

Myanmar

Mid-term Implementation Assessment



Promoting and strengthening
the Universal Periodic Review
<http://www.upr-info.org>



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 11 November 2013

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/myanmar>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

25 stakeholders' reports were submitted for the UPR. 27 NGOs were contacted. 2 UN agencies were contacted. The Permanent Mission to the UN was contacted. No National Human Rights Institution (NHRI) does exist.

11 NGOs responded to our enquiry. No UN agency did participate. The State under Review did not respond to our enquiry.

The following stakeholders took part in the report:

1. **NGOs:** (1) Arakan Project (AP) (2) Asian Human Rights Commission (AHRC) (3) Chin Human Rights Organisation (CHRO) (4) Christian Solidarity Worldwide (CSW) (5) Global Initiative to End All Corporal Punishment of Children (GIEACPC) (6) Human Rights Foundation of Monland (HURFOM) (7) Index on Censorship (IC) (8) Karen Human Rights Group (KHRG) (9) PEN International (PEN) (10) Reporters sans Frontières (RSF) (11) Unrepresented Nations and Peoples Organization (UNPO)

IRI: 59 recommendations are not implemented, 64 recommendations are partially implemented, and 27 recommendations are fully implemented. No answer was received for 36 out of 197 recommendations and voluntary pledges (full list of unanswered recommendations is available at the end of this document).

2. Index

Hereby the issues which the MIA deals with:

rec. n°	Rec. State	Issue	IRI	page
13	Algeria	Right to education, Right to health, Technical assistance	partially impl.	page 31
6	Argentina	CP rights - general, Enforced disappearances, ESC rights - general, International instruments, Racial discrimination, Torture and other CID treatment	partially impl.	page 54
108	Argentina	Special procedures	partially impl.	page 59
109	Argentina	Special procedures	fully impl.	page 60
177	Argentina	Detention conditions, Freedom of opinion and expression	partially impl.	page 22
26	Austria	Special procedures	fully impl.	page 56
65	Austria	Elections	fully impl.	page 12
77	Austria	Disabilities, International instruments, Justice, Racial discrimination, Torture and other CID treatment	partially impl.	page 57
152	Austria	Minorities, Racial discrimination	not impl.	page 50
158	Austria	Human rights violations by state agents, Torture and other CID treatment	not impl.	page 66
181	Austria	Detention conditions, Freedom of opinion and expression	partially impl.	page 22
67	Azerbaijan	Women's rights	partially impl.	page 74
105	Azerbaijan	NHRI	partially impl.	page 84
49	Bangladesh	Minorities	not impl.	page 43
50	Bangladesh	Development	partially impl.	page 44
54	Bangladesh	Asylum-seekers - refugees	not impl.	page 47
93	Belgium	International instruments, Torture and other CID treatment	not impl.	page 58
137	Belgium	Other	not impl.	page 48
179	Belgium	Detention conditions, Freedom of opinion and expression	partially impl.	page 22
45	Bhutan	Right to health	not impl.	page 38
48	Bhutan	International instruments, Rights of the Child	not impl.	page 39
39	Brazil	Human rights violations by state agents	not impl.	page 64
46	Brazil	Right to food	not impl.	page 38
75	Brazil	International instruments	partially impl.	page 55
136	Brazil	Freedom of association and peaceful assembly	partially impl.	page 19
19	Brunei Darussalam	Human rights education and training	-	page 33
14	Cambodia	HIV - Aids, Poverty, Trafficking	partially impl.	page 32
38	Canada	Human rights education and training	not impl.	page 64
92	Canada	International humanitarian law	partially impl.	page 58
110	Canada	Special procedures	fully impl.	page 60
135	Canada	Freedom of association and peaceful assembly, Freedom of opinion and expression, Freedom of religion and belief, Freedom of the press	partially impl.	page 16
173	Canada	Extrajudicial executions, Human rights violations by state agents, Labour, Rights of the Child, Torture and other CID treatment	not impl.	page 67



178	Canada	Detention conditions, Freedom of association and peaceful assembly, Freedom of religion and belief, Minorities	partially impl.	page 22
16	Cuba	Development	fully impl.	page 33
17	Cuba	Right to education, Right to health	not impl.	page 33
53	Czech Republic	Minorities	not impl.	page 46
91	Czech Republic	CP rights - general, ESC rights - general, International instruments	not impl.	page 55
186	Czech Republic	Detention conditions, Freedom of opinion and expression	partially impl.	page 22
191	Czech Republic	Civil society, Freedom of association and peaceful assembly, Minorities	partially impl.	page 28
31	Denmark	Detention conditions	not impl.	page 62
95	Denmark	International instruments, Torture and other CID treatment	not impl.	page 58
113	Denmark	Indigenous peoples, International instruments, Racial discrimination	not impl.	page 47
47	DPR Korea	Right to education, Right to health	not impl.	page 38
68	DPR Korea	Other	fully impl.	page 83
41	France	International instruments, Labour	fully impl.	page 35
155	France	Minorities, Racial discrimination	not impl.	page 52
171	France	Impunity, Technical assistance	not impl.	page 66
174	France	Detention conditions, Freedom of opinion and expression, Freedom of religion and belief	fully impl.	page 19
90	Germany	CP rights - general, ESC rights - general, International instruments, Torture and other CID treatment	partially impl.	page 55
175	Germany	Detention conditions, Freedom of opinion and expression	fully impl.	page 21
83	Greece	International instruments	-	page 58
112	Greece	Special procedures, Technical assistance	fully impl.	page 60
148	Greece	Special procedures	fully impl.	page 61
182	Greece	Detention conditions, Freedom of opinion and expression	partially impl.	page 22
36	Hungary	Human rights violations by state agents	not impl.	page 63
88	Hungary	CP rights - general, International instruments, Torture and other CID treatment	partially impl.	page 55
89	Hungary	International instruments, Racial discrimination	partially impl.	page 55
123	Hungary	Rights of the Child	partially impl.	page 77
124	Hungary	Rights of the Child	-	page 78
103	India	NHRI	partially impl.	page 84
10	Indonesia	Freedom of association and peaceful assembly, Freedom of opinion and expression, Freedom of the press	partially impl.	page 9
59	Indonesia	Other	fully impl.	page 82
63	Indonesia	ESC rights - general	partially impl.	page 40
102	Indonesia	NHRI	partially impl.	page 84
35	Iran	Development, National plan of action, Rights of the Child	partially impl.	page 73
74	Iran	National plan of action, Trafficking, Women's rights	partially impl.	page 76
97	Ireland	General	partially impl.	page 84
37	Italy	Justice	not impl.	page 63
96	Italy	CP rights - general, Death penalty, ESC rights - general, International instruments, Rights of the Child, Torture and other CID treatment	partially impl.	page 55



98	Italy	Freedom of association and peaceful assembly, Freedom of opinion and expression	not impl.	page 13
154	Italy	Minorities, Racial discrimination	not impl.	page 51
170	Italy	Justice	not impl.	page 67
187	Italy	Detention conditions, Freedom of opinion and expression	not impl.	page 24
85	Japan	CP rights - general, ESC rights - general, International instruments, Rights of the Child	not impl.	page 55
3	Jordan	International instruments	partially impl.	page 54
8	Jordan	International instruments	not impl.	page 80
60	Jordan	International instruments, Rights of the Child	fully impl.	page 74
104	Jordan	NHRI	partially impl.	page 84
125	Jordan	Freedom of religion and belief, Minorities	-	page 47
12	Laos	General	fully impl.	page 80
24	Laos	Minorities	not impl.	page 41
56	Malaysia	National plan of action, Technical assistance	not impl.	page 39
62	Malaysia	Technical assistance	-	page 83
80	Maldives	International instruments, Torture and other CID treatment	not impl.	page 57
131	Maldives	Civil society	partially impl.	page 14
144	Maldives	Special procedures	fully impl.	page 61
5	New Zealand	International instruments, Rights of the Child	not impl.	page 68
66	New Zealand	Labour	fully impl.	page 40
82	New Zealand	CP rights - general, ESC rights - general, International instruments, Torture and other CID treatment	not impl.	page 55
122	New Zealand	Rights of the Child	partially impl.	page 78
133	New Zealand	Impunity	not impl.	page 65
196	New Zealand	Internally displaced persons	not impl.	page 53
101	Nicaragua	International instruments, NHRI	partially impl.	page 85
23	Norway	Civil society, UPR process	-	page 11
32	Norway	Rights of the Child, Women's rights	not impl.	page 70
34	Norway	Rights of the Child	fully impl.	page 72
126	Norway	Freedom of the press	partially impl.	page 13
134	Norway	General	partially impl.	page 16
183	Norway	Detention conditions, Freedom of opinion and expression, Human rights defenders	partially impl.	page 22
192	Norway	Civil society, Freedom of association and peaceful assembly, Freedom of opinion and expression	not impl.	page 29
1	Pakistan	International instruments	partially impl.	page 54
69	Pakistan	Other	fully impl.	page 83
151	Pakistan	Minorities	not impl.	page 48
7	Philippines	CP rights - general, ESC rights - general, International instruments	partially impl.	page 54
40	Philippines	Freedom of religion and belief	not impl.	page 34
43	Philippines	Development, Poverty	partially impl.	page 36
25	Poland	Special procedures	fully impl.	page 56
52	Poland	Minorities	not impl.	page 46
11	Portugal	Rights of the Child, Women's rights	not impl.	page 70
94	Portugal	International instruments, Torture and other CID treatment	not impl.	page 58



106	Portugal	NHRI	partially impl.	page 84
79	Republic of Korea	CP rights - general,ESC rights - general,International instruments,Torture and other CID treatment	partially impl.	page 55
142	Republic of Korea	Special procedures	fully impl.	page 60
185	Republic of Korea	Detention conditions,Freedom of opinion and expression	fully impl.	page 23
70	Russian Federation	Development,Poverty	fully impl.	page 40
28	Singapore	Technical assistance	fully impl.	page 81
55	Singapore	Civil society,Technical assistance	-	page 81
2	Slovenia	International instruments	not impl.	page 54
29	Slovenia	Minorities	not impl.	page 41
30	Slovenia	Torture and other CID treatment	not impl.	page 61
33	Slovenia	Labour,Rights of the Child	partially impl.	page 71
72	Slovenia	Women's rights	not impl.	page 74
76	Slovenia	International instruments	partially impl.	page 83
18	Sri Lanka	General	partially impl.	page 80
21	Sudan	Disabilities	not impl.	page 41
44	Sudan	Development,Right to health	fully impl.	page 37
64	Sudan	Development,Technical assistance	partially impl.	page 83
73	Sudan	Rights of the Child	partially impl.	page 75
189	Sweden	Detention conditions,Freedom of association and peaceful assembly,Freedom of religion and belief,Freedom of the press,Minorities,Torture and other CID treatment	not impl.	page 25
78	Switzerland	CP rights - general,International instruments,Torture and other CID treatment	not impl.	page 57
130	Switzerland	Freedom of religion and belief,Minorities	not impl.	page 48
184	Switzerland	Detention conditions,Freedom of association and peaceful assembly,Freedom of movement,Freedom of opinion and expression	partially impl.	page 22
9	Thailand	Human rights education and training,International instruments	not impl.	page 30
51	Thailand	Minorities	not impl.	page 45
87	Thailand	International instruments,Labour	partially impl.	page 58
100	Thailand	NHRI	partially impl.	page 84
99	Timor-Leste	NHRI	not impl.	page 84
22	Turkey	General	partially impl.	page 81
197	Turkey	Justice,Poverty,Technical assistance	-	page 68
4	Ukraine	International instruments	partially impl.	page 54
27	Ukraine	Special procedures	fully impl.	page 56
61	Ukraine	General	partially impl.	page 82
145	Ukraine	Extrajudicial executions,Freedom of religion and belief,Internally displaced persons,Justice,Right to food,Special procedures	fully impl.	page 61
118	United Kingdom	Labour,Rights of the Child	partially impl.	page 77
169	United Kingdom	Impunity,Special procedures,Technical assistance	not impl.	page 66
180	United Kingdom	Detention conditions,Freedom of association and peaceful assembly,Freedom of opinion and expression	partially impl.	page 22
190	United Kingdom	CP rights - general,Minorities	partially impl.	page 27



128	United States	General	-	page 65
176	United States	Detention conditions, Freedom of opinion and expression	partially impl.	page 21
188	United States	Elections, Freedom of association and peaceful assembly	partially impl.	page 25
194	United States	Freedom of religion and belief, Minorities, Women's rights	not impl.	page 52
120	Uruguay	Rights of the Child	partially impl.	page 77
121	Uruguay	International instruments, Rights of the Child	partially impl.	page 78
139	Uruguay	International instruments, Rights of the Child, Torture and other CID treatment, Treaty bodies	not impl.	page 79
149	Uruguay	Freedom of religion and belief, Internally displaced persons, Justice, Special procedures	partially impl.	page 48
157	Uruguay	Enforced disappearances, Freedom of association and peaceful assembly, Freedom of the press, Human rights education and training, Minorities, Torture and other CID treatment	not impl.	page 65
161	Uruguay	Freedom of movement, Internally displaced persons	-	page 66
15	Venezuela	Other	-	page 80
20	Viet Nam	Development, ESC rights - general	partially impl.	page 34
42	Viet Nam	Development, Poverty, Right to food	not impl.	page 35
71	Viet Nam	Justice	fully impl.	page 12

3. Feedbacks on recommendations

CP Rights

Recommendation n^o10: *Take steps to review domestic laws with a view to guaranteeing the right to freedom of expression, association and assembly, including assuring a free and independent media* (Recommended by Indonesia)

IRI: *partially implemented*

PEN International (PEN) response:

New draft bills have been proposed on press, broadcasting, and new law on ‘right to protest’, and in August 2012 the Censorship board was broken up and replaced with the Myanmar Press Council (MPC). Prior censorship was scrapped. However, the new legislation is weak. Draft bills on press require licences to speak and the ‘right to protest law’ requires “permission” and can be used to arrest gatherings of more than two people. Of particular concern is the Printing and Publishing Enterprise Law bill, passed by Myanmar’s lower house of parliament on 4 July 2013, and which is said to fall far below international standards. The Press Council has said it will resign if the bill is passed. The Press Council, founded in October 2012, falls far short of international standards. Trust in its efficiency and transparency is low. Corruption levels are amongst the highest in the world and trust in the rule of law is lacking.

National security provisions remain in place, including the 1950 Emergency Provisions Act, the 2000 Internet Act, and the 2004 Electronic Transactions Act, which have all been used to imprison writers, journalists and activists and will continue to pose a threat to free expression unless they are abolished.

Christian Solidarity Worldwide (CSW) response:

The 2012 Peaceful Demonstrations and Gathering Law allows peaceful protests in Myanmar. In January 2013, the government of Myanmar repealed an order which banned gatherings of more than four people. However, restrictions still remain on many forms of association and peaceful assembly under the Peaceful Assembly and Peaceful Procession Law of 2011, public gatherings require official permission.

In 2012, a previous censorship law was abolished. This has facilitated greater freedom of press, as witnessed by the presence of independent media providers such as the Democratic Voice of Burma. However, remaining regulations continue to necessitate self-censorship in Myanmar. New laws concerning the media have also been proposed. These laws have been criticised for lacking transparency.

Unrepresented Nations and Peoples Organization (UNPO) response:

Freedom of expression is still not guaranteed in Myanmar, and hundreds of political prisoners remain incarcerated in Myanmar prisons. Even if the year 2012 saw an unprecedented number of political prisoners released, they were often released



without the wiping of their criminal records, which makes reintegration into society difficult.

The 2011 Law Relating to Peaceful Assembly and Peaceful Procession also serves as a tool for the government to quell the freedom of expression. It puts strong restrictions on protests, and even makes it possible to arrest protestors who have gotten an actual permit. While officially serving to legalize protests, its regulations are so strict that it really serves as a way to legitimize the government's arrest of protestors.

On the front of the press however, some notable changes have been made. Pre-publication censorship has been abolished, which means that publications in Myanmar are now able to publish on a daily basis. According to Reporters without Borders, several media organizations previously in exile have been allowed to return, and the country has climbed 18 places in the world press freedom index. While the measures are insufficient and basically only half-measures, they do seem to show some progress. But it still remains to be seen whether the government of Myanmar can keep progressing towards a society with real freedom of expression. The 2004 Electronic Transactions Law, which makes it unlawful to use electronic equipment to commit acts "detrimental to the security of the State or prevalence of law and order or community peace and tranquillity or national solidarity or national economy or national culture" has been used to prosecute bloggers and activists and has remained on the books. This in combination with the new draft of the Press Law bill, which bans publications on several topics, including critical analysis of the 2008 Constitution, guarantees a high degree of censorship on both print and internet publications, even though the official censorship board was abolished in January 2013.

Index on Censorship (IC) response:

Despite certain advances during the transition period, the legal framework is largely unchanged during the transition with a number of laws that restrict and impact upon freedom of expression namely: the State Protection Act (1975), the Unlawful Association Act (1908), the Television and Video Law (1985), the Motion Picture Law (1996), the Computer Science and Development Law (1996), the Printers and Publishers Registration Act (1962) and significant sections of the penal code. It is of concern that laws enacted or proposed since the transition also fail to protect freedom of expression and assembly namely the Peaceful Assembly and Peaceful Procession Law (passed in 2011) and the new draft Printing and Publishing Enterprise Law (drafted by the Ministry of Information). These laws signal that the government's future commitment to reform may be less bold than the framework provided by the relaxation of the existing laws

Reporters sans Frontières (RSF) response:

1) Despite the lifting of prior censorship for all the print media including political publications, a list of 16 guidelines have circulated to the privately-owned media. These guidelines include 4 aspects: political, economic, social and general. They are seen by journalists as an attempt to persuade them to censor themselves and refrain from writing certain kinds of story.



2) Newspapers can still be suspended for publishing "forbidden" content. Indeed, as the PSRD registers newspapers and controls publication licences; so it can also suspend newspapers. The Voice and the Envoy were suspended, more recently Burmese magazine distributor Inwa Publications Times magazine decided not to sell Time Magazine's July issue, which has cover story about the Burmese Buddhist monk Ashin Wirathu headlined "The Face of Buddhist Terror." The government's endorsement of this censorship is regrettable

3) In 2012, the government has brought prosecutions against editors and reporters

4) At the beginning of 2012, the government began drafting a law on broadcasting media. It was initially supposed to be adopted by the end of 2012. 5 drafts were produced without the possibility for media to see them. The current draft still contains repressive measures, such as a Press council with [coercive] power that would allow it to revoke a media licence without the need of a Court's decision.

Asian Human Rights Commission (AHRIC) response:

In reality, these rights are not enjoyed by many rules and regulations. In order to register, an organisation has to prove that it does not involve in any politics but only for social affairs such as welfare including free education, providing medicine to HIV patient and access to water. In couple of weeks ago, the government allowed registering Myanmar Peasant Association but on following day, the registration was cancelled.

Freedom of Association is very strict and it is difficult to form. The government made draft law on Association that include net work and student union need to get through registration process.

It is also difficult to have freedom of assembly. It is now reported that over 100 prisoners, most of them are farmers, workers, human rights defenders and activists are charged with Peaceful Assembly Law section 18 and penal code section 505 (b).

With regard to the freedom of expression, it is considered as a threat to the new government. Censor board does still exist and official printing and publication law is still at the stage of draft. For broadcasting media, BBC, RFA, VOA and DVB now open their office in Yangon but they are not official registered office. Offices are set up based on MOU with the government. It is believed that recommendations are accepted by the government since it wishes to take the chairperson position at the ASEAN.

Recommendation n°23: A participatory and inclusive process in the follow-up to the UPR, including the full range of civil society, as well as the United Nations Human Rights system (Recommended by Norway)

IRI: -

IC response:

Underpinning the increased freedom of expression are the significant political changes that have seen the release from house arrest of Aung San Suu Kyi and the election of NLD parliamentarians during the 2012 by-elections. The release of Aung San Suu Kyi, the regime's most high-profile critic and political opponent, and other



political prisoners was seen as a public signal to the Burmese people and civil society that the transition to civilian government was a possibility and that the government would tolerate dissent to greater latitude than in the past. Beyond this, a number of concrete advances have been made for freedom of expression including the abolition of the censorship boards, the end to the filtering of social networks and VOIP telecommunications, the return of daily newspapers and the greater latitude given to political expression, press comment and artistic expression by government officials.

Recommendation n°65: *Take legislative and practical steps to ensure a political process and elections that are free and democratic* (Recommended by Austria)

IRI: *fully implemented*

CSW response:

Although some voting irregularities were reported in the recent 2012 elections, these have widely been hailed as free and democratic.

UNPO response:

The most recent elections in Myanmar in which Aung San Suu Kyi's pro democracy party had a strong showing have illustrated the changes that Myanmar's elector system have undergone. In contrast to the past they were much fairer. However for the political process to be fully free and democratic, the reserved seats for the military in parliament would have to be given up to politicians as well.

IC response:

Since 2010, political prisoners have been released, censorship boards abolished, the leading opposition political party the NLD has been allowed to regroup and by-elections have given leading NLD figures seats in parliament for the first time. Yet, there remains uncertainty over the motives of the main political actors and their commitment to the transition, in particular regarding President Thein Sein's commitment to reforms to bolster freedom of expression and other civil and political rights. The USDP's motives are also questionable as the party is split between reformers and those closer to the generals, who urge caution on the speed of change, or whether the transition should be happening at all. While the government's choice is over the speed and depth of reform; the new openness is presenting Aung San Suu Kyi and the NLD with new scrutiny over their policies. Freedom of expression is providing space for the opposition to debate issues in public that had previously remained unresolved, but is also raising new questions for the opposition to answer. The space for political debate is far greater than at any time in Burma's recent history, yet with the transition incomplete, the legal framework has changed little. The restrictive 2008 constitution and the politicised judiciary means that the executive still has considerable powers to curtail freedom of expression and other democratic rights; that these powers are increasing falling into abeyance does not mean that reform is no longer necessary.

Recommendation n°71: *Enhance efforts to achieving the Seven-Step Roadmap as the Government of Myanmar has promised toward building a democratic and ruled-by-law State* (Recommended by Viet Nam)

IRI: *fully implemented*



CSW response:

Myanmar has continued to follow its plan towards a sustainable, democratic state. Steady progress can be seen.

Recommendation n°98: Repeal or amend laws used to suppress peaceful political dissent and freedom of expression, association and assembly, including by granting those fundamental rights to the new members of Parliament (Recommended by Italy)

IRI: not implemented

PEN response:

National security provisions remain in place, including the 1950 Emergency Provisions Act, the 2000 Internet Act, and the 2004 Electronic Transactions Act, which have all been used to imprison writers, journalists and activists and will continue to pose a threat to free expression unless they are abolished.

