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AN ANALYSIS OF RECOMMENDATIONS

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It is hoped that this document will provide a useful tool to assist all government and non-government stakeholders in their understanding of key UPR recommendations and help strengthen all advocacy efforts designed to improve the human rights situation in Myanmar.

1. Introduction

“Myanmar firmly believes that the Universal Periodic Review- UPR process is the most dependable and uncontroversial monitoring mechanisms to address and rectify human rights situations in all countries on an equal footing”

Statement from the Ministry of Foreign Affairs, Nay Pyi Taw, 12 August 2015

The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its twenty third session from 2 to 13 November 2015. The review of Myanmar was held at the 9th meeting on 6 November 2015 and 93 States participated. The delegation of Myanmar was headed by the Attorney General of the Union, Dr Tun Shin. At its 14th meeting held on 10 November 2015, the Working Group adopted the report on Myanmar.

The 93 States that participated in the review process were restricted to a maximum of three recommendations each. Recommendations that enjoyed the support of the Myanmar government; those that required review; and those that did not enjoy support were laid out in the UPR Working Group outcome report, dated 10 November 2015. Responses to recommendations that required review were laid out in the UPR Working Group addendum report, dated 10 March 2016.

The Myanmar government received a total of 281 recommendations from 93 member states. In November 2015, the Myanmar government accepted 124 recommendations; 88 were pending a decision by 17 March 2016; and 69 did not enjoy the support of the government. In March 2016, the government accepted a further 11 recommendations in full; 30 recommendations in principle; and one recommendation in part, making a total of 166 recommendations accepted out of the 281 recommendations.

This summary document seeks to present an overview of the Human Rights Situation in Myanmar; an analysis of recommendations that enjoyed the support of the government of Myanmar; and a summary of recommendations that didn't enjoy the support of the government. It also lists human rights issues in Myanmar that were not included in the UPR.

LWF Myanmar hopes that, given the government of Myanmar's commitment to the UPR process as indicated in the above statement, this will provide a useful tool for all stakeholders working to improve the human rights situation in Myanmar.

2. Overview of the human rights situation in Myanmar

Soon after gaining independence from Great Britain in 1948, Myanmar became a United Nations Member State having signed the Charter of the United Nations, binding it to the United Nations Universal Declaration for Human Rights¹.

Myanmar has also **ratified** the following United Nations Human Rights Treaties:

- Convention on the Rights of the Child (CRC) on 15 July 1991
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OP-SC) on 16 January 2012
- Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) on 22 July 1997
- Convention on the Rights of Persons with Disabilities (CRPD) on 7 December 2011

Myanmar has **signed** the following UN Human Rights Treaties:

- International Covenant on Economic, Social and Cultural Rights (ICESCR) on 16 July 2015
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC) on 28 September 2015

Myanmar has been under **special procedures** of the Human Rights Council since 1992, under resolution 1992/58².

Main human rights concerns relate to:

- Restrictive and discriminatory laws and practices, including the 2008 Constitution
- Weak rule of law and no independent judiciary
- Lack of appropriate mechanisms to protect rights
- Conflict-related human rights concerns
- Development-related human rights issues

Summary of outstanding core International Treaties

- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)
- Optional Protocol of the Convention against Torture (CAT-OP)
- International Covenant on Civil and Political Rights (ICCPR)
- Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty (ICCPR-OP2-DP)
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)
- Optional Protocol of the UN Convention on the Rights of Persons with Disabilities (OP-CRPD)
- Optional Protocol of the UN Convention for All Forms of Discrimination against Women (OP-CEDAW)
- Optional Protocol of the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction
- Rome Statutes of the International Criminal Court (ICC)

3. Analysis of Recommendations

The Myanmar government received a total of 281 recommendations from 93 member states. In November 2015, the Myanmar government accepted 124 recommendations; 88 were pending a decision by 17 March 2016; and 69 did not enjoy the support of the government. In March 2016, the government accepted a further 11 recommendations in full; 30 recommendations in principle; and one recommendation in part, making a total of 166 recommendations accepted out of the 281 recommendations. A total of 115 did not enjoy the support of the government.

3.1 Recommendations that enjoyed the support of the government- in full; in principle and in part

The Myanmar government demonstrates commitment to discuss and explore a number of important issues. These are broken into the following categories:

- 3.1.1. Ratification of outstanding core international treaties**
- 3.1.2. Strengthen cooperation with international human rights systems**
- 3.1.3. Continue in its path towards peace, democratic transition and sustainable development**
- 3.1.4. Strengthen the Rule of Law and the Judiciary**
 - Strengthen the rule of law
 - Independence of the National Human Rights Commission
 - Independence of the judiciary; and protection of lawyers and judges
 - Improve the capacity of judicial institutions
 - Restructuring of the Police Force
 - Minimum age of criminal responsibility
- 3.1.5. Combat impunity**
- 3.1.6. Combat corruption**
- 3.1.7. Address restrictions on fundamental freedoms**
 - Freedom of religion and religious conversion
 - Freedom of opinion and expression; peaceful assembly and association
- 3.1.8. Release of political prisoners**
- 3.1.9. Improve access to health, education and other basic services for all**
- 3.1.10. Improve birth registration and citizenship verification**
- 3.1.11. Improve the land registration system**
- 3.1.12. Improve protection**
 - Address human trafficking
 - Continue to address the recruitment of children in armed conflict
 - Improve protection of civilians in armed conflict
 - Improve Humanitarian Access
 - Ensure safe and voluntary return of all Internally-Displaced Persons
 - Protection of human rights defenders and journalists
- 3.1.13. Enhance women's leadership and empowerment**
- 3.1.14. Combat marital rape, domestic violence and violence and discrimination against women and children**
- 3.1.15. Counter hate-speech and incitement to violence**
- 3.1.16. Combat discrimination and violence against ethnic, religious and other minorities**
- 3.1.17. Strengthen interethnic and interreligious understanding and harmony**

