

Submission for the 3rd Cycle of Universal Periodic Review of Myanmar

To

**Human Rights Council**

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**RIGHTS OF THE CHILD**

**Joint Submission**

**Myanmar Child Rights Coalition (MCRC):**

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This joint report is submitted by the Myanmar Child Rights Coalitions (MCRC)<sup>1</sup> and focused on the issues related to children's rights in Myanmar by referring to the recommendations from the 2<sup>nd</sup> Cycle of UPR which were being committed to implementing them by Government of Myanmar. This joint submission particularly focuses on three main sections: 1) Child Rights Law 2) Access to Education and 3) Violence Against Children. In each section, there are sub-topics which contained and highlighted the situation of children's rights based on the information obtained from the implementation of child-focused organizations on the ground, consultation with CSOs, and the secondary data. The data, information, and findings from project implementation on the ground by the NGOs and CSOs' reports (consultation with children) are referred to in this report. This joint submission was prepared by organizing consecutive consultation meetings with the CSOs who contributed information and participated along with fruitful discussions during the meetings. This 3<sup>rd</sup> Cycle UPR is the 2<sup>nd</sup> joint submission of MCRC as it made the 1<sup>st</sup> joint submission in the 2<sup>nd</sup> UPR Cycle in 2015.

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<sup>1</sup> MCRC is a group of CSOs which gathered together to prepare the UPR report focusing on the rights of the child based on their implementations and findings.

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## ACRONYM

<b>AE</b>	<b>Alternative Education</b>
<b>ASEAN</b>	<b>Association of Southeast Asian Nations</b>
<b>ASEAN RPA</b>	<b>ASEAN Regional Plan of Action</b>
<b>CRL</b>	<b>Child Rights Law</b>
<b>CRPD</b>	<b>Convention on the Rights of People with Disabilities</b>
<b>CSO</b>	<b>Civil Society Organization</b>
<b>CWD</b>	<b>Children with Disabilities</b>
<b>DSW</b>	<b>Department of Social Welfare</b>
<b>EiE</b>	<b>Education in Emergency</b>
<b>EVAC</b>	<b>Elimination of Violence Against Children</b>
<b>LRPD</b>	<b>Law Related to People with Disability</b>
<b>MCRC</b>	<b>Myanmar Child Rights Coalition</b>
<b>MEC</b>	<b>Myanmar Education Consortium</b>
<b>MoE</b>	<b>Ministry of Education</b>
<b>MSWRR</b>	<b>Ministry of Social Welfare, Relief, and Resettlement</b>
<b>MTB</b>	<b>Mother Tongue Based</b>
<b>MTR</b>	<b>Mid Term Review</b>
<b>NCRC</b>	<b>National Committee on the Rights of the Child</b>
<b>NCRWG</b>	<b>NGO Child Rights Working Group</b>
<b>NEL</b>	<b>National Education Law</b>
<b>NESP</b>	<b>National Education Strategic Plan</b>
<b>NGO</b>	<b>Non-Governmental Organization</b>
<b>NPAFC</b>	<b>National Plan of Action for Children</b>
<b>TVET</b>	<b>Technical and Vocational Education and Training</b>
<b>UNCRC</b>	<b>United Nations Convention on the Rights of the Child</b>
<b>UNICEF</b>	<b>United Nations International Children’s Emergency Fund</b>
<b>UPR</b>	<b>Universal Periodic Review</b>
<b>VAC</b>	<b>Violence Against Children</b>

## BACKGROUND

1. Myanmar is an ethnically diverse country composed of 135 ethnic groups officially recognized by the government. Different Ethnic Armed Organisations are present and control some areas in ethnic states located in the border areas of Myanmar. Myanmar which is a member of ASEAN ratified the UNCRC in 1991. It enacted the Child Law in 1993, and to be in line with the provisions of the UNCRC, the new CRL was enacted on July 23, 2019.