Legal reform is much needed, in particular effective legislation to protect freedom of expression and information.

IC response:

Despite certain advances during the transition period, the legal framework is largely unchanged during the transition with a number of laws that restrict and impact upon freedom of expression namely: the State Protection Act (1975), the Unlawful Association Act (1908), the Television and Video Law (1985), the Motion Picture Law (1996), the Computer Science and Development Law (1996), the Printers and Publishers Registration Act (1962) and significant sections of the penal code. It is of concern that laws enacted or proposed since the transition also fail to protect freedom of expression and assembly namely the Peaceful Assembly and Peaceful Procession Law (passed in 2011) and the new draft Printing and Publishing Enterprise Law (drafted by the Ministry of Information). These laws signal that the government's future commitment to reform may be less bold than the framework provided by the relaxation of the existing laws

Recommendation n°126: The abolition of the Press Scrutiny Board and the Broadcasting Censorship Board and take concrete steps to ensure that the press and broadcasting media can operate freely (Recommended by Norway)

IRI: partially implemented

PEN response:

Pre-publication censorship has been abolished, but a new media bill, drafted by the Ministry of Information without consultation from writers, editors or journalists, and recently passed through the lower house of parliament, threatens to replace the old, draconian 1962 Printers and Publishers Registration act with similarly repressive parameters. Under the draft Publishing and Printing law, publishers would be the first defendant if a book was found objectionable, and writers the second defendant. This could have a chilling effect on the publishing industry.

There is an atmosphere of lawsuits – in particular a growing number of defamation cases against journalists.

IC response:

The Press Scrutiny Board has been abolished. The media in Burma is freer now than at any point in the last decade, yet significant challenges remain and there are troubling signs on the horizon. The abolition of the pre-censorship of the printed press, the return of daily newspapers and of formerly exiled independent newspapers and media outlets all point to demonstrable change since the beginning of the transition. It is also a better climate for journalists with the release of a number of journalists from jail during the transition. Despite these advances during the transition period, the legal framework is largely unchanged during the transition with a number of laws that restrict and impact upon freedom of expression.

Progress has been made but the media is still not free. The existing media laws are still highly restrictive. Legal reform, as initiated by the Press Council and sought by domestic NGOs, is necessary to provide a proportionate legal framework to bring Burma into line with its international obligations. While the laws are restrictive, the transition has meant they are no longer used to the same extent.

The Press Council, founded in October 2012, is working to improve media standards in Burma. It also has an important role to play in revising a number of the laws that impact on freedom of expression. Many of its members are independent journalists and opposition media editors, as well as representatives from media business owners. Still, the council has been criticised for the amount of time it has taken to make proposals with still no finalised press law available. During the process of re-drafting its Press Law, the Ministry of Information unexpectedly published a draft Printing and Publishing Enterprise Law which would continue to give the Ministry of Information the power to license newspapers, news websites and foreign news agencies and has strict rules on pornography and the incitement of public disorder. The restrictive press law put forward by the Ministry of Information must be abolished and the Press Council must be allowed to continue to lead on the process of drafting a new legal framework for the press and other media actors.

RSF response:

The Press Scrutiny Board, as a part of the Press Scrutiny and Registration Division (PSRD), is abolished. However the functions of handling registration of Media were left untouched. It means that the governmental body has the power to grant or refuse licence to print media, a power which is not in conformity with international standards. To be fully complete, the reform should abolish entirely the PSRD and develop a new law for Print media specifying that no licence are required to start a privately owned publication. The current draft of the law on broadcasting media should also be revised before being submitted to the upper house. The nationality of media owner, the cross-market ownership, the ceiling on foreign investments and the independence of the Council towards the media Authority, two bodies elaborated within the draft, should be revised to become in conformity with international standards.

Recommendation n°131: *Begin a transparent and inclusive dialogue with all national stakeholders, including opposition parties and civil society, aimed at reviewing and*



reforming all relevant national legislation to ensure that it is consistent with international human rights law (Recommended by Maldives)

IRI: *partially implemented*

PEN response:

The democratisation process and national dialogue excludes ethnic diversity. Ethnic conflict is seriously threatening the reform and national reconciliation process, and human rights violations are taking place in ethnic states on a large scale, particularly in Rakhine state where state-sanctioned policies of oppression and exclusion are systematically applied towards the Rohingya Muslims. According to Burma Campaign UK, at least a quarter of a million people have been displaced by conflict, human rights abuses and violence since Thein Sein became President, at least half of whom are Rohingya who have fled from inter-communal violence which broke out in June 2012.

Hopes for a democratic government in Burma — as well as national reconciliation — depend on the release of prisoners associated with the country's ethnic groups. Several ethnic-based political parties have stated they will not participate in parliamentary elections until their members are released from custody. Also, prospects for stable ceasefires and lasting peace with various ethnic-based militias may require the release of their members currently in detention.

All emerging civil society groups should be recognised by the government, and protected by effective legislation.

IC response:

The space for political debate is far greater than at any time in Burma's recent history, yet with the transition incomplete, the legal framework has changed little. The restrictive 2008 constitution and the politicised judiciary means that the executive still has considerable powers to curtail freedom of expression; that these powers are increasing falling into abeyance does not mean that reform is no longer necessary. While the 2008 constitution guarantees the right to freedom of assembly (section 345(b)), a number of laws, including the Peaceful Assembly and Peaceful Procession Law and section 505 of the penal code are not compatible with the constitutional provision and therefore should be amended. The 2008 Constitution also embedded the lack of judicial independence with all Supreme Court judges appointed by the President. Parliament still has no right to deny presidential confirmations.

Since 2010, political prisoners have been released, censorship boards abolished, the leading opposition political party the NLD has been allowed to regroup and by-elections have given leading NLD figures seats in parliament for the first time. Yet, there remains uncertainty over the motives of the main political actors and their commitment to the transition, in particular regarding President Thein Sein's commitment to reforms to bolster freedom of expression and other civil and political rights. The USDP's motives are also questionable as the party is split between reformers and those closer to the generals, who urge caution on the speed of change, or whether the transition should be happening at all.² While the government's choice is over the speed and depth of reform; the new openness is



presenting Aung San Suu Kyi and the NLD with new scrutiny over their policies. Freedom of expression is providing space for the opposition to debate issues in public that had previously remained unresolved, but is also raising new questions for the opposition to answer. The space for political debate is far greater than at any time in Burma's recent history, yet with the transition incomplete, the legal framework has changed little. The restrictive 2008 constitution and the politicised judiciary means that the executive still has considerable powers to curtail freedom of expression; that these powers are increasing falling into abeyance does not mean that reform is no longer necessary. One of the most serious challenges to freedom of expression is Burma's restrictive laws on freedom of association and protest. Here little progress has been made since the beginning of the transition, and arguably with new laws on protest missing an opportunity for reform, progress has stalled.

Recommendation n^o134: *Pursue dialogue and cooperation among all stakeholders, including with a view to ensuring that the Constitution provisions are in line with international standards related to democracy and human rights (Recommended by Norway)*

IRI: *partially implemented*

IC response:

Since 2010, political prisoners have been released, censorship boards abolished, the leading opposition political party the NLD has been allowed to regroup and by-elections have given leading NLD figures seats in parliament for the first time. Yet, there remains uncertainty over the motives of the main political actors and their commitment to the transition, in particular regarding President Thein Sein's commitment to reforms to bolster freedom of expression and other civil and political rights. The USDP's motives are also questionable as the party is split between reformers and those closer to the generals, who urge caution on the speed of change, or whether the transition should be happening at all. While the government's choice is over the speed and depth of reform; the new openness is presenting Aung San Suu Kyi and the NLD with new scrutiny over their policies. Freedom of expression is providing space for the opposition to debate issues in public that had previously remained unresolved, but is also raising new questions for the opposition to answer. The space for political debate is far greater than at any time in Burma's recent history, yet with the transition incomplete, the legal framework has changed little. The restrictive 2008 constitution and the politicised judiciary means that the executive still has considerable powers to curtail freedom of expression; that these powers are increasing falling into abeyance does not mean that reform is no longer necessary. One of the most serious challenges to freedom of expression is Burma's restrictive laws on freedom of association and protest. Here little progress has been made since the beginning of the transition, and arguably with new laws on protest missing an opportunity for reform, progress has stalled.

Recommendation n^o135: *Promptly bring its domestic legislation and Constitution in line with international standards and remove restrictions on fundamental freedoms, including freedom of expression, freedom of peaceful assembly and association, freedom of the press and religious freedom (Recommended by Canada)*

IRI: *partially implemented*

PEN response:

Government have said it will commit to international transparency standards and have accepted recommendations to consider ratifying and implementing certain key international human rights treaties. Concrete steps need to be taken to ensure these commitments are met and fully implemented.

IC response:

The space for political debate is far greater than at any time in Burma's recent history, yet with the transition incomplete, the legal framework has changed little. The restrictive 2008 constitution and the politicised judiciary means that the executive still has considerable powers to curtail freedom of expression; that these powers are increasing falling into abeyance does not mean that reform is no longer necessary. While the 2008 constitution guarantees the right to freedom of assembly (section 345(b)), a number of laws, including the Peaceful Assembly and Peaceful Procession Law and section 505 of the penal code are not compatible with the constitutional provision and therefore should be amended. The 2008 Constitution also embedded the lack of judicial independence with all Supreme Court judges appointed by the President. Parliament still has no right to deny presidential confirmations.

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The abolition of the pre-censorship of the printed press, the return of daily newspapers and of formerly exiled independent newspapers and media outlets all point to demonstrable change since the beginning of the transition. It is also a better climate for journalists with the release of a number of journalists from jail during the transition. Despite these advances during the transition period, the legal framework is largely unchanged during the transition with a number of laws that restrict and impact



upon freedom of expression namely: the State Protection Act (1975), the Unlawful Association Act (1908), the Television and Video Law (1985), the Motion Picture Law (1996), the Computer Science and Development Law (1996), the Printers and Publishers Registration Act (1962) and significant sections of the penal code. It is of concern that laws enacted or proposed since the transition also fail to protect freedom of expression and assembly namely the Peaceful Assembly and Peaceful Procession Law (passed in 2011) and the new draft Printing and Publishing Enterprise Law (drafted by the Ministry of Information). These laws signal that the government's future commitment to reform may be less bold than the framework provided by the relaxation of the existing laws. While the 2008 constitution guarantees the right to freedom of assembly, a number of laws, including the Peaceful Assembly and Peaceful Procession Law and section 505 of the penal code are not compatible with the constitutional provision and therefore should be amended.

Section 505 of the penal code dates from the colonial era (1861) and continues to be used to stifle freedom of association. Breaching section 505 of the penal code is a criminal offence with a sanction of up to two years imprisonment.

The law on Peaceful Assembly and Peaceful Procession was revised as of December 2011. Human rights organisations – including the International Commission of Jurists⁵⁹ and Human Rights Watch⁶⁰ - criticised the revision for falling short of international standards. The new law allows peaceful assembly, but requires prior notification which is used in an arbitrary manner to hold up the organisation of event and can be used to ban them. To demonstrate, local groups need to apply for a permit from the police specifying: the time of the demonstration, the number of people who will attend and the streets you wish to protest on. All of these can be amended by the local authorities. On the permit, an organiser has to be specified (including their address and national ID number) who bears direct responsibility for any disorder or violence: a large disincentive to organising any actions in a country emerging from a military dictatorship.

The wide range of laws available to the authorities to curtail the free association and freedom of expression of civil society groups and associations is still stifling the openness of Burmese society. While the laws are no longer applied to the same extent as prior to the transition, their continuing existence in the criminal code is having a chilling effect on the formalisation of civil society from informal groupings into more professional NGOs and the restrictions on protest limit the ability of civil society to engage a wider spectrum of the population.

RSF response:

The Press Scrutiny Board, as a part of the Press Scrutiny and Registration Division (PSRD), is abolished. However the functions of handling registration of Media were left untouched. It means that the governmental body has the power to grant or refuse licence to print media, a power which is not in conformity with international standards. To be fully complete, the reform should abolish entirely the PSRD and develop a new law for Print media specifying that no licence are required to start a privately owned publication. The current draft of the law on broadcasting media should also be



revised before being submitted to the upper house. The nationality of media owner, the cross-market ownership, the ceiling on foreign investments

Additionally, the inclusion of Internet and the acknowledgment of media convergence in both print and broadcasting media bills should be considered. The fact that some media are turning to web-tv channels and the recent creation of an online radio station, in order to avoid broadcasting regulation, clearly show the limitations of the proposed regulations. In order to avoid legal loopholes, a multimedia approach should be at the core of the current reflexion on new regulations .

Recommendation n°136: Review domestic legislation that criminalizes peaceful political dissent and review arrest warrants issued on the basis of such legislation (Recommended by Brazil)

IRI: partially implemented

PEN response:

There have been large-scale releases of political prisoners, including all PEN main cases. However, all were forced to sign an official release letter which states that any future arrests, regardless of the offence, will result in the offender returning to jail to see out the remainder of their original sentence.

Almost all the political prisoners released since 2011 have only had their sentences suspended under Burma penal code 401, rather than receiving full pardons. If they are convicted again, they will serve the new prison terms, and the old prison term they did not finish serving will be added to it. All the repressive laws that put them in prison still remain in place. Some continue to be subject to brief detentions.

Political prisoners were released with no programme of restoratory justice. They still have criminal records, and receive no compensation, no support for the medical care they need to recover from torture, mistreatment and psychological abuses. They receive no support to rebuild their lives.

IC response:

Since 2010, political prisoners have been released, censorship boards abolished, the leading opposition political party the NLD has been allowed to regroup and by-elections have given leading NLD figures seats in parliament for the first time. Yet, there remains uncertainty over the motives of the main political actors and their commitment to the transition, in particular regarding President Thein Sein's commitment to reforms to bolster freedom of expression and other civil and political rights. One of the most serious challenges to freedom of expression is Burma's restrictive laws on freedom of association and protest. Here little progress has been made since the beginning of the transition, and arguably with new laws on protest missing an opportunity for reform, progress has stalled.

Recommendation n°174: Withdraw the restrictions placed upon the freedoms of opinion, expression and information and immediately release the estimated 2,100 political prisoners and prisoners of conscience (Recommended by France)

IRI: fully implemented

PEN response:

There have been large-scale releases of political prisoners, including all PEN main cases. However, all were forced to sign an official release letter which states that any future arrests, regardless of the offence, will result in the offender returning to jail to see out the remainder of their original sentence.

According to President U Thein Sein, a special committee is reviewing all cases, and is working to ensure that no one will remain in prison by the end of 2013 due to his or her political beliefs or actions. However there are widespread concerns that political prisoners are merely being 'rebranded' as criminals.

Thousands of prisoners have been freed. Estimates of how many political prisoners remain detained in Burma vary. According to the Assistance Association for Political Prisoners (Burma), or AAPP(B), a non-profit organization dedicated to identifying and supporting political prisoners in Burma, the Burmese government may be holding at least 164 political prisoners in its 42 prisons and 109 labour camps scattered across the country. Other estimates range from 360 to 630 political prisoners. Arrests are continuing, particularly in ethnic regions, under the new 'protest' law.

Almost all the political prisoners released since 2011 have only had their sentences suspended under Burma penal code 401, rather than receiving full pardons. If they are convicted again, they will serve the new prison terms, and the old prison term they didn't finish serving will be added to it. All the repressive laws that put them in prison still remain in place. Some continue to be subject to brief detentions.

IC response:

Political prisoners, including Aung San Suu Kyi, have been released. The media in Burma is freer now than at any point in the last decade, yet significant challenges remain and there are troubling signs on the horizon. The abolition of the pre-censorship of the printed press, the return of daily newspapers and of formerly exiled independent newspapers and media outlets all point to demonstrable change since the beginning of the transition. It is also a better climate for journalists with the release of a number of journalists from jail during the transition. Despite these advances during the transition period, the legal framework is largely unchanged during the transition with a number of laws that restrict and impact upon freedom of expression namely: the State Protection Act (1975), the Unlawful Association Act (1908), the Television and Video Law (1985), the Motion Picture Law (1996), the Computer Science and Development Law (1996), the Printers and Publishers Registration Act (1962) and significant sections of the penal code. It is of concern that laws enacted or proposed since the transition also fail to protect freedom of expression and assembly namely the Peaceful Assembly and Peaceful Procession Law (passed in 2011) and the new draft Printing and Publishing Enterprise Law (drafted by the Ministry of Information). These laws signal that the government's future commitment to reform may be less bold than the framework provided by the relaxation of the existing laws. One of the most serious challenges to freedom of expression is Burma's restrictive laws on freedom of association and protest. Here little progress has been made since the beginning of the transition, and arguably with new laws on protest missing an opportunity for reform, progress has stalled.



RSF response:

As for Norway and Canada's recommendations [number 126 and 135 respectively], Burma has rejected the French recommendation to abrogate its repressive laws, such as the 1962 Printing and Publishing Law, the 2004 Electronic transaction Act etc... The current process of reforming its legal framework for the media is slowed down by a clear lack of transparency that provokes exclusion of Media professionals from the debate needed to elaborate a new setoff rules, and by the National Assembly majority that have rejected on several occasions propositions to amend some repressive laws while adopting blindly an unsatisfying media bill proposed by the government in July 2013.

Recommendation n°175: *Urgently release all remaining political prisoners*
(Recommended by *Germany*)

IRI: *fully implemented*

PEN response:

According to President U Thein Sein, a special committee is reviewing all cases, and is working to ensure that no one will remain in prison by the end of 2013 due to his or her political beliefs or actions. However there are widespread concerns that political prisoners are merely being 'rebranded' as criminals.

Thousands of prisoners have been freed. Estimates of how many political prisoners remain detained in Burma vary. According to the Assistance Association for Political Prisoners (Burma), or AAPP(B), a non-profit organization dedicated to identifying and supporting political prisoners in Burma, the Burmese government may be holding at least 164 political prisoners in its 42 prisons and 109 labour camps scattered across the country. Other estimates range from 360 to 630 political prisoners. Arrests are continuing, particularly in ethnic regions, under the new 'protest' law.

Almost all the political prisoners released since 2011 have only had their sentences suspended under Burma penal code 401, rather than receiving full pardons. If they are convicted again, they will serve the new prison terms, and the old prison term they didn't finish serving will be added to it. All the repressive laws that put them in prison still remain in place. Some continue to be subject to brief detentions.

Political prisoners were released with no programme of restoratory justice. They still have criminal records, and receive no compensation, no support for the medical care they need to recover from torture, mistreatment and psychological abuses. They receive no support to rebuild their lives.

Recommendation n°176: *Immediately and unconditionally release all political prisoners and allow ICRC unrestricted access to the remaining prisoners*
(Recommended by *United States*)

IRI: *partially implemented*

+



Recommendation n°177: *Adopt the necessary measures to ensure the release of the people deprived of their liberty for motives of conscience* (Recommended by Argentina)

IRI: *partially implemented*

+

Recommendation n°178: *Release immediately all persons who are detained solely on the basis of their peaceful political activity, ethnicity or religion* (Recommended by Canada)

IRI: *partially implemented*

+

Recommendation n°179: *Free without delay all persons detained for political reasons* (Recommended by Belgium)

IRI: *partially implemented*

+

Recommendation n°180: *Release immediately and unconditionally all those imprisoned for peacefully exercising their rights to freedom of expression, association and assembly* (Recommended by United Kingdom)

IRI: *partially implemented*

+

Recommendation n°181: *Immediately release all political prisoners* (Recommended by Austria)

IRI: *partially implemented*

+

Recommendation n°182: *Immediately and unconditionally release the estimated 2,200 political prisoners* (Recommended by Greece)

IRI: *partially implemented*

+

Recommendation n°183: *The immediate and unconditional release of all human rights defenders, democracy activists and other political prisoners* (Recommended by Norway)

IRI: *partially implemented*

+

Recommendation n°184: *Release immediately and unconditionally all persons currently detained for their peaceful political activities, and guarantee them unrestricted freedom of movement and expression and freedom to participate in political activities* (Recommended by Switzerland)

IRI: *partially implemented*

+

Recommendation n°186: *Respond to the constant calls of the international community for the immediate and unconditional release of all prisoners of conscience, currently estimated at more than 2,100, and a full restoration of their political rights* (Recommended by Czech Republic)

IRI: *partially implemented*

PEN response:

There have been large-scale releases of political prisoners, including all PEN main cases. However, all were forced to sign an official release letter which states that any future arrests, regardless of the offence, will result in the offender returning to jail to see out the remainder of their original sentence.



According to President U Thein Sein, a special committee is reviewing all cases, and is working to ensure that no one will remain in prison by the end of 2013 due to his or her political beliefs or actions. However there are widespread concerns that political prisoners are merely being 'rebranded' as criminals.

Thousands of prisoners have been freed. Estimates of how many political prisoners remain detained in Burma vary. According to the Assistance Association for Political Prisoners (Burma), or AAPP(B), a non-profit organization dedicated to identifying and supporting political prisoners in Burma, the Burmese government may be holding at least 164 political prisoners in its 42 prisons and 109 labour camps scattered across the country. Other estimates range from 360 to 630 political prisoners. Arrests are continuing, particularly in ethnic regions, under the new 'protest' law.

Almost all the political prisoners released since 2011 have only had their sentences suspended under Burma penal code 401, rather than receiving full pardons. If they are convicted again, they will serve the new prison terms, and the old prison term they didn't finish serving will be added to it. All the repressive laws that put them in prison still remain in place. Some continue to be subject to brief detentions.

Political prisoners were released with no programme of restorative justice. They still have criminal records, and receive no compensation, no support for the medical care they need to recover from torture, mistreatment and psychological abuses. They receive no support to rebuild their lives.

Recommendation n^o185: Respond positively to the calls of the international community for the release of prisoners of conscience and engage in a meaningful and inclusive dialogue with all political parties and ethnic groups and other relevant stakeholders towards democratization and national reconciliation (Recommended by Republic of Korea)

IRI: fully implemented

PEN response:

There have been large-scale releases of political prisoners, including all PEN main cases. However, all were forced to sign an official release letter which states that any future arrests, regardless of the offence, will result in the offender returning to jail to see out the remainder of their original sentence.

According to President U Thein Sein, a special committee is reviewing all cases, and is working to ensure that no one will remain in prison by the end of 2013 due to his or her political beliefs or actions. However there are widespread concerns that political prisoners are merely being 'rebranded' as criminals.

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Political prisoners were released with no programme of restoratory justice. They still have criminal records, and receive no compensation, no support for the medical care they need to recover from torture, mistreatment and psychological abuses. They receive no support to rebuild their lives.

