

MYANMAR:

Children's Rights References in the Universal Periodic Review

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Organisation: [Child Rights Information Network](#)

Resource type: UPR report

Summary:

A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the final report and the list of accepted and rejected recommendations.

 <http://www.crin.org/resources/infoDetail.asp?ID=23874&flag=report>

Myanmar - 10th Session - 2011
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National Report

36. Social security laws such as the law relating to social security rights, the law relating to special protection of post-and prenatal mothers, the law relating to the rights of the working mothers and child have also been promulgated.

37. Myanmar provided legal provisions concerning guaranteeing of non-discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, poverty, birth or other status.⁵ Death penalty is prescribed under the law to be imposed for the most serious crime in accordance with the law in force at the time of the commission of the crime. This penalty can only be carried out pursuant to a final Judgment rendered by a competent court.⁶ Myanmar notes that this practice is in line with International standard including article 6(2) of the International Covenant on Civil and Political Rights (ICCPR). Although the death penalty is imposed in accordance with the law, Myanmar never carries out the death penalty since 1988. Persons below the age of 16 years and youth

at the time of the commission of the crime for which death penalty was prescribed shall not be sentenced with the death penalty.⁷

38. Prohibition of torture or cruel, inhuman or degrading treatment or punishment⁸ and the prohibition of slavery, the slave trade, forced or compulsory labour are also provided in Constitution and Penal Code.⁹ Everyone has the right to liberty or security. The prohibition of arbitrary arrest or detention is provided. Any one arrested or detained on the criminal charge shall be arrested or detained in accordance with procedure established by Law.¹⁰ To be treated with humanity there is a provision in Child Law that a child or youth who has been sentenced to imprisonment shall not be kept together with adult prisoners.¹¹ Laws concerning Equality of rights of persons before the courts and tribunals are provided in Laws¹². These are right to be presumed innocent until prove guilty according to law.¹³

39. In the case of Juvenile person, the procedure is established to take account of their age and desirability of promoting their rehabilitation.¹⁴ Everyone convicted of the crime has the right to his conviction and sentence being reviewed by the higher tribunal according to law.¹⁵ And also there is a provision that person once convicted or acquitted shall not be tried for the same offence.¹⁶

43. The rights of men and women of marriageable age to marry and found a family,²³ the rights to register the birth of the child²⁴ and to citizenship in accordance with law²⁵ are provided.

45. Myanmar acceded to the Convention on the Rights of the Child (CRC) on 16 July 1991. On 15 August 1991, Myanmar became a State Party to the CRC. To implement provisions of the Convention, "The Child Law" was enacted on 14 July 1993. It was followed by the promulgation of rules of procedure on 21 December 2001. Juvenile courts were also established to hear juvenile cases. Myanmar has been collaborating with UNICEF in connection with the administration of justice in juvenile cases. The National Committee on the Rights of the Child was formed on 30 March 1993 and its working committee was established on 17 June 1997.

46. Moreover, State, Regions, District and Township level committees were also set up for the same purpose. Voluntary social welfare officers were assigned in 10 States and Regions. The initial report on the Rights of the Child was submitted to the UNCRC in August 1995, the second report in March 2002 and the 3rd and 4th National Report on the Rights of the Child were submitted to the UNCRC in April 2009.

47. The Ministry of Social Welfare, Relief and Resettlement with the collaboration of UNICEF has been carrying out 264 awareness programmes on CRC and child protection in the country from 2002 to 2010.

48. The Committee for the Prevention against Recruitment of Minors for Military Service was formed on 5 January 2004. In 2007, Ms. Radhika Coomaraswamy, Under Secretary-General of the United Nations and Special Representative of the Secretary-General (SRSG) for Children and Armed Conflict, visited Myanmar. She discussed with the Acting Prime Minister and senior officials on the prevention of recruitment of under- age children. Consequently, the Work Committee, the Monitoring and Reporting Task Force and the Reintegration and Rehabilitation Task Force were formed in 2007. Active collaboration is going on in these areas.