## CHILD RIGHTS LAW

2. **Implementation of the recommendations:** The 2<sup>nd</sup> Cycle of UPR, recommendation no. A.143.15<sup>2</sup> made by Bhutan was accepted by Myanmar and the government has enacted the new Child Rights Law (CRL) on 23<sup>rd</sup> July 2019. The process of drafting the law was not much transparent as sporadic consultation meetings with child-focused CSOs were organized by the Department of Social Welfare (DSW): 2<sup>nd</sup> consultation workshop with multi-stakeholders in 2015, and 3<sup>rd</sup> consultation meeting with selected CSOs in 2016. Myanmar Child Rights Coalition (MCRC) appreciates that the new CRL (2019) is more in line with the provisions of the UNCRC and certain inputs of the Civil Society were taken into account. However, the rights of children of Myanmar to become a reality needs a long way to go due to limited resources, the slightest interest, and priority given by the government. Thus, MCRC highlights the following issues which the government needs to ensure the effective implementation of the CRL.
3. **The minimum age of criminal responsibility:** Myanmar accepted the 2<sup>nd</sup> Cycle of UPR recommendations made by Chile, recommendation no. A - 143.83<sup>3</sup> and also by Lithuania, the recommendation of N - 144.77<sup>4</sup> which was deferred then accepted “in principle”. In the new CRL (2019), the government raised the age of criminal responsibility from 7 to 10 despite the proposal made by the NGO Child Rights Working Group (NCRWG)<sup>5</sup> to 12 years. In Article 78 (a) of the new CRL (2019), the minimum age of criminal responsibility was prescribed as 10 and Article 78 (b) prescribes “Nothing is an offense which is done by a child above 10 years of age and under 12 who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion”. Terre des Home Lausanne’s project report (2016-2018) showed the cases of children under

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<sup>2</sup> A - 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)*. Website: [https://www.upr-info.org/sites/default/files/document/myanmar/session\\_23\\_-\\_november\\_2015/recommendations\\_and\\_pledges\\_myanmar\\_2015.pdf](https://www.upr-info.org/sites/default/files/document/myanmar/session_23_-_november_2015/recommendations_and_pledges_myanmar_2015.pdf)

<sup>3</sup> A- 143.83 *Review legislation in order to raise the minimum age of criminal responsibility in line with international standards (Chile)*

<sup>4</sup> N - 144.77 *Raise the age of criminal responsibility to international standards (Lithuania)*

<sup>5</sup> NCRWG is composed of 40 local and international Child Focused Organizations and the only child focused working group advocating for children’s rights in Myanmar. NCRWG constantly engaged with the Parliamentarians and lobbied to raise the age of criminal responsibility during the Child Rights Bill drafting process. NCRWG Advocacy document, Proposal Paper of minimum age for criminal responsibility; only in Myanmar Language; Translation not available.

16 who were categorized as children in contact with the laws and detained in the 5 training schools. During 2016 and 2018, in the 5 youth and girls training schools, a total of 20 cases were identified and they were categorized as theft, drugs, sex, other, and murder. It was found that out of 20 cases of children under 12, there were 15 theft cases, 1 drug case, 4 other cases committed by children of age under 12.<sup>6</sup> Thus, this finding was one of the evidence that supported the proposal of minimum age for criminal responsibilities as 12 years by the CSOs which work for children's rights. That proposal also conforms with the No. 94 (a) of Concluding Observation 2012 (CRC/C/MMR/CO/3-4).<sup>7</sup>

4. **Delay in drafting Rules Related to the Child Rights Law:** It took 8 years to issue the Rule Related to the Law after the enactment of the Child Law 1993. Thus MCRC concerns that further delay in drafting rules related to the CRL (2019) would defer the effective implementation of the Law. An interview with a member of the National Committee on the Rights of the Child (NCRC) in September 2019 indicated that the Chairman of the NCRC<sup>8</sup> that rules related to the law would be issued within six months after the enactment of the new CRL (2019) in order to implement it effectively. The DSW initiated the consultation process by the support of UNICEF and formed the drafting committee for Rule Related to the Law for the CRL (2019). However, progress was insignificant.
5. **The new structure of NCRC and selection criteria of CSO representatives:** In the new CRL (2019), the formation of the NCRC is prescribed in Article 5, and duties and powers of the NCRC are prescribed in Article 6 respectively.<sup>9</sup> The new NCRC has recently been reformed with 37 members and chaired by the Minister of Social Welfare, Relief and Resettlement (MSWRR), 7 Deputy Ministers from 7 Ministries, 16 Director Generals from 11 different Ministries and Offices, 6 Chairmen from NGOs, and 5 specialists from different thematic fields.<sup>10</sup> MCRC appreciates and acknowledges the inclusion of CSO representatives in the NCRC structure. However, the CSOs were not aware of the selection criteria of CSO representatives nor of how the CSOs were identified as NCRC members.
6. **Lack of coordination among the National Committee on the Rights of the Child** In responding to the combined 3<sup>rd</sup> and 4<sup>th</sup> periodic report of Myanmar (CRC/C/MMR/CO/3-4), the CRC Committee urged the government to ensure the operation and coordination of the NCRC in the Concluding Observations 2012.<sup>11</sup> Until July 2019, as prescribed in