3.1.1. Ratification of outstanding core international treaties

The Myanmar government accepted recommendations to **consider** ratifying and acceding to all core international human rights treaties:

For example:

143.1. *Continue its work in acceding to the core human rights convention (Belarus);*

143.2. *Consider ratifying the human rights treaties it has not yet ratified (Japan);*

143.3. *Consider the ratification of the main international human rights instruments to which it is not yet a State Party (Nicaragua);*

143.4. *Consider positively acceding to the core international human rights instruments, to which it is not yet a party, particularly ICCPR and CAT (Viet Nam);*

143.5. *Consider accession to international human rights instruments that it is not yet a party to, including ICCPR and ICRMW (Philippines);*

143.6. *Consider ratification of the ICCPR and its 2nd Optional Protocol with the view of total abolition of the death penalty (Namibia);*

143.7. *Consider ratifying ICCPR (United States of America);*

143.9. *Consider ratifying ICERD, ICESCR, and ICRMW (Egypt);*

The government accepted recommendations to **sign** the following international human rights treaty:

- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)

For example: 143.10. Sign CAT (France);

The government accepted recommendations to **ratify** the following international human rights treaties:

- International Covenant on Economic, Social and Cultural Rights (ICESCR) (This covenant was signed on 16 July 2015)
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OP-CRC-AC) (This optional protocol was signed on 28 September 2015)

For example:

143.8. *Ratify ICESCR (Ghana);*

143.11. *Ratify OP-CRC-AC (Chile) (Croatia);*

143.12. *Ratify OP-CRC-AC (Luxembourg);*

143.14. *Take all necessary measures aimed at the early ratification of the OPCRC-AC (Slovakia);*

The Myanmar government reported in March 2016 that it has been actively reviewing its status in relation to all core international human rights instruments with a view to joining them in future and that they will continue this exercise. The Myanmar government has, therefore, accepted the following recommendations **in principle**:

144.1. *Ratify the core international human rights instruments (Paraguay);*

144.2. *Accede to and implement all core human rights treaties (Latvia);*

144.3. *Ratify all core human rights conventions, especially ICCPR, CAT and ICESCR (Germany);*

144.4. *Ratify the outstanding core treaties, such as ICCPR, CAT, and ICERD (Hungary);*

144.5. *Ratify human rights treaties such as ICERD, ICESCR, ICCPR, CAT and OP-CEDAW (Sierra Leone);*

144.6. *Ratify and fully implement all core human rights treaties, including ICCPR and CAT, as previously recommended (Slovenia);*

144.7. *Ratify ICCPR (Montenegro) (Poland);*

144.8. *Ratify ICCPR and continue to raise public awareness about international human rights*

law and the legal avenues available for defending those rights (Lithuania);
 144.9. Ratify ICCPR and its optional protocols (Spain);
 144.10. Ratify the ICCPR and its two optional protocols (Estonia) (Ghana);
 144.11. Accede to the ICCPR and its Optional Protocol aiming at the abolition of the death penalty (Greece);
 144.12. Sign and ratify ICCPR and ICESCR (Bahrain);
 144.13. Ratify ICCPR and ICESCR and ensure the conformity of national legislation with international obligations (Switzerland);
 144.14. Ratify the ICESCR and its Optional Protocol (Portugal);
 144.15. Ratify ICERD and ICCPR (Algeria) (Libya);
 144.16. Ratify ICERD (Ghana);
 144.17. Sign and ratify ICCPR, CAT and ICERD (Turkey);
 144.18. Ratify ICESCR, ICCPR, and ICERD (Sudan);
 144.19. Ratify the ICCPR and ICESCR, as well as the ICERD (Brazil);
 144.20. Ratify ICCPR and CAT (Italy);
 144.21. Ratify ICCPR and CAT (Luxembourg);
 144.22. Ratify CAT and ICCPR (Georgia);
 144.23. Ratify CAT (Denmark) (Guatemala);
 144.24. Ratify CAT, as previously recommended (Portugal);
 144.25. Ratify CAT and OP-CAT (Lithuania);
 144.26. Ratify CAT, and subsequently ensure the adoption of provisions that expressly prohibit torture in police settings (Chile);
 144.27. Ratify CAT and ICPED (Mexico);

3.1.2. Strengthen cooperation with international human rights systems

The Myanmar government demonstrates commitment to cooperate with international human rights systems, with some reservations as indicated in the section detailing recommendations that did not enjoy the support of the Myanmar government.