49. The Committee has arranged observation visits by ambassadors, military attaches and resident representatives of UN agencies 10 times to Military Recruitment Centres and Military Training Camps. Furthermore, a Plan of Action has been developed; efforts are being made to sign the plan of Action with the United Nations.

50. Sub-Committee for Taking Action and Information on complaints through International Labour Organization (ILO) was formed in 2005 and programmes on disarmament, demobilization and reintegration (DDR) has been carried out since 2002. A total of 75 minors were allowed to resign due to

information provided by ILO, 18 minors by ICRC and 281 ineligibles by the Committee totaling (374) minors were allowed to resign and handed over to respective parents/guardians. Actions have been taken against

108 military personals as perpetrators of ineligible recruitments. In the area of rehabilitation, the Ministry of Social Welfare, Relief and Resettlement provides vocational trainings for 96 children, follow-up programme for 106 children, 224 under-age children who resigned from army are being assisted by UNICEF and INGOs such as Save the Children (Myanmar) and World Vision (Myanmar). From 2004 to May 2010, 10787 education talks on national law and international law related to the prevention against recruitment of minors for military service are being provided to regiments. The Committee in collaboration with ILO, International Committee of the Red Cross (ICRC), United Nations International Children's Emergency Fund (UNICEF), and INGOs conducted awareness raising on prevention of under-age military recruitment training 12 times at the Social Welfare Training School, Military Recruitment Unit (Yangon) and (Mandalay) from 22 November 2007 to 30 June 2010. For public awareness, pamphlets on child rights are also distributed. In collaboration with ILO, UNICEF, Save the Children and World Vision, workshop on prevention of under-age military recruitment was held on 20 May 2010 in Nay Pyi Taw. High-level officials from the Ministry of Defence and ministries concerned attended this workshop. On 27 February 2009, the Directive stipulating that all regiments shall not recruit under-age children and the perpetration of ineligible recruitments shall be taken actions, was issued by the Secretary of the Committee.

57. According to the Constitution of the Republic of the Union of Myanmar (2008), women are entitled to be elected as a Pyithu Hluttaw representative. Myanmar educational policy provides equal opportunities to both sexes without any discrimination. The objectives for pre-school, primary, secondary and tertiary level education also stipulate equal rights for all citizens without any discrimination of sex.

67. Section 32(a) of the Constitution stipulates that the Union shall care for mothers and children, orphans, fallen Defence Services personnel, the aged and the disables. Section 18(a) of the Child Law (1993) specifically states that the State shall adopt measures in order that mentally-retarded or physically disabled children have the right to acquire basic education (primary level) at special schools or vocational education, and the right to obtain special care and support from the State and the right to participate with dignity in the society.

70. The Department of Social Welfare and the Ministry of Education are jointly carrying out activities under the "Education of All" Programme. As per the programme, 801 disabled children are enrolled at Basic Education Schools, 1450 children at 14 Special Schools for the disabled, 31 disabled students at the colleges and universities and 6 disabled persons at post graduate schools respectively.

71. The Ministry of Social Welfare, Relief and Resettlement is the focal Ministry for matters relating to PWDs. The Ministry implements programmes for the disabled such as vocational training, special education techniques, training for daily physical mobility, physiotherapy for the physically handicapped, establishment of income generating enterprises, creation of barrier free environment, capacity building for the disabled to ensure social inclusion and the awareness raising activities. The aforesaid activities are being carried out by the Ministry in 17 schools for the disabled and the 22 Disability Resource Centres and 120 villages located in 15 townships throughout the country in closed cooperation.

87. Myanmar is striving to lower down the maternal mortality ratio, neonatal mortality rate, infant mortality as well as under-five mortality rates with a momentous effort. All efforts are geared towards maternal, newborn and child health care activities from both the public as well as private sector aim towards reducing maternal deaths, newborn deaths, infant deaths and under five deaths. Maximum

utilization of available resources for Maternal Newborn and Child Health activities is one of the strategic directions in Myanmar.

