will be sent, whenever practicable, to the nearest jail where there are suitable arrangements for her accommodation.
- (3) If not sent to a jail, a female prisoner will, if any married Constable is willing to receive her in his house, be detained there instead of being confined in a lock-up. The remuneration to be paid to the Constable undertaking the charge of a female prisoner in such cases will not exceed Re. 1 per day for every day or. part of a day during which she is detained, without food.
- (4) If no married Constable is willing to receive a female prisoner, she will be confined in the lock-up. In that case—
 - (a) she will always be confined in a separate cell apart from the male prisoners ; and if there is no separate cell and the only cell is occupied by a male prisoner, she will be kept outside the cell;
 - (b) arrangements will be made by a screen or otherwise to ensure privacy;
 - (c) proper arrangements will be made in the way of latrine accommodation;
 - (d) if there are no other female prisoners in the lock-up, two respectable elderly women will be engaged at a fee not exceeding Re. 1 per day for every day or part of a day during which the prisoner is confined in the lock-up, to stay and sleep in the police-station.

Id.

Yet, police hold the majority of women and, alarmingly, girls in pretrial detention. Girls are held along with the women in locations where there are no girls' Training Schools. (Girls' Training Schools for children in conflict with the law are located only in Yangon and Mandalay in Myanmar). Oddly, some police stations also exercise a provision of the Police Manual that allows a woman to be detained at the house of a female police officer instead of a police station as a last resort if bail is not granted.⁽¹⁷⁴⁾ This archaic practice was specifically witnessed in the Ayeyarwady region, where one police station farther from the capital (Patheingyi) had only one police lockup for men. In the absence of girls Training Schools in the region, one of the girls that the ILF represented was held in the house of the woman police officer. Children living in poverty with no guardians or who have no civil documents or proof of residence are particularly vulnerable to be subjected to this practice.

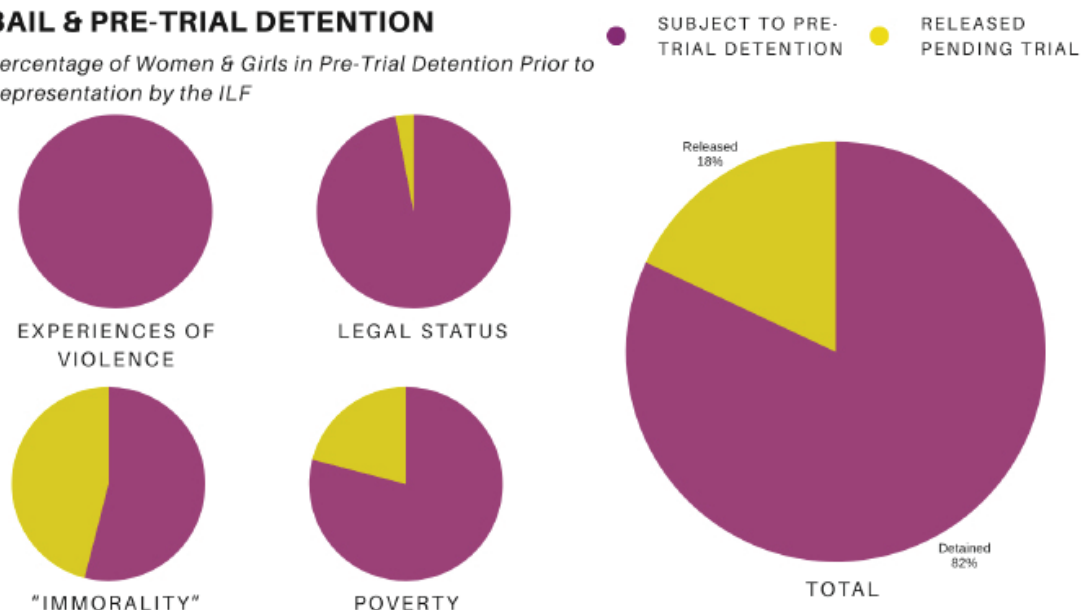
The vast majority—82%—of women and girls were detained when their legal representation began. This occurred across nearly all offense categories, in violation of bail provisions that mandate automatic entitlement to bail and release, as explained above.

For poor women, who are often the sole family breadwinners, pretrial detention both strips them of their liberty and shatters their families. Children are displaced, households fall into deeper poverty and debt, and women re-enter society with the stigma of having been in conflict with the law, as well as increased economic hardship.

(174) See id. ¶ 1368(4).

