

## **The Submission of the Myanmar National Human Rights Commission (MNHRC) to the Third Cycle of Universal Periodic Review (UPR) of the United Nations Human Rights Council**

### **A. Introduction**

1. The Myanmar National Human Rights Commission (MNHRC) was established on 24 September 2014 by the enabling law – the Myanmar National Human Rights Commission Law – enacted by the Parliament on 28 March 2014 as Law No. 21/ 2014 with the mandate to promote and protect human rights in Myanmar. One of the objectives of the law is to create a society where human rights are respected and protected in recognition of the Universal Declaration of Human Rights adopted by the United Nations. The MNHRC was reconstituted with 11 Commission Members including Chairperson on 14 January 2020. In accordance with the enabling law, the MNHRC is carrying out its mandate for the promotion and protection of human rights effectively. MNHRC is accredited with “B” status under the Global Alliance of National Human Rights Institutions (GANHRI) accreditation system.

### **B. Accession to Human Rights Treaties**

2. With reference to the Recommendations 143.1 to 143.14 and 144.1 to 144.27 on the ratification or accession to the core international human rights treaties, the MNHRC welcomes that the Government has acceded to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict. The MNHRC has recommended to the Government to accede to the International Covenant on Civil and Political Rights and the Convention against Torture to which Myanmar is not yet a party. The MNHRC also organized the Workshops on ICCPR and CAT with the aim of raising the stakeholders’ awareness. However, there has not been much progress in this regard. While there were some discussions particularly on ICCPR, there is no evidence of concrete action towards acceding to the treaties. The MNHRC recommends the Government to consider acceding to the ICCPR, CAT and the remaining core international human rights treaties as recommended during the second cycle of UPR. The MNHRC recommends to the international community to provide technical assistance in the efforts for public awareness of the core international human rights treaties.

### **C. Strengthening of the National Human Rights Institution**

3. With reference to the Recommendations 143.42 to 143.48 on the strengthening of the national human rights institutions in compliance with the Paris Principles, the Parliament has enacted the Myanmar National Human Rights Commission Law and the Commission was established in accordance with the enabling law. Under the Law, the State has provided the Commission with adequate funding to enable it to effectively discharge its functions. In addition, the State is implementing the recommendations made by the Commission on complaints and findings of on-site inspections to the fullest possible extent. In line with the GANHRI’s recommendations the MNHRC, in cooperation with APF, OHCHR and UNDP, conducted the Capacity Assessment in order to enhance the Commission’s capacity. In accordance with the recommendations contained in the capacity assessment report, the MNHRC drafted the Strategic Plan (2020-2024) and Operational Plan for 2020 with the assistance of experts from APF, adopted them, and already implementing the Operational Plan for 2020. For the amendment of the MNHRC enabling law, the MNHRC drafted amendments for some provisions in its enabling law with the

assistance of legal experts from APF and UNDP and submitted these amendments to the Government. The Government will proceed to submit the amendments to the Parliament.

#### **D. Child Rights**

4. With reference to the Recommendations 143.11 to 143.14, 143.15, 143.25, 143.72, 143.73, 143.76, 143.77 and 143.109 on the involvement of children in armed conflict and child rights, the MNHRC welcomes that the government has acceded to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict. In addition the MNHRC also welcomes the government's efforts to promote and protect the children's rights in cooperation with the International Labour Organization. However, the MNHRC is aware of some instances of violations against children. The MNHRC is heartened that the Myanmar Tatmadaw has been delisted for the violation of recruitment and use of child soldier. Therefore the MNHRC recommends further measures to improve the protection of children.

#### **E. Women's Rights**

5. With reference to the recommendation 143.53 by Pakistan, 143.54 by Slovenia, 143.55 by Cyprus, 143.57 by Austria, 143.58 by Sierra Leone, 143.102 by Bolivarian Republic of Venezuela and 143.103 by Italy

There were 69 candidates, according to the final report on by-elections in 2018, including seven female candidates, which accounts for 10%. No female candidates were elected. In contrast, in the 2017 by-elections, among 96 candidates, 15 were female, which accounted for 17% and two female candidates were elected. MNHRC have learnt that women participation in politics and leadership is still limited, as women were elected to just over 11% of the 433 seats in Lower House of Parliament and to 12 % of 224 seats in Upper House of Parliament. MNHRC noted that Vice President Henry Van Thio, in his speech on International Women's Day of 2019, said that it has been set out in the political framework of the Union Accord to guarantee at least 30% women participation in all sectors. MNHRC urges the government to adopt effective legislation and policy measures to guarantee the right to participation, in compliance with the article 3 of the CEDAW and to guarantee all the other rights enshrined therein.