90. With the realization that education is a key element for development in all spheres, Myanmar is placing special emphasis on it. Ministry of Education is striving to improve access to education for all children and promote the quality of education in both the Basic Education and the Higher Education Sectors. Since the 2001–2002 Academic Year, the Thirty-Year Long-Term Education Development Plan encompassing programmes for both basic and higher education has been implemented in six phases each consisting of a five-year plan.

91. According to All School-Age Children in School Project, the concerted activities have been undertaken to enhance enrollment of all children in school and to promote retention rate. In accordance with the Jomtien declaration, the All School-Age Children in School Project has been implemented since 1996 and household survey on literacy was conducted up to 1999 annually. Since 1999–2000 Academic Year, School Enrollment Week has been held yearly and observed in every township with the coordination and involvement of regional authorities, educational personnel, NGOs, School Board of Trustees, well-wishers, parents and local communities. Due to this nationwide effort, the primary school intake rate in grade 1 is increased to 98.37 per cent in 2010–11 Academic Year. This ensures creating opportunities and access to primary education of all school-age children including those in difficult circumstances and those belonging to ethnic minorities.

92. The Continuous Assessment and Progression System-CAPS was introduced in Myanmar in 1991 and was initiated in the schools of project townships with collaboration of UNICEF and then CAPS has been implemented in the whole nation since 1998. In order to promote children's creativity, analytical skills, critical thinking, and problem-solving skills, the Child Centered Approach have been expanded to use in the schools.

93. In accord with Myanmar EFA National Action Plan (EFA-NAP) (2003–2015), developing and expanding child friendly schools based on the Convention on the Right of the Child (CRC) is carried out. In Myanmar, right-based child friendly schools are based on 3 basic principles which are "in the best interest of the child, non-discrimination and respect to the opinion of the child". Therefore, all school children in Myanmar have their rights in the school, in their families and in community as stated in the CRC.

94. Human Rights Education lessons are prescribed in basic education curriculum and taught in all basic education schools. For the Basic Education Primary Level, the concept of Human Rights is integrated in moral and civics as well as in other subjects such as Myanmar Language and Social Studies. For the secondary level, Human Rights Education lessons are prescribed and taught as a co-curricular subject.

95. As research is regarded as the lifeblood of higher education institutions, one of the key activities is carrying out researches concerned with major subjects as well as researches which are beneficial for the nation. Through the implementation of the long-term education development plan, higher education institutions are carrying out not only academic researches but also the applied researches based on the local resources to fulfill local needs of the region in which the higher education institutions are located. The PhD courses have been offered in the respective universities since 1994–95 Academic Year.

96. At least 1 Arts and Science University, 1 Computer University and 1 Technical University are established in 14 states/divisions as well as 24 special development zones and totally 160 universities and colleges have been opened in the whole nation. Therefore, access to higher education has been gained fully and equally for all in Myanmar.

97. Higher education students have obtained a sound foundation in human rights education since their basic education students' lives. Departments such as the Law Department and International Relations Department at higher education institutions offer more advanced Human Rights Education courses.

98. Education expenditure is significantly increased yearly. In 2009–2010 Academic Year, total education budget was 248.39 billion Kyats. According to new constitution, by highly encouraging private education sector, education expenditure will be significantly increased in the near future.

101. During 2006 and 2010, 1074 convicted youth prisoners have been given education classes ranging from kindergarten to Grade 9. The total number of prisoners who are being taught in the three "Rs" literature classes opened during 2008–2010 academic years also amounted to 1156. In the prisons, meditation centres are being opened for prisoners with the intention of avoiding personal involvement in next criminal cases and becoming softened-hearted persons. The prisoners have the opportunity to attend these meditation centres by their own free will. From 2004 to 2010, the total numbers of 20,170 prisoners of male and female have participated in the meditation practice.