BAIL & PRE-TRIAL DETENTION

Percentage of Women & Girls in Pre-Trial Detention Prior to Representation by the ILF



Sentencing and Appeals

Based on case analysis, judges, police, and families sometimes pressure most women and girls to confess (particularly those from poor families), viewing a trial as an unnecessary trouble or inconvenience. Despite the statutory sentencing option of a fine for various petty offenses, in practice, most cases result in imprisonment. In the ILF's experience, there are generally no meaningful opportunities to lodge sentence mitigation arguments; when such arguments can be made, factors such as pregnancy and caregiving responsibilities are not considered by the courts. Under Myanmar law, there is no clear provision for sentence mitigation arguments, and defense lawyers consider that making these arguments at the final hearing may lead the court to conclude an admission of guilt.

CONDITIONS OF CONFINEMENT

Women and girls in our study were detained in three detention facilities:

- 1) **Police Stations:** Serve as the first point of detention. They are often overcrowded and lacking basic sanitation. They are also where women and girls are held during pretrial for extended periods. Police stations are typically used to house girls in locations with no Girls' Training Schools.
- 2) **Girls' Training Schools:** Operated by the Department of Social Welfare, they are officially designated for rehabilitation. However, they often operate like closed detention centers for girls, with restrictions on movement and education.
- 3) **Women's Prisons:** House convicted women and pre-trial detainees.

Among the 30 women and girls who provided insights on conditions of detention, 25 were held in police stations for more than one night, 20 were incarcerated in prisons, and one was detained in a Girls' Training School. The total exceeds 30 because several women were detained in more than one type of facility over the course of their detention.

There are few reports on the current conditions of incarcerated women and girls due to the lack of public access to facilities in Myanmar. However, the limited reports that do exist cite ongoing issues and violations of international law and human rights in Myanmar's detention facilities, including overcrowding, lack of sanitation and access to basic needs, and discrimination.⁽¹⁷⁵⁾ Findings from this study are consistent with existing reports.

Environmental Conditions

According to interview respondents, conditions in police stations were the most dire of all three types of facilities. Of the 25 women and girls held in police stations, more than half reported receiving no food, relying entirely on family members or their own money to survive. Similarly, 23 of 25 received no clothing, despite being detained for extended periods—reinforcing reports from legal aid providers that female pretrial detainees are routinely denied basic supplies, regardless of the duration of their detention.

(175) See, e.g., Bureau of Democracy, Hum. Rts. & Lab., U.S. Dep't of State, Burma 2023 Human Rights Report 6–7 (2023), <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/burma-draft>; BDHRL, Burma 2022 Human Rights Report, *supra* note 160, at 5–7.

Issues were also reported with sanitation conditions. Police station toilets were frequently described as dirty, lacking privacy, or entirely inaccessible at night, with some women forced to use urinal bowls or go without any toilet at all.

Sleeping conditions in police stations were particularly poor and overcrowded: **64% of interview respondents said that police lockups did not have enough space to sleep.** Respondents described police stations becoming particularly crowded when groups of Rohingya women were brought in because they are typically arrested in large groups, often with their children.

“Due to there not being enough space for 25 detainees—no mat, no blanket, no mosquito repellent provided, no protection from bed bugs—I had to sit all night long. All 25 detainees were sitting all night long. And too many bed bugs.”

Interview participants reported that women and girls (who were not children of the women detained) were kept together in police detention, contrary to protections for children under the Child Rights Law⁽¹⁷⁶⁾ which does not allow girls (or any child) to be kept with adults in custody and also states that children cannot be kept in police detention under any circumstances.⁽¹⁷⁷⁾

Access to Menstrual Products

The women interviewed for this study reported that menstrual products were not provided in police stations and were provided in insufficient amounts to women in prisons. Many had to rely on their families to provide them with supplies or money to purchase them from prison stores.⁽¹⁷⁸⁾

Women with Children

International law recognizes that women are the primary caretakers of their children and thus designs rules to reduce the adverse impact of mothers' detention on their children. For example, women with child caretaking responsibilities must be provided the opportunity to make arrangements for those children prior to their detention or incarceration. Moreover, if it is in

(176) Child Rights Law, 2019, § 30(f) (Myan.), translated in The Child Rights Law, Refworld, https://www.refworld.org/sites/default/files/2025-03/2019_child_rights_law_-_en.pdf (last visited Oct. 16, 2025)

(177) Id. § 80(e).