IC response:

Since 2010, many but not all political prisoners have been released, censorship boards abolished, the leading opposition political party the NLD has been allowed to regroup and by-elections have given leading NLD figures seats in parliament for the first time. Yet, there remains uncertainty over the motives of the main political actors and their commitment to the transition, in particular regarding President Thein Sein's commitment to reforms to bolster freedom of expression and other civil and political rights. The USDP's motives are also questionable as the party is split between reformers and those closer to the generals, who urge caution on the speed of change, or whether the transition should be happening at all.

While the government's choice is over the speed and depth of reform; the new openness is presenting Aung San Suu Kyi and the NLD with new scrutiny over their policies. Freedom of expression is providing space for the opposition to debate issues in public that had previously remained unresolved, but is also raising new questions for the opposition to answer. The space for political debate is far greater than at any time in Burma's recent history, yet with the transition incomplete, the legal framework has changed little. The restrictive 2008 constitution and the politicised judiciary means that the executive still has considerable powers to curtail freedom of expression; that these powers are increasing falling into abeyance does not mean that reform is no longer necessary.

Recommendation n^o187: *Erase the criminal records of all political prisoners and unconditionally release them under a genuine amnesty* (Recommended by Italy)

IRI: *not implemented*

PEN response:

Almost all the political prisoners released since 2011 have only had their sentences suspended under Burma penal code 401, rather than receiving full pardons. If they are convicted again, they will serve the new prison terms, and the old prison term they didn't finish serving will be added to it. All the repressive laws that put them in prison still remain in place. Some continue to be subject to brief detentions.

Political prisoners were released with no programme of restoratory justice. They still have criminal records, and receive no compensation, no support for the medical care they need to recover from torture, mistreatment and psychological abuses. They receive no support to rebuild their lives.



Recommendation n°188: *Recognize the pre-election registration status of the National League for Democracy (NLD) and to begin a dialogue of national reconciliation with the NLD and other ethnic and democratic actors in the country (Recommended by United States)*

IRI: *partially implemented*

PEN response:

The National League for Democracy (NLD) is preparing for 2015 elections, including the possible amendment of the constitution. However to date there has been no constitutional change to allow Aung San Suu Kyi to run for President or to reduce the power of the military. Currently there cannot be a fully democratic elected civilian government in Myanmar, as 25% of key Ministerial posts are constitutionally reserved for serving soldiers nominated by the military.

IC response:

Since 2010, many but not all political prisoners have been released, censorship boards abolished, the leading opposition political party the NLD has been allowed to regroup and by-elections have given leading NLD figures seats in parliament for the first time. Yet, there remains uncertainty over the motives of the main political actors and their commitment to the transition, in particular regarding President Thein Sein's commitment to reforms to bolster freedom of expression and other civil and political rights. The USDP's motives are also questionable as the party is split between reformers and those closer to the generals, who urge caution on the speed of change, or whether the transition should be happening at all. While the government's choice is over the speed and depth of reform; the new openness is presenting Aung San Suu Kyi and the NLD with new scrutiny over their policies. Freedom of expression is providing space for the opposition to debate issues in public that had previously remained unresolved, but is also raising new questions for the opposition to answer. The space for political debate is far greater than at any time in Burma's recent history, yet with the transition incomplete, the legal framework has changed little. The restrictive 2008 constitution and the politicised judiciary means that the executive still has considerable powers to curtail freedom of expression; that these powers are increasing falling into abeyance does not mean that reform is no longer necessary.

Recommendation n°189: *Remove all restrictions of freedom of association and assembly, including by refraining from penalizing peaceful political opposition activities, remove restrictions on independent media, including international journalists, and end harassment, religious discrimination, arbitrary arrest, torture, and imprisonment of peaceful political activities by ethnic minorities (Recommended by Sweden)*

IRI: *not implemented*

PEN response:

There have been large-scale releases of political prisoners, including all PEN main cases. However, all were forced to sign an official release letter which states that any future arrests, regardless of the offence, will result in the offender returning to jail to see out the remainder of their original sentence.



According to President U Thein Sein, a special committee is reviewing all cases, and is working to ensure that no one will remain in prison by the end of 2013 due to his or her political beliefs or actions. However there are widespread concerns that political prisoners are merely being 'rebranded' as criminals.

Thousands of prisoners have been freed. Estimates of how many political prisoners remain detained in Burma vary. According to the Assistance Association for Political Prisoners (Burma), or AAPP(B), a non-profit organization dedicated to identifying and supporting political prisoners in Burma, the Burmese government may be holding at least 164 political prisoners in its 42 prisons and 109 labour camps scattered across the country. Other estimates range from 360 to 630 political prisoners. Arrests are continuing, particularly in ethnic regions, under the new 'protest' law.

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Political prisoners were released with no programme of restorative justice. They still have criminal records, and receive no compensation, no support for the medical care they need to recover from torture, mistreatment and psychological abuses. They receive no support to rebuild their lives.

CSW response:

Torture by both the police and military continues to be reported in Myanmar.

IC response:

Since 2010, political prisoners have been released, censorship boards abolished, the leading opposition political party the NLD has been allowed to regroup and by-elections have given leading NLD figures seats in parliament for the first time. Yet, there remains uncertainty over the motives of the main political actors and their commitment to the transition, in particular regarding President Thein Sein's commitment to reforms to bolster freedom of expression and other civil and political rights. Despite certain advances during the transition period, the legal framework is largely unchanged during the transition with a number of laws that restrict and impact upon freedom of expression namely: the State Protection Act (1975), the Unlawful Association Act (1908), the Television and Video Law (1985), the Motion Picture Law (1996), the Computer Science and Development Law (1996), the Printers and Publishers Registration Act (1962) and significant sections of the penal code. It is of concern that laws enacted or proposed since the transition also fail to protect freedom of expression and assembly namely the Peaceful Assembly and Peaceful Procession Law (passed in 2011) and the new draft Printing and Publishing Enterprise Law (drafted by the Ministry of Information). These laws signal that the government's future commitment to reform may be less bold than the framework provided by the relaxation of the existing laws. A number of long-running ethnic conflicts have increased in intensity in the past year. The military use state of emergency powers – such as in Rakhine State in June 2012³⁵ and in the city of



Meikhtila on 22 March 201336 – routinely with little parliamentary or judicial oversight.

Resolution to on-going conflict in Rakhine State, Kachin State and Kayin State is not assured in the transition to democracy.

Chin Human Rights Organisation (CHRO) response:

Not implemented. The UN Special Rapporteur on the human rights situation in Myanmar described discrimination in Chin State in particular as "systematic and endemic" in his September 2011 report to the UN General Assembly. Unlike some other ethnic States in Burma/Myanmar which are home to a number of different ethnic groups, the vast majority of the population in Chin State is ethnically Chin. According to demographic information held by the Ministry of Religious Affairs in 2010, 87 percent of people in Chin State are Christian. While Chin Christians are able to secure low-level civil service positions in Chin State, very few are given promoted positions. According to information published in CHRO's September 2012 report "Threats to Our Existence": Persecution of Ethnic Chin Christians in Burma [Myanmar], at the Chin State level just 14 percent of departmental head positions are held by Chin Christians. At the township level, only one quarter of the Township Administrative Officer positions are held by Chin Christians; the rest are occupied by Burman Buddhists. Since 1990, the national identity card has denoted the bearer's ethnicity and religion, which means that ethnic and religious minorities are easily identifiable and therefore vulnerable to discrimination. Since January 2011 when the UPR took place, CHRO has documented 17 violations of freedom of religion or belief (FoRB) in its Rhododendron News and "Threats to Our Existence" reports. These range from discrimination and harassment by local authorities on grounds of ethnicity and religion (Chin and Christian), to the destruction or removal of four Christian crosses on the direct orders of the authorities, the disruption of a large-scale Christian conference by Burma/Myanmar Army soldiers, and coercion to convert to Buddhism by State actors in a government-run 'vocational training' school known as Border Areas National Races Youth Development Training or Na Ta La school. In October 2012, five UN Special Procedures mandate-holders under the Human Rights Council wrote a letter of allegation to the government based on the documentation in "Threats to Our Existence". In response, President Thein Sein mandated the Myanmar National Human Rights Commission (MNHRC) to investigate in December 2012. While CHRO welcomes this initiative, the results of the investigation have yet to be made public, and CHRO urges the MNHRC to publish its findings. Although various government officials have claimed that restrictions on FoRB have been eased in Chin State, to date it is unclear whether this has been implemented in practice. CHRO will continue to monitor the situation closely.

Recommendation n^o190: Allow full participation by all ethnic and democratic groups, including the National League for Democracy and Aung San Suu Kyi, in the political life of the country, allowing the start of a genuine process of national reconciliation (Recommended by United Kingdom)

IRI: partially implemented



PEN response:

The National League for Democracy (NLD) is preparing for 2015 elections, including the possible amendment of the constitution. However to date there has been no constitutional change to allow Aung San Suu Kyi to run for President or to reduce the power of the military. Currently there cannot be a fully democratic elected civilian government in Myanmar, as 25% of key Ministerial posts are constitutionally reserved for serving soldiers nominated by the military.

The democratisation process and national dialogue excludes ethnic diversity. Ethnic conflict is seriously threatening the reform and national reconciliation process, and human rights violations are taking place in ethnic states on a large scale, particularly in Rakhine state where state-sanctioned policies of oppression and exclusion are systematically applied towards the Rohingya Muslims. According to Burma Campaign UK, at least a quarter of a million people have been displaced by conflict, human rights abuses and violence since Thein Sein became President, at least half of whom are Rohingya who have fled from inter-communal violence which broke out in June 2012.

Hopes for a democratic government in Burma—as well as national reconciliation—depend on the release of prisoners associated with the country's ethnic groups. Several ethnic-based political parties have stated they will not participate in parliamentary elections until their members are released from custody. Also, prospects for stable ceasefires and lasting peace with various ethnic-based militias may require the release of their members currently in detention.

CSW response:

Following the Peaceful Demonstrations and Gathering Law (July 2012), peaceful protests are allowed in Myanmar. The abolition of previous censorship law has also enable a greater freedom of press. However, minority groups such as the Rohingya remain vulnerable to civil and political abuse, partly due to existing statutes such as the 1982 Citizenship Law. Other unresolved issues include: over 150 political prisoners; indefinite detainment without charge under the 1975 State Protection Act.; continuing self-censorship

Recommendation n^o191: *Ensure the free participation of representatives of all political parties, including the National League of Democracy as well as other non parliamentary political parties, representatives of ethnic groups and other relevant stakeholders across society in an inclusive political process (Recommended by Czech Republic)*

IRI: *partially implemented*

PEN response:

The National League for Democracy (NLD) is preparing for 2015 elections, including the possible amendment of the constitution. However to date there has been no constitutional change to allow Aung San Suu Kyi to run for President or to reduce the power of the military. Currently there cannot be a fully democratic elected civilian government in Myanmar, as 25% of key Ministerial posts are constitutionally reserved for serving soldiers nominated by the military.



The democratisation process and national dialogue excludes ethnic diversity. Ethnic conflict is seriously threatening the reform and national reconciliation process, and human rights violations are taking place in ethnic states on a large scale, particularly in Rakhine state where state-sanctioned policies of oppression and exclusion are systematically applied towards the Rohingya Muslims. According to Burma Campaign UK, at least a quarter of a million people have been displaced by conflict, human rights abuses and violence since Thein Sein became President, at least half of whom are Rohingya who have fled from inter-communal violence which broke out in June 2012.

Hopes for a democratic government in Burma — as well as national reconciliation — depend on the release of prisoners associated with the country's ethnic groups. Several ethnic-based political parties have stated they will not participate in parliamentary elections until their members are released from custody. Also, prospects for stable ceasefires and lasting peace with various ethnic-based militias may require the release of their members currently in detention.

Recommendation n^o192: *Remove all restrictions on freedom of expression, association and assembly in law and in practice and that legal and legitimate political opposition parties and civil society be able to voice their political opinions* (Recommended by Norway)

IRI: *not implemented*

PEN response:

National security provisions remain in place, including the 1950 Emergency Provisions Act, the 2000 Internet Act, and the 2004 Electronic Transactions Act, which have all been used to imprison writers, journalists and activists and will continue to pose a threat to free expression unless they are abolished. Legal reform is much needed, in particular effective legislation to protect freedom of expression and information.

New draft bills have been proposed on press, broadcasting, and new law on 'right to protest', and in August 2012 the Censorship board was broken up and replaced with the Myanmar Press Council (MPC). Prior censorship was scrapped. However, the new legislation is weak. Draft bills on press require licences to speak and the 'right to protest law' requires "permission" and can be used to arrest gatherings of more than two people. Of particular concern is the Printing and Publishing Enterprise Law bill, passed by Myanmar's lower house of parliament on 4 July 2013, and which is said to fall far below international standards. The Press Council has said it will resign if the bill is passed. The Press Council, founded in October 2012, falls far short of international standards. Trust in its efficiency and transparency is low. Corruption levels are amongst the highest in the world and trust in the rule of law is lacking.

IC response:

Despite certain advances during the transition period, the legal framework is largely unchanged during the transition with a number of laws that restrict and impact upon freedom of expression namely: the State Protection Act (1975), the Unlawful Association Act (1908), the Television and Video Law (1985), the Motion Picture Law (1996), the Computer Science and Development Law (1996), the Printers and



Publishers Registration Act (1962) and significant sections of the penal code. It is of concern that laws enacted or proposed since the transition also fail to protect freedom of expression and assembly namely the Peaceful Assembly and Peaceful Procession Law (passed in 2011) and the new draft Printing and Publishing Enterprise Law (drafted by the Ministry of Information). These laws signal that the government's future commitment to reform may be less bold than the framework provided by the relaxation of the existing laws. One of the most serious challenges to freedom of expression is Burma's restrictive laws on freedom of association and protest. Here little progress has been made since the beginning of the transition, and arguably with new laws on protest missing an opportunity for reform, progress has stalled.

ESC Rights

Recommendation n°9: *Continue to improve its domestic legislation and judiciary system to be in line with international human rights standards and obligations including intensifying human rights education and training, especially for its military and law enforcement officers, in order to enhance their awareness and promote greater accountability (Recommended by Thailand)*

IRI: *not implemented*

UNPO response:

The Press Release by the United Nations Special Rapporteur on Human Rights in Myanmar, Tomas Ojea Quintana, dated May 1st which was published on the UN Office of the High Commissioner for Human Rights' website, illustrates the perceived lack of accountability in Myanmar during the religious violence in Rankhine State. While he welcomed the dissolution of the Nasaka border security force, he also felt the need to call on the government "to investigate and hold accountable those members of the force responsible for human rights abuses".

Last year's Human Rights Watch report illustrated the problems clearly with not only a lack of awareness amongst Security Forces, but with the Security Forces being the perpetrators as well during the period of religious violence in Arakan State.

CSW response:

Since 2012, peaceful protests have gained legal protection in Myanmar. The abolition of previous censorship law has also enable a greater freedom of press. However, minority groups such as the Rohingya remain vulnerable to civil and political abuse, partly due to existing statutes such as the 1982 Citizenship Law. Other unresolved issues include: over 150 political prisoners; indefinite detainment without charge under the 1975 State Protection Act.; continuing self-censorship.

Myanmar has not agreed to any further international agreements or treaties regarding human rights

Recommendation n^o13: *Initiate as possible, with the assistance of the international community, the programmes of investment need in the health, education and social security sectors (Recommended by Algeria)*

IRI: *partially implemented*

CSW response:

Although officially education is compulsory until the age of 16. in fact less than half of Myanmar's children receive education to this level. This problem is, of course, particularly acute in the case of minorities such as the Rohingya. Poverty and conflict mean that a right to education is severely undermined.

Infant mortality and malnutrition are high in Myanmar. In addition, AIDS/HIV, tuberculosis and malaria are at epidemic levels.

Myanmar has been utilising the assistance of the international community.

KHRG response:

Between 2011 and August 2013, KHRG documented failures by the Myanmar government to protect, respect, and/or fulfill the rights to health and education in all seven Karen districts. The educational system throughout Karen areas remained poor — KHRG typically only receives reports when the government fails to fulfill promises related to education, or actively interferes with educational activities. There are many more villages in Karen areas where government supported educational facilities simply do not exist. In Thaton District, villagers reported that students are not able to attend school because they lack money for school fees and books, despite government promises not to charge fees. In Daw Hpa Hkoh Township, Thaton District, and in Bu Tho Township, Hpapun District, villagers reported that teachers abandoned the school in the middle of the year. In Htee Poh Sa Village, Toungoo District, villagers reported that they were unable to complete building a school when the government delivered only a fraction of promised funds. The right to education was also compromised by the exploitation that is part of day-to-day life in Karen districts. In one incident, in Nyaunglebin district, students were unable to attend school because a local with control over the road to the school demanded a monthly payment for use of the road. In another incident, villagers in Shway Weh village, Lu Pleh Township, Hpa-an District, were forced to close their school after access was cut off by the Hatgyi Dam project.

Like educational facilities, Government funded health facilities in Karen areas are not available to many villagers. Villagers throughout the Karen districts complained that the cost of health care was prohibitive, or that distance, quality of roads, and conflict-related restrictions on travel made access to health facilities impossible. Many communities in Karen districts rely on community based organizations for their health care, most prominently the Backpack Health Workers Team (BPHWT), which sends medics to provide care, deliver medical supplies, and conduct trainings in basic healthcare in rural ethnic areas throughout Myanmar. On October 28th, 2011, two BPHWT medics were arrested by the Myanmar Army, and their supplies confiscated. Though these medics were eventually released, following an international campaign on their behalf, these arrests had a chilling effect on health and human rights workers in Karen areas.



Recommendation n^o14: *Continue implementing the Government's reform policy and action plans to address socio-economic inequality in order to achieve further progress to improve the situation of human rights in the country especially in an effort to achieve most of the targets of the MDGs, including poverty reduction, the control of HIV and the fight against human trafficking (Recommended by Cambodia)*

IRI: *partially implemented*

CSW response:

Myanmar has over [200,000] people living with HIV. The Government has indicated that it is aware of the scale of this problem and has formulated a plan which aims to tackle the spread of the virus, for instances through early testing and treatment during pregnancy.

Poverty remains prevalent in Myanmar. According to the Asian Development Bank, around a quarter of the population live below the poverty line. It should, however, be noted that the government has implemented a number of measures aiming to tackle this situation, including floating the country's currency and taking steps to speed the rate of industrialisation. Under the Rural Development and Poverty Reduction Plan, the government is aiming to reduce poverty levels to 16% by 2015.

The Myanmar Government has been co-operating with the UN and INGOs in relation to human trafficking. In June 2012, the government signed an action with the UN. However, trafficking remains a serious and persistent problem which is compounded by other issues, such as the statelessness of minority groups (for instance, the Rohingya).

UNPO response:

Progress is being made in Myanmar with regards to the MDGs, however, most of this progress comes from the UNDP's lifting of mandate restrictions on UNDP Myanmar, which could just as easily be imposed again if the reforming government loses power. However the good governance supported by the current President, is one of the major topics the UNCT in Myanmar has identified as underlying all MDGs. The vocal support of the President is thus a major step towards making progress on the MDGs, even if 2015 is fast approaching and several areas are still far from achieving their goals.

The control of HIV is one of the areas in which Myanmar seems to be making the most progress, with current trends indicating that only 5000 new infections will occur in 2015, and that the rate of deaths due to HIV will drop 42% between 2010 and 2015.

Much of the world's poverty is located in rural areas. This also applies to Myanmar. Therefore it is vital that the peace process continues and the rural ethnic minorities get the same amount of government focus, to alleviate the poverty that exists in these regions. Better access for micro-financing institutions is vital to achieve these targets, since only 6% of the demand for these loans was met in 2011. The government has drafted specific legislation for the banking sector which resulted in a more conducive environment for micro-finance, which should help reduce poverty.



Recommendation n°16: *Continue implementing the strategies and plans for the socio-economic development of the country* (Recommended by Cuba)

IRI: *fully implemented*

CSW response:

Poverty remain prevalent in Myanmar. According to the Asian Development Bank, around a quarter of the population live below the poverty line. It should, however, be noted that the government has implemented a number of measures aiming to tackle this situation, including floating the country's currency and taking steps to speed the rate of industrialisation.

UNPO response:

While the government has pledged much reforms and has tried to give the economy of Myanmar a much-needed boost in recent years, local economists argue that most of the changes that have been made within Myanmar are only on paper and that the majority of the population has not benefited from the reforms. Most of the reforms have been adopted to combat corruption and to increase transparency. However for the economic situation within Myanmar to improve to such an extent that every member of society would benefit from it, above all its banking sector needs to be modernised. The recent central bank law granting it more autonomy from the finance ministry is definitely a step in the right direction.

Recommendation n°17: *Continue implementing the programmes and measures to improve the enjoyment of the right to education and the right to health of all its population* (Recommended by Cuba)

IRI: *not implemented*

CSW response:

Although officially education is compulsory until the age of 16. in fact less than half of Myanmar's children receive education to this level. This problem is, of course, particularly acute in the case of minorities such as the Rohingya. Poverty and conflict mean that a right to education is severely undermined.

Infant mortality and malnutrition are high in Myanmar. In addition, AIDS/HIV, tuberculosis and malaria are at epidemic levels.

KHRG response:

[See response to recommendation n° 13]

Human Rights Foundation of Monland (HURFOM) response:

Right to education is still a major issue in Mon areas. Education costs (including tuition and other costs such as books and uniforms) are still too high for all families to be able to afford. Child healthcare is still lacking because dengue fever outbreaks continue to affect many children and hospitals often do not have enough medicine, treatment facility space, or personnel to treat all the patients.

Recommendation n°19: *Continue its efforts to promote and protect human rights for its people and hold workshops and seminars to increase public awareness on human rights matters* (Recommended by Brunei Darussalam)

IRI: -



CSW response:

The Myanmar National Human Rights Commission has recently stated that human rights are to be included in the basic school system.

UNPO response:

To promote and protect human rights and freedoms, Myanmar should first of all ratify the core Human rights treaties and implement them, and then educating both the public and their officials in order to stop the systematic abuse of human rights within Myanmar. Economic development is good, but it needs to go hand in hand with social development, an area in which Myanmar still seems to lag far behind.

HURFOM response:

Civil society continues to lead in this area.

Recommendation n°20: *Strengthen policies and measures to ensure better respect and protection of all human rights, especially in the fields of fundamental economic, social and cultural rights and the right to development* (Recommended by Viet Nam)

IRI: partially implemented

CSW response:

Myanmar continues to support the right to development.