The following recommendations enjoyed the support of the government:

143.49. Study the possibility of creating a national system for the follow-up of international recommendations on human rights (Paraguay);
 143.50. Engage closely with the UN human rights system, including treaty bodies and special procedures mandate holders (Turkey);
 143.51. Continue to cooperate with human rights mechanisms, including the Special Rapporteur on Myanmar (Republic of Korea);
 143.52. Ensure ongoing cooperation with the Special Rapporteur for Myanmar of the Human Rights Council and with other Special Procedures (Chile);

3.1.3. Continue in its path towards peace, democratic transition and sustainable development

The government demonstrates its commitment to continue in its path towards the three intertwined processes. The following recommendations enjoyed the support of the government of Myanmar:

143.16. Continue to further enhance peace, development and democracy (Cambodia);
 143.17. Give continuity to the democratization process undertaken by the Government (Nepal);
 143.19. Continue building its democratic reform for the prosperity and wellbeing for the people and the nation of Myanmar (Timor-Leste);
 143.21. Continue further improvement of the protection and promotion of human rights in the country (Azerbaijan);
 143.22. Continue making efforts for protecting and promoting human rights and improving the

living conditions (Kyrgyzstan);

143.30. Continue to strengthen its system to promote and protect human rights paying special attention to the social protection of the population (Belarus);

143.32. Further continue concentrating on economic development to bring about sustainable peace and ensure enjoyment of human rights (Ethiopia);

143.33. Harmonize its process of political, socio-economic and administrative reforms made in accordance with its international human rights obligations (Nicaragua);

143.35. Keep the momentum of political, socio-economic and administrative reform to comply with the socio-economic needs of the population (Cuba);

143.36. Accelerate the political, socio-economic and administrative reform to fulfil socio-economic needs of the people (Iran (Islamic Republic of));

143.37. Continue to accelerate the momentum of the political, socio-economic and administrative reform to further fulfil socio-economic needs of the people (Lao People's Democratic Republic);

143.38. Take measures to ensure that economic growth is proportional in the different parts of the country and benefits the whole population, including the country's minorities (Cuba);

143.39. Take measures for the economic growth to be proportional to different parts of the country and to benefit all including in particular minorities (Iran (Islamic Republic of));

143.104. Take necessary further steps to combat poverty and to address socioeconomic inequality (Sri Lanka);

143.34. Continue consolidating the correct measures taken on economic growth, for the benefit of its people (Venezuela (Bolivarian Republic of));

143.41. Implement policies to meet the relevant 2030 Sustainable Development Goals so that all communities, regions and states can benefit from Myanmar's economic growth and it can graduate from Least Developed Country Status soonest (Singapore);

143.100. Continue to create a safe and enabling environment for civil society in order to help the country's ongoing transition to democracy (Ireland);

143.20. Adopt a human-rights-based approach when designing and implementing the reforms towards the democratization of the country (Portugal);

143.38. Take measures to ensure that economic growth is proportional in the different parts of the country and benefits the whole population, including the country's minorities (Cuba);

143.31. Continue to maintain annual economic growth of average of 8% (Democratic People's Republic of Korea);

143.27. Continue peace talks among the people to avoid ethnic and religious conflicts and scale up national reconciliation process in the country (Ethiopia);

143.28. Take action to bring other remaining armed groups, who are not among 8 major ethnic groups that recently signed the National Ceasefire Agreement, into an inclusive peace process (Israel);

143.29. Ensure the proper work of the Joint Monitoring Committee and Union Peace Dialogue Joint Committee (Israel);

Following review in March 2016, the Myanmar government also accepted the following recommendations:

144.29. Include specific references to human rights law in the agreement of ceasefire throughout the country and establish a comprehensive system to monitor its implementation (Guatemala);

144.30. Support the active and meaningful participation of women, "ethnic groups", internally displaced persons and refugees in the implementation of the Nationwide Ceasefire Agreement, including the national dialogue (Finland);

3.1.4. Strengthen the Rule of Law and the Judiciary

The Myanmar government demonstrates some commitment to strengthen the rule of law and the judiciary. The following recommendations enjoyed the support of the Myanmar government:

Strengthen the rule of law

143.86. Continue to strengthen the rule of law and ensure good and clean governance at all levels of government, which would help address the social and economic needs of the Myanmar people more effectively (Singapore);

Independence of the National Human Rights Commission

143.44. Grant the National Human Rights Commission autonomy and independence in accordance with the Paris Principles (Chile);

143.42. Continue strengthening of the national human rights institutions and mechanisms (Nepal);

143.43. Take steps towards establishing a National Human Rights Institution in line with the Paris Principles (Egypt);

143.45. Allow the National Human Rights Commission to fully exercise its functions, in line with the Paris Principles (Senegal);

143.46. Ensure that the National Human Rights Commission is able to discharge its functions fully, in accordance with the Paris Principles, as previously recommended (Portugal);

143.47. Take steps to ensure that the National Human Rights Commission be given a mandate in conformity with the Paris Principles (Sierra Leone);

143.48. Provide all necessary assistance in order that the national human rights institution is able to operate at full capacity and continue judicial reforms, including the increased capacity building of judicial institutions (Republic of Korea);

Independence of the judiciary; and protection of lawyers and judges

The following recommendations were accepted in **full** in March 2016 following review:

144.73. Guarantee in law and in practice that lawyers and judges can perform their professional functions without improper interference and legally form and join self-governing professional associations (Austria);