MNHRC believes that it is essential for the voices of women to be heard at all levels and in all aspects of the peace process. However, women's meaningful inclusion in peace process is yet to become substantial and comprehensive. Women constituted 13% of the 663 participants at the August 2016 Union Peace Conference (UPC), 17% of the 910 participants in May 2017 UPC and 22% of the 1112 participants in July 2018 UPC respectively. Although MNHRC commends the Nationwide Ceasefire Agreement (NCA), women participation in political dialogue process is still low even with many advocacy campaigns to secure women's representation and involvement in the process by means of a 30 % reservation for women in political affairs and peace negotiations.

MNHRC welcomes the adoption of the draft law of Prevention and Protection of Violence against Women (PPVA) and the signature by the State of a Joint Communique with the Special Representative of the Secretary- General on sexual violence in conflict. However, the government commitment to gender equality is not enough to ensure effective protection and promotion of women's rights. The Government of Myanmar should develop more effective internal systems, procedures and plans to address women's rights. MNHRC is concerned about delays in the adoption

of PPVA law. The government of Myanmar should seek the technical cooperation of UN agencies to ensure its compliance with the CEDAW.

Violence against women and girls is the worst human rights violation. According to the reports by the Ministry of Home Affairs, sexual violence against women in Myanmar has been increasing. MNHRC acknowledges the ongoing efforts by the government but it is still necessary to accelerate the awareness campaign on a wider scale both in urban and rural areas of the country. The government of Myanmar should provide all security personnel with in-depth training regarding the policy and methods for addressing and reporting human rights violations and create an enabling climate for reporting. The MNHRC urges the government to adopt PPVA law without delay as PPVA law provides a crucial opportunity for the government of Myanmar to effectively combat violence against women.

#### **F. Abolition of the Death Penalty**

6. With reference to the Recommendation 143.64 by Panama, the MNHRC believes that right to life is a supreme human right and according to the article 3 of the Universal Declaration of Human Rights everyone has the right to life, liberty and security of person. The MNHRC acknowledges that in Myanmar death penalties are still handed out by courts, but no convicted prisoners have been executed since 1988. In order to raise awareness about the right to life, MNHRC organized the Workshop on the Moratorium of the Death Penalty for the government officials concerned on 30-31 October 2017. Then the MNHRC submitted the report related to the aforementioned workshop to the President's Office.

#### **G. Anti-Corruption**

7. With reference to the Recommendation 143.84 by Cuba, corruption affects human rights both directly and indirectly. The MNHRC welcomes the signing of the UN Convention against Corruption in 2012 by the government and the enactment of the Anti-Corruption Law in 2013. The MNHRC also acknowledges the establishment of the Anti-Corruption Commission to tackle the corruption in Myanmar. According to the 2019 Corruption Perceptions Index reported by the Transparency International, Myanmar is the 130 least corrupt nation out of 180 countries. MNHRC understands that tackling corruption is the priority of the government. However MNHRC remains concerned about corruption in Myanmar and we urges the government to encourage the Anti-Corruption Commission to make double efforts to tackle corruption.

#### **H. Election Monitoring**

8. With reference to UPR 2<sup>nd</sup> Cycle Recommendation 143.101 to put forward every effort to ensure that the election process is both free and fair by Republic of Korea.

For Myanmar, as a country trying to lay out democratic reforms amidst internal issues, it is crucial that the electoral process is transparent, inclusive, accountable and credible. The Union Election Commission (UEC) tried to ensure a free, fair and transparent elections in 2018 by-elections than in the 2015 general election and the 2017 by-elections. The UEC has initiated the code of conduct for election observers and also for political parties in close consultation with civil society organizations and political parties. UEC also co-sponsored a workshop on appraising and administering electoral data in collaboration with the International Foundation for Electoral Systems (IFES).