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<sup>6</sup> Terre des Homme Lausanne, case data, 2016-18

<sup>7</sup> CRC Concluding Observation 2012 (CRC/C/MMR/CO/3-4) # 94 (a) *Amend the Child law to bring it in conformity with the Convention, in particular by raising the legal age of criminal responsibility to an internationally acceptable level, and in no case below the age of 12 years;*

<sup>8</sup> The Chairman of NCRC is the Minister of Social Welfare, Relief, and Resettlements

<sup>9</sup> The Child Rights Law (2019)

<sup>10</sup> The new structure of NCRC; in Myanmar language. Translation not available. Official letter issued by the Ministry of Social Welfare, Relief, and Resettlement. Letter reference no. 2-1/10(CRC)/2053, Date: 2020, February 11.

<sup>11</sup> CRC Concluding Observations 2012 (CRC/C/MMR/CO/3-4) paragraph no. 11. *While noting that the National Committee on the Rights of the Child (NCRC), inactive for a long period, was reactivated recently, the Committee is concerned about its sustainability, its mandate and the resources allocated to its functioning. Furthermore, the Committee is concerned about the lack of collaboration between the different ministries involved in the implementation of activities related to the Convention; the decentralization process, which is not yet in place in all states, divisions and districts; and about the small number of operational bodies established at township level.*

paragraph No. 3 of Rules Related to the Child Law (2001), the Duties and Powers of the NCRC were valid for the members of NCRC who need to give guidance for the effective and successful implementation including to co-operate and coordinate among the different government departments, voluntary social workers and NGOs; to give guidance and supervision in obtaining donations and property from local and international donors and so on. However, the effective performance of such duties and powers were not witnessed by the CSOs in the past four years. Instead, the CSOs witnessed the lack of coordination of NCRC across the ministries as well as from the national level down to the township level for a long period.

7. [The limited resources to implement the Child Rights Law](#) MCRC appreciates that Chapter 8 of the new CRL (2019) prescribes the establishment, maintenance, and management of the fund and the union budget allocates funds for NCRC Committees.<sup>12</sup> As prescribed in Article 6 (e)<sup>13</sup> of the new CRL (2019) and Article 5 (e)<sup>14</sup> of the Child Law (1993) which was abolished on 23<sup>rd</sup> July 2019, the NCRC would receive, supervise, give guidance and set up the fund to deliver the best interest of children. In the past 4 years with Child Law (1993), the CSOs were not aware of how much NCRC received. Apart from the yearly budget amount to 200,000 Kyats (140 USD) provided by the MSWRR and that included the cost for the bi-annual meeting as per article 4 (a) of Rule Related to the Child Law (2001),<sup>15</sup> no other funding appears to have been received by the NCRC in the past 4 years.
8. [Expired National Plan of Action for Children \(NPAFC\) \(2006-2015\)](#).<sup>16</sup> The previous NPAFC has expired five years ago and there is the need to develop a new NPAFC. The previous NPAFC (2006-2015) suffered from a lack of budget allocation for implementation and monitoring mechanism. The lack of a systematic and comprehensive disaggregated database that covers all the areas of the UNCRC is a limitation to inform a new NPAFC and to monitor the implementation of the UNCRC. Although other National Action Plan

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CRC Concluding Observations 2012 (CRC/C/MMR/CO/3-4) paragraph no. 12. *The Committee urges the State party to ensure that NCRC is operational on a sustainable basis and reiterates its recommendation to provide NCRC with the necessary authority and resources to coordinate all activities related to the implementation of the Convention, in an effective manner, both horizontally across ministries and vertically, from the national level down to the divisions, districts and townships.* Website:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/MMR/CO/3-4&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/MMR/CO/3-4&Lang=En)

<sup>12</sup> The new Child Rights Law (2019), Chapter XXVIII. Unofficial translation, not published.