144.74. Define professional legal standards and disciplinary procedures in conformity with the UN Basic Principles on the Role of Lawyers (Hungary);

The following recommendations were accepted in **principle** in March 2016 following review:

144.75. Amend the Bar Council Act in order to allow for the Bar Council to become a truly independent and self-governing association (Hungary);

144.76. Amend the Bar Council Act to ensure the Bar Council's independence, and commit to improving legal education and continuing legal professional development, including with regard to international human rights law and the UN human rights mechanisms (Canada);

Improve the capacity of judicial institutions

143.48. Provide all necessary assistance in order that the national human rights institution is able to operate at full capacity and continue judicial reforms, including the increased capacity building of judicial institutions (Republic of Korea);

Restructuring of the Police Force

143.18. Continue its democratisation process by means of restructuring of the local police forces (Greece)

Minimum age of criminal responsibility

143.83. Review legislations in order to raise the minimum age of criminal responsibility in line with international standards (Chile);

Since the Myanmar government is currently reviewing the Child Law to bring it more in line with the Convention on the Rights of the Child, following review, the following recommendation enjoyed the support of the government **in principle**:

144.77. Raise the age of criminal responsibility to international standards (Lithuania);

3.1.5. Combat impunity

The Myanmar government has demonstrated some commitment to combat impunity. The following recommendations, for example, enjoyed the support of the government of Myanmar:

143.80. Combat impunity (Senegal);

143.82. Continue its efforts to ensure respect for the rights and fundamental freedoms of all the population, guaranteeing the investigation and punishment of perpetrators of human rights violations, demonstrating its commitment to combating impunity (Argentina);

143.81. Ensure that police and military officers alleged to have committed acts of torture and ill-treatment are held accountable through the criminal justice system (Lithuania);

143.66. Enact and enforce legislation that guarantees comprehensive protection from all forms of violence against women, and that addresses impunity for all perpetrators (Sweden);

3.1.6. Combat corruption

The government demonstrates commitment to combatting corruption. The following recommendations enjoyed the support of the government:

143.84. Address effectively the issue of corruption (Cuba);

143.85. Accelerate reforms with the aim to guarantee good governance and more vigorously address the issue of corruption (Georgia);

3.1.7. Address restrictions on fundamental freedoms

The government demonstrates some commitment to addressing restrictions on fundamental freedoms. The following recommendations enjoyed the support of the Myanmar government:

Freedom of religion and religious conversion

143.96. Make every effort to guarantee the right to religious conversion and to respect the freedom of religion, in particular, enabling religious practice (Holy See);

143.97. Ensure full respect for freedom of religion or belief and the human rights of the persons belonging to ethnic and religious minorities, in line with international human rights law (Poland);

143.88. Ensure the protection of human rights for all, including freedom of religion or belief, expression, association and peaceful assembly and right to participate in public and political life (Botswana);

Freedom of opinion and expression; peaceful assembly and association

143.98. Work to ensure that freedom of opinion and expression are protected (New Zealand);

143.99. Further ensure that those who legitimately exercise their rights to freedom of expression and peaceful assembly be not subject to reprisals (Italy);

143.88. *Ensure the protection of human rights for all, including freedom of religion or belief, expression, association and peaceful assembly and right to participate in public and political life (Botswana);*

The following recommendations were accepted in March 2016, following review:

144.80. *Review the News Media Law and the Printing and Publication Enterprise Law of 2014, in consultation with media representatives, in order to bring it in conformity with international standards regarding freedom of expression (Belgium);*

144.81. *Consider reviewing the News Media Law as well as the Printing and Publication Enterprise Law of 2014 in conformity with international human rights standards in order to enhance freedom of speech in the country (Ghana);*

144.84. *Take concrete steps to promote and protect the right of peaceful assembly, in line with international human rights law and standards (Brazil);*

144.31. *Ensure that human rights agencies, including the Myanmar National Human Rights Commission and the Myanmar Press Council, are able to function as effective and independent agencies (Thailand);*

3.1.8. Release of political prisoners

The following recommendation enjoyed the support of the Myanmar government:

143.65. *Continue releasing political prisoners and re-launch the joint Government/civil society committee (France);*

3.1.9. Improve access to health, education and other basic services for all

The Myanmar government demonstrates commitment to improve access to health, education and other basic services for all. The following recommendations enjoy the support of the government:

143.87. *Increase its efforts to ensure access to basic services, as well as freedom of movement, for all residents (Japan);*

143.105. *Take appropriate steps towards achieving Universal Health Coverage in the country (Brunei Darussalam);*

143.108. *Earmark additional financial resources to health services and reduce the financial burden faced by vulnerable groups in accessing medical care (Viet Nam);*

143.109. *Increase the amount of spending on health with special attention to women and children so as to achieve relevant MDGs as soon as possible (China);*

143.110. *Increase significantly the proportion of national expenditure allocated to health care, address the regional differences in access to health care services and expand the human capital within the health care sector, especially to ascertain that an adequate number of midwives are educated and dispatched across the country (Sweden);*

143.111. *Redouble steps taken in providing quality and affordable health and education services, including providing adequate learning opportunities (Timor-Leste);*

143.112. *Continue to promote and protect the enjoyment of fundamental freedoms and rights of its citizens in the areas of education and health among others without discrimination (Nigeria);*

143.113. *Provide equal access to education by the people (Iran (Islamic Republic of));*