The Government has attempted to pass a number of promising measures to improve economic, social and cultural rights. These include: adopting a National Rural Development and Poverty Reduction Plan, measures intended to introduce social security, and a minimum wage. However, the continued persecution of particular ethno-religious groups within Myanmar considerably mitigates this progress.

UNPO response:

To promote and protect human rights and freedoms, Myanmar should first of all ratify the core Human rights treaties and implement them, and then educating both the public and their officials in order to stop the systematic abuse of human rights within Myanmar. Economic development is good, but it needs to go hand in hand with social development, an area in which Myanmar still seems to lag far behind.

HURFOM response:

Illicit drug trade and use in Mon areas has been shown to be unreasonably high, and the corruption involved in the trade makes the government particularly accountable. It also affects child rights to education.

Recommendation n°40: *Promote interreligious dialogue and cooperation at the key local and national levels* (Recommended by Philippines)

IRI: not implemented

UNPO response:

Religious tensions in Myanmar are still at a very high level. The ongoing discrimination of minority religions from both the government as from the population means that there is very little interreligious dialogue and is even detrimental to the situation. This remains an area of particular concern.



Karen Human Rights Group (KHRG) response:

Between 2011 and August 2013, KHRG documented discrimination against Muslims in two Karen districts, Hpapun and Hpa-an. In Hpapun District, in October 2012, representatives of the Myanmar Army Border Guard Force mandated that local Buddhists cease doing business with Muslims. After this incident was reported by KHRG, the Myanmar Army operations director for K'Ter Tee called the local villagers for a meeting to attempt to improve relations between Muslims and Buddhists. According to the villager who reported this incident, relations improved substantially after this meeting. KHRG did not receive information addressing this apparent contradiction between the attitudes of Myanmar Army-affiliated forces, though it is worth noting that local army commanders often do not have direct control over Border Guard Forces in their area. In an incident reported separately to KHRG, in December 2012, a monastery in Ta Kreh Township, Hpa-an District, released an edict forbidding Buddhists from (1) Marrying (2) Selling land to (3) doing business with or (4) Acting as guarantors for Muslims.

Recommendation n°41: *Fully cooperate with ILO and implement the recommendations of the ILO Inquiry Commission (Recommended by France)*

IRI: *fully implemented*

CSW response:

Myanmar has been co-operating with the ILO, as recognised by the latter in recently removing its restrictions on the country.

Myanmar has made progress towards eliminating forced labour.

UNPO response:

The ILO and Myanmar have had a fruitful working relationship over the last few years, with the situation improving gradually. While such things as forced labour continue to be an issue in Myanmar, the ILO has recognized the progress that has been made, as is evidenced by the ILO's historic move to remove all remaining ILO restrictions last June [2013].

Recommendation n°42: *Take appropriate measures and develop an action plan while continuing the cooperation with the international community to implement the MDGs, in particular poverty reduction, the right to food and food security (Recommended by Viet Nam)*

IRI: *not implemented*

CSW response:

Many communities within Myanmar remain in a state of poverty and lack sufficient food.

Poverty remain prevalent in Myanmar. According to the Asian Development Bank, around a quarter of the population live below the poverty line. It should, however, be noted that the government has implemented a number of measures aiming to tackle this situation, including floating the country's currency and taking steps to speed the rate of industrialisation. Under the Rural Development and Poverty Reduction Plan, the government is aiming to reduce poverty levels to 16% by 2015.



Myanmar does appear to have a formulated an action plan on the right to food and food security.

CHRO response:

According to UN statistics published in June 2011, Chin State is the poorest area of Burma/Myanmar with 73 percent of people living below the poverty line, rising to 80 percent in rural areas. The next poorest area is Rakhine State, where 44 percent live below the poverty line. The national average of 25 percent. Food security continues to be a major issue in Chin State. Heavy rain during the harvest in 2013 has destroyed crops in Chin State and left residents facing severe food shortages. The hardest-hit townships include Thantlang, Tedim, Mindat, and Paletwa. In the more remote areas, NGO or government aid workers are having trouble reaching affected villages because roads have been washed away. According to the Chin State government's statistics, at least 768 landslides occurred across Chin State between 21 August and 11 September 2013, largely due to heavy rains. The statistics only apply to roads constructed by the government, not those constructed by local communities themselves. In Chin State, many roads connecting villages are constructed and maintained by local communities with financial contributions from the Chin diaspora. The government has claimed that it has bulldozers positioned every 30 miles on the main roads, to respond quickly to landslides. However, local people complain that the government response is slow, and roads are blocked for days at a time. The Chin State government has also been slow to respond to the challenges of food security. In December 2012, a Chin State parliamentary representative made a proposal to the Chin State government to conduct a food security survey in Thantlang township. When the government did not appear to take any action, he conducted his own survey in his constituency in 2013, and found that 11 villages were suffering severe food shortages and hunger. During the Chin State parliamentary session from 17 September- 8 October 2013, the MP put forward a question based on the findings of his research, and asked the government if they would provide assistance. The Chin State government responded with statistics they had collected in 2012: only 38 percent of households in Thantlang township, 36% in Tedim, 26% in Falam, 48% in Hakha, 5% in Kanpetlet, and 34% in Mindat had adequate food supplies in 2012. Government representatives went on to say that although households didn't have enough food, they could somehow get by with other crops and that no-one had died of hunger in Chin State. In response to the MP's question about Thantlang township, the Chin State government promised to conduct their own investigation, and if they found evidence of severe food shortages and hunger, they would respond accordingly. To date, no follow-up investigation has been undertaken by the Chin State government.

Recommendation n^o43: *Enhance measures and international cooperation aimed at reducing poverty, fulfilling the MDGs, and strengthening capacity to respond effectively to natural disasters (Recommended by Philippines)*

IRI: *partially implemented*

CSW response:

Efforts have continued in this area.



Poverty remain prevalent in Myanmar. According to the Asian Development Bank, around a quarter of the population live below the poverty line. It should, however, be noted that the government has implemented a number of measures aiming to tackle this situation, including floating the country's currency and taking steps to speed the rate of industrialisation. Under the Rural Development and Poverty Reduction Plan, the government is aiming to reduce poverty levels to 16% by 2015.

CHRO response:

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Recommendation n^o44: *Pursue its efforts for balanced development that bridges the gap between the rural and urban areas, with special attention to the realization of MDGs on health (Recommended by Sudan)*

IRI: *fully implemented*



CSW response:

Although the gap between rural and urban areas remains great in Myanmar, efforts continue to improve the socio-economic situation.

Infant mortality and malnutrition are high in Myanmar. In addition, AIDS/HIV, tuberculosis and malaria are at epidemic levels.

Recommendation n°45: *Continue providing health-care services at primary health-care facilities at minimum or no cost (Recommended by Bhutan)*

IRI: *not implemented*

CSW response:

Infant mortality and malnutrition are high in Myanmar. In addition, AIDS/HIV, tuberculosis and malaria are at epidemic levels.

KHRG response:

Like educational facilities, Government funded health facilities in Karen areas are not available to many villagers. Villagers throughout the Karen districts complained that the cost of health care was prohibitive, or that distance, quality of roads, and conflict-related restrictions on travel made access to health facilities impossible. Many communities in Karen districts rely on community based organizations for their health care, most prominently the Backpack Health Workers Team (BPHWT), which sends medics to provide care, deliver medical supplies, and conduct trainings in basic healthcare in rural ethnic areas throughout Myanmar. On October 28th, 2011, two BPHWT medics were arrested by the Myanmar Army, and their supplies confiscated. Though these medics were eventually released, following an international campaign on their behalf, these arrests had a chilling effect on health and human rights workers in Karen areas.

Recommendation n°46: *Adopt a school feeding programme and integrate it with the local agricultural production (Recommended by Brazil)*

IRI: *not implemented*

CSW response:

Myanmar has not yet adopted a school-feeding programme

Recommendation n°47: *Continue its efforts to further improve the quality of education and health services (Recommended by DPR Korea)*

IRI: *not implemented*

CSW response:

Although officially education is compulsory until the age of 16. in fact less than half of Myanmar's children receive education to this level. This problem is, of course, particularly acute in the case of minorities such as the Rohingya. Poverty and conflict mean that a right to education is severely undermined.

Infant mortality and malnutrition are high in Myanmar. In addition, AIDS/HIV, tuberculosis and malaria are at epidemic levels

KHRG response:

[See response to recommendation n° 13]



Recommendation n°48: *Continue its efforts to develop and expand child-friendly schools based on CRC* (Recommended by *Bhutan*)

IRI: *not implemented*

CSW response:

Myanmar has not agreed to the CRC.

Child soldiers remain a problem in Myanmar; indeed, it has been suggested that Myanmar has the largest number of child soldiers in the world. The legal age of criminal responsibility remains 7 years old. Children belonging to particular groups within Myanmar also remain particularly disadvantaged: a local order limits the Rohingya to two children. From birth, Rohingya children (as well as those belonging to other minorities) are also stateless, unrecognized as Burmese citizens. In June 2012, the government signed an action plan with the UN to eliminate the recruitment and use of children in the armed forces.

HURFOM response:

Much of the improvement to education and health has been driven by civil society working directly with international donor support.

CHRO response:

Not implemented. In its September 2012 report "Threats to Our Existence", CHRO raised serious concerns about the 29 Border Areas National Races Youth Development Training schools - known locally as Na Ta La schools - run by the military-dominated Ministry for Border Affairs across the country. In its report, CHRO documented violations of the right to freedom of religion or belief (FoRB) for Chin Christians at the residential schools, including being denied the right to practise Christianity and facing coercion to convert to Buddhism, such as initiation into the Buddhist monkhood against the wishes of the children and youth. Children and young people at the Na Ta La schools were also cut off from their families. The way in which the schools are run is not in compliance with the Convention on the Rights of the Child (CRC), in particular articles 14, 20, 29, and 30 regarding the rights to freedom of thought, conscience, and religion; culture and language for indigenous children; and the State's obligations to respect a child's ethnic, religious, cultural and linguistic background within the education system, and when children are taken into the care of the State.

Recommendation n°56: *Enhance cooperation with the United Nations and other specialized agencies with a view to fully implementing national action plans and programmes in the field of human rights, workers' rights, human resource development, education and health, inter alia* (Recommended by *Malaysia*)

IRI: *not implemented*

UNPO response:

While the country of Myanmar has only signed two of the core human rights treaties, it has made very little progress towards incorporating these into domestic law. On the contrary, the recent draft of the anti-interfaith marriage law (National Protection Law) which has been circulating would restrict women's rights to a free marriage, as set out in article 16 of CEDAW, one of the two treaties Myanmar has actually ratified. Because child soldiers have been widely used in armed conflict by both State armed



forces and non-State armed groups, and Myanmar has not yet ratified the optional protocol against the use of children in armed conflicts. In addition, the Child Law (9/93) is not yet in line with the provisions of the CRC, on even such basic things as the legal age of a child. Child labour, for example, is still rampant in Myanmar and continues to be a problem.

Recommendation n°63: *Open further its engagement with the international community in order to strengthen its capacity to ensure the enjoyment of economic, social and cultural rights by its people* (Recommended by *Indonesia*)

IRI: *partially implemented*

CSW response:

The Government has attempted to pass a number of promising measures to improve economic, social and cultural rights. These include: adopting a National Rural Development and Poverty Reduction Plan, measures intended to introduce social security, and a minimum wage. However, the continued persecution of particular ethno-religious groups within Myanmar considerably mitigates this progress

UNPO response:

Myanmar's actions and reforms in the last two years clearly show an opening up to the rest of the world and a wish to further engage with the international community, even though up until now it has mostly been rhetoric, and few actual fundamental changes have been made. One of the most important steps the government has taken, however, is the intention to extend an invitation to the OHCHR to establish a permanent office in Myanmar.

Whether Myanmar will be able to go further in its cooperation with the international community is very dependent on the government of Myanmar and whether it continues to go down the path it has taken its very first cautious steps on.

Recommendation n°66: *Repeal the provisions of the Towns Act and Villages Act of 1907, under which forced labour for the military is currently codified* (Recommended by *New Zealand*)

IRI: *fully implemented*

UNPO response:

While the Towns and Villages Acts have been amended by the government to be in line with ILO Convention 29, which is the ILO convention prohibiting forced labour, this has not been sufficient to stop forced labour entirely. The penalties for civilian perpetrators are too low, the Constitution has yet to be amended, and military forced labour continues.

Recommendation n°70: *Continue the efforts to combat poverty and ensure sustainable development, and fully implement projected reform programmes and the roadmap for political transformation* (Recommended by *Russian Federation*)

IRI: *fully implemented*

CSW response:

Myanmar has continued to follow its plan towards a sustainable, democratic state. Steady progress can be seen.



Poverty remain prevalent in Myanmar. According to the Asian Development Bank, around a quarter of the population live below the poverty line. It should, however, be noted that the government has implemented a number of measures aiming to tackle this situation, including floating the country's currency and taking steps to speed the rate of industrialisation. Under the Rural Development and Poverty Reduction Plan, the government is aiming to reduce poverty levels to 16% by 2015.

Minorities

Recommendation n°21: *Accelerate the effective implementation of the National Plan 2010-2012 on persons with disabilities including providing them with employment opportunities* (Recommended by Sudan)

IRI: *not implemented*

CSW response:

Little progress has been made in improving the situation for people with disabilities in Myanmar.

Recommendation n°24: *Continue to cooperate with human rights mechanisms and the international community in promoting and safeguarding the rights of multiethnic people in Myanmar* (Recommended by Laos)

IRI: *not implemented*

CSW response:

Those belonging to minority groups continue to face great socio-economic hardship and discrimination. Moreover, the difficulty faced by peoples such as the Rohingya is compounded by a condition of statelessness

UNPO response:

While the official rhetoric from the President is very promising with regards to the ending of the discrimination of the many ethnic and religious groups within Myanmar, in effect little has been achieved. Radical Buddhist Clerics have called for a ban on intermarriage between Buddhist women and men of the non Buddhist minorities within Myanmar, and according to the Chin Human Rights Organization, the Myanmar government "continues to use the Ministry of Religious Affairs and the military-dominated Ministry for Border Affairs to openly discriminate against ethnic and religious minorities such as Christians and Muslims." This is also echoed by such authorities as the UN High Commissioner for Human Rights, Navi Pillay, who called for "focused attention from the Government" to stop the discrimination against the Muslim population of Myanmar.

Recommendation n°29: *Ensure that ethnic and religious minorities are granted fundamental rights and end discrimination against persons belonging to these minorities* (Recommended by Slovenia)

IRI: *not implemented*

CSW response:

Those belonging to minority groups continue to face great socio-economic hardship and discrimination. Moreover, the difficulty faced by peoples such as the Rohingya is compounded by a condition of statelessness.

UNPO response:

The discrimination against ethnic and religious minorities is still rampant in Myanmar, and there has been little to no improvement in the situation over the last few years. There is the anti-interfaith marriage law (National Protection Law), which states that non-Buddhist men wishing to marry a Buddhist woman would have to convert to her religion, which is a clear example of religious discrimination. Because of the clear links between ethnic and religious groups within Myanmar discrimination is often against both groups at once. While President Thein Sein has argued that peace with the ethnic groups is a priority, and several cease-fire agreements have been pushed through, ethnic leaders have very little trust in these. On the contrary, the New York Times has recently reported that the ethnic groups are more pessimistic than ever about hopes for reconciliation.

Main factors in this decline of trust in the peace process is the continuing violence in the Shan and Kachin provinces, but also the struggles between Muslim and Buddhist groups in Rakhine state. In the latter state Muslims are systematically targeted by Buddhist local population, who are even targeting local and international medical staff trying to reach and provide medical care in certain camps for Muslim Internally Displaced Peoples (IDP). This has led to a drastic shortage in medical aid reaching these camps.

The difference in the official government rhetoric and the actions of the army is quite wide and few ethnic groups have any hope for the establishment of a system in which their traditions, their languages and their cultures would be safeguarded.

KHRG response:

Between 2011 and August 2013, KHRG documented continued repression of minority culture and language rights in all seven Karen districts . The two most common abuses were prohibitions on teaching the Karen language in government schools, and the forced registration of animist villagers as Buddhists on government ID cards. Though recent media reports indicate that the government will begin to allow the Karen language to be taught, KHRG has not received reports indicating a change in practice on the ground. In a separate incident, villagers from Htee Thaw Saw area, Taungoo District reported that the Myanmar Army had attacked their church building, in October 2011, causing substantial damage, and particularly targeting religious objects.

HURFOM response:

Corruption and discrimination against ethnic minorities when attempting to get identification cards is still common.

CHRO response:

Not implemented. The UN Special Rapporteur on the human rights situation in Myanmar described discrimination in Chin State in particular as "systematic and endemic" in his September 2011 report to the UN General Assembly. Unlike some other ethnic States in Burma/Myanmar which are home to a number of different ethnic groups, the vast majority of the population in Chin State is ethnically Chin. According to demographic information held by the Ministry of Religious Affairs in 2010, 87 percent of people in Chin State are Christian.

While Chin Christians are able to secure low-level civil service positions in Chin State, very few are given promoted positions. According to information published in CHRO's September 2012 report "Threats to Our Existence": Persecution of Ethnic Chin Christians in Burma [Myanmar], at the Chin State level just 14 percent of departmental head positions are held by Chin Christians. At the township level, only one quarter of the Township Administrative Officer positions are held by Chin Christians; the rest are occupied by Burman Buddhists.

Since 1990, the national identity card has denoted the bearer's ethnicity and religion, which means that ethnic and religious minorities are easily identifiable and therefore vulnerable to discrimination. Since January 2011 when the UPR took place, CHRO has documented 17 violations of freedom of religion or belief (FoRB) in its Rhododendron News and "Threats to Our Existence" reports. These range from discrimination and harassment by local authorities on grounds of ethnicity and religion (Chin and Christian), to the destruction or removal of four Christian crosses on the direct orders of the authorities, the disruption of a large-scale Christian conference by Burma/Myanmar Army soldiers, and coercion to convert to Buddhism by State actors in a government-run 'vocational training' school known as Border Areas National Races Youth Development Training or Na Ta La school.

In October 2012, five UN Special Procedures mandate-holders under the Human Rights Council wrote a letter of allegation to the government based on the documentation in "Threats to Our Existence". In response, President Thein Sein mandated the Myanmar National Human Rights Commission (MNHRC) to investigate in December 2012. While CHRO welcomes this initiative, the results of the investigation have yet to be made public, and CHRO urges the MNHRC to publish its findings. Although various government officials have claimed that restrictions on FoRB have been eased in Chin State, to date it is unclear whether this has been implemented in practice. CHRO will continue to monitor the situation closely.

Recommendation n°49: *Further strengthen the promotion and protection of the human rights of the Myanmar people and the ethnic groups in Northern Rakhine State (Recommended by Bangladesh)*

IRI: *not implemented*

CSW response:

Promotion and protection of human rights for those living in the Rakhine state, particularly those belonging to ethnic groups, remains inadequate

UNPO response:

Muslims in Arakan state [editor's note: former name of Rakhine State] are still faced with severe discrimination in every aspect of their lives: legally, economically, religiously and socially. Most of this goes back to the fact that Rohingya Muslims cannot get citizenship within Myanmar, based on the 1982 Citizenship law. This means that they do not have access to secondary education, they cannot get benefits from the State, and that there are strict regulations on their movement and fundamental freedoms. Some cities within Myanmar even have areas which are designated as “Muslim free areas”, enforced by the government. The Rohingya are prohibited from owning property, and it is almost impossible for them to obtain permits to build mosques or schools. On the contrary, in recent years the government has ordered mosques and religious centers to be destroyed. In the few mosques that are allowed to exist, Muslims still face restrictions on worship, with ordinances restricting the amount of Muslims allowed to gather in one place. Only for major Muslim holidays are they allowed to meet for worship and religious training.

Most of these forms of discrimination also apply to other religious minorities, albeit to a lesser degree. Ethnic minorities which are predominantly Christian, such as the Chin, also encounter restrictions on the building of churches and on their freedom of worship. Within Chin state there is also evidence that government officials are offering material and monetary incentives for converting to Buddhism, while also being threatened that government services could be denied to them if they did not convert. There are also reports that Buddhist soldiers were offered incentives to marry and convert Christian women.

Arakan Project (AP) response:

The Rohingya are neither considered as an ethnic group nor as Myanmar citizens by the Myanmar Government. Rather the contrary - in 2012, the Rohingya experienced sectarian violence by the Buddhist community as well as increased human rights abuses by State authorities - resulting in 140,000 Rohingya displaced, confined and segregated in squalid IDP camps and thousands fleeing as refugees to neighbouring countries. Over the last few days, new anti-Muslim violence has broke out in Rakhine State.

Recommendation n°50: *Continue its development activities in Northern Rakhine State* (Recommended by *Bangladesh*)

IRI: *partially implemented*

CSW response:

Development activities have been continued

UNPO response:

Due to inter-community violence in 2012, the development of the state has stalled. While the government continues to cooperate with NGOs in Rakhine state to provide aid to the area, right now it is mostly focused on humanitarian relief, considering the number of internally displaced people in the state. Because of the dire situations in the area, the relief is not yet focused on development, but rather on the essentials, such as shelter and infrastructure, to allow vital services to do their work.



Because of the trust issues between the ethnic and religious groups within the state long-term recovery seems to be a long way away. Long term solutions need to come from a dialogue between the government and the communities in local society. As long as this dialogue has not yet commenced, trust will remain an issue in the region, which in turn will mean that development efforts will be hindered and ineffective.

Recommendation n°51: *Continue its efforts to engage with various ethnic groups and address their humanitarian and socio-economic needs as an integral part of its democratization and reconciliation process* (Recommended by Thailand)

IRI: *not implemented*

CSW response:

Those belonging to minority groups continue to face great socio-economic hardship and discrimination. Moreover, the difficulty faced by peoples such as the Rohingya is compounded by a condition of statelessness

UNPO response:

While the cease-fire agreements the government has signed with the majority of the ethnic minority groups are a small step in the right direction, it is far from sufficient. To achieve an actual during period of stability, these agreements would have to be signed with all ethnic groups, including those that right now are still holding out, such as the Kachin Independence Organization (KIO). The United Nationalities Federal Council (UNFC), which would be the most likely negotiating for the government on further peace talks, has made clear that a cease-fire agreement in Kachin would have to be signed before these talks can begin.

But even then, the peace talks would be very controversial and the goals for the government and the ethnic groups are very far apart. The government would most likely be aiming for a peace in which some power is decentralized to the ethnic states, but which also requires all the ethnic groups to recognize the 2008 Constitution, in which the national government is highly centralized and in which there is a very strong political role for the military. The ethnic states, on the other hand, would be aiming for a return to the promises of the 1947 Panglong Agreement, where the representatives of the central government promised representatives from ethnic states that the country would be a federalized state, with internal autonomy for ethnic groups. It is likely that this will prove to be highly contentious for the government, and some fear that if this latter goal would be agreed upon, the military would intervene.

