

## ANNEX II

### **UPR submission UNCT Myanmar**

#### **Human Rights during the COVID-19 pandemic**

##### **1. Introduction**

The information in this annex is intended to complement the submission from the United Nations Country Team in Myanmar on the implementation by the Government of Myanmar (GoM) of the UPR recommendations from the second cycle and focuses specifically on the situation of human rights in Myanmar during the COVID-19 pandemic.

##### **2. Economic and Social rights**

On 27 April 2020, Myanmar launched its Socio-Economic Relief Plan (CERP) to immediately address the inevitable economic impact of COVID-19. CERP seeks to minimize the economic constraints and impact of COVID-19 while simultaneously dealing with the health-related responses of the pandemic. The plan is based in the principle “leave no one behind” and has specific goals related to ease the burden faced by categories at risk, including poor and vulnerable households, laborers, small and micro enterprises, and farmers, and to support them sustain their economic activities.

##### **3. Health response efforts**

The Government of Myanmar demonstrated early and continuing efforts for preparedness and response to the current pandemic. The initial ministerial task force, set up after the declaration of the novel coronavirus as a public health emergency of international concern, was quickly scaled up to a national level “Central Committee for COVID-19 Prevention, Control and Treatment” chaired by the State Counselor. Within the parameters of the current health system the response efforts focused on limiting the spread of the pandemic as well as a rapid increase in prevention, testing, quarantine and treatment capacity. The Ministry of Health and Sports initially developed a flash proposal to implement key public health measures which was superseded by the more comprehensive “Health sector contingency plan: outbreak response on Covid-19 and other emerging respiratory disease in Myanmar” on 21 April 2020.

Through its communication strategy in which the State Counselor herself took the lead in providing information on the risks and the response, broad support and adoption of government measures was assured. The government structures established enabled Myanmar to follow up implementation to the township level, securing high levels of support for temporary measures that restricted freedom of movement and assembly as a response to the pandemic. Similarly, the mandatory quarantine measures were widely accepted as a necessary step to prevent the spread of the pandemic.

Visible government steps to increase testing capacity, as well as announced increases in treatment and critical care capacity such as intensive care beds were positive steps towards minimum access to health care.

The government also sought active coordination with Ethnic Armed Organizations to strengthen preparedness and response efforts in areas where they are present, including provision of medical supplies and PPE in some areas.

As access to key public health information is critical to an effective response at a community and individual level, government restrictions on access to information and to the internet in Rakhine State limited community responses to the pandemic in that area.

The Ministry of Social Welfare, Relief and Resettlement (MoSWRR) released a COVID-19 Action Plan for IDP Camps in April 2020, providing for increased awareness-raising around COVID-19 risks in IDP camps, mobilization of prevention and control measures, and arrangements for referral of IDPs to medical facilities. They have distributed items including soap and masks in IDP camps and temporary displacement sites, and have provided cash assistance for pregnant mothers, children under age 5, elderly persons and persons with disabilities in quarantine centers.

Finally, the government approach also gave emphasis to the importance of maintaining essential health services, although in practice actual access to health facilities may be constrained and perceived as difficult due to COVID-19 procedures, stigma/fear and reluctance to access medical facilities in order to avoid mandatory quarantine rules.

#### **4. Right to education**

During the COVID-19 pandemic the Ministry of Education (MOE) developed a sector-wide COVID-19 Response and Recovery Plan, covering the Basic Education, Alternative Education, Technical and Vocational Education Training (TVET) and Higher Education sub-sectors, to mitigate the impact of the COVID19 pandemic on students' right to education. Among others, under this plan, the MOE established an Ethnic Basic Education Provider (EBEP) support program, to support EBEPs in the COVID-19 response. This is a positive step, which bodes well for strengthened engagement between MOE and EBEPs going forward, and improved learning opportunities for students studying under these systems in the long run. The COVID-19 Response and Recovery Plan also includes strategies for integrating crisis sensitive planning into the MOE's regular planning processes through the development of an Emergency Preparedness and Response Policy Framework. The Framework will aim to improve the resilience of the education system in the face of future emergencies and ensure that more children and youth have access to education in conflict-affected and disaster-prone communities.

As part of Myanmar's proposal to the Global Partnership for Education for the preparation of the new National Education Sector Plan 2021-2030, the Ministry has proposed the development of an Ethnic Language Based Multilingual Education program to promote the use of learners' first language in the classroom. The program will be designed in close consultation with EBEPs and promote the use of ethnic languages in schools. This is another concrete step the MOE is taking to realize the right of students from ethnic minorities to access quality education.