143.114. *Continue to invest on education and ensure the continued provision of free education for its primary and secondary students (Brunei Darussalam);*

143.115. *Continue with the efforts of providing equal access to education by all national races in the country (Lao People's Democratic Republic);*

143.116. *Continue to provide equal access to education by all national races, including minorities in the country (Democratic People's Republic of Korea);*

143.117. *Continue efforts to develop its human capital through education, training and empowering vulnerable groups (Sri Lanka);*

143.15. Expedite the process of redrafting of the existing Child Law taking into account the views and suggestions made by civil society organizations (Bhutan);
143.26. Continue its efforts to provide protection and care for its elderly population and other vulnerable groups (Brunei Darussalam);

3.1.10. Improve birth registration and citizenship verification

The following recommendation enjoyed the support of the government of Myanmar:

143.119. Accelerate citizenship verification processes so that populations now deprived of identity documents do not remain in an illegal situation (France);

The following recommendation was accepted in March 2016 following review:

144.55. Develop a simplified, effective birth registration system through which all can access a birth certificate, including a complaints handling mechanism (Namibia);

3.1.11. Improve the land registration system

The following recommendations enjoy the support of the government, and indicate its commitment to improving the land registration system:

143.123. Ease tensions in rural areas by developing an effective land registration system with a clear complaints handling mechanism (Germany);

143.124. Effectively address the issue of land grabbing, including through providing redress to farmers and others whose land was illegally or arbitrarily seized (Czech Republic).

3.1.12. Improve protection

There are a number of ways in which the government demonstrates its commitment to improve the protection of the Myanmar population. These include:

Address human trafficking

The following recommendations enjoyed the support of the government:

143.74. Step up efforts towards the prevention and suppression of human trafficking and the smuggling of migrants by air, land and sea (Greece);

143.75. Double its efforts in combatting trafficking in persons including by bringing human traffickers and people smugglers to justice (Malaysia);

143.76. Continue investing efforts in the prevention of human trafficking, with special attention to investigation and prosecution of all cases of sale and trafficking of children (Serbia);

Continue to address the recruitment of children in armed conflict

The following recommendation enjoyed the support of the government:

143.72. Adopt measures to end the recruitment and participation of children in military activities (Mexico);

Improve protection of civilians in armed conflict

The following recommendation enjoyed the support of the government:

143.73. Continue to implement policies to ensure full protection of civilians, particularly children, in zones of armed conflict (Ecuador);

Improve Humanitarian Access

The following recommendations enjoyed the support of the government:

143.121. Allow access to humanitarian aid to all groups who need it, including internally displaced persons in Rakhine State and other affected areas (Kuwait);

143.122. Adopt and implement all the necessary measures to continue improving health

care, food and education services in camps for internally displaced persons, including in remote areas (Panama);

Ensure safe and voluntary return of all Internally-Displaced Persons

The following recommendation enjoyed the support of the government:

143.120. Ensure the safe and voluntary return of all IDPs to their place of origin (Turkey);

Protection of human rights defenders and journalists

The following recommendations were accepted in March 2016, following review:

144.82. Ensure the protection of human rights defenders (Chile);

144.83. Create and maintain a safe and enabling environment for civil society, human rights defenders and journalists (Norway);

3.1.13. Enhance women's leadership and empowerment

The government demonstrates commitment to enhancing women's leadership and empowerment. The following recommendations enjoy the support of the government:

143.53. Continue to take steps to enhance women empowerment (Pakistan);

143.54. Ensure better representation of women in the peace process (Slovenia);

143.56. Implement the commitment taken in 2011 to ensure gender equality (France);

143.58. Domesticated CEDAW and give women a visible and inclusive role as envisaged by the treaty (Sierra Leone);

143.59. Continue with the implementation of the National Strategic Plan for the Advancement of Women (Israel);

143.102. Continue promoting the participation of women in public affairs and socio-economic activities (Venezuela (Bolivarian Republic of));

143.103. Further promote women's rights through increased participation in political, socio-economic and administrative decision making processes (Italy);

The following recommendation was accepted in March 2016 following review:

144.30. Support the active and meaningful participation of women, "ethnic groups", internally displaced persons and refugees in the implementation of the Nationwide Ceasefire Agreement, including the national dialogue (Finland);

The **first part** of the following recommendation was accepted in March 2016 following review:

144.72. Implement the National Action Plan for the Advancement of Women by: amending legislation to include sexual violence in conflict within the Preventing Sexual Violence Law, removing military impunity for human rights violations – including sexual violence, and appointing a Gender Advisor within the President's Office (United Kingdom of Great Britain and Northern Ireland);

3.1.14. Combat marital rape, domestic violence and violence and discrimination against women and children

The government demonstrates commitment to combatting gender based violence, domestic violence and discrimination against women and children. The following recommendations enjoyed the support of the government:

143.55. Promote gender equality in all aspects of life and combat violence against women (Cyprus);

143.66. Enact and enforce legislation that guarantees comprehensive protection from all forms of violence against women, and that addresses impunity for all perpetrators (Sweden);