(178) ILF Research Questionnaire, questions 152–53.

the best interests of the child, detention might be suspended.⁽¹⁷⁹⁾ Women offenders should not be separated from their families and communities without first considering the impact on their familial relationships⁽¹⁸⁰⁾ and any alternatives to incarceration or diversion should be used whenever possible to protect women's familial ties.⁽¹⁸¹⁾

Six interviewees were pregnant while detained. One of them delivered her baby in the prison hospital. The rest delivered their babies at home or in a public hospital. One woman was transported to a public hospital to deliver her baby and shackled while she was taken from the prison to the doctor. The shackle was removed when she was on the hospital bed for delivery. Additionally, six interviewees had children with them when they were incarcerated. In each case the women described bringing their child with them to prison because they were either too young to be left with another caretaker (e.g., they were breastfeeding; newborn) or there was no other caretaker with whom they could leave their child.

For mothers incarcerated with their children the prison routine was the same as it was for other inmates. The children slept with their mothers and followed their mothers' prison routine. Women commented that the food was not sufficient for a breastfeeding mother, but the prison provided basic supplies for the baby (milk powder, food, and baby clothes). Conditions for mothers and children were worse in the police station than they were in prison. The police station provided no clothes or food for children, and interviewees reported that no one was allowed to speak.

"Even parents weren't allowed to speak to their children."

(179) Specifically, Rule 2 provides that:

Adequate attention shall be paid to the admission procedures for women and children, due to their particular vulnerability at this time. Newly arrived women prisoners shall be provided with facilities to contact their relatives; access to legal advice; information about prison rules and regulations, the prison regime and where to seek help when in need in a language that they understand; and, in the case of foreign nationals, access to consular representatives as well.

G.A. Res. 65/229, United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules), annex at 8 (Dec. 21, 2010) [hereinafter The Bangkok Rules].

(180) Id. at 18 (Rule 58); see also G.A. Res. 45/110, United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) ¶¶ 2.3, 5.1–6.3 (Dec. 14, 1990).

(181) The Bangkok Rules, *supra* note 179, annex at 12 (Rule 22).

Family Contact and Visitation

Interview participants described restrictions on family visits such as allowing them only once per month in prison or having a woman's children stand a distance away from her during the visit, or close supervision by guards so women and their families could not speak confidentially. As prison locations are often far or difficult to reach for rural or semi-urban communities, it creates a significant barrier to regular visitation. Families from rural or conflict-affected areas, in particular, face challenges due to both the long distances and the high costs associated with travel. This situation is made worse when women are transferred to prisons in other regions, either to decongest crowded facilities or for security reasons. The lack of regular family visits leads to emotional distress, making the psychological burden of family separation as a result of imprisonment even heavier for these women. Our dataset shows several women who had left their hometowns in conflict areas in search of livelihood, and who were then held in prisons and had no family members to visit them due to distance and infeasibility.

IMPACTS OF DETENTION AND CONTACT WITH THE CRIMINAL JUSTICE SYSTEM

Social stigma remains a significant barrier for Myanmar's women post-incarceration. Society often views formerly incarcerated women as deviants, making it difficult for them to reintegrate into society, secure employment, or access social support systems.⁽¹⁸²⁾ This stigmatization perpetuates cycles of vulnerability and incarceration. Women might be rejected by their families on whom they are economically dependent, particularly when they have been required to borrow money to hire lawyers or pay bail or bribes. Women, especially those who have been trafficked or charged with morality crimes, may face exclusion from their families and communities.

Regardless of the legal outcome, the mere involvement in a criminal case imposes a permanent stigma on a woman. While a man might be seen as having made a mistake, a woman is often judged as having a flawed character, a stain that taints her reputation in the community.

An alarming 66% of interviewees reported being stigmatized by their family or community as a result of their contact with the legal system. And 53% (16/30) of respondents felt that their time in the legal system hindered their future opportunities for success.

Interviewees expressed that consequences of a criminal case included damage to their reputation and the stigma that would inhibit their ability to achieve future goals, as well as basic things like the ability to earn money or borrow money from the community—deepening the cycle of their marginalization and poverty.

(182) See, e.g., Pilar Larroulet et al., From Prison to Work? Job-Crime Patterns for Women in a Precarious Labor Market, 110 Soc. Sci. Rsch. 1, 2–3 (2023) (summarizing prior research finding the women consistently struggled more than men to find employment after being released from prison); Women: Key Facts, Penal Reform Int'l, <https://www.penalreform.org/issues/women/key-facts> (last visited Oct. 16, 2025) (“Gender roles and cultural expectations mean that women in prison face greater stigma than men.”).