Beyond these political changes, structural changes would also have to be made on more fundamental levels. Integration is a massive issue in Myanmar, with the ethnic rural areas economically much less developed than the central areas. The ethnic groups would also need guarantees that the government would protect their culture and language, and support their preservation. And probably most importantly, religious freedom and traditions would also have to be protected. This would not only have to be obtained officially, but also the discrimination of religious minorities by the population would have to be prevented, to defuse religious tensions in society and to prevent the events from 2012 in Rakhine state from happening again.



HURFOM response:

Engagement has been slow, especially with programs that benefit the Mon people as a whole and not specifically communities associated with the non-state armed group peace process. Socio-economic needs still remain largely unmet.

Recommendation n°52: *Ensure that ethnic minorities are granted fundamental rights and are enabled to enjoy their culture, religion and their language freely and without any form of discrimination (Recommended by Poland)*

IRI: *not implemented*

CSW response:

Those belonging to minority groups continue to face great socio-economic hardship and discrimination. Moreover, the difficulty faced by peoples such as the Rohingya is compounded by a condition of statelessness

UNPO response:

[See response to recommendation n° 29]

KHRG response:

Between 2011 and August 2013, KHRG documented continued repression of minority culture and language rights in all seven Karen districts . The two most common abuses were prohibitions on teaching the Karen language in government schools, and the forced registration of animist villagers as Buddhists on government ID cards. Though recent media reports indicate that the government will begin to allow the Karen language to be taught, KHRG has not received reports indicating a change in practice on the ground. In a separate incident, villagers from Htee Thaw Saw area, Taungoo District reported that the Myanmar Army had attacked their church building, in October 2011, causing substantial damage, and particularly targeting religious objects.

CHRO response:

[See response to recommendation n° 29]

Recommendation n°53: *Solve long-standing conflicts between the Government and ethnic groups in a peaceful manner (Recommended by Czech Republic)*

IRI: *not implemented*

CSW response:

The Government has been in negotiations with armed groups (including the Kachin Independence Organisation, the Restoration Council of Shan State and the Shan State army), with the goal of securing national peace. Significant progress can be seen to have resulted from these talks. However, those belonging to minority groups continue to face great socio-economic hardship and discrimination. Moreover, the difficulty faced by peoples such as the Rohingya is compounded by a condition of statelessness

UNPO response:

[See response to recommendation n° 51]



Recommendation n°54: *Rehabilitate Myanmar returnees in cooperation with the relevant United Nations agencies (Recommended by Bangladesh)*

IRI: *not implemented*

AP response:

The Rohingya are neither considered as an ethnic group nor as Myanmar citizens by the Myanmar Government. Rather the contrary - in 2012, the Rohingya experienced sectarian violence by the Buddhist community as well as increased human rights abuses by State authorities - resulting in 140,000 Rohingya displaced, confined and segregated in squalid IDP camps and thousands fleeing as refugees to neighbouring countries. Over the last few days, new anti-Muslim violence has broke out in Rakhine State.

Recommendation n°113: *Incorporate the rights enshrined in the United Nations Declaration on the Rights of Indigenous Peoples into domestic law and ratify ICERD (Recommended by Denmark)*

IRI: *not implemented*

CHRO response:

Not implemented. The State has yet to ratify ICERD, and the rights enshrined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) have not been incorporated into domestic law, although government representatives voted in support of the UNDRIP at the UN General Assembly in 2007. The rights included in UNDRIP are not respected in practice. A number of large-scale infrastructure and other development projects are being implemented in Burma/Myanmar without the free, prior, and informed consent of local people. A case in point is the Kaladan Multi-Modal Transit Transport Project (the Kaladan Project), funded by the government of India, involving construction of a combined inland waterway and highway transportation system connecting Mizoram State in Northeast India with a Bay of Bengal deepsea port at Site-tway, Arakan/Rakhine State. The project is being developed in Arakan/Rakhine and Chin States, without the free, prior and informed consent of local Chin and Rakhine people. In Chin State, the project involves the construction of a highway from Paletwa town to the Indian border with Mizoram, but to date no information has been made publicly available as to the route of the proposed highway, and there has been no meaningful consultation with local stakeholders about the project. CHRO will continue to monitor the project, and urges both the governments of Burma/Myanmar and India to ensure they comply with UNDRIP in their implementation of the project.

Recommendation n°125: *Exert more efforts to promote and protect the rights of Muslim minorities (Recommended by Jordan)*

IRI: -

KHRG response:

Between 2011 and August 2013, KHRG documented discrimination against Muslims in two Karen districts, Hpapun and Hpa-an. In Hpapun District, in October 2012, representatives of the Myanmar Army Border Guard Force mandated that local Buddhists cease doing business with Muslims. After this incident was reported by KHRG, the Myanmar Army operations director for K'Ter Tee called the local villagers for a meeting to attempt to improve relations between Muslims and Buddhists. According to the villager who reported this incident, relations improved substantially



after this meeting. KHRG did not receive information addressing this apparent contradiction between the attitudes of Myanmar Army-affiliated forces, though it is worth noting that local army commanders often do not have direct control over Border Guard Forces in their area. In an incident reported separately to KHRG, in December 2012, a monastery in Ta Kreh Township, Hpa-an District, released an edict forbidding Buddhists from (1) Marrying (2) Selling land to (3) doing business with or (4) Acting as guarantors for Muslims.

Recommendation n°130: *Modify the Citizenship Law of 1982 to ensure all minorities equal rights as citizens and remove all restrictions imposed on the Muslim minority in Rakhine State* (Recommended by Switzerland)

IRI: not implemented

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Recommendation n°137: *Adapt the Citizenship Act of 1982 in order to put an end to the statelessness of the Rohingya population* (Recommended by Belgium)

IRI: not implemented

UNPO response:

The Citizenship Law of 1982 has not been amended to date, and the restrictions on the Muslim minority are still in place.

Recommendation n°149: *Accept the visits of the Country Rapporteur and thematic Rapporteurs on the independence of judges and lawyers and on freedom of religion as well as the Representative of the Secretary-General on internally displaced persons* (Recommended by Uruguay)

IRI: partially implemented

CHRO response:

Not implemented. The government has shown increased willingness to cooperate with the United Nations Special Rapporteur on the situation of human rights in the country over the past two years, which is encouraging. However, the human rights situation in the country - particularly for ethnic and religious minorities - continues to be a grave cause for concern, warranting the extension of the country Rapporteur mandate at the UN Human Rights Council in March 2014. There is also additional merit in the Government extending a standing invitation to all Special Procedures under the UN Human Rights Council, to demonstrate its willingness to allow for focused attention on thematic issues of particular concern, such as Freedom of Religion or Belief.

Recommendation n°151: *Take appropriate measures to end de facto and de jure discrimination against all minority groups* (Recommended by Pakistan)

IRI: not implemented

UNPO response:

The 1982 Citizenship Law puts unfair restrictions on some minorities, and even deprives some ethnic groups of citizenship altogether, such as the Rohingya.

This law has also major legal implications beyond Myanmar. The term ethnic nationality is a term which is very specific to the context of the country, where there are over 135 different nationalities recognized by the Constitution. Recognition by the Constitution is of vital importance to be guaranteed political representation, for the



basis of the founding of Myanmar is the federation of ethnicities of which it consists. Nationalities which are not recognized in the Constitution, such as the aforementioned Rohingya, thus lack many options which are open to citizens of Myanmar.

Another implication of the qualification as an ethnic nationality is that it causes reluctance amongst the ethnic groups to define themselves as indigenous peoples, as reported by Community Organizing and Rights Education (CORE), a joint program between Students and Youth Congress Burma and Nationalities Youth Forum in December 2012. Indigenous people have, in international law, much more rights in such areas as land and self-government than ethnic nationalities, for the latter term is specific to Myanmar. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which was voted for by Myanmar, directly ascribes these possibilities to indigenous peoples. Many ethnic nationalities are thus missing out on certain possibilities with regards to the international articulation of their message, because they do not advocate or define themselves as indigenous peoples out of fear they lose their special position as an accepted ethnic minority. This is just one example out of many through which the ethnic minorities are discriminated against by the legal system of Myanmar, especially through the 1982 Citizenship Law.

KHRG response:

Between 2011 and August 2013, KHRG documented continued repression of minority culture and language rights in all seven Karen districts . The two most common abuses were prohibitions on teaching the Karen language in government schools, and the forced registration of animist villagers as Buddhists on government ID cards. Though recent media reports indicate that the government will begin to allow the Karen language to be taught, KHRG has not received reports indicating a change in practice on the ground. In a separate incident, villagers from Htee Thaw Saw area, Taungoo District reported that the Myanmar Army had attacked their church building, in October 2011, causing substantial damage, and particularly targeting religious objects.

CHRO response:

Not implemented. Deep-rooted discrimination is still a key issue affecting ethnic Chin, and the government has yet to undertake substantive measures to tackle the problem. Unlike some other ethnic States in Burma/Myanmar which are home to a number of different ethnic groups, the vast majority of the population in Chin State is ethnically Chin. According to demographic information held by the Ministry of Religious Affairs in 2010, 87 percent of people in Chin State are Christian. While Chin Christians are able to secure low-level civil service positions in Chin State, very few are given promoted positions. According to information published in CHRO's September 2012 report "Threats to Our Existence": Persecution of Ethnic Chin Christians in Burma [Myanmar], at the Chin State level just 14 percent of departmental head positions are held by Chin Christians. At the township level, only one quarter of the Township Administrative Officer positions are held by Chin Christians; the rest are occupied by Burman Buddhists. Since 1990, the national identity card has denoted the bearer's ethnicity and religion, which means that ethnic



and religious minorities are easily identifiable and therefore vulnerable to discrimination.

Recommendation n°152: *Take immediate steps to end violence and discrimination against ethnic minorities* (Recommended by Austria)

IRI: not implemented

UNPO response:

[See response to recommendation n° 151]

KHRG response:

[See response to recommendation n° 151]

HURFOM response:

Much of the discrimination that happened at toll booths, checkpoints, and roads in Mon areas has come to stop.

CHRO response:

Not implemented. Deep-rooted discrimination is still a key issue affecting ethnic Chin, and the government has yet to undertake substantive measures to tackle the problem. Unlike some other ethnic States in Burma/Myanmar which are home to a number of different ethnic groups, the vast majority of the population in Chin State is ethnically Chin. According to demographic information held by the Ministry of Religious Affairs in 2010, 87 percent of people in Chin State are Christian. While Chin Christians are able to secure low-level civil service positions in Chin State, very few are given promoted positions. According to information published in CHRO's September 2012 report "Threats to Our Existence": Persecution of Ethnic Chin Christians in Burma [Myanmar], at the Chin State level just 14 percent of departmental head positions are held by Chin Christians. At the township level, only one quarter of the Township Administrative Officer positions are held by Chin Christians; the rest are occupied by Burman Buddhists.

Since 1990, the national identity card has denoted the bearer's ethnicity and religion, which means that ethnic and religious minorities are easily identifiable and therefore vulnerable to discrimination. Since the UPR took place in January 2011, CHRO has documented ten incidents of intimidation and/or harassment of ethnic Chin, mainly in the context of violations of freedom of religion or belief. In the most serious incident, documented in the March-April 2012 edition of Rhododendron News, a Chin Christian MP was threatened at gunpoint by a government soldier. The soldier was part of a group from Light Infantry Battalion 140 which disrupted a large-scale Christian gathering in the Matupi township area. In the July-August 2012 edition of Rhododendron News, CHRO documented the extra-judicial killing of a Chin man in Tedim township at the hands of two government soldiers from Light Infantry Battalion 269, and a policeman. Since January 2011, CHRO has also documented three incidents of ill-treatment and torture, and three incidents of sexual violence perpetrated against ethnic Chin by State actors.



Recommendation n°154: *Abandon the policy and practice of discrimination, forced assimilation and persecution against ethnic and religious minorities (Recommended by Italy)*

IRI: *not implemented*

UNPO response:

[See response to recommendation n° 151]

KHRG response:

[See response to recommendation n° 151]

CHRO response:

Not implemented. According to demographic information held by the Ministry of Religious Affairs in 2010, 87 percent of people in Chin State are Christian. Since 1990, the national identity card has denoted the bearer's ethnicity and religion, which means that ethnic and religious minorities are easily identifiable and therefore vulnerable to discrimination. Since the UPR took place in January 2011, CHRO has documented ten incidents of intimidation and/or harassment of ethnic Chin, mainly in the context of violations of freedom of religion or belief. In the most serious incident, documented in the March-April 2012 edition of Rhododendron News, a Chin Christian MP was threatened at gunpoint by a government soldier. The soldier was part of a group from Light Infantry Battalion 140 which disrupted a large-scale Christian gathering in the Matupi township area. In the July-August 2012 edition of Rhododendron News, CHRO documented the extra-judicial killing of a Chin man in Tedim township at the hands of two government soldiers from Light Infantry Battalion 269, and a policeman. Since January 2011, CHRO has also documented three incidents of ill-treatment and torture and three incidents of sexual violence perpetrated against ethnic Chin by State actors.

In addition, in its September 2012 report "Threats to Our Existence", CHRO raised serious concerns about the prospect of forced assimilation into the predominant Burman Buddhist culture at 29 Border Areas National Races Youth Development Training schools - known locally as Na Ta La schools - run by the military-dominated Ministry for Border Affairs across the country. In its report, CHRO documented violations of the right to freedom of religion or belief (FoRB) for Chin Christians at the residential schools, including being denied the right to practise Christianity and facing coercion to convert to Buddhism, such as initiation into the Buddhist monkhood against the wishes of the children and youth. Children and young people at the Na Ta La schools were also cut off from their families. The way in which the schools are run is not in compliance with the Convention on the Rights of the Child (CRC), in particular articles 14, 20, 29, and 30 regarding the rights to freedom of thought, conscience, and religion; culture and language for indigenous children; and the State's obligations to respect a child's ethnic, religious, cultural and linguistic background within the education system, and when children are taken into the care of the State. These government-run schools also do not comply with article 8 of the UN Declaration on the Rights of Indigenous Peoples, which specifically provides for protection from forced assimilation.



Recommendation n°155: *Immediately take all necessary measures to end the situation whereby ethnic minorities continue to be persecuted and are the object of serious discrimination, and not impede the access to humanitarian aid in the regions where these ethnic minorities live* (Recommended by France)

IRI: not implemented

UNPO response:

[See response to recommendation n° 151]

KHRG response:

[See response to recommendation n° 151]

CHRO response:

Not implemented. According to demographic information held by the Ministry of Religious Affairs in 2010, 87 percent of people in Chin State are Christian. Since 1990, the national identity card has denoted the bearer's ethnicity and religion, which means that ethnic and religious minorities are easily identifiable and therefore vulnerable to discrimination. Since the UPR took place in January 2011, CHRO has documented ten incidents of intimidation and/or harassment of ethnic Chin, mainly in the context of violations of freedom of religion or belief.

In the most serious incident, documented in the March-April 2012 edition of Rhododendron News, a Chin Christian MP was threatened at gunpoint by a government soldier. The soldier was part of a group from Light Infantry Battalion 140 which disrupted a large-scale Christian gathering in the Matupi township area. In the July-August 2012 edition of Rhododendron News, CHRO documented the extra-judicial killing of a Chin man in Tedim township at the hands of two government soldiers from Light Infantry Battalion 269, and a policeman. Since January 2011, CHRO has also documented three incidents of ill-treatment and torture and three incidents of sexual violence perpetrated against ethnic Chin by State actors.

Recommendation n°194: *Immediately end violence and discrimination against members of ethnic and religious minorities, grant full citizenship rights to Rohingyas and end sexual violence committed against ethnic minority women* (Recommended by United States)

IRI: not implemented

CSW response:

Marital rape remains not criminalised. Indeed, Myanmar's penal code continues to explicitly exclude marital intercourse without consent from the definition of rape. Abortion - a significant cause of female death in Myanmar - is only permitted in cases where the mother's life is in danger.

CHRO response:

Not implemented. The level of sexual violence against ethnic Chin women and girls perpetrated by government soldiers documented by CHRO has remained the same since 2006, the first year covered by the UPR. On average, around 2 incidents a year are documented in CHRO's bi-monthly publication Rhododendron News. There is still tremendous stigma surrounding rape, plus threats of reprisals if rape is reported. CHRO therefore considers these incidents to be the tip of the iceberg. Since the UPR



took place in January 2011 CHRO has documented four incidents, two involving the sexual assault of minors by government soldiers. In the most recent incident in December 2012, a 13-year-old girl was sexually assaulted in the Paletwa area by one of the soldiers from Light Infantry Battalion No. 544 under Commander Than Htun. Government soldiers who commit sexual violence against Chin women and girls continue to do so with impunity. To the best of CHRO's knowledge, no investigation has been conducted or action taken against any alleged perpetrators in any of the incidents documented by CHRO since 2006.

Recommendation n^o196: *Implement and enforce the right not to be arbitrarily displaced and the Guiding Principles on Internal Displacement (Recommended by New Zealand)*

IRI: *not implemented*

KHRG response:

Since Myanmar's UPR review in 2011 KHRG has documented the forced internal displacement of civilians in six Karen districts. These reports document two main causes of displacement: (1) displacement caused by economic development, and (2) displacement by fighting. Since the announcement of the preliminary ceasefire between the Myanmar Government and local ethnic armed groups in January 2012, KHRG has seen a decrease in reports of displacement due to conflict, but an increase in reports of development-induced displacement.

Villagers across six out of seven research areas described development-induced displacement or resettlement as a direct result of natural resource extraction and development projects. Villagers described explicit orders issued by military and civilian government officials for communities to relocate from targeted project areas, such as those to be developed for agri-business, infrastructure development or dams, and said that such orders were frequently accompanied by threats of violence for non-compliance. Other villagers described being forced of necessity to relocate due to the destruction of livelihoods and environmental degradation in or near project sites.

Villagers described being ordered to relocate their homes and families to a new place or are pushed off their land to an-unspecified alternative location. This may, but does not always, accompany cases of land confiscation. During initial planning stages, the registration and survey of land at project sites is often accompanied by increased militarization, followed by an order to villagers' to vacate land or to relocate to a specific location. Villagers are forced to relocate out of targeted areas, such as those to be developed for agri-business, built upon or flooded by dams, either by information given to village heads or at township meetings, or by implicit or explicit threats of violence for non-compliance.

To take but one example, on April 2011, the people responsible for building the Tun Bo dam project in Toungoo district came and met with the local people and said "Tun Bo village is located in the project area, so you can't come back to live and your properties, cultivations, plantations, land and other things are in the project area". The villagers were forced to move to different villages because of the Tun Bo dam project.



While the rise of development induced displacement has had a major impact on the lives of civilians, displacement due to military conflict has also occurred since Myanmar's 2011 UPR. In one incident, on July 15th 2011, the Myanmar Army Border Guard Force units managed by Major General Tun Laing, Major General Pah Nwee and Major Maung Chit Thu ordered all eight village heads from Yaw Poh village tract, Lu Pleh Township in Hpa-an District and forced them to relocate their villagers to the Kaw Taw area. Within five days the villagers had left. While some went to Kaw Taw, a lot of people fled to other places. On July 20th 2011, a Border Guard force with about 80 soldiers, led by the Soldiers from the Myanmar Army Kilo Pa Doh heavy weapons unit] approached one of the villages and shelled the village with mortar fire for two days. According to a local villager, the Border Guard Force said they shelled the village because any villagers that were still there must either be soldiers in local ethnic armed groups.

International Instruments

Recommendation n°1: *Consider becoming a party to the remaining core human rights treaties as well* (Recommended by *Pakistan*)

IRI: *partially implemented*

+

Recommendation n°2: *Ratify and fully implement, step by step, all universal core human rights treaties* (Recommended by *Slovenia*)

IRI: *not implemented*

+

Recommendation n°3: *Consider acceding to core human rights instruments* (Recommended by *Jordan*)

IRI: *partially implemented*

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Recommendation n°4: *Consider acceding to the remaining international human rights treaties* (Recommended by *Ukraine*)

IRI: *partially implemented*

+

Recommendation n°6: *Consider the possibility of signing or ratifying the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by *Argentina*)

IRI: *partially implemented*

+

Recommendation n°7: *Consider accession to ICCPR and ICESCR* (Recommended by *Philippines*)

IRI: *partially implemented*



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Recommendation n°75: *Accede to the universal human rights core treaties* (Recommended by *Brazil*)

IRI: *partially implemented*

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Recommendation n°79: *Ratify and effectively implement core international human rights treaties, inter alia, ICCPR, ICESCR and CAT, and fulfil the obligations under the treaties to which Myanmar is a party by bringing domestic legislation, policies and practices into harmony with the provisions therein* (Recommended by *Republic of Korea*)

IRI: *partially implemented*

+

Recommendation n°82: *Accede to ICCPR, ICESCR and CAT* (Recommended by *New Zealand*)

IRI: *not implemented*

+

Recommendation n°85: *Reach a timely decision to sign ICESCR, ICCPR, ICERD and the Optional Protocol to CRC on the sale of children* (Recommended by *Japan*)

IRI: *not implemented*

+

Recommendation n°88: *Ratify the remaining core human rights treaties, such as ICCPR and CAT* (Recommended by *Hungary*)

IRI: *partially implemented*

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Recommendation n°89: *Ratify the remaining core human rights treaties, such as CERD as well as the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness* (Recommended by *Hungary*)

IRI: *partially implemented*

+

Recommendation n°90: *Ratify all core human rights conventions, especially ICCPR, ICESCR and CAT* (Recommended by *Germany*)

IRI: *partially implemented*

+

Recommendation n°91: *Accede to ICCPR and ICESCR in the near future and ensure their effective implementation* (Recommended by *Czech Republic*)

IRI: *not implemented*

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Recommendation n°96: *Ratify and effectively implement international human rights treaties, including ICCPR and its Optional Protocols, ICESCR, CAT, and the Optional Protocols to the CRC* (Recommended by *Italy*)

IRI: *partially implemented*

CSW response:

In December 2011, Myanmar ratified the Convention on the Rights of Persons with Disabilities. CAT, ICERD and the Rome Statute of the International Criminal Court remain non-ratified.

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Myanmar has not committed to any further human rights treaties. However, it should be noted that the State-run Human Rights Commission has openly called for the



government to adopt further human rights treaties, as well as distributing free copies of the Universal Declaration of Human Rights.