110. Curriculums on child's rights, women's rights, trafficked person's rights and migrant workers' rights have been drafted with the assistance of foreign experts. Under these curriculums, the respective experts are lecturing Myanmar Police officers at the Police Training Center. Additionally, mobile educational team including police officers, respective authorities and responsible persons, has been roaming and lecturing.

111. In order to extend the awareness on human rights subject for students, human rights subject curriculums for primary, middle and high school level and university level have been promulgated and lectured.

114. For promotion and protection of human rights, cooperation with UN agencies, submission of national reports on CRC and CEDAW to the respective Committees, clarification to the questions on the national reports and implementation of the recommendations on the reports are being conducted.

UN Compilation

2. In 2009, The Secretary-General encouraged Myanmar to ratify the OP-CRC-AC and to align national legislation and practice with that commitment.¹³

3. In 2004, the Committee on the Rights of the Child (CRC) encouraged Myanmar to ratify ICESCR, ICCPR, ICERD, CAT, ICRMW14, and the 1951 Convention relating to the Status of Refugees, its 1967 Protocol and the 1954 Convention relating to the Status of Stateless Persons¹⁵, the Optional Protocols to the Convention¹⁶ and ILO Conventions Nos. 138 and 182¹⁷

8. CRC welcomed, inter alia, the accession to ILO Forced Labour Convention No. 29, but remained concerned at the existence of the Citizenship Act and the Whipping Act.²⁶

9. CRC was concerned that children between 16 and 18 years are treated as adults under the penal law. It recommended that Myanmar recognize that all persons below the age of 18 are entitled to special protection and specific rights as enshrined in the Convention.²⁷ UNCT advised that to conform with the commitments of Myanmar to the CRC, a number of child laws need to be reformed.²⁸

11. CEDAW encouraged Myanmar to accelerate the process of establishing a national human rights institution in accordance with the Paris Principles and urged it to strengthen its legal complaints system to ensure that women, especially women of ethnic groups, have effective access to justice.³² CRC gave similar encouragement and recommended that the institution's mandate include the ability to investigate complaints of violations of child rights. It suggested establishing within this institution a special division for children's rights.³³

13. CRC welcomed the establishment of an interdisciplinary National Committee on the Rights of the Child whose main mandate was the coordination of governmental bodies involved in the implementation of the Child Law.³

15. CEDAW commended Myanmar for the adoption of the Myanmar Five-Year National Plan of Action to combat Human Trafficking (2007–2011), the establishment of the central body to combat trafficking in persons, and its accession, in 2004, to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.³⁸ It urged the effective implementation of the National Action Plan, including the prevention of trafficking and the prosecution of traffickers.³⁹

16. CRC welcomed the adoption of the National AIDS Programme and the development of the Joint Programme for HIV/AIDS 2003–2005; the adoption of the "Education for All" National Action Plan, and the adoption with ILO of the joint Plan of Action for the Elimination of Forced Labour⁴⁰. It recommended that Myanmar adopt a new plan of action for children, which will include the Millennium Development Goals.⁴¹

23. CRC was concerned about discrimination against children with disabilities, children from remote and border areas, children belonging to religious minorities and children with low status citizenship⁶². It urged Myanmar to ensure that all children are registered at birth without discriminatory conditions, and recommended abolishing the statement on the national identity card of the religion and ethnic origin of citizens, including children⁶³.