"I feel ashamed for being wrongfully accused. Even when I was released and not found guilty, people from around my vicinity looked down on me for having engaged in the crime."

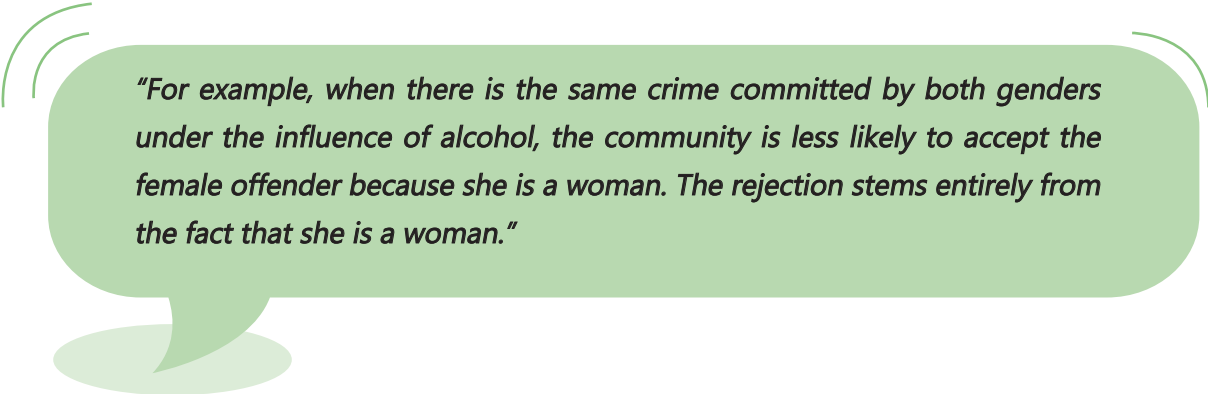
"I felt very low, and I didn't fit in with the community anymore. I couldn't deal and talk with the people, and therefore, I moved to another place."

"My uncle changed his behavior towards us. Although we were very friendly previously, now we are on just nodding terms since he felt ashamed that we were involved in the offense. I feel depressed because even my uncle looked down upon me because I had been a detainee. So, now I feel a bit less confident. Even though I didn't commit the crime and I was just accused by the police for participating in playing cards."

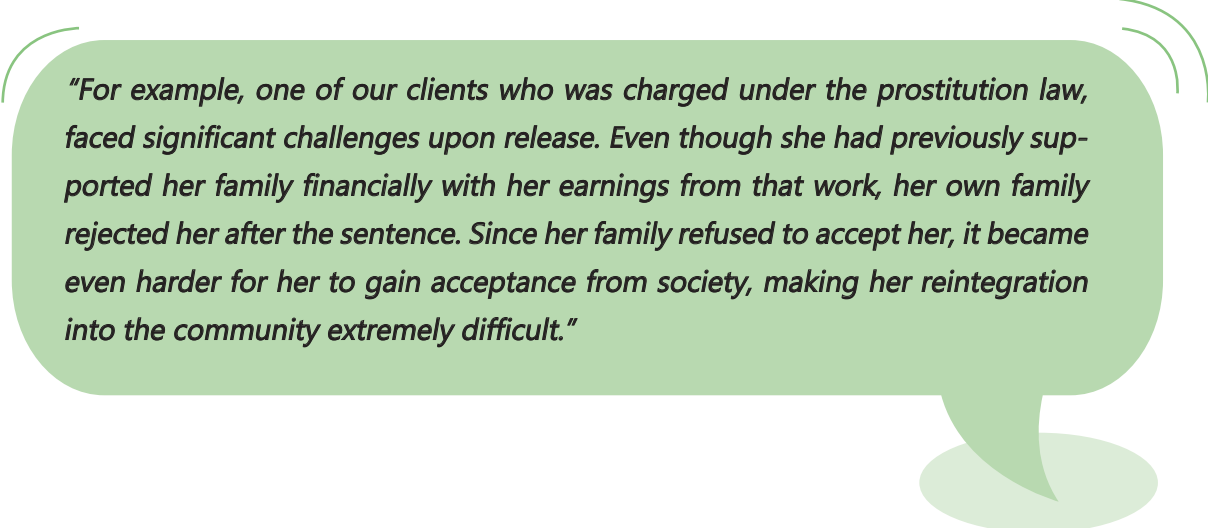
"At the Training School, the feeling of missing family was overwhelming. Additionally, having to give up the dream of becoming an athlete resulted in a significant sense of loss, leading to hopelessness."