143.67. Take positive action to ensure protection of women against sexual violence and their

access to legal mechanisms without discrimination (Namibia);
143.68. Develop a legal framework to prevent and combat violence against women and domestic violence (Serbia);
143.69. Address in legislation all forms of gender-based violence, both within as well as outside of marriage (Spain);
143.70. Take effective measures to prevent and combat marital rape and domestic violence, including the express criminalization of these practices (Portugal);
143.71. Strengthen policies to combat all forms of violence and discrimination against women and girls, including by criminalizing marital rape and prohibiting forced and early marriages (Paraguay);
143.77. Ensure impartial and effective investigation of violence perpetrated against women and violence perpetrated against children, and ensure reparations for victims and the right to a fair trial, including legal aid, for both the victim and the accused (Finland);
143.57. Adopt a legal definition of discrimination against women according to the CEDAW (Austria);

3.1.15. Counter hate-speech and incitement to violence

The following recommendation enjoyed the support of the government:

143.62. Increase its efforts to counter hate-speech and incitement to violence (New Zealand);

3.1.16. Combat discrimination and violence against ethnic, religious and other minorities

There is some commitment towards reducing and combatting discrimination and violence against ethnic and religious minorities. The following recommendations enjoyed the support of the government of Myanmar:

143.63. Ensure that the rights of women and ethnic minorities are not undermined as a result of the recently introduced set of **Protection of Race and Religion** laws (Japan);

143.60. Continue efforts to strive for all the citizens to live in harmony without discrimination against any races and nationalities (Nepal);

143.61. Consider the possibility of adopting adequate measures to promote social cohesion, with a view to the elimination of all forms of discrimination, including against minority, ethnic and cultural groups (Ecuador);

143.78. Ensure independent investigations of all cases of violence and discrimination against ethnic and religious minorities (Iceland);

143.79. Prosecute suspected perpetrators of violence against ethnic and religious minorities, in line with international standards and to ensure compliance with due process and respect for the rule of law (Iceland);

143.24. Adopt legislation ensuring protection of human rights of ethnic communities, including their participation in government decisions (Slovenia);

143.25. Reinforce and implement the protection of vulnerable groups, namely children, women, disabled, elderly, and make a greater effort to include ethnic and religious groups in the life of Myanmar society (Holy See);

143.118. Improve the situation of minorities in the country (Greece);

143.115. Continue with the efforts of providing equal access to education by all national races in the country (Lao People's Democratic Republic);

143.116. Continue to provide equal access to education by all national races, including minorities in the country (Democratic People's Republic of Korea);

3.1.17. Strengthen interfaith and interethnic understanding and harmony

The government of Myanmar demonstrates some commitment in strengthening interfaith and interethnic understanding and harmony. The following recommendations enjoyed the support of

the government:

143.89. *Spread the culture of human rights and strengthen religious and faith tolerance (Sudan);*

143.90. *Intensify efforts in actively promoting inter-ethnic, inter-faith and communal understanding and harmony (Malaysia);*

143.91. *Achieve tolerance and peaceful existence in all parts of society by promoting interfaith and intercommunal dialogue (Turkey);*

143.92. *Continue efforts to preserve national, cultural and religious diversity so as to promote harmony among ethnic groups and religions (China);*

143.93. *Make sincere efforts to build up levels of confidence and reconciliation among religious groups through dialogue between religious leaders (Republic of Korea);*

143.94. *Continue efforts to promote tolerance, harmony and respect of human rights among all communities in Myanmar, including through possible review of legal frameworks, human rights' education and interfaith dialogues and cooperation involving all segments in the society (Indonesia);*

143.95. *Prevent the destruction of places of worship and cemeteries (Egypt);*

143.23. *Continue to point special attention to the prevention of the emergence of the situation, which might lead to conflicts on ethnic and religious basis (Russian Federation);*

143.27. *Continue peace talks among the people to avoid ethnic and religious conflicts and scale up national reconciliation process in the country (Ethiopia);*

3.2 Recommendations that did not enjoy the support of the government

From an analysis of the initial 69 recommendations that **did not** enjoy the support of the Myanmar government in November 2015, these recommendations include:

- All that contain the words “indigenous” and/or “Rohingya”
- All that mention ratification of the Rome Statutes of the International Criminal Court (and Agreement on Privileges and Immunities of the Court)
- All that contain the term “internment camps”
- All that call the government to **repeal** any of the four “Protection of Race and Religion” laws
- Those that call for the disclosure of the Commission of Inquiry established to investigate excessive use of force by police

The following recommendations that refer to **the Constitution, the 1982 Citizenship Law and citizenship** in general also did not enjoy the support of the Myanmar government:

145.7. *Amend the Constitution to provide guarantee for freedom of religion in Myanmar, in line with Article 18 of the Universal Declaration of Human Rights (Bahrain);*

145.20. *Eliminate discrimination of and violence against religious minorities including by bringing national legislation such as the “Laws on Protection of Race and Religion” and the 1982 citizenship act in accordance with international human rights obligations, and establish an effective birth registration system guaranteeing universal access to education and other government services (Germany);*

145.54. *Remove provisions in the 1982 Citizenship Law that grant citizenship on the basis of ethnicity or race and amend the Law to avoid statelessness (Turkey);*

145.57. *Take steps to protect the rights and regularize the citizenship status of all individuals, including those who formerly held temporary identification cards (Canada);*

145.58. *Repeal all discriminatory legal provisions such as granting citizenship on the basis of ethnicity or race and providing for different citizenship categories (Slovenia);*

