



Excerpts of Treaty Body Concluding Observations and Special Procedure Reports submitted by the United Nations Country Team Myanmar for the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review

Myanmar 10th Session January 24 January - 4 February 2011

We would like to bring your attention to the following excerpts from Treaty Body Concluding Observations and Special Procedures' reports relating to issues of interest and concern to UNCT with regards to Myanmar.

1. Treaty Body Concluding Observations

CEDAW/C/MMR/CO/3, 42nd session 7 November 2008

Positive Aspects

5. The Committee commends the State party for the measures carried out to combat trafficking in women and girls, including the enactment of the 2005 Law to combat trafficking in persons, the adoption of the Myanmar Five-Year National Plan of Action to combat Human Trafficking (2007-2011), the establishment of the central body to combat trafficking in persons, and its accession, in 2004, to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. In addition, the Committee commends the State party for its bilateral, regional and international cooperation in this respect, including in the context of the memorandum of understanding on the Asia Regional Trafficking in Persons project and the memorandum on the Coordinated Mekong Ministerial Initiative against Trafficking.

State Constitution and discriminatory laws

10. The Committee notes with concern that various provisions in the new Constitution may be incompatible with the Convention. Chapter 8 of the Constitution includes a prohibition of discrimination on the basis of sex in the appointment of Government posts or duties but adds that "nothing in this section shall prevent appointment of men to the positions that are naturally suitable for men only". The Constitution also includes provisions guaranteeing that the *Tatmadaw* (military), which may consist mainly of men, will be entitled to one fourth of the seats in each house of the legislature (110 out of 440 seats). The Committee is further concerned that the Constitution includes repeated references to women as mothers, which may reinforce the stereotype that a woman's primary role is that of a mother and that women are in need of protection. In addition, the Committee is concerned that the State party has not yet introduced a provision for temporary special measures in the Constitution or domestic legislation that would assist women in achieving equality. Furthermore, the Committee is concerned that legislation and customary laws that discriminate against women and are incompatible with the Convention remain in force in Myanmar, in particular with regard to discrimination on the grounds of ethnicity and within the ethnic groups.

11. The Committee urges the State party to raise the awareness of legislators about the need to give priority attention to legislative reforms in order to achieve de jure equality for women and compliance with the State party's international treaty obligations. In this respect, the Committee calls upon the State party to formulate organic laws which would make the Constitution fully compatible with the Convention, review all the existing domestic laws that are not in compliance with the Convention and formulate new laws that would ensure the practical application of gender equality. The State party should consider introducing provisions providing for temporary special measures that would assist women in achieving equality. The Committee recommends that the State party seek technical support, if needed, from the international community in this regard.

Visibility of the Convention

12. The Committee is concerned that there is inadequate knowledge of the rights of women under the Convention, its concept of substantive gender equality and the Committee's general recommendations, within society in general, including in all branches of the Government and among the judiciary at all levels, as indicated by the absence of information on any court decisions that refer to the Convention. It is further concerned that women themselves are not aware of their rights under the Convention and thus lack the capacity to claim them.

Legal complaints mechanisms, including a national human rights institution

14. The Committee notes the establishment in 2000 of the Myanmar Human Rights Committee, which was renamed the Myanmar Human Rights Body in November 2007, and that women who wish to complain about gender-based discrimination can send complaint letters to MAAF. However, the Committee is concerned that the State party does not have a more comprehensive and effective legal system for receiving complaints, especially from women of ethnic groups, and it regrets the lack of data on and analysis of complaints filed with MAAF and their outcome. The Committee takes note of the information provided by the delegation that the State party plans to establish a national human rights institution in compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles (General Assembly resolution 48/134, annex)).

15. The Committee urges the State party to strengthen its legal complaints system to ensure that women, especially women of ethnic groups, have effective access to justice. The State party is encouraged to accelerate the process of establishing a national human rights institution in accordance with the Paris Principles. The State party should ensure that this institution will be provided with a broad mandate in respect of human rights, as well as sufficient human, financial and technical resources for its effective functioning, and that its composition and activities will be gender-sensitive and fully address the issue of women's human rights. Furthermore, the Committee calls upon the State party to collect data on the number of complaints filed with MAAF and classify the types of complaints received, as well as information on their outcome. The State party should provide such information in its next periodic report.

National machinery for the advancement of women

17. The Committee recommends that the State party expeditiously strengthen its national machinery in order to ensure strong institutional mechanisms for the promotion of gender equality. In particular, the Committee urges the State party to revise existing funding allocation policies and ensure the provision of the necessary authority and adequate human, financial and technical resources to the national machinery to coordinate implementation of the Convention and work effectively for the promotion of gender equality. The composition of such organizations should include full-time women professionals at both the State and local levels. The Committee encourages the State party to mainstream gender equality and establish gender focal points in the ministries.

Non-governmental organizations

19. The Committee urges the State party to take concrete steps to create and ensure an enabling environment in which civil society and women's groups focused on gender equality and women's empowerment can conduct programmes and activities without restrictions or fear of reprisal. The State party should also take effective steps to encourage and facilitate the active participation of civil society in the full implementation of the Convention, including in the follow-up to concluding observations, for the promotion and protection of women's human rights. In addition, the Committee urges the State party to review its regulations for registration of and support for NGOs. In this respect, the Committee recommends that the State party recognize the value and contributions made by unregistered organizations, as well as simplify the registration process for local and national organizations, including by providing clear criteria for such registration, and minimize any barriers to working and registering as an NGO in Myanmar.

Negative cultural practices and stereotypes

21. The Committee requests the State party to view its cultures as dynamic aspects of the country's life and social fabric and as subject, therefore, to change. It urges the State party to put in place without delay a comprehensive strategy, including review and formulation of legislation, to modify or eliminate cultural practices and stereotypes that discriminate against women, in conformity with articles 2 (f) and 5 (a) of the Convention. Such measures should include efforts to raise awareness of this subject, targeting women and men at all levels of society, which should be undertaken in collaboration with civil society. The Committee encourages the State party to effectively use innovative measures to strengthen understanding of the equality of women and men and to work with the media to enhance a positive and non-stereotypical portrayal of women. The Committee urges the State party to use all forms of education (formal, non-formal and informal), including the socialization process through parenting and community social interaction, to eradicate negative stereotypes, attitudes and practices. The State party is encouraged to carry out studies on this subject, including among the ethnic and religious groups, and to seek assistance, if needed, from the international community for this purpose.

Violence against women

23. The Committee urges the State party to give priority attention to combating violence against women and girls and to adopt comprehensive measures to address all forms of violence against women and girls, in accordance with its general recommendation 19. It requests the State party to raise public awareness, through the media and education programmes, of the fact that all forms of violence against women are a form of discrimination under the Convention and therefore in violation of women's human rights. The Committee calls upon the State party to ensure that violence against women and girls, including domestic violence and all forms of sexual abuse, constitutes a criminal offence; that perpetrators are prosecuted, punished and rehabilitated; and that women and girls who are victims of violence have access to immediate means of redress and protection. The Committee requests the State party to remove any impediments faced by women in gaining access to justice and recommends the implementation of training for the judiciary and public officials, in particular law-enforcement personnel and health-service providers, in order to ensure that they are sensitized to all forms of violence against women and can provide adequate gender-sensitive support to victims. It also recommends the establishment of high-quality counselling services and shelters for victims of violence. The Committee requests the State party to provide information in its next report on the laws and policies in place to deal with violence against women and girls and on the impact of such measures, as well as data and trends on the prevalence of various forms of such violence, disaggregated by age and ethnic group. The Committee recommends that the State party undertake studies and/or surveys on the extent of such violence and its root causes.

Trafficking

26. While noting the measures referred to in paragraph 5 above, as well as the training-of-trainers programme for protection against trafficking in persons, the Committee expresses concern at the persistence of trafficking and sexual exploitation of women and girls in the country. The Committee is also concerned at reports that the 2005 anti-trafficking law has been abused and that some innocent people have been arrested on false trafficking charges. It is further concerned at the inadequate protection procedures granted for returned trafficked victims from abroad, especially from China, along the border areas, and at the State party's failure to address the root causes of migration in and from Myanmar, and its consequent inability to seriously address the trafficking problem.

27. The Committee urges the effective implementation of the National Action Plan to Combat Human Trafficking, including the prevention of trafficking and the timely prosecution and punishment of traffickers, both those who are directly or indirectly involved in trafficking and those who are negligent in dealing with or preventing trafficking cases, as well as the provision of protection from traffickers/agents and support to victims. The Committee recommends that information and training on the anti-trafficking legislation be provided to the judiciary, law-enforcement officials, including border police, immigration officers, public officials and social workers in all parts of the country. The State party should ensure that the anti-trafficking legislation and directives are not misused by authorities to impose increased restrictions on communities or falsely arrest and charge innocent people, particularly women of ethnic groups. In addition, the Committee recommends that the State party conduct comparative studies on trafficking, covering both cross-border and rural-to-urban trafficking, and address the root causes of trafficking, including migration, in order to eliminate the vulnerability of girls and women to sexual exploitation and traffickers and to undertake efforts for the rehabilitation and social integration of women and girls who are victims of exploitation and trafficking. In this respect, the State party should take the necessary steps to ensure that trafficked women and girls have access to quality medical care, counselling, financial support, adequate housing and opportunities for further training, as well as access to free legal services. The State party should also allocate the necessary budgetary funds for the effective implementation of the 2005 anti-trafficking law and other relevant measures. The Committee calls upon the State party to ensure systematic monitoring and periodic evaluation in this respect, including collection and analysis of data.

Participation in political and public life

29. The Committee recommends that the State party pursue sustained policies aimed at the promotion of women's full and equal participation in decision making in all areas of public, political and professional life. It recommends that the State party fully utilize general recommendation 23, concerning women in public life, and calls upon the State party to further adopt, wherever necessary, temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, in order to accelerate women's full and equal participation in public and political life, in particular at high levels of decision-making. This includes women in international and diplomatic positions of responsibility, beyond attending international meetings. It recommends the implementation of awareness-raising activities about the importance of women's participation in decision-making for society as a whole and the development of targeted training and mentoring programmes for women candidates and women elected to public office. It further recommends that the State party offer training programmes on leadership and negotiation skills for current and future women leaders. The Committee urges the State party to carefully monitor the effectiveness of measures taken and results achieved. The Committee calls upon the State party to use the formulation of its new electoral law as an opportunity to include women, in accordance with the provisions on non-

discrimination in its Constitution, and to increase women's political participation. The State party is encouraged to use targets and quotas, as appropriate, in this respect.

Discriminatory nationality law

30. The Committee regrets the limited information provided on the entitlements to acquire Myanmar citizenship under the 1982 citizenship law, including with respect to women acquiring citizenship based on their marital status and passing citizenship to their children born outside the country, as well as children with non-national fathers.

31. The Committee calls upon the State party to review the 1982 citizenship law and repeal or amend it, as appropriate, in order to bring it fully into compliance with article 9 of the Convention. It also calls on the State party to provide more information on Myanmar citizenship rights, including on birth certificates of children born in Myanmar, in particular children of ethnic groups, in its next periodic report.

32. While noting the State party's issuance of temporary registration certificates to the Muslim minority in northern Rakhine State, the Committee is concerned that, under the 1982 citizenship law, the members of that minority group, including returnees, have been denied Myanmar citizenship, which has seriously curtailed the full exercise of their civil, political, economic, social and cultural rights and led to various discriminatory practices. It is also concerned that their entitlement to such citizenship is unclear and notes that this continuing discrimination is in violation of article 9 of the Convention.

33. The Committee urges the State party to grant citizenship to residents, in particular, on the basis of their long-standing ties to Myanmar, to the Muslims of northern Rakhine State and to allow them, in particular the women, the full enjoyment of their human rights. The State party is encouraged to continue to collaborate with the international community, especially the Office of the United Nations High Commissioner for Refugees (UNHCR), in those efforts.

Education

35. The Committee urges the State party to enhance its compliance with article 10 of the Convention and ensure that "education for all" is realized. It encourages the State party to take steps to overcome traditional attitudes that in some rural areas constitute obstacles to girls' and women's education. The Committee recommends that the State party implement measures to ensure equal access of girls and women to all levels of education and retain girls in school. The State party should take the necessary steps to increase the number of qualified teachers, including through providing appropriate and continuous training, and to ensure the provision of an adequate educational infrastructure, especially in rural and remote areas, and sufficient supplies of teaching materials and textbooks that are not sex-discriminatory. The Committee urges the State party to allocate the necessary budget for the implementation of various projects and programmes. It also requests the State party to provide information in its next report on the measures taken and on their gender impact. It also calls upon the State party to review and improve its statistics in the area of education and to carry out human rights education in all schools.

Employment

37. The Committee requests the State party to ensure equal opportunities for women in the labour market, in accordance with article 11 of the Convention. It calls on the State party to review its labour laws and ensure that employment legislation applies to and is enforced in the public and private sectors. The Committee also calls upon the State party to provide a regulatory framework for the informal sector, with a view to providing access to social protection and benefits. It calls on the State party to provide, in its next report, detailed information, including data disaggregated

by sex; analysis on the situation of women in the field of employment, in both the formal and informal sectors, and trends over time; and information about measures taken and their impact on realizing equal opportunities for women in the employment sectors, including in new fields of employment and entrepreneurship. The Committee also requests the State party to provide in its next periodic report detailed information about legal provisions and their monitoring and enforcement; equal pay for work of equal value; and existing complaints mechanisms, as well as statistical information concerning their use by women and their outcomes.

Women in northern Rakhine State

42. The Committee expresses its deep concern at reports that Muslim women and girls in northern Rakhine State endure multiple restrictions and forms of discrimination which have an impact on all aspects of their lives, including severe restrictions on their freedom of movement; restricted access to medical care, food and adequate housing; forced labour; and restrictions on marriages and pregnancies. The Committee is also concerned that the population in northern Rakhine State, in addition to being subject to policies imposed by the authorities, maintains highly conservative traditions and a restrictive interpretation of religious norms, which contribute to the suppression of women's and girls' rights.

43. The Committee urges the State party to urgently eliminate all forms of violence and discrimination against women in northern Rakhine State and, in particular, to alleviate the heavy restrictions on the movement of residents within northern Rakhine State, especially women and girls. The Committee further urges the State party to lift the orders concerning marriage authorization and restriction of pregnancy, which violate the human rights of those women. The State party should also take effective measures to improve their access to primary health care and basic education. The State party is encouraged to continue to collaborate with the international community, especially UNHCR and the United Nations Population Fund, in those efforts.

Rural women

45. The Committee calls upon the State party to take the necessary measures to increase and strengthen the participation of women in designing and implementing local development plans and pay special attention to the needs of rural women by ensuring that they participate in decision-making processes and have improved access to, inter alia, health care, education and social services. Furthermore, the State party should ensure that development projects are implemented only after gender impact assessments involving rural women have been undertaken. In addition, the State party should ensure that opium eradication is carried out together with the development of sustainable alternative livelihoods with local communities, where rural women are most affected. The Committee requests the State party to include in its next report information on the achievements of constructive governmental interventions and comprehensive data on the situation of rural women in all areas covered by the Convention.

CRC/C/15/Add.237, 36th session 30 June 2004

Birth registration and citizenship

34. While noting the progress achieved by the State party in registering children at birth, the Committee remains concerned at the large number of children whose births have not been registered. The Committee is further concerned that religion and ethnic origin are specified on the identity card and is deeply concerned that the Citizenship Act establishes three different categories of citizenship, possibly resulting in some categories of children and their parents being discriminated against, stigmatized and/or denied certain rights.

35. In light of article 7 of the Convention, the Committee urges the State party to strengthen its efforts to reform its civil registration system to ensure that all children are registered at birth without discriminatory conditions, through, inter alia, conducting awareness-raising campaigns and a review of the existing registration system. It is also encouraged to consider facilitating birth registration procedures through mobile units for remote areas. In line with its previous recommendations (ibid., paras. 28 and 34), the Committee recommends that the State party abolish the categories of citizens, as well as the statement on the national identity card of the religion and ethnic origin of citizens, including children.

Refugee/internally displaced children

64. The Committee notes that a large number of returnees from Bangladesh to northern Rakhine State have gone back to their villages of origin, but is concerned that some 850,000 Muslim residents in northern Rakhine State and large numbers of persons of Chinese or Indian descent throughout the country remain stateless, making it impossible for children of these families to benefit from the provisions and principles of the Convention. The Committee is further concerned at the very high number of children and their families who were internally displaced in Myanmar and that many were forced to seek asylum in neighbouring countries owing to the armed insurgencies taking place in various parts of Myanmar.

65. In light of articles 7, 22 and other relevant provisions of the Convention, the Committee recommends that the State party:

- (a) Take the necessary measures to allow children and their families who have returned to Myanmar and who are stateless to acquire Myanmar citizenship by way of naturalization;
- (b) Strengthen its efforts to provide adequate assistance to internally displaced children, including their access to food, education and health, and to support the return home of internally displaced populations and their reintegration into their communities;
- (c) Prevent situations which force children and their families to leave Myanmar;
- (d) Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and the 1954 Convention relating to the Status of Stateless Persons; and
- (e) Work closely in this regard with UNHCR and UNICEF.

Child soldiers/children affected by armed conflict

67. In light of articles 34 and 38 and other related articles of the Convention, the Committee recommends that the State party:

- (a) Strengthen its efforts to end the armed conflict and to ensure that the protection and promotion of children's rights are given due consideration in any peace negotiations;
- (b) Prioritize the demobilization and reintegration of all combatants under 18;
- (c) Continue to take measures to ensure that all military recruits meet the minimum age recruitment of 18 years and that they enter voluntarily;
- (d) Ensure that all armed groups reintegrated into the national armed forces adhere to the minimum age of recruitment of 18 years;
- (e) Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by the conflict, in particular child combatants, unaccompanied internally displaced persons and refugees, returnees and landmine survivors, while ensuring their privacy;
- (f) Take effective measures to ensure that children affected by the conflict can be reintegrated into the education system, including through non-formal education programmes and by prioritizing the restoration of school buildings and facilities and the provision of water, sanitation and electricity in conflict-affected areas; and
- (g) Seek in this regard technical assistance from, inter alia, UNICEF.

Trafficking in children

72. The Committee notes the various activities carried out by the State party to combat human trafficking, such as the establishment of an inter-agency working group on trafficking and targeted research and awareness-raising activities, yet is concerned at the large number of children being trafficked for their exploitation to neighbouring countries, notably Thailand.

73. The Committee recommends that the State party:

- (a) Formulate a national plan of action to combat trafficking;
- (b) Further strengthen the necessary measures to prevent and combat the sale and trafficking of children, including awareness-raising campaigns and educational programmes, targeting parents in particular;
- (c) Increase cross-border cooperation and collaboration with neighbouring countries within the framework of the United Nations Inter-Agency Project to Combat Trafficking in Women and Children in the Mekong Sub-region (UNIAP), including through bilateral and multilateral agreements;
- (d) Facilitate the reunification of child victims with their families and provide adequate care and rehabilitation for them; and
- (e) Continue to seek assistance from, among others, UNICEF.

2. Special Procedures Reports

A/HRC/13/48, 13th session 10 March 2010

Progress report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana

(Statelessness/Discrimination/Displacement)

59. The provisions in the Constitution are currently confined to citizens, and the very restricted requirement of having both parents as nationals of the country for citizenship will render some people stateless. It is estimated that there are over 723,000 people without citizenship in Myanmar.

61. The Special Rapporteur remains deeply concerned about ongoing conflict in border areas, particularly in eastern Myanmar. Since 1996, up to 1 million people in Myanmar, half of them in the eastern part of the country, have been displaced. Entire communities have been forced to relocate and their houses and food supplies burned to prevent their return. Those who refuse forced relocations and choose to hide risk military attacks. While the number of conflict-affected areas has been reduced with ceasefire agreements, armed clashes affecting civilians caught in the middle continue to be reported.

62. It is estimated that there are over 184,000 refugees originating from Myanmar. An estimated 2 million migrants from Myanmar are currently found in Thailand. Thousands of ethnic Chin have crossed the border to the State of Mizoram in India, where some 75,000–100,000 undocumented Chin from Myanmar live. Muslim residents from Northern Rakhine State of Myanmar continue to seek asylum in neighbouring countries and beyond. Approximately 28,000 are residing in two refugee camps in Bangladesh and have been there since 1991 in addition to about 100,000–200,000 residing in Bangladesh with no legal status. There are also some 40,000 individuals of concern from Myanmar in Malaysia.

65. The Special Rapporteur is alarmed by the dire human rights situation in Shan State. Since 27 July 2009, it is reported that the military have burned down over 500 houses and scores of granaries, and forcibly relocated almost 40 villages, mostly in the Laikha township. According to reports, over 100 villagers, both men and women, have been arrested and tortured. At least three villagers have been killed. This would be the largest forced relocation since 1996–1998, when over 300,000 villagers in southern and central Shan State were displaced.

83. Non-discrimination is a well-established fundamental human rights principle, explicitly referred to in the Universal Declaration of Human Rights (art. 2), as well as in the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. Article 4, paragraph 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992 Declaration on Minorities) spells out the responsibility of the State to ensure that persons belonging to minorities exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

84. The Special Rapporteur calls upon the Government to ensure that ethnic minorities are granted fundamental rights. The ethnic minorities in Myanmar should have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination, in accordance with the 1992 Declaration on Minorities. Policies that prevent teaching in ethnic languages in ethnic populated areas need to be changed. Ensuring the enjoyment of culture rights for ethnic minorities would contribute to the richness of Myanmar as a diverse and multi-ethnic country and would contribute to its political and social stability.

85. In the light of the 2008 Constitution, especially articles 34 (freedom of religion), 347 (equal rights of all persons before the law), and 348 (prohibition of discrimination based on race, birth, religion, official position, status, culture, sex and wealth), the Special Rapporteur urges the Government to undertake the amendment of domestic laws to ensure the full enjoyment of human rights without discrimination for all people in Myanmar.

86. During his last mission, the Special Rapporteur visited Northern Rakhine State. He is deeply concerned about the systematic and endemic discrimination faced by the Muslim community, known as the Rohingya, in this State. This discrimination, which is framed as an immigration problem, leads to basic and fundamental human rights being denied to this population. Measures taken against this population include restriction of movement, limitations on permission to marry, and forced labour.

87. The Special Rapporteur urges the Government to end the unacceptable discrimination, human rights abuses and resulting severe economic deprivation they face. This ethnic minority continues to be denied citizenship, under the 1982 Citizenship Act, which contravenes generally accepted international norms to ensure that there is no State sanctioned discrimination on the basis of religion and ethnicity. The right of children to nationality and registration at birth are guaranteed by the Convention on the Rights of the Child.

88. Since 1994 the Myanmar authorities have refused to issue birth certificates to many Muslim children. As a consequence of their statelessness, these children face discrimination with regard to education, health care and employment.

89. Unlike other people of Myanmar, this Muslim community must apply for papers from Nasaka, the border and immigration forces in Northern Rakhine State, which checks for

citizenship and age of majority, in order to get married. This process is reported to cost 40,000 kyat (about \$40), which many Muslims cannot pay, and can take up to several years to complete. As a consequence, many Muslims are arrested and sentenced up to five years in prison for offenses relating to these requirements. The majority of the prison population of Buthidaung were Muslim, most of them for charges related to immigration or marriage offenses. However, the Supreme Court in 2009 overturned two convictions for illegal marriage. The Special Rapporteur urges the Government to consider these rulings and to release all those prisoners currently serving sentences for illegal marriage, a topic he raised with the Chief Justice during his last mission.

90. The Special Rapporteur notes that the Government should comply with the conclusions of the Committee on the Rights of the Child, which recommended that the Citizenship Act be repealed and that in the light of articles 2 (non-discrimination) and 3 (best interests of the child) of the Convention, “abolish the categorization of citizens, as well as the mention on the national identity card of the religion and the ethnic origin of citizens, including children. In the view of the Committee, all possibility of stigmatization and denial of the rights recognized by the Convention should be avoided.”

91. Also of concern are the extreme restrictions on movement placed on this Muslim population due to their lack of citizenship, which limits their employment opportunities. The situation of poverty appears to be exacerbated by the frequent imposition of arbitrary taxes and forced labour, which has been on the rise since November 2008, as a consequence of military expansion in the area, as well as by the construction of a barbed wire fence along the border in March 2009 to prevent Muslims from travelling back and forth.

92. The impact of these policies of discrimination is felt through family and social breakdowns in the community. The situation has resulted in the exodus of many from the community. In 2009 hundreds attempted the dangerous journeys by boat, risking their lives at sea. Some were pushed back to the sea. Others remain in detention facilities in the countries where they landed. The risk of another mass exodus of people remains unless the economic and social conditions for the community are adequately addressed with respect for their fundamental human rights.

93. In Rakhine State, it is said that only 13 per cent of households are able to meet their food needs for the entire year, and 26 per cent of the population suffers from malnutrition. Between 70 and 90 per cent of a household’s income is allocated to food purchase. Only 30 per cent of the population is said to receive public health care. A third of the population has no access to clean water. Prevalent causes of mortality are malaria, diarrhea, respiratory and skin infections, intestinal parasites and cholera. The maternal mortality rate is much higher than in the rest of Myanmar (380 women per 100,000 births). There are three doctors per 430,000 people in Maungdaw and two per 280,000 in Buthidaung.

94. The Special Rapporteur commends the Government on its agreement to extend and strengthen the presence of the Office of the United Nations High Commissioner for Refugees in Northern Rakhine State, and its identification of key social and economic areas for cooperation, which will be facilitated by the support announced by some donors. The Special Rapporteur hopes that all members of the United Nations Country Team could contribute to this cooperation in the identified areas.

120. As the Special Rapporteur stated in previous reports, there is a pattern of gross and systematic violation of human rights which has been in place for many years and still continues. The human rights that are part of this pattern are broad-ranging and include the rights to life, to liberty, to personal integrity, to freedom of expression, assembly and religion, to judicial remedy

and due process of law, to nationality, to protection of civilians and internally displaced communities and to prohibition against discrimination, among others.

A/64/318, General Assembly 64th session 24 August 2009

Report of the Special Rapporteur on the situation of human rights in Myanmar

(Displacement)

56. The General Assembly, in paragraph 2 (d) of its resolution 63/245, expressed concern at the continuing discrimination and violations suffered by persons belonging to ethnic nationalities of Myanmar, and attacks by military forces and non-State armed groups on villages in Kayin State and other ethnic States in Myanmar, leading to extensive forced displacements and serious violations and other abuses of the human rights of the affected populations.

57. Myanmar has seen a large scale of population displacement of civilians, especially from the ethnic nationalities along the border areas. Owing to the ongoing fighting between the Government and Karen National Union (KNU), some 500,000 people are estimated to have been forced to leave their villages in Eastern Myanmar, while many others have fled to other countries in the region, sometimes under life threatening conditions.

58. In the first week of June 2009, with the escalation of fighting between the Myanmar army/Democratic Karen Buddhist Army (DKBA) and the Karen National Union/Karen National Liberation Army (KNU/KNLA), some 3,500 people, mainly women and children, were reported to have left the area of Ler Per Her internally displaced persons camp in Dta Greh Township, Pa'an District in Kayin State, to seek refuge in Thailand. These people had previously fled their villages and were living in temporary camps near the border with Thailand. It is reported that DKBA is exercising tough measures in areas vacated by KNLA such as imposing various forms of extortions of food and belongings and arbitrary taxations on civilians and enforcing forced and hazardous labour without compensation.

(Statelessness)

70. Another issue of serious concern that the Special Rapporteur has continuously raised in his reports and oral interventions is the situation of the Muslim population in Northern Rakhine State. According to the Citizenship Law (1982), this population, despite of having lived for generations in Northern Rakhine State, is not recognized as one of the 135 national races in Myanmar. Therefore, it is not granted citizenship and is stateless. However, in order to allow them to participate in the referendum on the new Constitution in May 2008, the Government issued them temporary registration cards, which could not be used to claim citizenship.

71. In his address to the Human Rights Council at its tenth session, the Special Rapporteur noted the issuance of temporary registration cards for the purpose of participation in the referendum on the new Constitution. Legally speaking, only citizens of a State who will be governed by the State Constitution have the right to express their opinion on the adoption of that Constitution. Therefore, the Special Rapporteur highlighted that nothing could be more of a proof of citizenship than to have the right to participate in the referendum on the adoption of the new Constitution.

72. The problem of statelessness is the root of chronic scourges endured by the Muslim population. Without any identity papers, this population needs to apply for travel permits, which are costly and cannot be obtained by everyone. Being confined to its own villages limits the

possibility to have access to health care and education, to find a job, and thus to provide the basics for living in dignity.

77. Since this population does not hold any identity cards, the newborn children are not registered, which poses a question of compliance with article 7 of the Convention on the Rights of the Child, which establishes that “the child shall be registered immediately after birth and shall have the right from birth to a name, [and] the right to acquire a nationality.” Those who do obtain marriage authorization are said to be restricted to two confinements.

78. The Committee on the Elimination of Discrimination against Women, in paragraph 43 of its concluding observations, urges the Government “to urgently eliminate all forms of violence and discrimination against women in northern Rakhine State, and, in particular, to alleviate the heavy restrictions on the movement of residents within northern Rakhine State, especially women and girls. The Committee further urges the State party to lift the orders concerning marriage authorization and restriction of pregnancy, which violate the human rights of those women. The State party should also take effective measures to improve their access to primary health care and basic education. The State party is encouraged to continue to collaborate with the international community, especially the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Population Fund, in those efforts.”

(UNHCR)

96. The Special Rapporteur also welcomes the extension of the presence of UNHCR in Northern Rakhine State, which was agreed by both parties during the visit of the High Commissioner for Refugees to Northern Rakhine State in March 2009.

(Human Trafficking)

97. The Special Rapporteur commends the signing of a bilateral agreement between Myanmar and Thailand on 24 April 2009 to combat human trafficking, especially of women and children, covering areas such as prevention, protection, recovery and reintegration of victims, law enforcement and criminal justice, as well as developing and implementing joint actions between the two countries. He welcomes the endorsement of the terms of reference for an ASEAN intergovernmental commission on human rights on 20 July 2009. He is hoping that the Intergovernmental Commission will be enabled by member States to efficiently carry out its primary task of promoting and protecting human rights and fundamental freedoms of the people of ASEAN countries, including Myanmar.

UNGASS Country Progress Report Myanmar National AIDS Programme

Reporting period: January 2008 – December 2009 Submission date: 31 March 2010

VII. Major challenges and remedial actions

A combination of factors can impact access to, the reach and effectiveness of services for HIV and STI prevention, treatment and care. The population is spread over a large geographic area with diverse ethnicity including languages. The communications and transport facilities are poorly developed. The health system is poorly resourced with regard to infrastructure and equipment and there is a scarcity of appropriately skilled human resources, notably in rural and remote areas. Some parts of the population are hard to reach due to geographical isolation or ongoing security concerns due to conflict, mainly in border areas.

Domestic and international financial support remains largely insufficient to respond comprehensively to the HIV epidemic even in the most accessible parts of the country. Economic sanctions have added to the difficulties in sustaining health sector infrastructure and hospital and

medical supplies. While the Government of Myanmar provides support for the response to AIDS by way of manpower, staff salaries, and training, some reporting forms, buildings and operational costs, overall government health expenditure in Myanmar remains low.

With current levels of funding, service coverage cannot increase sufficiently to address the pressing needs for care and prevention. More resources are therefore urgently required, both from international and domestic sources. The absence of any significant increase in funding resulted in a widening resource gap from 2006 to 2008 compared with the amount needed, as costed in the Operational Plan.

Capacity and resources are insufficient to effectively respond to the behaviours that are high risk for HIV and STI infection; vulnerabilities of sexual partners of those with high-risk behaviours; prevention and treatment needs of people living with HIV. Low levels of access to comprehensive treatment and care for marginalized groups with high-risk behaviours remains a persistent problem. Procurement, especially of ART and medicines for managing opportunistic infections, requires strengthening. Service points providing HIV counselling and testing are insufficient in number. Laboratory services are currently inadequate. Overall, coverage of HIV prevention services in Myanmar remains limited. In most programme delivery areas, only about 10% of people in need are receiving appropriate services. Sex workers are perhaps the most important exception, where coverage is estimated to be over 50 percent. Financial constraints significantly affect the national HIV outcomes, reflected in low ART coverage. Myanmar is one of 55 countries in the world with less than 25% ART coverage (*Source: UNAIDS, Report on the Global AIDS Epidemic 2008*).

The Ministry of Health is in full support of prevention programmes for these groups with high risk of HIV transmission. However, the law enforcement agencies in the areas where the services are provided are not always fully aware of prevention programmes. The 100% Targeted Condom Programme of the National AIDS Programme will continue to address this through advocacy with local authorities including law enforcement. Men who have sex with men are a largely hidden population. Little research has been undertaken to date to understand the scope and dynamic of HIV within this subpopulation. Stigma and discrimination remains a major issue for people living with HIV as was demonstrated in the most recent round of BSS. While many respondents state that they would care for a HIV infected relative, there are less than half who would buy food from a HIV infected vendor (BSS 2007 General Population, BSS 2008 Out of School Youth, Ministry of Health).