33. CRC was concerned that corporal punishment continues to be regarded as acceptable in society, that Myanmar has not repealed the Whipping Act and that the orders prohibiting corporal punishment in schools do not seem to be effective⁸³. It recommended, inter alia, that Myanmar duly investigate cases of domestic violence and violence in schools.⁸⁴

34. The Secretary-General urged the Government to put into place a tighter mechanism to prevent the recruitment of children and to demobilize unconditionally all children⁸⁵. The Government should cease the arrest and harassment of children for desertion and/or attempting to leave the army.⁸⁶ CRC recommended that Myanmar prioritize the demobilization and reintegration of all combatants under 18 and take effective measures to ensure that children can be reintegrated into the education system.⁸⁷

36. CRC recommended that Myanmar carry out a national study to assess the scope, nature and causes of the phenomenon of street children and provide street children with recovery and rehabilitation services, adequate nutrition, health care and educational opportunities⁹¹.

38. CRC was concerned at the absence of juvenile courts and juvenile judges; poor conditions of detention; the lengthy periods before juvenile cases are heard and the minimum age for criminal responsibility (age 7).⁹⁸

40. CRC recommended that Myanmar refrain from activities that may lead to the disintegration or displacement of families,¹⁰¹ expedite the assessment on the situation of children placed in institutions,¹⁰² and amend its current domestic legislation and practice regarding adoption.¹⁰³

49. The Special Rapporteur on the situation of human rights in Myanmar stated that infant mortality remained high, with an estimated 10 per cent. More than 30 per cent of Myanmar's children were chronically malnourished. The national prevalence of underweight and stunting among children under five years is 32 per cent. More than 25 per cent of the population lacked access to safe drinking water. Approximately half of the malaria deaths in South-East Asia occurred in Myanmar.¹¹⁹ CRC was concerned at the high infant and under-five mortality rates and the low life expectancy; that health services in the remote areas are often inaccessible, and that the survival and development of children in Myanmar continue to be threatened by early childhood diseases¹²⁰. It recommended that Myanmar

ensure access by all children, in particular those in remote and rural areas, to safe drinking water and adequate sanitation systems.¹²¹

51. While noting the adoption of the five-year national strategic plan 2006-2010 in the area of HIV/AIDS, CEDAW was concerned that women and girls may be particularly susceptible to infection owing to gender-specific norms.¹²³ CRC expressed similar concerns.¹²⁴ UNAIDS noted in its 2007 report that the response to the HIV epidemic is slowly but consistently expanding, with an estimated 70 000 Myanmar people in need of antiretroviral treatment.¹²⁵

52. The Special Rapporteur on the situation of human rights in Myanmar noted that only 43 per cent of children enrolled at school completed five years of primary education.¹²⁶ UNCT considered that an increase in the education budget was a prerequisite to the establishment of special schools and the integration of children with special needs and disabilities.¹²⁷

53. CRC recommended that Myanmar improve the quality of the education system; ensure that primary education is free in practice; extend compulsory education to at least the sixth grade; ensure that girls and boys, from urban, rural and remote areas, and children belonging to minority groups all have equal access to educational opportunities; improve the quality of education.¹²⁸

54. CEDAW encouraged Myanmar to overcome traditional attitudes that in some rural areas constitute obstacles to girls and women's education. It recommended that Myanmar implement measures to ensure equal access of girls and women to all levels of education and retain girls in school.¹²⁹

58. CRC was deeply concerned about the situation of the children of the Bengali people residing in Northern Rakhine State, and of children belonging to other ethnic, indigenous or religious minorities¹³⁵. It recommended that Myanmar continue and strengthen its awareness-raising activities among the people of the Padaung and the Kareni tribes, in particular women and girl children, on the potential risks of their traditional practice for their physical well-being¹³⁶

61. CRC was concerned at the very high number of children and their families who were internally displaced in Myanmar and that many were forced to seek asylum in neighbouring countries. It recommended that Myanmar allow children and their families who have returned to Myanmar and who are stateless to acquire Myanmar citizenship; provide adequate assistance to internally displaced children; and work closely in this regard with UNHCR and UNICEF.¹³⁹

76. CRC was deeply concerned at the dramatic decrease of resources allocated to social sectors, notably health and education over the past decade, while the budget allocated to defence has increased dramatically over the same period¹⁶².