Realizing that the elections and electoral process could be an indicator of stability in the state of electoral democracy like Myanmar, the Myanmar National Human Rights Commission (MNHRC) conducted its first election observation activity as a part of election monitoring campaign at 6 constituencies out of 13 constituencies all across the country in the 2018 by-elections.

To enhance advocacy and to be able to play a key role in supporting the administration of credible elections, Democracy Reporting International (DRI) held a workshop to enhance capacity of the staff members of MNHRC.

The MNHRC focused in particular on all-inclusiveness such as access of people with disabilities (PwDs), women candidates and also appointment of polling station members, based on gender-balance, in all electoral processes.

The MNHRC works closely with disabled persons organizations (DPO) community and UEC to increase the inclusion of PwDs in the election process in the next general elections 2020. The Commission visited some Blind schools and the Mental hospital after holding a meeting with DPOs on 26 March 2018 with regard to cast their votes in the elections. Findings and recommendations of the commission have been reported in the meeting of the Myanmar National Committee on the Rights of Persons with Disabilities on 11 June 2019. In addition, MNHRC submitted a suggestion consisting of eight recommendations to the Union Election Commission (UEC) on 25 June 2019 in order to reduce difficulties and to ensure the 2020 general elections are barrier free and fair.

Generally, the whole 2018 by-elections electoral process was smooth and calm. All observers were able to monitor the process at sub-commission offices and found that the secrecy of the vote was credible.

The UEC made every effort to make sure that there is a level playing field for all contestants, parties and candidates, especially for all parliamentary elections, including the by-elections 2018 as well as for the upcoming 2020 general elections.

## **I. Sustainable Development Goals**

9. With reference to the recommendation 143.40 by Bolivarian Republic of Venezuela and recommendation 143.41 by Singapore in second cycle review, the Government of Myanmar agreed to continue advancing the achievement of the Sustainable Development Goals. In this regard the Government of Myanmar adopted the Myanmar Sustainable Development Plan, MSDP (2018-2030) which localizes and contextualizes Myanmar's commitments to the global sustainable development agenda and it is structured with 3 Pillars, 5 Goals, 28 Strategies and 251 Action Plans. MNHRC commends the MSDP which provides overall framework for coordination and corporation across all Ministries, all States and Regions, private sectors to forge a common path towards the emergence of a prosperous, peaceful and democratic Myanmar.

MNHRC commends MSDP and also the cooperation between the government and UNDP to ensure its compliance with the commitment by government of Myanmar. MNHRC believes that the greater levels of development can lead towards greater level of achievement of human rights. However, the Government of Myanmar alone cannot implement MSDP and it is necessary to make long-term and sustained efforts in collaboration with multiple stakeholders including international organizations, partners and funders who are crucial for the implementation of MSDP. "Peace, National Reconciliation, Security and Good Governance" are one of the goals under the Peace and Stability Pillar of MSDP since without peace and stability there is no human rights and no one can enjoy their inherent rights.

**J. Human Trafficking**

10. Referring to the Recommendations 143.122, 143.74 and 143.75 by Panama, Greece and Malaysia, MNHRC believes that human trafficking is the worst human rights violation. According to the annual US Trafficking in Persons Report, Myanmar remains at Tier-3 level by 2018. And according to the Anti-Trafficking Police Force, a total of 126 human trafficking cases were registered across Myanmar in the first half of 2019. Therefore MNHRC urges the government to make concerted efforts to combat human trafficking to ensure that Myanmar is taken off Tier-3 level.

**K. Internally Displaced Persons Camps**

11. Referring to the Recommendations 143.120 by Turkey, IDP camps are set up in temporary shelters in Shan, Kayin and Rakhine States in Myanmar. The National Strategy for the closure of these camps has been drawn up by the Ministry of Social Welfare, Relief and Resettlement. This strategy is designed in accordance with local needs and international norms, including resettlement of internally displaced persons with safety, restoration with self-reliance and dignity. Mine clearance issues will be coordinated with the relevant ministries and organizations. In accordance with the provisions of Myanmar National Human Rights Commission Law, Commission's Inspection team visited IDP camps in Rakhine and Kachin State. After the inspection, the requirements were solved with the cooperation of the relevant authorities. The MNHRC submitted its inspection report, along with its findings and recommendations, to the President's Office and the ministries concerned.