"I feel that being charged or convicted of a crime has hindered my future endeavors and success in life. I have been deeply troubled since I was charged and convicted for something that I did not do. I feel sad and discouraged about being labeled a convicted felon after my time in prison."

Lawyers and social services providers, some of whom assist women upon re-entry, echo the women's descriptions of their challenges upon re-entry and the disproportionate stigma experienced by women in conflict with the law, especially regarding accusations related to morality:



"For example, when there is the same crime committed by both genders under the influence of alcohol, the community is less likely to accept the female offender because she is a woman. The rejection stems entirely from the fact that she is a woman."



"For example, one of our clients who was charged under the prostitution law, faced significant challenges upon release. Even though she had previously supported her family financially with her earnings from that work, her own family rejected her after the sentence. Since her family refused to accept her, it became even harder for her to gain acceptance from society, making her reintegration into the community extremely difficult."

RECOMMENDATIONS

In Myanmar, poverty, conflict, and discrimination have deepened women and girls' vulnerability to criminalization. While systemic reform will take time, international actors can help reduce harm and strengthen access to justice by supporting targeted, practical interventions.

1. Engage on Access to Justice and Legal Reform

Encourage continued engagement with Myanmar to advance access to justice and rule of law, including by advocating for fair trial rights, the right to legal representation, and the protection of women, girls, and stateless populations.

2. Recognize That Women and Girls in Conflict with the Law are Often Victims

Ensure that women and girls in conflict with the law are included in programs and funding streams for gender equality, humanitarian assistance, and protection. Many have experienced poverty, violence, or exploitation and should be recognized as victims needing support. It is important to understand the complex, underlying factors that lead women and girls into conflict with the law, and to develop community-based ways to prevent their criminalization, reduce stigma, support their reintegration into the community, and promote awareness of the rights and needs of women and girls.

3. Support and Elevate Holistic Legal Aid

Invest in holistic legal aid—a model that integrates legal representation with social support, trauma-informed care, and community-based advocacy. This approach recognizes that women and girls' contact with the law is often rooted in poverty, violence, and social exclusion. Holistic legal aid not only defends clients in court but also addresses the causes and consequences of arrest by linking them to housing, psychosocial care, family support, and livelihood opportunities.

Legal aid providers are on the front lines in Myanmar, witnessing and challenging daily violations of law and international norms that harm the most vulnerable women and girls. As these organizations document abuses and defend clients, strong and consistent international voices of support are essential. The global community should help build a culture of respect for holistic legal aid as a form of humanitarian assistance and a cornerstone of justice reform in Myanmar.

4. Review and Reform Discriminatory Laws and Policies

Call for review of laws, policies, and practices that criminalize poverty and status—such as offenses related to debt, informal work, and lack of documentation—and promote clear, gender-sensitive legal definitions to prevent misuse of the criminal justice system.

5. Strengthen Gender-Sensitive Justice in Myanmar

Sustained international advocacy and legal advocacy within Myanmar is needed to promote a systemic shift from a focus on punitive detention to gender-sensitive justice. This can be achieved by advocating to strengthen the implementation of existing laws protecting women and girls in Myanmar such as Child Rights Law to prevent the detention of girls and guarantee their legal protection; and the Anti-Trafficking in Persons Law to improve identification and support of victims of trafficking. International actors and those within Myanmar can also advocate for increased use of non-custodial measures such as probation for women in conflict with the law and as well as expanded access to bail, and promote opportunities for sentence mitigation including recognizing women and primary caregivers.

6. Strengthen Data and Evidence Collection

Support efforts to collect and analyze data on laws, policies, and practices that disproportionately impact women and marginalized groups. Legal aid providers, civil society, and other community-based organizations are uniquely positioned to document rights violations and inform evidence-based reforms.

7. Expand Non-Carceral and Community-Based Alternatives

Myanmar lacks social programs to serve women and girls in conflict with the law. Promote the prioritization of alternatives to detention for women and girls, including diversion, mediation, and community programs. Expanded social services and rehabilitation support will reduce overcrowding, stigma, and recidivism.

8. Protect and Support the Rohingya Community

Acknowledge ongoing discrimination against Rohingya and the misuse of the criminal justice system to criminalize them for lack of documentation. Call for reforms to eliminate laws and policies that penalize Rohingya, ensure access to fair trials and legal representation, and provide sustained international funding for organizations defending their rights.