UNPO response:

Myanmar has not yet acceded to any of the remaining core human rights treaties. However recently there has been some hint of progress, as the National Human Rights Commission has recommended the ratification of the ICCPR and the ICESCR to the government.

AHRC response:

No steps have been taken in order to ratify the core human rights treaties. In fact, under the current 2008 Constitution, neither ratification nor implementation even if ratification is made will be possible. The amendment of the 2008 Constitution should be made first.

CSW response:

[...] Myanmar has not yet ratified or signed the ICCPR, ICCPED, ICESCR or CAT. [...]

Recommendation n°25: *Cooperate with Human Rights Council special procedures and mechanisms, as well as engage in a dialogue with OHCHR with a view to ensuring respect for human rights and fundamental freedoms* (Recommended by Poland)

IRI: fully implemented

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Recommendation n°26: *Cooperate effectively with the Human Rights Council and its special procedures with a view to addressing the many pressing human rights issues besetting the country* (Recommended by Austria)

IRI: fully implemented

CSW response:

Myanmar has been co-operating with the human rights council, although issues regarding human rights and fundamental freedoms (particularly those of ethno-religious minorities) in the country persist.

UNPO response:

During the seventh mission of the Special Rapporteur on the situation of the human rights in Myanmar, the Special Rapporteur was able to visit numerous places within the State and meet many officials, community leaders and even prisoners of conscience. While he found a lot of problems remain in the country, it does show that right now Myanmar at least seems to be offering its full assistance to the OHCHR.

Recommendations made by the Special Rapporteur still have to be followed by the government for this dialogue to prove in anyway fruitful.

Recommendation n°27: *Fully cooperate with the Special Rapporteur on the situation of human rights in Myanmar* (Recommended by Ukraine)

IRI: fully implemented

CSW response:

Myanmar has been co-operating with the Special Rapporteur



UNPO response:

During the seventh mission of the Special Rapporteur on the situation of the human rights in Myanmar, the Special Rapporteur was able to visit numerous places within the State and meet many officials, community leaders and even prisoners of conscience. While he found a lot of problems remain in the country, it does show that right now Myanmar at least seems to be offering its full assistance to the OHCHR.

Recommendations made by the Special Rapporteur still have to be followed by the government for this dialogue to prove in anyway fruitful.

Recommendation n°77: Ratify the International Covenants, CAT, the Convention on the Rights of Persons with Disabilities, ICERD, as well as the Rome Statute of the International Criminal Court (Recommended by Austria)

IRI: partially implemented

CSW response:

In December 2011, Myanmar ratified the Convention on the Rights of Persons with Disabilities. CAT, ICERD and the Rome Statute of the International Criminal Court remain non-ratified.

Torture by both the police and military continues to be reported in Myanmar.

UNPO response:

Myanmar has not yet acceded to any of the remaining core human rights treaties. However recently there has been some hint of progress, as the National Human Rights Commission has recommended the ratification of the ICCPR and the ICESCR to the government.

Recommendation n°78: Sign and ratify CAT and ICCPR (Recommended by Switzerland)

IRI: not implemented

CSW response:

[...] CAT and ICCPR have not been signed or ratified. [...]

UNPO response:

Myanmar has not yet acceded to any of the remaining core human rights treaties. However recently there has been some hint of progress, as the National Human Rights Commission has recommended the ratification of the ICCPR and the ICESCR to the government.

Recommendation n°80: Sign and ratify CAT and its Optional Protocol, and establish a national preventive mechanism (Recommended by Maldives)

IRI: not implemented

CSW response:

CAT and its Optional Protocol are neither signed nor ratified. [...]

UNPO response:

Myanmar has not yet acceded to any of the remaining core human rights treaties. [...]

Recommendation n°83: *Make plans to sign and ratify the core human rights treaties* (Recommended by *Greece*)

IRI: -

UNPO response:

Myanmar has not yet acceded to any of the remaining core human rights treaties. However recently there has been some hint of progress, as the National Human Rights Commission has recommended the ratification of the ICCPR and the ICESCR to the government.

Recommendation n°87: *Accede to the remaining core human rights treaties and core labour standards it has yet to become a party to, and continue to cooperate with international and regional human rights mechanisms in implementing its obligations* (Recommended by *Thailand*)

IRI: *partially implemented*

CSW response:

Many core human rights treaties remain not ratified. Myanmar has indicated its willingness to co-operate with international and regional human rights mechanisms. However, many core human rights treaties have not been signed or ratified .

UNPO response:

Myanmar has not yet acceded to any of the remaining core human rights treaties. However recently there has been some hint of progress, as the National Human Rights Commission has recommended the ratification of the ICCPR and the ICESCR to the government.

Recommendation n°92: *Accession to the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction* (Recommended by *Canada*)

IRI: *partially implemented*

UNPO response:

While Myanmar rejected this recommendation, it has since started considering a change in its landmine policy, and is seriously considering the ratification of all landmine treaties, including the Ottawa Convention.

Recommendation n°93: *Join CAT and adapt its national legislation accordingly* (Recommended by *Belgium*)

IRI: *not implemented*

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Recommendation n°94: *Ratify CAT* (Recommended by *Portugal*)

IRI: *not implemented*

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Recommendation n°95: *Ratify and implement CAT* (Recommended by *Denmark*)

IRI: *not implemented*

CSW response:

CAT has not been ratified or implemented. [...]

UNPO response:

Burma has not yet ratified the Convention against Torture (CAT) and torture is still rampant amongst security services. In police custody suspects are kept from seeing their lawyers for the first 24 hours, and are not even permitted to make contact with their families. The Assistance Association for Political Prisoners has reported that prisoners are subject to such interrogation techniques as sleep and sensory deprivation, shackling and verbal threats. Often these prisoners are detained without knowledge why they have been detained.

Ethnic minorities are also often subjected to torture in the conflict areas of Myanmar. Often confessions are extracted by means of torture and then presented in courts as evidence. Recently the Asian Human Rights Commission released a report detailing several accounts of torture in the Kachin province, mostly people who were arrested under the Unlawful Association Act, which is by now over a century old. These forms of torture are not only limited to the ones mentioned above. One subject had his face burned with hot iron plates; another has gone partially deaf due to the beatings he was subjected to. All of these prisoners were arrested because of 'alleged' contact with the Kachin Independence Army (KIA).

The officials torturing these prisoners often escape any form of punishment, as there are next to no ways or institutional measures to bring action against the alleged torturers. Win Mara, Chairman of the Myanmar Human Rights Commission, has stated that they receive about 50 complaints daily, many of which are related to torture, however it is unable to take effective action, and at most can launch an education campaign.

Because Myanmar thus lacks provisions in the national legal code on torture, and the State has made no progress on CAT, the ending of torture is nowhere near. Torture is institutionalized in the country's legal process, both within the security forces where it is used as a means of obtaining confessions, and in the judicial process, where judges admit the evidence obtained by torture and rarely let the accused retract or change their statements which have been made under torture.

Recommendation n°108: Continue with its efforts to cooperate fully with special procedures mandate-holders that have requested access to the country to observe the situation of human rights and implement their recommendations (Recommended by Argentina)

IRI: partially implemented

CHRO response:

Not implemented. The government has shown increased willingness to cooperate with the United Nations Special Rapporteur on the situation of human rights in the country over the past two years, which is encouraging. However, the human rights situation in the country - particularly for ethnic and religious minorities - continues to be a grave cause for concern, warranting the extension of the country Rapporteur mandate at the UN Human Rights Council in March 2014. There is also additional merit in the Government extending a standing invitation to all Special Procedures under the UN Human Rights Council, to demonstrate its willingness to allow for



focused attention on thematic issues of particular concern, such as Freedom of Religion or Belief.

Recommendation n°109: *Continue with its efforts to cooperate fully with the United Nations Special Rapporteur on the situation of human rights in Myanmar* (Recommended by Argentina)

IRI: *fully implemented*

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Recommendation n°110: *Cooperate with the United Nations Special Rapporteur on the situation of human rights in the country* (Recommended by Canada)

IRI: *fully implemented*

CSW response:

Myanmar has continued co-operation with the UN Special Rapporteur, as evidenced by its recent decision to abolish Nasaka. As has been noted however, the situation vis a vis human rights remains less than ideal. Further co-operation is therefore required.

UNPO response:

During the seventh mission of the Special Rapporteur on the situation of the human rights in Myanmar, the Special Rapporteur was able to visit numerous places within the State and meet many officials, community leaders and even prisoners of conscience. While he found a lot of problems remain in the country, it does show that right now Myanmar at least seems to be offering its full assistance to the OHCHR.

Recommendations made by the Special Rapporteur still have to be followed by the government for this dialogue to prove in anyway fruitful.

Recommendation n°112: *Increase cooperation with OHCHR and the special procedures of the Human Rights Council* (Recommended by Greece)

IRI: *fully implemented*

CHRO response:

Partially implemented, in relation to OHCHR. The government has shown increased willingness to cooperate with the United Nations Special Rapporteur on the situation of human rights in the country over the past two years, which is encouraging. However, the human rights situation in the country - particularly for ethnic and religious minorities - continues to be a grave cause for concern, warranting the extension of the country Rapporteur mandate at the UN Human Rights Council in March 2014. There is also additional merit in the Government extending a standing invitation to all Special Procedures under the UN Human Rights Council, to demonstrate its willingness to allow for focused attention on thematic issues of particular concern, such as Freedom of Religion or Belief.

Recommendation n°142: *Cooperate with the international human rights mechanisms and humanitarian agencies, specifically by issuing a standing invitation to the special procedures of the Human Rights Council and allowing full and unhindered access to all persons in need of humanitarian assistance* (Recommended by Republic of Korea)

IRI: *fully implemented*



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Recommendation n°144: *Extend a standing invitation to all human rights special procedures* (Recommended by *Maldives*)

IRI: *fully implemented*

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Recommendation n°145: *Issue a favourable response to the request for visits to Myanmar of the representatives of the Secretary-General and Special Rapporteurs, in particular, on the human rights of displaced persons, the right to food (since 2003), freedom of religion and belief (since 2007), extrajudicial, summary or arbitrary executions (since 2007), and on the independence of judges and lawyers* (Recommended by *Ukraine*)

IRI: *fully implemented*

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Recommendation n°148: *Issue a standing invitation to the special procedures mandate holders* (Recommended by *Greece*)

IRI: *fully implemented*

CHRO response:

Not implemented. The government has shown increased willingness to cooperate with the United Nations Special Rapporteur on the situation of human rights in the country over the past two years, which is encouraging. However, the human rights situation in the country - particularly for ethnic and religious minorities - continues to be a grave cause for concern, warranting the extension of the country Rapporteur mandate at the UN Human Rights Council in March 2014. There is also additional merit in the Government extending a standing invitation to all Special Procedures under the UN Human Rights Council, to demonstrate its willingness to allow for focused attention on thematic issues of particular concern, such as Freedom of Religion or Belief.

Justice

Recommendation n°30: *End and prohibit torture* (Recommended by *Slovenia*)

IRI: *not implemented*

CSW response:

Torture by both the police and military continues to be reported in Myanmar.

UNPO response:

Burma has not yet ratified the Convention against Torture (CAT) and torture is still rampant amongst security services. In police custody suspects are kept from seeing their lawyers for the first 24 hours, and are not even permitted to make contact with their families. The Assistance Association for Political Prisoners has reported that prisoners are subject to such interrogation techniques as sleep and sensory deprivation, shackling and verbal threats. Often these prisoners are detained without knowledge why they have been detained.



Ethnic minorities are also often subjected to torture in the conflict areas of Myanmar. Often confessions are extracted by means of torture and then presented in courts as evidence. Recently the Asian Human Rights Commission released a report detailing several accounts of torture in the Kachin province, mostly people who were arrested under the Unlawful Association Act, which is by now over a century old. These forms of torture are not only limited to the ones mentioned above. One subject had his face burned with hot iron plates; another has gone partially deaf due to the beatings he was subjected to. All of these prisoners were arrested because of 'alleged' contact with the Kachin Independence Army (KIA).

The officials torturing these prisoners often escape any form of punishment, as there are next to no ways or institutional measures to bring action against the alleged torturers. Win Mara, Chairman of the Myanmar Human Rights Commission, has stated that they receive about 50 complaints daily, many of which are related to torture, however it is unable to take effective action, and at most can launch an education campaign.

Because Myanmar thus lacks provisions in the national legal code on torture, and the State has made no progress on CAT, the ending of torture is nowhere near. Torture is institutionalized in the country's legal process, both within the security forces where it is used as a means of obtaining confessions, and in the judicial process, where judges admit the evidence obtained by torture and rarely let the accused retract or change their statements which have been made under torture.

HURFOM response:

Police [have continued to abuse young people with torture](#) and harassment in Mon areas.

Recommendation n°31: Improve conditions in all prisons and detentions to be brought into compliance with international standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (Recommended by Denmark)

IRI: not implemented

CSW response:

The situation regarding prisons and detention centres in Myanmar remains largely unimproved.

UNPO response:

In prisons in Myanmar, standards are inhumane, and little progress has been made to address this grievous issue. Besides the tortures detailed in recommendation #30, many other problems still exist with the prisons in Myanmar. Often prisoners are kept in prisons far away from their families, which makes it hard for them to get life-saving medicine to the prisoners. These far-away prisons also make it hard for human rights groups to obtain information about the prisons and the conditions in them.

An often quoted case from October 2011, about prisoners being kept in cells which were made for dogs, only serves to illustrate the conditions to which prisoners are subjected in these prisons. While recently the government has decided to re-allow



the International Committee of the Red Cross to resume prison visits and provide healthcare to prisoners, in many cases healthcare in the prisons is far from adequate. Conditions are far from the United Nations Standard Minimum Rules for the Treatment of Prisoners, and major steps have to be made by the government to comply with such standards.

Recommendation n°36: Adopt strict legislation which criminalizes rape in every context and which ensures legal punishment of the perpetrators including those from the police, military and other authorities (Recommended by Hungary)

IRI: not implemented

CSW response:

Intercourse without consent in the context of marriage remains legal in Myanmar. In addition, reports of police, military and other authorities using rape against women as a weapon continues to be alarmingly common.

Recommendation n°37: Ensure the independence and impartiality of the judiciary and guarantee due process of law (Recommended by Italy)

IRI: not implemented

CSW response:

At present, no substantial reform of the judiciary has taken place.

UNPO response:

Judicial independence in Myanmar is a major area of concern, because on many occasions there has been interference in the judicial process from either the executive or the legislative branch. For example, the recent impeachment of the entire Constitutional Tribunal by the parliament and subsequent attempts to put the Tribunal's rulings under parliamentary oversight is a clear violation of the separation of powers. While some have argued that this is a way for the balance of power to be restored, since it was feared that the executive branch (and thus, the military) had too much influence on the Tribunal, it is a major intrusion on the idea of an independent judiciary.

The same can be said for the way lower judges are appointed. This is done through a government-appointment process similar to that of civil servants, instead of having an independent process for their appointments. The way in which these judges act is also problematic, since many are stuck in ways of working which have come from the era of military rule, in which they were assumed to go along with instructions, and did not have to explain their rulings or decisions. This is clear when one looks at the evidence obtained from torture in many cases. For the judiciary to be independent, judges will have to start explaining their judgments, in order to be able to be held accountable for them. They need to adhere to the rule of law and be the main proponent of it. This will also help address such concerns as corruption within the judiciary system.

In addition, the bar association is also controlled by the government, which provides the government thus with another major way of influencing the legal process. An independent bar association, which should include a quality control mechanism currently lacking should be established.



Besides that, in order for the rule of law to be effective, defendants also need to be able to obtain legal counsel. Because 25,6% of the population lives below the poverty line, it means that there has to be a system of legal aid for those who cannot afford counsel themselves. The Constitution of Myanmar has a right for counsel included in it, but unless the defendant faces the death penalty, no financial support is provided.

Recommendation n°38: *Ensure that law enforcement officials receive necessary training, including on human rights standards, domestic legal protections, and the appropriate use of force (Recommended by Canada)*

IRI: not implemented

UNPO response:

The Press Release by the United Nations Special Rapporteur on Human Rights in Myanmar, Tomas Ojea Quintana, dated May 1st which was published on the UN Office of the High Commissioner for Human Rights' website, illustrates the perceived lack of accountability in Myanmar during the religious violence in Rankhine State. While he welcomed the dissolution of the Nasaka border security force, he also felt the need to call on the government "to investigate and hold accountable those members of the force responsible for human rights abuses".

Last year's Human Rights Watch report illustrated the problems clearly with not only a lack of awareness amongst Security Forces, but with the Security Forces being the perpetrators as well during the period of religious violence in Arakan State [editor's note: former name of the Rankhine State].

Recommendation n°39: *Conduct an investigation, bring perpetrators to justice and provide reparation to the victims of sexual violence involving members of the armed forces (Recommended by Brazil)*

IRI: not implemented

CSW response:

No adequate action of this sort has yet taken place.

HURFOM response:

There has been no sign of this progress in Mon areas.

CHRO response:

Not implemented. The level of sexual violence against ethnic Chin women and girls perpetrated by government soldiers documented by CHRO has remained the same since 2006, the first year covered by the UPR. On average, around 2 incidents a year are documented in CHRO's bi-monthly publication Rhododendron News. There is still tremendous stigma surrounding rape, plus threats of reprisals if rape is reported. CHRO therefore considers these incidents to be the tip of the iceberg. Since the UPR took place in January 2011 CHRO has documented four incidents, two involving the sexual assault of minors by government soldiers. In the most recent incident in December 2012, a 13-year-old girl was sexually assaulted in the Paletwa area by one of the soldiers from Light Infantry Battalion No. 544 under Commander Than Htun. Government soldiers who commit sexual violence against Chin women and girls continue to do so with impunity. To the best of CHRO's knowledge, no



investigation has been conducted or action taken against any alleged perpetrators in any of the incidents documented by CHRO since 2006.

Recommendation n°128: Take immediate steps to end continuing violations of international human rights law (Recommended by United States)

IRI: -

RSF response:

The Press Scrutiny Board, as a part of the Press Scrutiny and Registration Division (PSRD), is abolished. However the functions of handling registration of Media were left untouched. It means that the governmental body has the power to grant or refuse licence to print media, a power which is not in conformity with international standards. To be fully complete, the reform should abolish entirely the PSRD and develop a new law for Print media specifying that no licence are required to start a privately owned publication. The current draft of the law on broadcasting media should also be revised before being submitted to the upper house. The nationality of media owner, the cross-market ownership, the ceiling on foreign investments

Recommendation n°133: Repeal Article 445 of the 2008 Constitution, which effectively grants total immunity to State and military personnel to act with impunity, even for criminal offences (Recommended by New Zealand)

IRI: *not implemented*

CHRO response:

Not implemented. The 2008 Constitution has yet to be amended.

Recommendation n°157: Investigate and punish all cases of intimidation, harassment, persecution, torture and forced disappearances, especially against political dissidents, journalists, ethnic and religious minorities and human rights defenders (Recommended by Uruguay)

IRI: *not implemented*

CSW response:

Torture by both the police and military continues to be reported in Myanmar.

CHRO response:

Not implemented. Since the UPR took place in January 2011, CHRO has documented ten incidents of intimidation and/or harassment of ethnic Chin, mainly in the context of violations of freedom of religion or belief. In the most serious incident, documented in the March-April 2012 edition of Rhododendron News, a Chin Christian MP was threatened at gunpoint by a government soldier. The soldier was part of a group from Light Infantry Battalion 140 which disrupted a large-scale Christian gathering in the Matupi township area. In the July-August 2012 edition of Rhododendron News, CHRO documented the extra-judicial killing of a Chin man in Tedim township at the hands of two government soldiers from Light Infantry Battalion 269, and a policeman. Since January 2011, CHRO has also documented three incidents of ill-treatment and torture perpetrated against ethnic Chin. To the best of CHRO's knowledge, no thorough investigation or criminal proceedings have been initiated in relation to any of the documented incidents.



Recommendation n°158: *Take steps to effectively end the practice of torture by the security forces and in places of detention and vigorously prosecute the perpetrators of such acts* (Recommended by Austria)

IRI: *not implemented*

CSW response:

Torture by both the police and military continues to be reported in Myanmar.

Recommendation n°161: *Allow visits of ICRC to address issues regarding humanitarian assistance, internally displaced persons and persons deprived of their freedom* (Recommended by Uruguay)

IRI: -

HURFOM response:

IDPs have received some attention and press but are still worried about what future relocation might look like and have not been allowed active participation in relevant decision-making about their futures

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This has not happened in restricted Mon areas.

Recommendation n°169: *End impunity for human rights violations, taking forward the recommendations of the Special Rapporteur, by investigating, prosecuting and punishing those responsible with the assistance of the United Nations* (Recommended by United Kingdom)

IRI: *not implemented*

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Recommendation n°171: *Urgently take all necessary measures to end impunity, if need be with the assistance of the United Nations* (Recommended by France)

IRI: *not implemented*

KHRG response:

Lack of accountability for human rights abuses continues to have a major impact on civilians in Karen areas. Of the scores of human rights abuses by Myanmar Army and associated personnel documented by KHRG between 2011 and August 2013 only one included an account of military personnel being held accountable for their actions:

In 2012, Border Guard Force Battalion #1014 Warrant Officer Saw Day Day, was drunk and injured a mother and son with a grenade fired from his grenade launcher that failed to detonate. The BGF paid 270,000 kyat to the victims for medical fees. According to the community member who reported the incident, the battalion commander of BGF #1014 did not carry out an effective punishment to the warrant officer, but did remove him from his post in that area and transferred him to another region for service.

CHRO response:

Not implemented. There is ongoing impunity for human rights violations committed by State actors, particularly government soldiers. The level of sexual violence against ethnic Chin women and girls perpetrated by government soldiers documented by CHRO has remained the same since 2006, the first year covered by the UPR. To the best of CHRO's knowledge, no investigation has been conducted or action taken



against any alleged perpetrators in any of the incidents documented by CHRO since 2006. In the July-August 2012 edition of Rhododendron News, CHRO documented the extra-judicial killing of a Chin man in Tedim township at the hands of two government soldiers from Light Infantry Battalion 269, and a policeman. To the best of CHRO's knowledge, the alleged perpetrators have yet to face criminal prosecution.

Recommendation n°170: Allow a full and independent investigation into all reports of human rights violations, including crimes against humanity and war crimes and hold accountable those found responsible for these crimes (Recommended by Italy)

IRI: not implemented

KHRG response:

[Recommendations n° 169]

HURFOM response:

We are currently calling on the union-level government to allow for independent investigation of land confiscations during military rule and continuing today perpetrated by large-scale investment companies.