79. CRC recommended that Myanmar seek technical cooperation for the training of professional staff working with and for children with disabilities from, inter alia, UNICEF and WHO¹⁶⁶; on violence against children, and on child soldiers, from, inter alia, UNICEF¹⁶⁷, and on child labour, from ILO.¹⁶⁸ It also recommended that it continue to seek assistance on trafficking, on street children, and on adoptions, from, inter alia, UNICEF¹⁶⁹, and on education from UNICEF and UNESCO.¹⁷⁰

Stakeholder Compilation

11. ACFID noted that the Child Law 1993 reflected an attempt to promote and protect the rights of children, especially through the establishment of national, divisional/state and township child rights committees. The Child Law 1993 did not protect all the rights of children especially with regard to the use of corporal punishment, which violates article 37 of the CRC.¹⁹

15. ACFID noted that in 2004, the Myanmar government established a Committee for the Prevention of Military Recruitment of Underage Children to investigate several specific cases of child soldier

recruitment.²³ ACFID recommended that Myanmar ensure that the Committee has adequate mandate and resources.²⁴

16. ACFID recommended that Myanmar ensure that all professionals who come into contact with children, especially judges, attorney, police, teachers and committee members receive minimum training on Child Law and the CRC.²⁵

30. ACFID recommended that Myanmar include a provision in the Child Law 1993 which prohibits all form of corporal and humiliating punishment of children and conduct training of teachers on the prohibition and positive discipline techniques.⁵

38. ACFID recommended that Myanmar ensure that all children born in Myanmar are issued a birth certificate. Costs for access and registration in remote and rural areas should be removed.⁷⁰ ACFID recommended that Myanmar ensure that all children born in Myanmar, and who reach their tenth birthday receive citizenship and an identity card.⁷¹

56. ACFID recommended that Myanmar endorse and implement the UNICEF Minimum Standards for the Protection of Working Children. A code of conduct protecting working children should be developed for all employers and monitored by government Labour Law Inspectors.¹⁰³

60. ACFID stated that public education in Myanmar was characterized by low enrolment, poor attendance, rote learning, high dropout rates and use of corporal punishment and humiliating punishment. ACFID recommended that the Ministry of Education develop and implement pilot initiatives such as free school meals, provision of uniforms, stationery and incentives for trained teachers in remote areas.¹⁰⁷

61. JS3 stated that using ethnic language in schools and workplaces was banned. Many ethnic people such as Mon, Karen, Shan, Chin, Karenni, Arakan, and Kachin had set up their own 'national schools' in order to preserve their language and culture through informal education. These schools were constantly disrupted by local authorities.¹⁰⁸ JS1 claimed that the Government imposed restrictions that prohibit ethnic languages being taught in public schools, even as a second language and had denied ethnic communities permission to hold cultural celebrations.¹⁰⁹

62. According to JC, Rohingya Muslims in Rakhine State are not eligible for government-issued National Registration Cards (NRCs), which denies them access to education in state-run schools.¹¹⁰

74. ACFID stated that recruitment of child soldiers by the Army and ethnic forces continued to be routine.¹²⁸ JS4 recommended that Myanmar release immediately all children present in its military ranks and criminally prosecute those responsible for their recruitment.¹²⁹ ICTJ also noted that the Myanmar armed forces constituted the only army in Asia to continue recruiting child soldiers.¹³⁰

76. ACFID noted NGO reports that children's rights are, after many years of advocacy, an accepted concept in some government departments. Government officials have received training on child rights. Trafficking is also now an accepted issue and the Government

participates in regional efforts such as the Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT).¹³²

Accepted and Rejected Recommendations - To follow

Organisation Contact Details:

Child Rights Information Network
East Studio
2 Pontypool Place
London
SE1 8QF
Tel: +44 (0)207 401 2257
Email: info@crin.org
Website: www.crin.org

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