#### **5. Labour rights and social security**

From 13 May to 1 July 2020, the Myanmar Social Security Board (SSB) provided 13 billion Myanmar Kyat (approximately 9.4 million USD) as a 40% income replacement cash benefit to 3,519 enterprises, which benefited 619,127 workers. SSB has also provided other cash benefits such as sickness (for those who are in quarantine) and maternity cash benefits to current insured workers. In addition, SSB extended medical care to laid off workers and contributed 70 million USD to the response fund for loans for small and medium size enterprises (SMEs), garment factories and tourism sector to help them with payroll expenses and avoid layoffs.

Myanmar remains at the early stages of system wide rights based social protection commitments. To strengthen its social security system, coordination across ministries (from finance/ planning to social welfare, health, labour, education, rural development, etc) needs to improve, as well as better taxation system governance.

## **6. Returning migrants**

As a result of economic downturn in the region due to the COVID-19 pandemic, since late March, migrant workers started to return primarily from Thailand and China, and as of 30 June, almost 117,000 migrant workers have returned. GoM was unprepared for the sudden influx of migrants from countries with a higher reported incidence of COVID-19 and authorities struggled to enforce orders for migrants to quarantine for two weeks (later extended for three-week facility quarantine followed by one-week home quarantine) once they were back in their towns. As noted above, at the early stages of the pandemic, GoM established quarantine centres using available government premises and ensuring adequate facilities, staff and equipment at these centres as much possible. Since late March, community-based quarantine centres across Myanmar have been established in schools, university halls and religious compounds that lay empty because of the pandemic.

GoM has limited admissions to quarantine centres to people arriving from abroad and those discovered via contact-tracing to have been exposed to confirmed COVID-19 patients. GoM has also provided basic services for returnees, including transportation and provision of basic infrastructure for quarantine but has been limited in its capacity to respond to the large needs faced by returnees and has therefore reached out to the international community for support in filling the gaps. However, in some cases, local communities have to bear much of the burden of staffing the quarantine centres and providing food, WASH, hygiene kits, with support from donors and humanitarian actors, and some communities have complained of a lack of GoM support. As restrictions are lifting, in particular in Thailand, and expectations for the future demand for migrant labour increase, many migrant workers are hoping to re-migrate once labour migration through the MOU between Thailand and Myanmar resumes, but it would take time for the two governments to reach an agreement on updated procedures and requirements including public health measures. Reintegration of returning migrants is constrained by limited employment opportunities in Myanmar as migrant sending communities are impacted by reduced remittances from migrants.

## **7. Gender equality and women's empowerment**

To support vulnerable groups during the COVID-19 pandemic, especially women and children, GoM expanded existing Social Protection schemes in line with the CERP. For example, GoM

initiated a cash support programme in partnership with the Livelihood and Food Security (LIFT) fund. The cash support will help ease the direct impact on 400,000 people and indirect impact nearly two million people across the country during the COVID-19 pandemic. The support will be delivered to mothers of children under the age of two, pregnant women, and older people over the age of eighty-five who are beneficiaries of Department of Social Welfare's (DSW) two social protection programmes; the Maternal and Child Cash Transfer Programme and the Social Pension Programme. DSW also provided a cash top-up of 30,000 Kyat (approximately 21 USD) to 2,650 pregnant lactating women and girls in Kachin (2,350) and Shan (300) States.

To identify and address specific issues of women and children in different sectors such as health, education and economy, GoM initiated national dialogues with Civil Society Organizations, the Private Sector and Women advocates through its National Women Committee. The feedback and recommendations will be fed to the Policy Brief to engender COVID-19 response by all sectors.

MoHS provided PPEs to health care workers at the frontline, conducted trainings on Sexual and Reproductive Health Rights (SRHR), Gender Based Violence (GBV) and Mental Health and Psychosocial Support (MHPSS) and on the use of PPEs to nursing and midwifery schools around the country. MoHS also endorsed "Clinical Management Guideline for COVID-19 Infection in Pregnancy" and published COVID-19 related health messages for pregnant women, lactating women and new parents to ensure the continuity of maternal health care services and promote public awareness of maternal health in COVID-19.