Recommendation n°173: Promptly investigate all allegations that military personnel and other officials have committed serious crimes and violations of human rights including extrajudicial killings, recruitment of child soldiers, torture, sexual violence and forced labour (Recommended by Canada)

IRI: not implemented

CSW response:

Torture by both the police and military continues to be reported in Myanmar.

KHRG response:

Lack of accountability for human rights abuses continues to have a major impact on civilians in Karen areas. Of the scores of human rights abuses by Myanmar Army and associated personnel documented by KHRG between 2011 and August 2013 only one included an account of military personnel being held accountable for their actions:

In 2012, Border Guard Force Battalion #1014 Warrant Officer Saw Day Day, was drunk and injured a mother and son with a grenade fired from his grenade launcher that failed to detonate. The BGF paid 270,000 kyat to the victims for medical fees. According to the community member who reported the incident, the battalion commander of BGF #1014 did not carry out an effective punishment to the warrant officer, but did remove him from his post in that area and transferred him to another region for service.

HURFOM response:

Civil society has been investigating land confiscations, child soldiers, forced labour, sexual violence committed by military personnel but has not seen equivalent response from the government.



CHRO response:

Not implemented. There is ongoing impunity for human rights violations committed by State actors, particularly government soldiers. The level of sexual violence against ethnic Chin women and girls perpetrated by government soldiers documented by CHRO has remained the same since 2006, the first year covered by the UPR. To the best of CHRO's knowledge, no investigation has been conducted or action taken against any alleged perpetrators in any of the incidents documented by CHRO since 2006. In the July-August 2012 edition of Rhododendron News, CHRO documented the extra-judicial killing of a Chin man in Tedim township at the hands of two government soldiers from Light Infantry Battalion 269, and a policeman. To the best of CHRO's knowledge, the alleged perpetrators have yet to face criminal prosecution.

Recommendation n°197: *Seek technical assistance from the United Nations to reform the judiciary, to establish accessible judicial remedies as well as to alleviate poverty (Recommended by Turkey)*

IRI: -

CSW response:

Poverty remain prevalent in Myanmar. According to the Asian Development Bank, around a quarter of the population live below the poverty line. It should, however, be noted that the government has implemented a number of measures aiming to tackle this situation, including floating the country's currency and taking steps to speed the rate of industrialisation. Under the Rural Development and Poverty Reduction Plan, the government is aiming to reduce poverty levels to 16% by 2015.

Women & Children

Recommendation n°5: *Ensure the effective implementation of the Convention on the Rights of the Child (CRC), especially the rights to education and health (Recommended by New Zealand)*

IRI: *not implemented*

CSW response:

Recent reports suggest that child soldiers remain a problem in Myanmar; indeed, it has been suggested that Myanmar has the largest number of child soldiers in the world. The legal age of criminal responsibility remains 7 years old. Children belonging to particular groups within Myanmar also remain particularly disadvantaged: a local order limits the Rohingya to two children. From birth, Rohingya children (as well as those belonging to other minorities) are also stateless, unrecognized as Burmese citizens.

UNPO response:

Multiple forms of discrimination persist in Myanmar, especially against children from ethnic and religious minority groups (such as Rohingya children) and children from remote and border areas. Child soldiers also continue to serve within the Myanmar military, even though a Joint Action Plan was signed by the government and the UN.

KHRG response:

Between 2011 and August 2013, KHRG documented failures by the Myanmar government to protect, respect, and/or fulfill the rights to health and education in all seven Karen districts. The educational system throughout Karen areas remained poor — KHRG typically only receives reports when the government fails to fulfill promises related to education, or actively interferes with educational activities. There are many more villages in Karen areas where government supported educational facilities simply do not exist. In Thaton District, villagers reported that students are not able to attend school because they lack money for school fees and books, despite government promises not to charge fees. In Daw Hpa Hkoh Township, Thaton District, and in Bu Tho Township, Hpapun District, villagers reported that teachers abandoned the school in the middle of the year. In Htee Poh Sa Village, Toungoo District, villagers reported that they were unable to complete building a school when the government delivered only a fraction of promised funds. The right to education was also compromised by the exploitation that is part of day-to-day life in Karen districts. In one incident, in Nyaunglebin district, students were unable to attend school because a local with control over the road to the school demanded a monthly payment for use of the road. In another incident, villagers in Shway Weh village, Lu Pleh Township, Hpa-an District, were forced to close their school after access was cut off by the Hatgyi Dam project.

Like educational facilities, Government funded health facilities in Karen areas are not available to many villagers. Villagers throughout the Karen districts complained that the cost of health care was prohibitive, or that distance, quality of roads, and conflict-related restrictions on travel made access to health facilities impossible. Many communities in Karen districts rely on community based organizations for their health care, most prominently the Backpack Health Workers Team (BPHWT), which sends medics to provide care, deliver medical supplies, and conduct trainings in basic healthcare in rural ethnic areas throughout Myanmar. On October 28th, 2011, two BPHWT medics were arrested by the Myanmar Army, and their supplies confiscated. Though these medics were eventually released, following an international campaign on their behalf, these arrests had a chilling effect on health and human rights workers in Karen areas.

CHRO response:

Not implemented. In its September 2012 report "Threats to Our Existence", CHRO raised serious concerns about the 29 Border Areas National Races Youth Development Training schools - known locally as Na Ta La schools - run by the military-dominated Ministry for Border Affairs across the country. In its report, CHRO documented violations of the right to freedom of religion or belief (FoRB) for Chin Christians at the residential schools, including being denied the right to practise Christianity and facing coercion to convert to Buddhism, such as initiation into the Buddhist monkhood against the wishes of the children and youth. Children and young people at the Na Ta La schools were also cut off from their families. The way in which the schools are run is not in compliance with the Convention on the Rights of the Child (CRC), in particular articles 14, 20, 29, and 30 regarding the rights to freedom of thought, conscience, and religion; culture and language for indigenous children; and the State's obligations to respect a child's ethnic, religious, cultural and



linguistic background within the education system, and when children are taken into the care of the State. The UN Special Rapporteur on the situation of human rights in Myanmar has consistently highlighted issues at the Na Ta La schools in his 2011, 2012, and 2013 reports to the UN Human Rights Council.

Recommendation n°11: *Establish and enforce strict legislation criminalizing rape in every context, including marital rape (Recommended by Portugal)*

IRI: *not implemented*

CSW response:

[...] Marital rape remains not criminalised. Indeed, Myanmar's penal code continues to explicitly exclude marital intercourse without consent from the definition of rape. Abortion - a significant cause of female death in Myanmar - is only permitted in cases where the mother's life is in danger.

HURFOM response:

Legislation has been slow to be enforced.

Recommendation n°32: *Ensure that violence against women and girls, including domestic violence and all forms of sexual abuse, constitutes a criminal offence, and that perpetrators are prosecuted and punished (Recommended by Norway)*

IRI: *not implemented*

CSW response:

[...] Marital rape remains not criminalised. Indeed, Myanmar's penal code continues to explicitly exclude marital intercourse without consent from the definition of rape. Abortion - a significant cause of female death in Myanmar - is only permitted in cases where the mother's life is in danger.

KHRG response:

Between 2011 and August 2013, KHRG documented Sexual Violence cases in two Karen districts, Hpapun, and Hpa-an. These cases highlight two important trends of abuse in Karen areas: (1) The area remains heavily militarized, and civilians are frequently victimized by armed actors acting with impunity and (2) armed groups, particularly the Myanmar Army Border Guard Force, have taken advantage of the temporary ceasefire in Karen areas to establish themselves in the drug trade, with a particular focus on methamphetamines, known locally as Yaba. In the first incident, which occurred on June 16, 2012, in Meh Puh Hkee Village, Meh Kyoh Township, Hpapun District. The second-in-command of a Burma Army Light Infantry Division attempted to rape a 34 year-old married woman in her house at night, while everyone was asleep. While the women escaped, this attempt highlights the vulnerability of civilians to military actors. In a separate incident, on October 14, 2012, in T'nay Say Township, Hpa-an District, a 21 year-old woman was raped and killed by her boyfriend. The villagers who reported this incident attributed the killer's actions to his addiction to drugs that were manufactured by the BGF #1016.

HURFOM response:

The community has not shown broad support for punishments for domestic violence and sexual abuse.

CHRO response:

Not implemented. The level of sexual violence against ethnic Chin women and girls perpetrated by government soldiers documented by CHRO has remained the same since 2006, the first year covered by the UPR. On average, around 2 incidents a year are documented in CHRO's bi-monthly publication Rhododendron News. There is still tremendous stigma surrounding rape, plus threats of reprisals if rape is reported. CHRO therefore considers these incidents to be significantly under-reported. Since the UPR took place in January 2011 CHRO has documented four incidents, two involving the sexual assault of minors by government soldiers. In the most recent incident documented in the November-December 2012 edition of Rhododendron News, a 13-year-old girl was sexually assaulted in the Paletwa area by one of the soldiers from Light Infantry Battalion No. 544 under Commander Than Htun. Government soldiers who commit sexual violence against Chin women and girls continue to do so with impunity. To the best of CHRO's knowledge, no investigation has been conducted or action taken against any alleged perpetrators in any of the incidents documented by CHRO since 2006.

Recommendation n°33: *End forced labour and child labour* (Recommended by Slovenia)

IRI: *partially implemented*

CSW response:

Myanmar has made progress towards eliminating forced labour. However, the situation regarding child labour in Myanmar remains serious.

Child soldiers remain a problem in Myanmar; indeed, it has been suggested that Myanmar has the largest number of child soldiers in the world. The legal age of criminal responsibility remains 7 years old. Children belonging to particular groups within Myanmar also remain particularly disadvantaged: a local order limits the Rohingya to two children. From birth, Rohingya children (as well as those belonging to other minorities) are also stateless, unrecognized as Burmese citizens. In June 2012, the government signed an action plan with the UN to eliminate the recruitment and use of children in the armed forces.

KHRG response:

Between 2011 and August 2013, KHRG documented forced labour demands by the Myanmar military in six of seven Karen districts: Thaton, Toungoo, Nyaunglebin, Hpapun, Dooplaya and Hpa-an. Most of these demands were issued after the declaration of a ceasefire between the Myanmar and armed ethnic groups in January, 2012. It is important to note that KHRG received far fewer reports of forced labour during this time period than it has received in the past. However, in the heavily militarized Karen districts, where soldiers who have demanded forced labour for decades have continued to build and fortify military positions, the population remains acutely vulnerable to these demands. KHRG received reports that civilians were forced to porter for Myanmar government troops, to act as guides and sentries, to act as human shields or as minesweepers, sentry, and to build and maintain military camps. These demands placed a substantial burden on villagers who already struggle to maintain their livelihoods, and subjected them to physical and emotional



stress. At times, forced military labour has resulted in death; in October 2011, 35 years old Saw Eh Htoo and 30 years old Saw Gkler Lay Htoo from Than Daung Township, Toungoo District were killed during a military clash after they had been forced to porter for the Myanmar Army. All military demands for labour serve to reinforce to villagers that they live subject to the whims of powerful actors around them.

HURFOM response:

Forced labor appears to have reduced in Mon areas but not child labor (except in the case of Burmese military recruitment of children that has reduced). Awareness raising campaigns at the community level, referrals systems and networks that report on tips about forced labor, and ILO monitoring has had positive impacts.

CHRO response:

Partially implemented. The July 2012 adoption of a joint Government - International Labour Organization strategy for the elimination of forced labour by the end of 2015 is a significant positive step. Since the UPR took place in January 2011, CHRO has documented 30 incidents of forced labour in its bi-monthly documentation report Rhododendron News. While there has been an overall reduction in forced labour in comparison with years prior to 2011, forced labour is still the second-most prevalent human rights violation perpetrated against Chin people, after extortion. 57 percent of the forced labour incidents were perpetrated by the military, typically, portering military rations or supplies under threat of physical harm. Extortion, food misappropriation, portering, and maintenance of military camps in Chin State are typically exacted in the context of the military's 'self-sufficiency' policy. Closer attention should be paid to the implementation of the relevant sections of the Action Plan, including, but not limited to, Action Plan 4: "Specific activities in policy areas and categories of work identified as actual or potential causes of the use of forced labour." In addition, greater progress is required in the implementation of Element 3 of the strategy, regarding formal criminal proceedings for breaches of the law against forced labour; administering appropriate penalties to perpetrators; providing justice to the victims; and publicizing such efforts.

Recommendation n°34: *Undertake further efforts to prevent the use of child soldiers and to demobilize and reintegrate child soldiers* (Recommended by Norway)

IRI: *fully implemented*

CSW response:

Child soldiers remain a problem in Myanmar; indeed, it has been suggested that Myanmar has the largest number of child soldiers in the world. The legal age of criminal responsibility remains 7 years old. Children belonging to particular groups within Myanmar also remain particularly disadvantaged: a local order limits the Rohingya to two children. From birth, Rohingya children (as well as those belonging to other minorities) are also stateless, unrecognized as Burmese citizens.

In June 2012, the government signed an action plan with the UN to eliminate the recruitment and use of children in the armed forces.

UNPO response:

While there have been efforts by the government to combat the use of child-soldiers in the Myanmar army, some still continue to serve. Also the government still has not signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

While Myanmar has had a National Plan of Action for Children since 2006, many of its provisions are not fully implemented, and the national plan is not fully coordinated with other sectoral plans relating to children. The National Plan is understaffed, has limited financial resources and there is no mechanism to monitor its implementation.

KHRG response:

Between 2011 and August 2013, KHRG documented child soldiers in two Karen districts, Toungoo, and Hpapun. All incidents of recruitment of child soldiers reported to KHRG took place before the ceasefire between the Burma Army and local ethnic armed groups. This apparently substantial reduction in the recruitment of child soldiers is a positive trend, but it is likely to be only as robust and enduring as the ceasefire itself.

Recommendation n°35: Strengthen its efforts to enhance the enforcement of the minimum age of recruitment into the military and to draft a new National Plan of Action for children based on the MDGs (Recommended by Iran)

IRI: partially implemented

CSW response:

In June 2012, the government signed an action plan with the UN to eliminate the recruitment and use of children in the armed forces.

There has been no new plan of action to replace the previous one (2006 - 2015).

Child soldiers remain a problem in Myanmar; indeed, it has been suggested that Myanmar has the largest number of child soldiers in the world. The legal age of criminal responsibility remains 7 years old. Children belonging to particular groups within Myanmar also remain particularly disadvantaged: a local order limits the Rohingya to two children. From birth, Rohingya children (as well as those belonging to other minorities) are also stateless, unrecognized as Burmese citizens.

UNPO response:

While there have been efforts by the government to combat the use of child-soldiers in the Myanmar army, some still continue to serve. Also the government still has not signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

While Myanmar has had a National Plan of Action for Children since 2006, many of its provisions are not fully implemented, and the national plan is not fully coordinated with other sectoral plans relating to children. The National Plan is understaffed, has limited financial resources and there is no mechanism to monitor its implementation.



KHRG response:

Between 2011 and August 2013, KHRG documented child soldiers in two Karen districts, Toungoo, and Hpapun. All incidents of recruitment of child soldiers reported to KHRG took place before the ceasefire between the Burma Army and local ethnic armed groups. This apparently substantial reduction in the recruitment of child soldiers is a positive trend, but it is likely to be only as robust and enduring as the ceasefire itself.

Recommendation n°60: *Continue its cooperation with ILO and other relevant mechanisms to ensure full respect for the rights of the child consistent with international law, particularly human rights law* (Recommended by Jordan)

IRI: *fully implemented*

CSW response:

No further international agreements on the right of children have been signed by Myanmar.

Recent reports suggest that child soldiers remain a problem in Myanmar; indeed, it has been suggested that Myanmar has the largest number of child soldiers in the world. The legal age of criminal responsibility remains 7 years old. Children belonging to particular groups within Myanmar also remain particularly disadvantaged: a local order limits the Rohingya to two children. From birth, Rohingya children (as well as those belonging to other minorities) are also stateless, unrecognized as Burmese citizens.

UNPO response:

Multiple forms of discrimination persist in Myanmar, especially against children from ethnic and religious minority groups (such as Rohingya children) and children from remote and border areas. Child soldiers also continue to serve within the Myanmar military, even though a Joint Action Plan was signed by the government and the UN.

Recommendation n°67: *Further strengthen its national machinery to ensure gender equality* (Recommended by Azerbaijan)

IRI: *partially implemented*

CSW response:

A National Plan of Action for the advancement of Women (2011-2015) has been passed. [...]

HURFOM response:

The Gender Equality Network has good relations with the government but has not yet been able to have substantive impact on law and policy.

Recommendation n°72: *Adopt effective measures to fight violence against women* (Recommended by Slovenia)

IRI: *not implemented*

CSW response:

Marital rape remains not criminalised. Indeed, Myanmar's penal code continues to explicitly exclude marital intercourse without consent from the definition of rape.



Abortion - a significant cause of female death in Myanmar - is only permitted in cases where the mother's life is in danger.

KHRG response:

Between 2011 and August 2013, KHRG documented Sexual Violence cases in two Karen districts, Hpapun, and Hpa-an. These cases highlight two important trends of abuse in Karen areas: (1) The area remains heavily militarized, and civilians are frequently victimized by armed actors acting with impunity and (2) armed groups, particularly the Myanmar Army Border Guard Force, have taken advantage of the temporary ceasefire in Karen areas to establish themselves in the drug trade, with a particular focus on methamphetamines, known locally as Yaba. In the first incident, which occurred on June 16, 2012, in Meh Puh Hkee Village, Meh Kyoh Township, Hpapun District. The second-in-command of a Burma Army Light Infantry Division attempted to rape a 34 year-old married woman in her house at night, while everyone was asleep. While the women escaped, this attempt highlights the vulnerability of civilians to military actors. In a separate incident, on October 14, 2012, in T'nay Say Township, Hpa-an District, a 21 year-old woman was raped and killed by her boyfriend. The villagers who reported this incident attributed the killer's actions to his addiction to drugs that were manufactured by the BGF #1016.

Recommendation n^o73: *Prohibit the recruitment of child soldiers and take measures against all violators* (Recommended by Sudan)

IRI: *partially implemented*

CSW response:

Recent reports suggest that child soldiers remain a problem in Myanmar; indeed, it has been suggested that Myanmar has the largest number of child soldiers in the world. The legal age of criminal responsibility remains 7 years old. Children belonging to particular groups within Myanmar also remain particularly disadvantaged: a local order limits the Rohingya to two children. From birth, Rohingya children (as well as those belonging to other minorities) are also stateless, unrecognized as Burmese citizens.

In June 2012, the government signed an action plan with the UN to eliminate the recruitment and use of children in the armed forces.

UNPO response:

Multiple forms of discrimination persist in Myanmar, especially against children from ethnic and religious minority groups (such as Rohingya children) and children from remote and border areas. Child soldiers also continue to serve within the Myanmar military, even though a Joint Action Plan was signed by the government and the UN.

KHRG response:

Between 2011 and August 2013, KHRG documented child soldiers in two Karen districts, Toungoo, and Hpapun. All incidents of recruitment of child soldiers reported to KHRG took place before the ceasefire between the Burma Army and local ethnic armed groups. This apparently substantial reduction in the recruitment of child



soldiers is a positive trend, but it is likely to be only as robust and enduring as the ceasefire itself.

Recommendation n°74: *Increase its efforts to prevent and combat violence against women and human trafficking and adopt a National Plan of Action for the advancement of the human rights of women* (Recommended by Iran)

IRI: partially implemented

CSW response:

A National Plan of Action for the advancement of Women (2011-2015) has been passed.

The Myanmar Government has been co-operating with the UN and INGOs in relation to human trafficking. In June 2012, the government signed an action with the UN. However, trafficking remains a serious and persistent problem which is compounded by other issues, such as the statelessness of minority groups (for instance, the Rohingya).

Marital rape remains not criminalised. Indeed, Myanmar's penal code continues to explicitly exclude marital intercourse without consent from the definition of rape. Abortion - a significant cause of female death in Myanmar - is only permitted in cases where the mother's life is in danger.

KHRG response:

Between 2011 and August 2013, KHRG documented Sexual Violence cases in two Karen districts, Hpapun, and Hpa-an. These cases highlight two important trends of abuse in Karen areas: (1) The area remains heavily militarized, and civilians are frequently victimized by armed actors acting with impunity and (2) armed groups, particularly the Myanmar Army Border Guard Force, have taken advantage of the temporary ceasefire in Karen areas to establish themselves in the drug trade, with a particular focus on methamphetamines, known locally as Yaba. In the first incident, which occurred on June 16, 2012, in Meh Puh Hkee Village, Meh Kyoh Township, Hpapun District. The second-in-command of a Burma Army Light Infantry Division attempted to rape a 34 year-old married woman in her house at night, while everyone was asleep. While the women escaped, this attempt highlights the vulnerability of civilians to military actors. In a separate incident, on October 14, 2012, in T'nay Say Township, Hpa-an District, a 21 year-old woman was raped and killed by her boyfriend. The villagers who reported this incident attributed the killer's actions to his addiction to drugs that were manufactured by the BGF #1016.

HURFOM response:

Signboards and billboards are now used to educate people about trafficking but the mechanisms to report and for police to adequately respond to tips of trafficking. Hotline numbers need to be better distributed and tied directly to substantive response. Police still seek bribes in many cases before they will respond to a case of trafficking or do not take the tip seriously due to cultural barriers related to crimes against women.



Recommendation n°118: *Cooperate fully with ILO to end forced and child labour including in the military* (Recommended by *United Kingdom*)

IRI: *partially implemented*

CSW response:

[...]

UNPO response:

Very recently (20 September) the government of Myanmar announced it would sign an agreement with the ILO in October to work toward the elimination of child labour. This is a clear sign of the intention of the government to cooperate with the ILO to end child labour. While the State is still a ways out from abolishing child labour and releasing all child soldiers, it is a step in the right direction.

KHRG response:

Between 2011 and August 2013, KHRG documented forced labour demands by the Myanmar military in six of seven Karen districts: Thaton, Toungoo, Nyaunglebin, Hpapun, Dooplaya and Hpa-an. Most of these demands were issued after the declaration of a ceasefire between the Myanmar and armed ethnic groups in January, 2012. It is important to note that KHRG received far fewer reports of forced labour during this time period than it has received in the past. However, in the heavily militarized Karen districts, where soldiers who have demanded forced labour for decades have continued to build and fortify military positions, the population remains acutely vulnerable to these demands. KHRG received reports that civilians were forced to porter for Myanmar government troops, to act as guides and sentries, to act as human shields or as minesweepers, sentry, and to build and maintain military camps. These demands placed a substantial burden on villagers who already struggle to maintain their livelihoods, and subjected them to physical and emotional stress. At times, forced military labour has resulted in death; in October 2011, 35 years old Saw Eh Htoo and 30 years old Saw Gkler Lay Htoo from Than Daung Township, Toungoo District were killed during a military clash after they had been forced to porter for the Myanmar Army. All military demands for labour serve to reinforce to villagers that they live subject to the whims of powerful actors around them.

