

# Myanmar National Human Rights Commission



## Independent Report for the List of issues The Convention on the Rights of Persons with Disabilities

**Submitted to:**

The Committee on the Rights of Persons with Disabilities

**Submitted by:**

Myanmar National Human Rights Commission

12 July 2019

## A Report to the United Nations Committee on the Rights of Persons with Disabilities

### Myanmar National Human Rights Commission

#### I. Introduction

1. The Myanmar National Human Rights Commission, referred to by its acronym MNHRC, provides this written contribution to the Committee on the Rights of Persons with Disabilities (Committee) in relation to the implementation of the Convention on the Rights of Persons with Disabilities (CRPD).
2. While it may not be possible to provide a complete assessment and cope with the human rights situations of persons with disabilities in details in this written contribution, MNHRC strives to provide this submission focusing on the areas of MNHRC's work in relation to promotion and protection of human rights, and this submission contributes inputs for the list of issues relating to the Myanmar's initial report (CRPD/C/MMR/1) with which the Committee will have constructive dialogue with the delegation of Myanmar on 28 to 29 August 2019 during the Committee's 22<sup>nd</sup> session in Geneva, Switzerland. In particular, this independent report contains the following matters:
  - (a) Areas in which the NHRI observes progress made on the situation of persons with disabilities;
  - (b) Areas of non-compliance or retrogression with the CRPD (areas in which progress is not made or required to be done or developed);
  - (c) New developments in the implementation of the CRPD since the adoption of the List of issues in April 2019.
3. This submission is based on MNHRC's own initiative through recommendations it has made to relevant authorities, and includes issues raised by the disability rights groups/peoples' organizations in the consultations and meetings organized by MNHRC independently. MNHRC also took into consideration local and international reports from government, civil society, and international organizations.

#### II. List of issues: A. Purpose and general obligations (arts. 1-4):

##### General obligations (art. 4)

4. *Legislation and establishing an institution related to persons with disabilities at national level, and related institutions at other levels:*
  - (a) There was originally an existing law namely the Employment of Handicapped Act of 1958 (No. 33/1958). However, as it was not comprehensive and did not meet the prevailing requirements and situations of the disabled persons, the new specific and consolidated law was required to be enacted. Accordingly,

the Parliament enacted the Right of Persons with Disabilities Law (Law No. 30/2015) (PWD Law) on 5 June 2015. It is the law solely dedicated to persons with disabilities, which comprises 17 Chapters and 94 Sections. It includes provisions related to Title and Definition; Objectives; Formation of the National Committee on the Rights of Persons with Disabilities (National Committee) and its functions and duties; Equality of human rights and fundamental freedom of the disabled persons; Education; Health; Accessibility; Having the right of participation in the area of political and public affairs; Care and rehabilitation; Employment opportunity; Registration; Formation and registration of associations of the disabled persons; Establishing the special private education school, special private vocational training school and private rehabilitation centers; Appeal; Establishing, maintaining and managing the fund; Prohibitions and penalties; and Miscellaneous. Section 92, sub-section (a) of the PWD Law empowers the Ministry of Social Welfare, Relief and Resettlement to issue Rules, Regulations and by-laws with the approval of the Union Government.

- (b) Exercising the powers conferred under section 92, sub-section (a) of the PWD Law, the Right of Persons with Disabilities Rules were issued by the Ministry of Social Welfare, Relief and Resettlement with the approval of the Union Government on 27 December 2017, containing detailed stipulations and requirements in relation to registration, education, health, accessibility, participation in the area of political and public affairs, care and rehabilitation, employment opportunity, formation and registration of associations of the disabled persons, establishing the special private education school, special private vocational training school and private rehabilitation centers, appeal, establishing, maintaining and managing the fund, equality of human rights and fundamental freedom of the disabled persons, and miscellaneous.
- (c) Pursuant to section 4, sub-section (a) of the PWD Law, the Union Government, under its Notification No. 70/2017, formed the National Committee on the Rights of Persons with Disabilities (National Committee) on 14 September 2017 headed by the Vice President of the Union as Chairman, and the Minister for the Ministry of Social Welfare, Relief and Resettlement as Vice-Chairman (1), Chairperson of the Myanmar Federation on Persons with Disabilities as Vice-Chairman (2), and Deputy Ministers from relevant Union Ministries, ministers for social affairs from Regions and States Governments, representatives from relevant disabled organizations and high ranking officials from relevant government ministries as members. The Vice-Chairperson of MNHRC is also included as a member of the National Committee. For promoting rights of the disabled, the National committee had held meetings four times.

- (d) Being empowered by the PWD Law, the National Committee, under its Notification No. 98/2018, formed the Work Committee, comprising 23 members, chaired by the Vice President of the Union, and the Minister for the Ministry of Social, Relief and Resettlement as Vice-Chairman (1), Chairperson of the Myanmar Federation on Persons with Disabilities as Vice-Chairman (2), and Deputy Ministers and representatives from relevant government ministries and civil society organizations as members. The Director of the Human Rights Promotion and Education Division of MNHRC is also a member in the Work Committee. The Work Committees were also formed at Regions and States as well as in Nay Pyi Taw Council. There are eight sub-committees under the Work Committee namely the education sub-committee, the health sub-committee, the employment sub-committee, the research sub-committee, the monitoring sub-committee, the women and children with disabilities sub-committees, the information technology sub-committee, the disaster and other emergencies sub-committee, and the fund management for rights of persons with disabilities sub-committee.
- (e) The Law relating to the Early Childhood Care and Development (Law No. 4/2014) was enacted by the Parliament on 6 February 2014 with a view to nurture early child for obtaining holistic development such as physical, intellectual, moral, social aspects based on correct awareness in accordance with the development standards of the child, and to provide the rights of basic health care, development, protection and participation to the early children with special needs. Also, the Policy relating to the Early Childhood Care and Development was adopted in 2014. The above law is administered and the policy is to be implemented by the Ministry of Social Welfare, Relief and Resettlement.

5. *Lack of full compliance with the PWD Law:*

- (a) The rights and benefits guaranteed by the PWD Law are broad enough for the disabled person to be enjoyed. Being guaranteed by the State through the law and to meet the needs of the disabled persons, the rights and benefits are required to be provided to the disabled persons fully and effectively, in theory and in practice.
- (b) The definitions of “Persons with Disabilities” and “Disability” of the PWD Law are used and observed by the State Party as the concept of disability. Section 2, sub-sections (a) and (b) of the PWD Law define that “*Persons with Disabilities means a person who suffers long-term physical, visual, utterance, hearing, intellectual, mental, intelligent, one or more sensory impairment by birth or not*”, and “*Disability means limited participating and acting in the society due to the environmental, physical, mental, visual and other form of*

*barriers*". However, the PWD Law does not contain express definition of "psychosocial disability", and thus, to make it clear and precise, the definition of "psychosocial disability" should be specifically defined in the PWD Law.

- (c) Although the PWD Law and its Rules *inter alia* contains provisions related to registration, designation of a director general as chief registrar, disability degree classification body, issuance of a certificate, etc., the registration process has not yet been actually implemented to the time of this writing. Although it is learnt that the registration process will be commencing in December 2019, the whole registration process should be fully implemented when started so that the disabled persons can fully enjoy the rights and benefits as explicitly guaranteed by law. At the present, the disabled persons are unable and have no access to enjoy the rights of persons with disabilities under their dedicated law.
6. *Strategy on Development of Persons with Disabilities (2016-2025)*: The Myanmar National Strategy for the Development of Persons with Disabilities (2016-2025) was adopted recently in 2016. The Strategy includes seven priority areas for policy development, i.e., prevention, protection, habilitation and rehabilitation, sector development, capacity building, cooperation and sharing information. The Strategy will be implemented through short term and long term projects. The Strategy is not available on the relevant Ministry's website, and it should be published publicly.
7. *Voting rights*: Regarding the right to vote by the disabled persons, MNHRC monitored the By-Election in six townships which was held in November 2018, and one of the responsibilities of MNHRC included in its checklist for monitoring was to check whether the disabled persons were able to vote smoothly. Though there were other difficulties, MNHRC observed that older persons, persons suffering from illness and disabled persons were given their rights to vote through advance voting. According to section 38(a) and section 369(a) of the Constitution of the Republic of the Union of Myanmar (2008), every citizen has the right to elect and be elected to the *Pyithu Hluttaw* (Lower House), the *Amyotha Hluttaw* (Upper House), and the Region and State *Hluttaw* (Region and State legislative body). Section 29 of the PWD Law states that "*The persons with disabilities who are eligible to vote under the law shall have the right to vote a secret ballot for any Hluttaw (legislative body)*". Referring to the above provisions, MNHRC sent its recommendation to the Chairman of the Union Election Commission on 25 June 2019 for having the right to vote fully and freely by all persons with disabilities in the coming General Election in 2020.
8. *Sign language*: Around 2002, there was no arrangement of access to information through sign language. The Ministry of Social Welfare, Relief and Resettlement made an effort for standardized sign language in 2003. Afterwards, the Japan International

Cooperation Agency (JICA) provided assistance from the year 2007 to 2014, and produced persons who were able to provide sign language professionally. As a result and progress of such project, to certain extent, the State through the Myanmar Radio and Television under the Ministry of Information could finally arrange for sign language in the broadcasting service programme in recognition of the right to information by disabled persons.

**III. List of issues: B. Specific rights (arts. 5-30)**  
**Equality and non-discrimination (art. 5)**

9. Section 348 of the Constitution of the Republic of the Union of Myanmar (2008) states that *“The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth”*. Section 9 of the PWD Law states that *“No persons with disabilities shall be discriminated and humbled on the basis of disability”*. Also, section 77(a) of the PWD Law states that *“No one shall: (a) discriminate willfully, neglect and oppress the persons with disabilities on the basis of disability knowingly”*, and anyone who violates this prohibition is subject to one year imprisonment and/or fine under section 82 of the PWD Law. Section 2(e) of the PWD Law defines that *“Discrimination means the distinction, exclusion not to be participated in a society, and restriction of participation that are hindered recognition and equal enjoyment as others in politics, economics, social, education, health, culture, public affairs and any other field on the basis of disability”*. The PWD Law appears to impose a rigid view of disability and discrimination. Despite the definition and prohibitions of the PWD Law, there are no reported cases or precedents contested on this specific issue. The authorities should consider whether the definition of “discrimination” as defined in the PWD Law should be defined for a comprehensive definition enshrined in section 348 of the Constitution.

**Women with disabilities (art. 6); Children with disabilities (art.7)**

10. Although there is no specific and consolidated law which deals with women with disabilities, the existing law namely the PWD Law covers women with disability as well as children with disabilities. Moreover, the existing Child Law of 1993 also deals specifically with protection of children including a mentally or physically disabled child. The new comprehensive Child Rights Bill which is drafted to be in line with the Convention on the Rights of the Child is currently discussed at the Parliament that covers protection of children, among others. Further, to be in line with the CEDAW, the Violence against Women Law (Draft) is in the process of drafting. The said draft Law would cover the protection of women with disabilities. Both of the above laws should be promulgated as soon as possible.

**Awareness raising (art. 8)**

11. MNHRC has learnt from the consultative meeting with the disabled persons/organizations at MNHRC organized by MNHRC on 28 June 2019 that the disabled persons/organizations strongly feel and are of their opinion that although the PWD Law was enacted and its Rules were framed under the principal law, the rights and benefits provided and guaranteed by the law still need to be implemented effectively and most of the government officials do not fully understand and know what has been provided in the PWD Law and its Rules. They feel that this indicates that there must be awareness raising throughout society, from the bottom levels to upper levels concerning the rights and benefits of the disabled persons as well as the duties of the authorities concerned embodied in the PWD Law and its Rules.
12. Moreover, they raise the issues on the government department with less strength. They describe that it is the Rehabilitation Department under the Ministry of Social Welfare, Relief and Resettlement which is the focal relevant government department which has to undertake the tasks of implementation of the PWD Law and related Rules. However, there is only one director and there is no sufficient strength of staff, and as a result, the progress is slow or even there is no effective implementation of the PWD Law and its Rules. Therefore, it is their desire to organize the Rehabilitation Department with full strength in order to implement the rights and benefits of the disabled persons as well as duties of the relevant government department effectively and speedily, and to conduct awareness raising widely throughout society.
13. Further, they highlight the issue that there are government officials from various government departments who do not even know that the PWD Law and its Rules are enacted and issued. Due to lack of knowledge of the existence of the PWD Law and its Rules, awareness raising of the PWD Law and its Rules cannot be conducted throughout society at all levels. Therefore, the National Committee should promote awareness raising to that end.

**Accessibility (art. 9)**

14. The Myanmar National Building Code has not yet been adopted, and consequently, there are many difficulties in the Ministries and departments concerned to guarantee full accessibility for the disabled persons. Therefore, the Myanmar National Building Code which is still pending should be adopted as soon as possible.
15. On a related matter, MNHRC sent its recommendation to the Ministry of Construction on 19 September 2016, with copies to relevant organizations,

recommending to insert suitable provisions in the said Code to enable persons with disabilities for travelling, staying and use easily.

### **Situation of risk and humanitarian emergencies (art.11)**

16. Legal basis exists in relation to natural disaster management. Section 13 of Chapter VI of the Natural Disaster Management Law of 2013 deals with natural disaster management, preparatory and preventive measures for natural disaster risk reduction, emergency responses, rehabilitation and reconstruction activities, and the law requires prioritizing and protecting children, elderly, disabled and women (especially pregnant women and suckling mothers) and requires to refrain from the act that causes injuring human dignity in supporting the victims. Section 33 of the PWD Law also empowers the Ministry of Social Welfare, Relief and Resettlement to make preparations for the activities of search and rescue, protection, safety, and rehabilitation for disabled persons in priority in the emergency situations for different risk, and to coordinate the right of participation of the disabled persons themselves in rehabilitation activities including prevention and preparation for different risk. The Ministry of Social Welfare, Relief and Resettlement is the focal ministry which undertakes the implementation of projects adopted by the State. However, according to a disabled organization, given an example of the 2008 Nargis cyclone disaster where a number of disabled people were left and the rehabilitation process was not for all of them, the disabled persons/organizations still feel that the situations of the disabled persons faced in natural disaster is literally frightening.

### **Equal recognition before the law (art.12); Access to justice (art. 13)**

17. Section 18 of the PWD Law states that *“The National Committee shall accept the expert opinion as evidence when submitting the sign language for the deaf and the braille for the blind prescribed under this Law in any case or any matter by the expert”*. Despite this provision, there are physical and institutional barriers that are still in existence which limit disabled persons in accessing justice and not being recognized equally before the law. Such barriers include, for an example, the lack of sign language interpreters. Persons who serve as sign language interpreters are not fully trained to work with victims of sexual abuse including women/children with disabilities who require various levels of interpretation. There are occasions when an interpreter for the disabled persons with hearing impairment is summoned to court to interpret for sign language, but, the victim who is deaf and hard of hearing is unable to understand the formal sign language interpreted by such interpreter. The court also has limited capacity to provide and make arrangement for such sign language and communication due to lack of specialized training in this specific area. The Ministry of Social Welfare, Relief and Resettlement should promote the training of certified sign language interpreters. The Ministry should also make feasible study

for the emergence of the Sign Language Law to enable the persons with disabilities suffering hearing impairment to enjoy the full rights given by law.

**Liberty and security of the person (art. 14); Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)**

18. Section 14(f) of the PWD Law states that *“The persons with disabilities .... (f) have the right to be protected from torture, discrimination, neglect, abuse and to enjoy disability services while imprisoning”*. Regarding liberty and security of person, the disabled persons still feel that they face insecurity and lack of physical and mental freedom due to inaccessibility of environment. Official data is not available or published on the number of persons with disabilities whether there are disabled persons suffering from torture or cruel, inhuman or degrading treatment or punishment.
19. After visiting and inspecting prisons, jails, detention centers and places of confinement MNHRC has made the following recommendations to the authorities concerned;
- Transfer of prisoners suffering from physical disabilities, appendicitis, and urinary tract infections to another prison with proper medical facilities
  - Transfer of a prisoner requiring orthopedic surgery to a prison which is close to the hospital
  - Transfer of a prisoner suffering from paralysis from a labor camp to prison where medical care can be provided

**Freedom from exploitation, violence and abuse (art. 16)**

20. Section 17(d) of the PWD Law states that *“The women with disabilities ... (d) have the right to be protected from abuse, exploitation, and discrimination including different types of extreme violence and domestic violence”*. Section 77(b) of the PWD Law states that *“No one shall ... (b) make violence extremely, abuse and forced labor to persons with disabilities”*, and violation of the provision of section 77(b) is subject to imprisonment and/or fine under section 82 of the PWD Law.

**Protecting the integrity of the person (art. 17)**

21. Section 8 of the PWD Law states that *“The persons with disabilities shall have the right to enjoy the inherent rights, right to life, citizenship, liberty, justice, security, equality and respect for dignity”*. MNHRC is not aware of any data or complaint received in relation to carrying out of medical procedures, including sterilization, castration and contraception, on disabled persons, particularly psychosocial or intellectual disabilities, without their free and informed consent.

### **Liberty of movement and nationality (art. 18)**

22. Section 9(b) and section 10 of the existing Child Law of 1993 mandates the parents or guardian to register the birth of the child in accordance with law, and states that every child shall have the right to citizenship in accordance with the provisions of the existing law. It is learnt that the new Child Rights Bill is currently under discussions at the Parliament which contains provision of birth registration and issuance of certificates.

### **Living independently and being included in the community (art. 19)**

23. This needs to be done through promotion of awareness raising throughout society at all levels so that the society will be able to realize and understand the needs of disabled persons to be participated in society.

### **Personal mobility (art. 20)**

24. The State Party should fulfill these needs to the best of its availability.

### **Freedom of expression and opinion, and access to information (art. 21)**

25. Although there is progress to certain extent in relation to sign language indication in broadcasting news in television, there are still issues and difficulties faced by the disabled persons with hearing impairment. The MNHRC sent its recommendations to the Minister for the Ministry of Social Welfare, Relief and Resettlement on 20 December 2016, mentioning that in order to have access to information for the disabled persons suffering hearing impairment, refresher course should be conducted for having understanding sign language. The Ministry of Social Welfare, Relief and Resettlement should take measures to enable the enjoyment of access to information by all disabled persons suffering hearing impairment.

### **Education (art. 24)**

26. Chapter V of the PWD Law through sections 20 to 25 deals with right to education of the disabled persons. Despite the provisions of the PWD Law which guarantees the right to education for disabled persons, there are still issues of denial of right to education. For an example, the matter in one complaint occurred in Mandalay Division was a success in protecting a disabled girl's right to education. There was a disabled girl whose fingers were cut by a dagger of her father when she was three years old. She afterwards passed her tenth standard (Grade 11) in 2016 with two distinctions. She then applied for being admitted to the Education College, and

accordingly, was informed to attend the same. She therefore went to the Education College to report, but, was then refused for attendance to the College on the ground of being disabled (incompetence of fingers). Upon receipt of a complaint submitted by her to MNHRC, MNHRC conducted a field inspection, and met with the complainant and her respective father and grandfather. MNHRC then informed about the complaint to the Ministry of Education which eventually permit the disabled girl to attend the College. The disabled girl was lastly allowed to enjoy the right to education regardless of her disability through MNHRC's negotiation. On a related subject, MNHRC, after making field survey and inspections to the disabled schools in Yangon and Mandalay in June, July and December 2016 and in February 2017 and having consultations/discussions with responsible chairman of the Myanmar Federation of Persons with Disabilities and principals of such schools, sent its recommendations to the Minister for the Ministry of Education on 4 April 2017, mentioning that the disabled persons should have free basic level education as they have not access to free basic level education.

27. Section 4 (c) of the National Education Law of 2014 adopts basic principles which include that special education programs and services shall be established so that every school-aged child and youth, including those citizens who are disabled or who for whatever reason have not had a chance to study, can access their right to education in line with the motto "Education for All". So also, section 41 (b) of the National Education Law provides that the Ministry of Education and other relevant Ministries shall establish the curriculum standards for the special education programs for the disabled, visually impaired, hearing impaired, mentally disabled and diverse learners, with the cooperation and approval of experts in educational field. The relevant Ministries should adhere to and implement these provisions effectively embodied in the National Education Law.
28. In the consultative meeting with the disabled persons/organizations at MNHRC on 28 June 2019, they have strongly raised the issues that they are still facing denial of right to education. The Ministry of Education should pay special attention and take necessary actions and measures to enable the disabled persons to enjoy the rights guaranteed by the PWD Law. Moreover, they are still facing with the issue of having no access to inclusive education at the time of this submission.

### **Health (art. 25)**

29. Section 26 of the PWD Law guarantees the disabled persons to have the right to enjoy opportunities of health care performed by the State, and section 27 mandates the Ministry of Health to carry out functions such as carrying out the health care activities which are prevented the occurring of disability, laying down the plans that ensure a minimum of disability prevalence rate at pregnant woman and infants,

children, women and elder person, determining the duties and functions by forming the disability degree classification body by responsible persons from the relevant Ministries and organizations, experts from disabled organizations for examining, evaluating the category of disability and degree of disability, arranging the access of qualified health care and services which are free or affordable rate for the disabled persons in rural areas, establishing physical or mental treatment centers, nurturing centers and rehabilitation centers by medicine for the disabled persons in coordination with the relevant Ministries, Regions or State governments, and allowing the reproductive in accordance with the health care policy if the parents or present guardian desire to do so as necessary for adult women with intellectual disabilities.

30. It is learned from the nationwide circulation of the State newspapers concerning the fourth National Committee relating to the Rights of Persons with Disabilities meeting 1/2019 held in Nay Pyi Taw on 11 June 2019 that the process of identifying persons with disabilities for a pilot project in Yangon and Bago Regions and Kayin State would be split into three stages; that in the first stage, the Ministry of Social Welfare, Relief and Resettlement and UNICEF (Myanmar) would jointly draft categories for the classification of disabled persons, which will have to be approved; that In the second and third stage, the Ministry of Health and Sport would designate the categories; and that after the three stages were completed, the pilot project would be implemented.
31. The disability degree classification body should be formed nationwide as soon as possible to enable the disabled persons to enjoy the rights and benefits guaranteed by law.

### **Habilitation and rehabilitation (art. 26)**

32. Sections 32, 33 and 34 of Chapter IX of the PWD Law deal with care and rehabilitation of the disabled persons as well as providing support to non-government organizations and associations of persons with disabilities which perform care and rehabilitation of the disabled persons from the fund.
33. In the meeting with the disabled persons/organizations on 28 June 2019 at MNHRC, they raised the issues that it was the Rehabilitation Department under the Ministry of Social Welfare, Relief and Resettlement which was the focal government department to undertake the tasks of implementation of the PWD Law and related Rules. However, there is only one director in the said focal department and there is no sufficient human resources. As a result of less strength, the progress is slow or even there is no effective implementation of the PWD Law and its Rules. Thus, they are of the opinion that the Rehabilitation Department should be organized with full strength. Moreover, they insisted strongly that the Myanmar Federation of Persons

with Disabilities should be provided adequate funding, and to that end, the Ministry of Social Welfare, Relief and Resettlement should be provided more budget allocation to promote the rights of disabled persons.

### **Work and employment (art. 27)**

34. Sections 35 and 36 of the PWD Law deal with employment opportunities for the disabled persons. Section 35 mandates the National Committee to lay down, implement and supervise the policies and plans concerning the equal right to work for the disabled persons as the others, creation of employment opportunities, non-discrimination in employment process, obtaining wages, salaries and benefits based on working capacity in accordance with the existing law, enjoyment of the right to access the vocational educations, enabling to employments, enjoyment of the right to work in government departments and organizations and private enterprises, taking measure of suitable accommodations or arrangements, and rehabilitation, coordinate with the relevant Union Ministries, Regions or State governments to submit for obtaining tax exemption, tax relief and right to import, obtaining the right to import and the tax exemption for supportive devices, training materials, communication devices, medicines, medical equipment, and rehabilitation facilities imported to use by the disabled persons without commercial profits, obtaining the tax exemption on products produced by the disabled persons and association of the disabled persons to use for them, etc.
35. Section 36 mandates the employer to employ the disabled persons who are able to work based on the type of work in appropriate job as quota specified by the National Committee, among others.
36. Despite the above provisions of the PWD Law, there has been no quota system up to the time of this submission. In the consultative meeting with the disabled persons/ organizations on 28 June 2019 at MNHRC, the disabled persons/ organizations raised the issue that they still faced issues of not having tax exemptions. Therefore, quota system-related plans and actions should be taken and implemented effectively by the relevant Ministries which should also ensure for the enjoyment of tax exemption as provided in the PWD Law.

### **Participation in political and public life (art. 29)**

37. **Voting rights:** Regarding the right to vote by disabled, MNHRC monitored the By-Election in six townships which was held in November 2018, and one of the responsibilities of the MNHRC included in its checklist for monitoring was to check whether the disabled persons were able to vote smoothly. MNHRC observed that there were difficulties for the disabled persons to access the right of information in

relation to election news and information for the disabled persons suffering visual and hearing impairment. Also, there were difficulties for the disabled persons at the polling stations where most of the stations have two staircases and thus, causing difficulties for them using wheel chair.

38. MNHRC sent its recommendation to the Chairman of the Union Election Commission on 25 June 2019 for having the right to vote fully and freely by all persons with disabilities in the coming General Election in 2020, mentioning that (a) suitable disabled persons should be included as a member in the Election Branches at all levels; (b) in the workshops, talks given to public by the Union Election Commission concerning election process knowledge sharing and education, special arrangement should be arranged for the disabled persons with hearing impairment; (c) as some heads of the disabled organizations raised issue that supporters were, in some occasions, used to assist disabled persons in giving votes and in such a case, supporters may have influence over voters who were disabled persons, and thus, arrangement should be made in a possible way to enable the disabled persons for voting freely; (d) template should be widely used for disabled persons with visual impairment in voting process; (e) in collecting for the lists of voters, disabled persons should be explained and included in the list of voters; (f) in giving election process education, sign language should be used to make disabled persons with hearing impairment understand; (g) disabled persons suffering light mental illness should be considered to be included in voting; (h) more fund should be used for expenses at polling stations placed at disabled schools, or at polling stations where disabled persons give votes, as required.
39. The Union Election Commission should take into consideration of the above recommendations of MNHRC and take necessary actions.

#### **Participation in cultural life, recreation and leisure and sport (art. 30)**

40. The PWD Law does not contain express provisions which specifically deal with protection of published works done by the disabled persons. In order to protect the rights of published works of the disabled persons, Myanmar should consider to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled.

#### **IV. List of issues: C. Specific Obligations (arts 31-33)**

##### **National implementation and monitoring (art. 33)**

41. Before the promulgation the Myanmar National Human Rights Commission Law, the Myanmar National Human Rights Commission was originally formed with 15 members on 5 September 2011 by Presidential decree. On 28 March 2014, the

Myanmar National Human Rights Commission Law (Law No. 21/2014) was enacted by the *Pyidaungsu Hluttaw* (Parliament). Following the promulgation of the law, the new Myanmar National Human Rights Commission was placed on a statutory legal basis, comprising 11 members from different professional backgrounds including national races and two women members. In October 2016, four members resigned. Three members were replaced in April 2018 including a woman member.

42. MNHRC is an independent State Institution, funded by the State, and operating its functions on an independent basis.
43. MNHRC is a member of the South East Asia National Institutions Forum (SEANF); an associated member of the Asia Pacific Forum of National Human Rights Institutions (APF); and a member of the Global Alliance of National Human Rights Institutions (GANHRI).
44. Regarding accreditation status, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) reviewed MNHRC's accreditation status in November 2015. It was accredited with B status.
45. As provided in Section 22 of the MNHRC Law, MNHRC has the following duties and powers:
  - human rights education and promoting public awareness of human rights and education;
  - recommending to the Government the international human rights instruments to which Myanmar should become a party;
  - reviewing existing laws and proposed bills for consistency with the international human rights instruments to which the State is a party and recommending the legislation and additional measures to be adopted for the promotion and protection of human rights;
  - assisting the Government in respect of its preparation of reports to be submitted to international human rights monitoring mechanisms;
  - investigating complaints of human rights violations including conducting inquiries and site visits;
  - inspecting prisons, jails, detention centres;
  - consulting and engaging with CSOs, unions, and other organisations, private sector, academic institutions, and other national, regional and international human rights mechanisms including UPR;
  - submitting annual and special reports to the Parliament, Government or President, as appropriate;
  - carrying out anything incidental or conducive to the implementation of any functions of the Commission.

46. On the whole, MNHRC has statutory powers and functions concerning dissemination of human rights concepts, recommending the Government in relation to ratification or accession to international human rights instruments, monitoring and conducting inquiry into human rights violations and submitting views, advices and recommendations to authorities concerned in relation to implementation of human rights, conducting international and regional cooperation for the promotion and protection of human rights and also to monitor the implementation of the international human rights instruments, in this case the CRPD.
47. As mandated under the enabling law, MNHRC conducted human rights talks, held workshops, seminars and gave lectures to law enforcement officers, judicial officers, police and military personnel, visited and inspected prisons, jails, detention centers, conducted inquiries in respect of complaints of human rights violations including violations of the rights of persons with disabilities.
48. Although section 28 (c) of the Constitution of the Republic of the Union of Myanmar explicitly states that the Union shall implement free, compulsory primary education system, it took a long time for this section to come into practice. Repeated interventions by the *Hluttaw (legislative body)*, MNHRC and all concerned Stakeholders resulted in free education not only for primary education but also for secondary education. MNHRC also pointed out that children with disabilities also have the right to be a part of this system. As a result, children with disabilities can now access the free education which is available to all children of school enrollment age.
49. Although free education was introduced in 2012, children with visual impairment were not able to enjoy the free education schooling due to their disabilities, as teaching aids such as Braille textbook and Braille paper could not be made available, denying them their rights to education. MNHRC had to make repeated interventions with the education authorities to provide teaching aids for the children with visual impairments. It was only in 2018 that the children with disabilities were able to have access to teaching aids and enjoy this right.
50. In addition, MNHRC has also established a desk to deal with matters relating to persons with disabilities. Moreover, in all the workshops and training courses conducted by MNHRC, the Convention on the Rights of Persons with Disabilities (CRPD) forms an important and integral part of the curriculum.