#### **a. Violence against women**

Through trainings conducted by Department of Social Welfare (DSW) and the Department of Rehabilitation (DoR) of the Ministry of Social Welfare Relief and Resettlement (MoSWRR), frontline workers in all settings have been equipped with the tools and knowledge to ensure vulnerable groups such as women and children are protected from all forms of violence, abuse, exploitation and neglect during the pandemic. Fifty helplines were also established to give psychosocial support to especially women and girls during the pandemic. GoM also issued volunteer guidelines for quarantine centers ensuring safety, security and protection of women.

### **8. Civil and Political Rights**

#### **a. Freedom of expression and assembly**

After the outbreak of the COVID-19 pandemic, there were several relevant developments pertaining to the spheres of freedom of expression and freedom of association. While noting the challenges in responding to the pandemic, human rights concerns continue to remain in view of the responses adopted by the Government.

On 20 April 2020, the President's Office published Directive No. 3/2020 "Prevention of incitement to hatred and violence (or) Prevention of proliferation of hate speech". In this directive, the President requests all subordinate government units to ensure that all people under their control "denounce and prevent all forms of hate speech". While instances of hate speech on ethnic and religious based have been documented, there is no information available about any act of denounce or prevention in compliance with the Presidential directive. The issuance of the directive is a welcome step raising attention to the problem of hate speech. However, to ensure a

proper implementation it would be necessary that its publication is followed up by training and other outreach and awareness raising activities to allow civil servants to fully understand its meaning and implications. Moreover, following the confirmation of cases positive to COVID-19 in Rakhine State among Rohingya who had returned from Bangladesh, instances of online hate speech and incitement to violence were monitored in relation to the identification of members of this community as “virus carrier”. Contrary to the Presidential directive, no public actions aimed at denouncing and preventing hate speech was noted.

Between February and June, Religious Affairs Departments at different levels of government filed charges against civilians under Articles 294(b) and 295(a) of the Myanmar Penal Code. These Articles outlaw expressing obscenities in public and insulting religion, respectively. Observers are seriously concerned that the continued use of these articles will restrict freedom of expression. In a specific case, three artists in Kachin were charged with blasphemy charges for painting on a wall a grim reaper figure bringing the virus to Myanmar. Buddhist hardliners complained the grim reaper looked like a monk.

In March and May 2020, the Ministry of Information directed telecommunication operators to block access to a total of 224 websites, including the websites of ethnic media outlets. This directive is based on Section 77 of the Telecommunication Law which allows the Ministry to impose restrictions in an “emergency situation”. Both moves run the risk of severely limiting the local population’s access to information, including on life-saving prevention information on COVID-19.

On 13 May 2020, Zaw Ye Htet, editor-in-chief of Dae Pyaw was arrested, and on 20 May 2020 sentenced to two years in prison based on Section 505(b) of the penal code, which outlaws the dissemination of information that could “cause fear or alarm to the public”. This follows the publication of a story reporting that a returning migrant worker died while in quarantine in Myawaddy Township due to COVID-19, which turned out to be false. The use of the penal code and the disproportionate sentencing is considered to be inappropriate for the case of a journalist.

On two separate occasions, protesters have been arrested for violating the Peaceful Assembly and Peaceful Procession Law (PPAP Law) when protesting against the internet shutdown in Rakhine and Chin State. The first occasion was on 5 March 2020, when six students were arrested for participating in a protest on 23 February organized by three student unions in Yangon. In the end of June, six activists were arrested and charged with violating the PPAP Law for unfolding banners calling for an end to the internet shutdown in downtown Yangon particularly during the pandemic when access to information is ever more critical. The internet shutdown has, among other concerns, prevented an estimated one million people to easily and readily access critical information on necessary measures to help preventing the spreading of COVID-19, responses by the Government, and services available to the population.

## **9. Right to life, liberty and security of the persons**

### **a. Internally displaced persons and humanitarian access**

On 5 April, MoSWRR released an “Action Plan for the Control of COVID19 Outbreak in IDPs Camps”, targeting close to 185,000 IDPs hosted in 128 camps in 24 townships of Kachin, Kayin, Shan and Rakhine states. The plan includes a wide range of activities, including awareness-

raising among IDPs, provision of masks, WASH supplies, and ensuring medical surveillance.

MoSWRR, in line with its action plan, continues to provide various WASH items, as well as risk communication materials in camps and displacement sites in Chin, Kachin, Kayin, Rakhine and Shan states. In addition, as of late June, MoSWRR has started providing 30,000 Myanmar Kyat (approximately 21 USD) each to over 442,000 women and elderly people in most vulnerable areas, including IDP camps in Rakhine, Chin, Kayin, Kachin and Shan states. This is in complementary to the cash support (30,000 Myanmar Kyat each) by MoSWRR for 1,400 pregnant women and children under two in 54 IDP camps in Kachin and Shan states late May.

On engagement with Ethnic Armed Organizations (EAOs), the four-member government Committee for Coordinating and Cooperating Myanmar with EAOs for Prevention, Control and Treatment of COVID-19 was formed. The Committee held a series of online meetings with EAOs for coordination and cooperation at border checkpoints and in the areas controlled by EAOs. The Commander-in-Chief of the Myanmar Armed Forces met the leaders of two EAOs (the United Wa State Army and the National Democratic Alliance Army) and discussed cooperation, offering its military doctors for support and providing surgical masks. On 13 May, government officials in Kachin visited a quarantine center in Waingmaw Township, an area under the control of the Kachin Independence Organization (KIO) and provided over 5.2 million Myanmar Kyat (approximately 3,600 USD) to the KIO.

MoSWRR and its relevant departments also continued to ensure provision of regular humanitarian support to people affected, while undertaking COVID-19 response. Additionally, in response to the growing food needs in Paletwa Township of Chin State, the State Government has provided essential food items to around 2,700 displaced families in May. There have also been reports of local Governments providing support to facilitate temporary shelters, food and non-food item assistance in response to small-scale internal displacement reported in northern areas of Shan State.

While the Government has provided initial support to address immediate needs of people affected and internally displaced, and scaled up its COVID-19 preparedness and response, addressing the long standing issues of freedom of movement, access to livelihoods and services for people affected and displaced have not been prioritized during the period of the pandemic.

On 3 May, Myanmar Armed Forces declared a ceasefire to be enforced from 4 May to 31 August, to help fight against COVID-19. The ceasefire applies to the areas except those in which domestically-declared terrorist organizations are active. However, people's access to assistance continued to be hampered by ongoing conflict between the Arakan Army and Myanmar Armed Forces in Rakhine and Chin states, which saw an uptick since the end of February. Following a relative decrease in intensity from April to mid-June, the situation deteriorated with the launch of a "clearance operation" in Rathedaung Township of Rakhine State end of June, which was later re-titled as a counter-insurgency operation. The obligation to give effective advance warning prior to an attack which may affect the civilian population was observed. People's access to services, such as food and markets, have also been significantly curtailed during this period, especially when the parties have blocked main supply chains and both, road and waterway transportation towards Paletwa Township of Chin State in late February. Communities in around 40 villages in Ann Township have also faced food shortages as transportation and supply chains have been either directly impacted by insecurity or deliberately blocked by the Tatmadaw.

People's access to assistance and services is further constrained due to landmine and Explosive Remnants of War (ERW) contamination in all conflict affected areas, including in Kachin and northern Shan.

This is in addition to the existing access challenges aid agencies have continued to face, including due to the Travel Authorization (TA) process, which saw further complications in May in Rakhine State. Additional four layers were added to this process, which included the engagement of the Western Command, and the Chief Minister, who is now responsible for clearing the TAs.

Humanitarians also face blanket access restrictions in eight townships of Rakhine and one (Paletwa) township in Chin State, beyond downtown areas, introduced in January 2019. WFP and ICRC, initially exempt from these restrictions, which are grounded on insecurity, are also facing challenges in reaching communities in the areas specified.

The fluid security situation has also hampered the operations of humanitarian partners, as illustrated with the killing of a WHO staff member in Myebon in April and the attack on a WFP food delivery truck, when attempting to deliver the much-needed food assistance to Paletwa in Chin state.

During COVID-19, Department of Disaster Management (DDM) provided regular food assistance to new IDPs affected by armed conflict in Rakhine and Chin. As per request by Kachin State Government, DDM also provided food assistance to IDPs in selected camps in Kachin on top of food assistance by state government.

## **10. Administration of justice and the rule of law**

On 9 April, a letter from the United Nations was sent to the Union President, the Union Minister of Home Affairs, and Union Attorney General's Office (UAGO) advocating for decongestion measures by release of prisoners of specific categories as a measure to reduce the risk of infections in detention facilities. According to official data, a total number of prisoners released during the presidential amnesty of the Myanmar New Year is 24,896. As per information received by civil society organizations, a total number of 18 political prisoners were released.