HURFOM response:

ILO has been active in Mon State working on children in armed conflict and child labor.

Recommendation n°120: *Put an end to recruitment and use of child soldiers* (Recommended by *Uruguay*)

IRI: *partially implemented*

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Recommendation n°123: *Cooperate with the United Nations to end the recruitment of child soldiers* (Recommended by *Hungary*)

IRI: *partially implemented*

KHRG response:

Between 2011 and August 2013, KHRG documented child soldiers in two Karen districts, Toungoo, and Hpapun. All incidents of recruitment of child soldiers reported



to KHRG took place before the ceasefire between the Burma Army and local ethnic armed groups. This apparently substantial reduction in the recruitment of child soldiers is a positive trend, but it is likely to be only as robust and enduring as the ceasefire itself.

Recommendation n°121: *Put an end to recruitment and use of child soldiers, especially on border areas, not consider them as deserters, and consider ratifying the Optional Protocol to CRC on the involvement of children in armed conflict* (Recommended by Uruguay)

IRI: *partially implemented*

KHRG response:

Between 2011 and August 2013, KHRG documented child soldiers in two Karen districts, Toungoo, and Hpapun. All incidents of recruitment of child soldiers reported to KHRG took place before the ceasefire between the Burma Army and local ethnic armed groups. This apparently substantial reduction in the recruitment of child soldiers is a positive trend, but it is likely to be only as robust and enduring as the ceasefire itself.

HURFOM response:

There have been no reports from the border in our area of children being recruited as child soldiers.

Recommendation n°122: *Prioritize its work with the International Labour Organization on a Joint Action Plan on child soldiers to progress the implementation of Security Council resolution 1612 (2005)* (Recommended by New Zealand)

IRI: *partially implemented*

KHRG response:

Between 2011 and August 2013, KHRG documented child soldiers in two Karen districts, Toungoo, and Hpapun. All incidents of recruitment of child soldiers reported to KHRG took place before the ceasefire between the Burma Army and local ethnic armed groups. This apparently substantial reduction in the recruitment of child soldiers is a positive trend, but it is likely to be only as robust and enduring as the ceasefire itself.

HURFOM response:

Mention of 1612 has not been as common but it should be utilized more because it has proved an effective tool in the past.

Recommendation n°124: *Facilitate effective monitoring in addition to reporting violations against children in armed conflict by the United Nations country team* (Recommended by Hungary)

IRI: -

KHRG response:

Between 2011 and August 2013, KHRG documented violent violations of Children's rights by government actors in two Karen districts, Hpapun and Hpa-an. Though the incidence of armed conflict has decreased considerably since the announcement of the ceasefire between the Myanmar Army and local ethnic armed groups, sporadic fighting continues to result in injuries to children due to attacks aimed at children, as



well as indiscriminate attacks. Additionally, due to a widespread culture of impunity among the heavily armed military groups, children remain vulnerable to the whims of military actors even when there is no fighting. This is especially true as Myanmar Army Border Guard Force members have increasingly engaged in trade of narcotics, according to reports from villagers. In T'Nay Hsah Township, Hpa-an District, a sixteen year old boy was killed by Border Guard Forces after he disputed a drug debt, on March 11, 2013.

Recommendation n°139: With regard to children, take necessary measures to improve the birth registry system, following the recommendation of the CRC in not identifying any ethnic or religious group in official documents which could allow discriminatory treatment, to avoid statelessness, to ban corporal punishment in families and schools and other institutions, by organizing educational campaigns, and start reforms in the juvenile justice system, following the Convention and the international standards by increasing the age of criminal responsibility (Recommended by Uruguay)

IRI: not implemented

Global Initiative to End All Corporal Punishment of Children (GIEACPC) response:

There has been no change in the legality of corporal punishment of children in Myanmar: it remains the case that children may lawfully be subjected to corporal punishment in the home, alternative care settings, day care, schools, penal institutions and, for children aged 16 and 17, as a sentence of the courts. In 2012, the Ministry of National Planning and Economic Development in collaboration with UNICEF published a situation analysis of children in Myanmar which, inter alia, draws attention to the fact that corporal punishment is not explicitly prohibited and recommends amending the Child Law 1993 "to remove the scope for allowing physical punishment of children". It is to be hoped that, despite the Government's rejection of the UPR recommendation, efforts will now be made to enact the necessary legislation explicitly prohibiting all corporal punishment of children in all settings of their lives.

CHRO response:

Not implemented. In its September 2012 report "Threats to Our Existence", CHRO raised serious concerns about the 29 Border Areas National Races Youth Development Training schools - known locally as Na Ta La schools - run by the military-dominated Ministry for Border Affairs across the country. In its report, CHRO documented violations of the right to freedom of religion or belief (FoRB) for Chin Christians at the residential schools, including being denied the right to practise Christianity and facing coercion to convert to Buddhism, such as initiation into the Buddhist monkhood against the wishes of the children and youth. Children aged 12 within the Na Ta La school system have their National Registration Cards made for the first time, arranged by teachers at the schools. The cards frequently denote that they are Buddhist, even though they have been raised by their families as Christian. The way in which the schools are run is not in compliance with the Convention on the Rights of the Child (CRC), in particular articles 14, 20, 29, and 30.

Other

Recommendation n°8: *Consider incorporating its international human rights obligations into domestic law (Recommended by Jordan)*

IRI: *not implemented*

UNPO response:

While the country of Myanmar has only signed two of the core human rights treaties, it has made very little progress towards incorporating these into domestic law. On the contrary, the recent draft of the anti-interfaith marriage law (National Protection Law) which has been circulating would restrict women's rights to a free marriage, as set out in article 16 of CEDAW, one of the two treaties Myanmar has actually ratified. Because child soldiers have been widely used in armed conflict by both State armed forces and non-State armed groups, and Myanmar has not yet ratified the optional protocol against the use of children in armed conflicts. In addition, the Child Law (9/93) is not yet in line with the provisions of the CRC, on even such basic things as the legal age of a child. Child labour, for example, is still rampant in Myanmar and continues to be a problem.

Recommendation n°12: *Do and act in light of its national reality in order to guarantee unity, peace, stability in Myanmar and in the region (Recommended by Laos)*

IRI: *fully implemented*

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Recommendation n°15: *Stay on the path of consolidation of political stability in the country, under the principles of free self-determination and sovereignty, for which it is very important to rely on international cooperation and assistance (Recommended by Venezuela)*

IRI: -

CSW response:

The Government has been in negotiations with armed groups (including the Kachin Independence Organisation, the Restoration Council of Shan State and the Shan State army), with the goal of securing national peace. Significant progress can be seen to have resulted from these talks. However, the situation is far from resolved.

UNPO response:

While the cease-fire agreements between the national government and ethnic groups in Myanmar are a step in the right direction, a lot of work remains to be done. Tremendous steps have to be made to go beyond the cease-fires and look to long term solutions in order for there to be peace and stability in Myanmar. Most minority groups want to see the 2008 Constitution rewritten, and without a firm commitment from President Thein Sein to address these concerns, a renewal of the armed conflicts could occur. This could then in turn result in a military backlash, considering the Generals' distrust in the reform agenda adopted by the current government.

Recommendation n°18: *Continue with its efforts to promote and protect human rights and freedoms (Recommended by Sri Lanka)*

IRI: *partially implemented*



CSW response:

The Myanmar National Human Rights Commission has recently stated that human rights are to be included in the basic school system. In September 2011, Myanmar established the Myanmar National Human Rights Commission. However, many human rights remain undermined in Myanmar and the government has not signed or ratified

UNPO response:

To promote and protect human rights and freedoms, Myanmar should first of all ratify the core Human rights treaties and implement them, and then educating both the public and their officials in order to stop the systematic abuse of human rights within Myanmar. Economic development is good, but it needs to go hand in hand with social development, an area in which Myanmar still seems to lag far behind.

Recommendation n°22: *Engage more consistently with human rights bodies and mechanisms at the international level* (Recommended by Turkey)

IRI: *partially implemented*

CSW response:

Myanmar has shown co-operation with the international community. However, it has not ratified many international human rights agreements

UNPO response:

While the government of Myanmar committed to inviting the Office of the High Commissioner for Human Rights to open a country office in Myanmar, it has yet to do so. This means that for now it only remains to be seen if there is going to be a more consistent approach of Myanmar to the international community and especially the international human rights bodies under President Thein Sein.

Recommendation n°28: *Continue to engage with OHCHR* (Recommended by Singapore)

IRI: *fully implemented*

CSW response:

Engagement has continued

UNPO response:

During the seventh mission of the Special Rapporteur on the situation of the human rights in Myanmar, the Special Rapporteur was able to visit numerous places within the State and meet many officials, community leaders and even prisoners of conscience. While he found a lot of problems remain in the country, it does show that right now Myanmar at least seems to be offering its full assistance to the OHCHR.

Recommendations made by the Special Rapporteur still have to be followed by the government for this dialogue to prove in anyway fruitful.

Recommendation n°55: *Continue to collaborate closely with the donor community, United Nations agencies, international financial institutions and civil society organizations to develop stronger institutional capacity and align national policies and*

priorities with international norms and Myanmar's treaty obligations (Recommended by Singapore)

IRI: -

UNPO response:

While the country of Myanmar has only signed two of the core human rights treaties, it has made very little progress towards incorporating these into domestic law. On the contrary, the recent draft of the anti-interfaith marriage law (National Protection Law) which has been circulating would restrict women's rights to a free marriage, as set out in article 16 of CEDAW, one of the two treaties Myanmar has actually ratified. Because child soldiers have been widely used in armed conflict by both State armed forces and non-State armed groups, and Myanmar has not yet ratified the optional protocol against the use of children in armed conflicts. In addition, the Child Law (9/93) is not yet in line with the provisions of the CRC, on even such basic things as the legal age of a child. Child labour, for example, is still rampant in Myanmar and continues to be a problem.

Recommendation n°59: Enhance its engagement with the ASEAN Intergovernmental Commission on Human Rights (Recommended by Indonesia)

IRI: *fully implemented*

CSW response:

Myanmar has continued its engagement with the ASEAN Intergovernmental Commission

UNPO response:

The government of Myanmar has continued its engagement with the AICHR and even hosted a meeting of the members in 2012.

Recommendation n°61: Cooperate with the international community in order to achieve progress with regard to promotion and protection of human rights and fundamental freedoms in the country (Recommended by Ukraine)

IRI: *partially implemented*

CSW response:

Myanmar has displayed co-operation with the international community. However, the degree of progress which has been achieved may perhaps be criticised.

UNPO response:

Myanmar's actions and reforms in the last two years clearly show an opening up to the rest of the world and a wish to further engage with the international community, even though up until now it has mostly been rhetoric, and few actual fundamental changes have been made. One of the most important steps the government has taken, however, is the intention to extend an invitation to the OHCHR to establish a permanent office in Myanmar.

Whether Myanmar will be able to go further in its cooperation with the international community is very dependent on the government of Myanmar and whether it continues to go down the path it has taken its very first cautious steps on.



Recommendation n°62: *Identify a priority list of areas in which assistance and aid are most crucially needed and approach bilateral, regional and international partners and stakeholders, as appropriate* (Recommended by Malaysia)

IRI: -

CSW response:

Myanmar has continued to show co-operation with the international community

UNPO response:

[See response to recommendation n° 61]

Recommendation n°64: *Seek the assistance of the international community to achieve comprehensive national development* (Recommended by Sudan)

IRI: *partially implemented*

CSW response:

National socio-economic and political development has occurred.

Myanmar has continued to display co-operation with the international community.

UNPO response:

[See response to recommendation n° 61]

Recommendation n°68: *Continue its efforts to eradicate negative impacts inflicted by external coercive economic sanctions* (Recommended by DPR Korea)

IRI: *fully implemented*

CSW response:

Efforts toward economic growth and stability have continued

Recommendation n°69: *Remain constructively engaged with the international community on the issue of lifting sanctions* (Recommended by Pakistan)

IRI: *fully implemented*

CSW response:

The government has engaged in a largely constructive manner with the international community, with the result that many sanctions have been eased (for instance, the US has recently removed its visa ban on officials). However, many sanctions remain; constructive engagement must continue.

UNPO response:

[See response to recommendation n° 61]

Recommendation n°76: *Ensure that legislation, policy and practice are in accordance with international human rights norms and standards* (Recommended by Slovenia)

IRI: *partially implemented*

CSW response:

Progress has been made

UNPO response:

Myanmar has not yet acceded to any of the remaining core human rights treaties. However recently there has been some hint of progress, as the National Human



Rights Commission has recommended the ratification of the ICCPR and the ICESCR to the government.

Recommendation n^o97: *Amend its domestic laws to ensure that all people in the country are able to enjoy their fundamental human rights* (Recommended by Ireland)

IRI: *partially implemented*

CSW response:

The government has taken positive steps towards improving the human rights situation. However, many minority groups continue to be disadvantaged and deprived the rights enjoyed by others within the country.

Recommendation n^o99: *That the new Commission be equipped with all the necessary safeguards to ensure its true independence in accordance with the Paris Principles* (Recommended by Timor-Leste)

IRI: *not implemented*

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Recommendation n^o100: *Establish a National Human Rights Commission in line with the Paris Principles to provide for effective promotion and protection of human rights at the national level* (Recommended by Thailand)

IRI: *partially implemented*

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Recommendation n^o102: *Upgrade its human rights body into an independent and credible National Human Rights Institution in accordance with the Paris Principles* (Recommended by Indonesia)

IRI: *partially implemented*

+

Recommendation n^o103: *Expedite the establishment of a national human rights institution that is fully compliant with the Paris Principles* (Recommended by India)

IRI: *partially implemented*

+

Recommendation n^o104: *Further enhance the mandate of the Myanmar Human Rights Body so that it can discharge its duties in accordance with the Paris Principles* (Recommended by Jordan)

IRI: *partially implemented*

+

Recommendation n^o105: *Take necessary steps for the reformation of the Myanmar Human Rights Body as the Human Rights Commission in accordance with the Paris Principles* (Recommended by Azerbaijan)

IRI: *partially implemented*

+

Recommendation n^o106: *Establish an independent human rights institution in conformity with the Paris Principles* (Recommended by Portugal)

IRI: *partially implemented*

CSW response:

In September 2011, Myanmar established the Myanmar National Human Rights Commission. However, this is not currently an independent body

UNPO response:

The newly established Human Rights Commission in Myanmar has from the outset been criticized on several points. The most important of these is the fact that the Commission is not established by a text of constitutional or legislative nature, but rather by a Presidential Decree, which means that the foundation for the Commission is a lot less secure than it could be, since decrees are much easier to abolish. This dependence on the President is also very clear through its funding, which has to come through the Office of the President.

But, even though these concerns have been raised about the Commission, its independence, its powers and the functions it has, are all broadly in line with the Paris Principles, and its mere existence is a major breakthrough. It has been analyzed as a Human Rights Institution in line with the Paris Principles by the Asian Pacific Forum, which has admitted it as an associate member.

Recommendation n°101: Continue strengthening its system of promotion and protection of human rights in accordance with international human rights instruments, ensure the creation of a national human rights institution that complies with the Paris Principles and continue cooperating with the United Nations system mechanisms (Recommended by Nicaragua)

IRI: partially implemented

CSW response:

Myanmar has not yet assented to many core human rights agreements.

In September 2011, Myanmar established the Myanmar National Human Rights Commission. However, this is not currently an independent body.

UNPO response:

The newly established Human Rights Commission in Myanmar has from the outset been criticized on several points. The most important of these is the fact that the Commission is not established by a text of constitutional or legislative nature, but rather by a Presidential Decree, which means that the foundation for the Commission is a lot less secure than it could be, since decrees are much easier to abolish. This dependence on the President is also very clear through its funding, which has to come through the Office of the President.

But, even though these concerns have been raised about the Commission, its independence, its powers and the functions it has, are all broadly in line with the Paris Principles, and its mere existence is a major breakthrough. It has been analyzed as a Human Rights Institution in line with the Paris Principles by the Asian Pacific Forum, which has admitted it as an associate member.

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.



UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.



Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response	A	Issue
57	Seek to engage with the international community, with the aim of integrating with the global system and supporting the gradual democratization of its system	Singapore	Accepted	1	Technical assistance
58	Hold, with the help of the relevant United Nations agencies, more seminars and training courses on human rights issues	China	Accepted	4	Human rights education and training, Technical assistance
81	Ratify the Optional Protocol to CRC on the involvement of children in armed conflict (OP-CRC-AC)	Timor-Leste	Rejected	5	International instruments, Rights of the Child
84	Make plans to sign and ratify the Optional Protocols to the core human rights treaties, as well as to abolish the death penalty since the effective moratorium does not seem to discourage lower courts from handing down sentences	Greece	Rejected	4	Death penalty, International instruments
86	Give due consideration to becoming a signatory to OP-CRC-AC	Japan	Rejected	3	International instruments, Rights of the Child
107	Take immediate steps to ensure full protection of civilians in conflict areas and to prevent such conflicts in the future by the creation of a democratic environment with full respect for human rights and fundamental freedoms to all members of society, including members of ethnic minorities	Czech Republic	Rejected	4	Minorities
111	Cooperate with the United Nations Special Rapporteur on the situation of human rights in the country by providing unimpeded access to visit and report on the human rights situation throughout the country	Canada	Rejected	5	Special procedures
114	Abolish the death penalty as soon as possible	Belgium	Rejected	5	Death penalty
115	Abolish capital punishment in national legislation	Italy	Rejected	5	Death penalty
116	Allegations of excessive use of force and torture should be subject to effective and independent investigation in a timely manner in order to bring to justice those responsible for those acts	Switzerland	Rejected	5	Torture and other CID treatment



117	Guarantee without delay to all detainees appropriate detention conditions and access to medical care and engage in substantive dialogue with ICRC on these issues	Switzerland	Rejected	4	Detention conditions
119	Cooperate fully with ILO to end forced and child labour including in the military, in particular through implementation of a Joint Action Plan and awareness-raising activities	United Kingdom	Rejected	5	Human rights education and training, Labour, Rights of the Child
127	Intensify cooperation particularly at the regional and bilateral level with neighbouring States in the effort to find a lasting solution to the issue of the Myanmar refugees	Malaysia	Rejected	4	Asylum-seekers - refugees
129	Amend the Constitution accordingly and in compliance with international human rights treaties and humanitarian laws	Denmark	Rejected	5	International humanitarian law, International instruments
132	Repeal laws that are not in compliance with international human rights law and review its legal system to ensure compliance with the rights to due process and a fair trial and respect for the rule of law	New Zealand	Rejected	5	International instruments
138	Establish a national consultative body to provide a platform for all national stakeholders to be consulted on and involved in the implementation of the democratic reform process	Maldives	Rejected	5	Other
140	Renew the agreement with ICRC to allow visits to places of detention	Maldives	Rejected	5	Detention conditions, International instruments
141	Renewed cooperation with ICRC, including allowing it access to all places of detention	Norway	Rejected	5	Detention conditions, International instruments
143	Allow unimpeded access to all regions to ICRC, the Special Rapporteur on the situation of human rights in Myanmar, other United Nations envoys and humanitarian organizations	New Zealand	Rejected	5	Special procedures
146	Invite the Special Rapporteurs on the independence of judges and lawyers, on the promotion and protection of the right to freedom of opinion and expression, and on torture and other cruel, inhuman or degrading treatment or punishment to visit the country	Maldives	Rejected	5	Freedom of opinion and expression, Justice, Special procedures, Torture and other CID treatment
147	Invite the new Special Rapporteur on the rights to freedom of peaceful assembly and of association to visit the country	Maldives	Rejected	5	Freedom of association and peaceful assembly, Special procedures



150	Improve its cooperation with the United Nations Special Rapporteur on the situation of human rights in Myanmar and guarantee the mandate holder regular and unrestrained access to the country	Portugal	Rejected	4	Special procedures
153	Put an end to racial discrimination against the Rohingya and join ICERD	Belgium	Rejected	4	International instruments,Racial discrimination
156	Immediately halt all violations of international human rights and humanitarian law by the security forces	Sweden	Rejected	4	Human rights violations by state agents,International humanitarian law
159	Independent human rights monitors be allowed unrestricted access to all detention facilities and that such facilities are appropriately funded and comply with international standards of care and treatment of prisoners	Ireland	Rejected	5	Detention conditions
160	Allow ICRC unimpeded access to the 2,200 political prisoners	Greece	Rejected	5	Detention conditions
162	Allow ICRC full and unrestricted access to places of detention	Portugal	Rejected	5	Detention conditions
163	Review the legislation and practices in accordance with ILO Convention 29 on forced labour, and extend the ILO mandate to the overall territory of Myanmar	Uruguay	Rejected	3	International instruments,Labour
164	Thorough reform of the judiciary to ensure compliance with due process and fair trial standards, including independence and impartiality	Canada	Rejected	4	Justice
165	Initiate a review and reform of the judiciary to assure its independence and impartiality, and that specific measures are taken to ensure that military and police personnel respect international human rights and humanitarian law	Ireland	Rejected	5	International humanitarian law,Justice
166	Ensure that all acts violating international human rights and humanitarian law are subject to prompt, independent and impartial investigation, and that suspected perpetrators, including those suspected of ordering these acts, regardless of rank, are brought to justice in proceedings which meet international standards of fairness, and without the imposition of the death penalty	Sweden	Rejected	4	Death penalty,Human rights violations by state agents,International humanitarian law,Justice
167	Repeal or amend all domestic legislation which is in breach of international human rights law	Sweden	Rejected	5	Justice



168	Immediately and unconditionally release all political prisoners and ensure that all trial proceedings conform to international fair trial standards, including the right to a fair and public trial by a competent, independent and impartial tribunal, access to legal counsel of one's choosing, the presumption of innocence, and the opportunity to appeal through a process of judicial review	Sweden	Rejected	5	Detention conditions, Freedom of opinion and expression, Justice
172	Continue its efforts to throw light on the violations of the right to life, personal integrity and freedom perpetrated under its jurisdiction, in accordance with what has been requested in successive United Nations General Assembly resolutions	Argentina	Rejected	2	General
193	Take immediate steps to end the persecution of human rights defenders	Austria	Rejected	4	Human rights defenders
195	Allow access for international organizations to ethnic minority areas	Norway	Rejected	5	Minorities

A= Action Category (see on our website)

SMR = State making recommendation

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