145.59. *Repeal the provisions establishing different categories of citizenship and remove any indication of ethnicity in identity documents (Mexico);*

Additionally, the following recommendations that refer to the **LGBTI community** did not enjoy the support of the government:

145.21. *Repeal or revise the “Protection of Race and Religion” laws and Section 377 of the 1861 Penal Code to ensure the rights of women, religious minorities and the LGBTI community are protected (Australia);*

145.29. *Amend article 377 of the Penal Code to ensure that only nonconsensual sexual relations between persons of the same sex are punishable (Spain);*

The following recommendations that refer to **the electoral process** did not enjoy the support of the government:

145.37. *Ensure universal suffrage for all adults of voting age, regardless of ethnicity (New Zealand);*

145.38. *Continue with democratization and reform processes by, inter alia, ensuring and equal playing field for all political parties at all stages of the electoral process and by building a fully civilian parliamentary representation chosen in democratic elections (Czech Republic);*

The following recommendations that did not enjoy the support of the government **require further understanding**:

145.26. *Step up efforts and cooperate with relevant countries and international partners, address the situation in Rakhine State at its root causes, and combat people smuggling and human trafficking (Thailand);*

145.25. *Continue to prioritize its work with the ILO on a Joint Action Plan on Child Soldiers to progress the implementation of Resolution 1612 (New Zealand);*

During the 17 March 2016 hearing, the Myanmar government reported **a further 46 recommendations** that they could not support.

The Myanmar government reported that it has been accepting the visits of the successive Special Rapporteurs on the situation of human rights in Myanmar. At the same time, questions raised by other special procedure mandate holders have been answered through written communications by the Government. Following review, the following recommendations **relating to special procedures and issuing standing and/ or open invitations** did not enjoy the support of the Myanmar government:

144.33. *Issue a standing invitation to the Special Procedures (Guatemala);*

144.34. *Issue a standing invitation to all thematic special procedures (Montenegro);*

144.35. *Extend a standing invitation to mandate holders (Senegal);*

144.36. *Extend an open invitation to the Special Procedures and respond favourably to pending requests (Uruguay);*

144.37. *Extend an open and permanent invitation to the United Nations human rights special procedures mandate-holders (Cyprus);*

144.38. *Extend a standing invitation to special procedures, respond positively to their requests to visit the country and cooperate fully, promptly and substantively with all mandate holders (Latvia);*

The Myanmar government also reported that it is of the view that **opening of an OHCHR country office** should be based on mutually agreeable terms and conditions. Currently, cooperation with the OHCHR is ongoing as two OHCHR officers are operating in the country. The following recommendations did not enjoy the support of the Myanmar government:

144.39. *Allow the OHCHR to open a country office with a full mandate (United States of America);*

144.40. *Expedite the establishment of an OHCHR office with a full mandate (Turkey);*

- 144.41. *Take further steps towards the establishment of the OHCHR country office in Myanmar (Croatia);*
- 144.42. *Establish a timeline for an early opening of the OHCHR country office with a full mandate (Czech Republic);*
- 144.43. *Approve the opening of an OHCHR country office to provide for enhance protection of and cooperation on human rights (Hungary);*
- 144.44. *Facilitate the establishment of an OHCHR office in the State, which would be able to operate throughout the country with a full promotion and protection mandate (Ukraine);*
- 144.45. *Facilitate the establishment of an OHCHR country office in Myanmar, able to operate throughout the country with a full promotion and protection mandate and establish a timeframe in that respect (Belgium);*

The Myanmar government reported that, retaining or abolishing the **death penalty** is a decision, which falls within the domestic jurisdiction of a sovereign state given its history, social, culture and traditional values. The government reported that the death penalty is retained in Myanmar to deter heinous crimes. However, no execution has taken place since 1989. The following recommendations were not accepted, following review:

- 144.56. *Abolish the death penalty (Holy See) (Poland) (Slovenia) (Spain);*
- 144.57. *Abolish the death penalty in all cases and circumstances (Portugal);*
- 144.58. *Place a moratorium on the death penalty with a view to its abolition (Sierra Leone);*
- 144.59. *Institute a de jure moratorium on the death penalty, with a view to its future abolition (Switzerland);*
- 144.60. *Institute a de jure moratorium on the death penalty, with a view to its definitive abolition (Luxembourg);*
- 144.61. *Establish an official moratorium on the death penalty with a view to its abolition for all crimes (France);*
- 144.62. *Establish a formal moratorium on the death penalty with a view to ratifying ICCPR-OP2 (Australia);*
- 144.63. *Translate the de-facto moratorium on the death penalty into binding law, with a view to completely abolish the death penalty altogether (Croatia);*
- 144.64. *Change a de facto moratorium, which is in place in Myanmar since 1988, to a de jure moratorium on the use of the death penalty as a first step to its abolishing (Lithuania);*

Following review, the Myanmar government asserts that there are no arbitrary arrests or detention in the country on political grounds and that action is only taken against those who violate the existing laws in Myanmar. Following review, the following recommendations relating to **political prisoners** did not enjoy the support of the Myanmar government:

- 144.65. *Release all political prisoners (Germany);*
- 144.67. *Free political prisoners and prisoners of conscience who may still remain after previous release exercises (Spain);*
- 144.68. *Release all those imprisoned for the exercise of their rights or for espousing dissenting views (Czech Republic);*
- 144.69. *Release all political prisoners unconditionally, and remove conditions on those already released (United States of America);*
- 144.70. *Free all remaining prisoners of conscience and put an end to practices that fuel arbitrary arrests (Croatia);*
- 144.71. *Release immediately and unconditionally all human rights defenders, student activists and political prisoners, and end ongoing trials of political detainees (Norway);*

Since **abortion** is prohibited by law, although there are some exceptions, the following recommendation did not enjoy the support of Myanmar government:

144.46. *Review the provisions in its penal code, which contain punitive measures against women who have undergone illegal abortions (Norway);*

The Myanmar government asserts that there is no discrimination against any child born in Myanmar with regards to birth registration. The following recommendation relating to **birth registration**, therefore, did not enjoy the support of the Myanmar government:

144.52. *Strengthen efforts regarding the effective measures on the registration of all children born in Myanmar without any discrimination (Albania);*

144.53. *Take measures for the effective registration of all children born in the country without discrimination and remove all references to ethnic origin in identity documents (Paraguay);*

144.54. *Ensure effective registration of all children born in the country, regardless of their ethnic origin and without any discrimination, in accordance with Article 7 of the Convention on the Rights of the Child (Canada);*

The government asserts that anyone who wishes to become a Myanmar citizen has the right to apply for citizenship and take part in a transparent national verification process. Those who meet the criteria set out in 1982 Myanmar Citizenship Law have been granted citizenship. Temporary identification cards have been issued to those whose citizenship status is yet to be verified. The following recommendations relating to **citizenship** did not enjoy the support of the Myanmar government:

144.86. *Take measures to improve the condition of religious/ethnic minorities respecting their human rights and ensuring they are not denied the right of citizenship or subject to discrimination, in a manner consistent with international standards (Portugal);*

144.87. *Finalise the citizenship verification process of persons lacking identity documents or holding a “turquoise” card and the establishment of a transparent process to legalise the residence status of those who do not meet Myanmar’s citizenship criteria (Switzerland);*

The government asserts there is no restriction on freedom of movement in the country. The following recommendation relating to the **freedom of movement** did not, therefore, enjoy the support of the Myanmar government:

144.79. *Lift restrictions to freedom of movement and local orders (Djibouti);*

The Myanmar government asserts there are no discriminatory practices based on race, religion and gender. The following recommendations relating to **discriminatory practices** based on race, religion and gender did not enjoy the support of the Myanmar government:

144.28. *Take further steps towards the promotion of the human rights situation in Myanmar, especially for ethnic, religious and linguistic minorities and vulnerable groups (Bahrain);*

144.47. *Take the necessary steps to eliminate discrimination faced by ethnic minorities and ensure that they enjoy their right to culture and their religious freedom is protected (Mexico);*

144.48. *Take necessary measures in law and in practice to put an end to all forms of discrimination against minorities, especially ethnic and religious minorities (France);*

144.49. *Enact law that will address the spread of discrimination, incitement of hatred against Muslims and members of national, ethnic, religious and linguistic minorities in Myanmar (Nigeria);*

144.50. *Take appropriate measures to combat nationalist extremism as effectively as possible (Djibouti);*

144.51. *Take necessary measures to fight against any form of intolerance and hate speech targeting persons belonging to minorities (Algeria);*

144.78. *Review the laws and measures about marriage, especially of people belonging to*

minorities (Holy See);

144.85. *Make further efforts to reinforce and protect the rights of the Muslim minorities in Myanmar (Oman);*

The following recommendation relating to **compulsory acquisition of land by private businesses** did not enjoy the support of the Myanmar government on the grounds that the government states that no such law exists:

144.88. *Amend laws that permit the compulsory acquisition of land by private businesses so that the expropriation is only permitted in the cases of necessary, proportionate and narrowly construed public interest, with strong procedural safeguards (Netherlands).*

While the government of Myanmar accepted the first part of the following recommendation because it is in accord with national policy on advancing of women empowerment, the remaining part did not enjoy the support of the government, because it contained prescriptive language and interfered in the domestic legislation and administration of the country:

144.72. *Implement the National Action Plan for the Advancement of Women by: amending legislation to include sexual violence in conflict within the Preventing Sexual Violence Law, removing military impunity for human rights violations – including sexual violence, and appointing a Gender Advisor within the President’s Office (United Kingdom of Great Britain and Northern Ireland);*

The following recommendation relating to **the new administration** did not enjoy the support of the administration at the time:

144.32. *That the new administration that will emerge from the elections of November 8 develop a road map for the implementation of the recommendations issued by the Human Rights Council, the General Assembly, and United Nations Special Rapporteurs and Envoys (Costa Rica);*

3.3 Other key issues in Myanmar

The following issues do not appear to be covered directly in any of the recommendations of this cycle of the Universal Periodic Review:

- Labour rights
- Rights of migrant workers and their families
- Protection of the population from landmines
- Issues relating to environmental protection within the context of sustainable development
- Issues relating to equitable distribution and management of natural resources
- The Legal Aid Bill/ Law, which is currently in progress
- Issues relating to the management of water sources and systems

References

1 <http://www.un.org/en/documents/udhr/>

2 Human Rights Council Resolution 1992/58; <http://www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx>