

GENDERLAB TALK SERIES#2



WHAT DOES FEDERALISM HAVE TO DO WITH GENDER EQUALITY?



photo courtesy of the artist

Dr. Marcus Brand, Head of Programme of the International Institute for Democracy and Electoral Assistance (International IDEA) in Myanmar, highlighted in his talk that in order to advance gender equality in Myanmar, both federalism and a strong constitution that protects the fundamental human rights of its people and guarantees efficient accountability and transparency of the governing body are needed.

The speaker stated the importance of gender equality within the federalism-constitution framework. Policy and resource allocation decisions may not be prioritized due to power imbalance. The underrepresentation of women in political organizations and decision-making bodies could lead to the marginalization of gender perspectives which may hinder the incorporation of gender equality in policy discussions and development. In Myanmar, there is an increase in women's representation in the parliament until the coup but very little progress had been made in terms of implementing treaties and policies intended for women's advancement.



photo source: GSCN Facebook

He also emphasized the need of having at least two levels for federalism: the federal or central level and the state level, which are defined in the constitution. States should not be governed by the federal or central government. Decisions on judicial affairs must be taken at several levels, as guaranteed in the Constitution. He stressed that a comprehensive understanding of gender equality requires a consideration of the Constitution in its entirety, rather than only its specific provisions. Women may be negatively affected as a result of the electoral system and administration. Taxation policies may also have an impact on women's access to social and economic opportunities like work, education, and health.

Furthermore, a complaint mechanism within the governance system which stipulates a 30% quota for female members in the Federal Democracy Charter (FDC) of Myanmar shall be strictly enforced at the constitutional and state levels. A constitution that ensures the decentralization of authority shall give more importance to the state and local levels because they have a direct impact on people's lives. Although others argue that the issue on gender equality should not be discussed until after the military regime ends, addressing gender equality now will simultaneously improve women's participation and empowerment.

The discussion with participants that followed focused on how unions, federal units, and federal constitutional frameworks can support gender equality in decision-making. The gender equality situations and related laws can differ across state and regions. Therefore, it is effective to have a constitutional guarantee to realize gender equality across the country. However, this can only be effective if human rights are respected and a law enforcement mechanism is in place. Achieving gender equality must be the goal of all citizens, not just of female leaders and politicians. The significance of male politicians supporting gender equality and the importance of prioritizing women's empowerment was also argued.

The current state of women in leadership roles in Southeast Asia was also brought up during the discussion. It was recommended that strong gender equality provisions should be included in the constitution. This would grant women normative jurisdiction over additional laws and operations at different levels. The debate over the old, inherently discriminatory laws and the new, non-discriminatory clause in the constitution regarding gender and sexual orientation was given as an example.



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It is important to understand the fundamentals of non-discriminatory principles and apply current perspectives to old legal frameworks. Significant changes have been observed over time in countries with democratic elections. However, despite women's access to politics and their qualifications, some of the traditional gender roles in many societies continue to be discriminating. Dr. Marcus Brand said that in addition to the work of dedicated women's organizations, building a broad coalition is necessary. The business community, academic institutions, and the media must all support efforts to change society. Also, if boys are taught early about gender issues, they can address gender equality through laws, policies and rights. With these, the purpose of gender equality will be best understood.

In view of the current situation, it was mentioned that the FDC of Myanmar has several important references and provisions pertaining to inclusion, equality, and human rights. Thus, it is required that all governmental entities implement existing provisions from the federal to the state level to keep their responsibilities. The speaker said that the nation and the political system ought to be the primary sources of advocacy, mindset change, and capacity building. It was stressed that women can gain from a decentralized federal government throughout the phase of the transitional constitution. The participants further suggested the establishment of a gender equality or women's commission. Important considerations to make include staffing, funding, and legal authority. Additionally, maintaining the rule of law and effective access to justice should also be studied. Aside from hearing complaints, a functional judiciary that is able to make decisions with the authority in specific cases must be provided. Participants also emphasized the need for constitutional provisions on addressing economic decentralization, citizenship based on gender, and tax distribution between and among several levels of the government: the federal government, state constitutions, and local governments. The need to handle displaced communities, security sector reform, and transitional justice during the transitional phase was also mentioned. Since these concerns are all related to women and gender equality, it would be best to address them now, before the transitional period begins.



photo source: rohingyapost.com

During the latter part of the discussion, it was argued that the state is responsible as a contract partner in all types of treaties, whether multiple or bilateral. Therefore, it was asked, how can the state ensure that each region is carrying out its obligations as stipulated by these international treaties? To what extent are the subnational federal governments accountable, or report, to the federal government? It was observed that in a developed federal system, a state could contend that it is unreasonable for the state or region to be bound by international agreements, especially when a country has highly decentralized power and local autonomy. How should the new FDC handle this situation? Hence, further reflection is important.

To learn more about the details of the talk and subsequent discussion, please read the summary note.