<sup>13</sup> Unofficial Translation on the Child Rights Law (2019): unpublished, Article 6 (e) *Receiving contributions in cash and in kind from well-wishers from within the country and abroad; and providing guidance and supervision for the effective utilization of those contributions by setting up the funds for the best interests of children;*

<sup>14</sup> Unofficial Translation on the Child Rights Law (2019): unpublished, Article 5 (e) *giving guidance and supervision in obtaining donations and property from local and foreign voluntary donors and to enable effective utilization of such donations and property in the interests of children;*

<sup>15</sup> Rules Related to the Child Law (2001), Article 4.(a) *regular meetings of the Committee shall be conducted at least twice a year. If required a special meeting may be conducted;*

<sup>16</sup> Myanmar National Plan of Action for Children (2006-2015). Website: [http://ovcsupport.org/wp-content/uploads/Documents/Myanmar\\_National\\_Plan\\_of\\_Action\\_for\\_Children\\_2006\\_2015\\_1.pdf](http://ovcsupport.org/wp-content/uploads/Documents/Myanmar_National_Plan_of_Action_for_Children_2006_2015_1.pdf)

specifically for Health and Education<sup>17</sup> were developed respectively, the comprehensive child rights-focused National Action Plan has not yet been drafted.

9. **Recommendation (1): Raise the age of criminal responsibility to 14 in accordance with the UNCRC General Comment No.24 (2019)<sup>18</sup>.**
10. **Recommendation (2): Expedite drafting and adoption of the Rules related to the Child Rights Law in consultation with relevant stakeholders including CSOs.**
11. **Recommendation (3): Ensure the coordination among the relevant ministries/department at a horizontal level and the CRC committees at different vertical levels in implementing the UNCRC in an effective and efficient manner.**
12. **Recommendation (4): Ensure a transparent process in the selection of CSO members of the NCRC through consultations with CSOs including in setting the selection criteria and actual selection of CSO representatives**
13. **Recommendation (5): Ensure adequate budget allocation for CRC committees at different levels to implement child rights law.**
14. **Recommendation (6): Ensure to set up a comprehensive data collection system that covers all children's rights in the UNCRC, with the support of its partners, and to analyse the data collected as a basis for assessing progress and informing the design of policies and programs to implement the UNCRC.**
15. **Recommendation (7): Develop, adopt and implement the national plan of action for children that covers all children's rights in the UNCRC which includes adequate resources and monitoring mechanisms.**

## ACCESS TO EDUCATION

16. **Accepted recommendations and implementation status:** In the 2<sup>nd</sup> Cycle of the UPR, the government accepted to implement the three recommendations concerning access to education as mentioned below:<sup>19</sup>

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

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

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

Those accepted recommendations were partially implemented. Myanmar Education Consortium (MEC)<sup>20</sup> assessed that for all children especially the hardest to reach children

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<sup>17</sup> Myanmar National Health Plan (2017-2021) and National Education Strategic Plan (2016-2021)

<sup>18</sup> GC 24, paragraph 22. *State parties are encouraged to take note of recent scientific findings, and to increase their minimum age accordingly, to at least 14 years of age.*

<sup>19</sup> [https://www.upr-info.org/sites/default/files/document/myanmar/session\\_23\\_-\\_november\\_2015/recommendations\\_and\\_pledges\\_myanmar\\_2015.pdf](https://www.upr-info.org/sites/default/files/document/myanmar/session_23_-_november_2015/recommendations_and_pledges_myanmar_2015.pdf)

<sup>20</sup> The Myanmar Education Consortium (MEC) is a program designed to increase access to and quality of early childhood, primary and non-formal education programs in the informal (non-government) and formal sector. In particular, MEC supports the building of capacity of complementary education systems and structures including



in ethnic conflict-affected regions in Myanmar to have access to education, the government should take comprehensive initiatives to provide education services to those children regardless of political tensions between the government and ethnic armed groups. Despite the education reforms under NESP being implemented by the MoE, it has still limited practical steps towards providing education services. Since political dialogues with ethnic armed organizations prioritized the peace agenda, there was no way to discuss ethnic basic education nor provision of guidance to access support for the Ethnic Basic Education Providers.

17. **Ethnic Basic Education Providers receive neither recognition nor supports from the Government:** Despite the National Education Law (NEL) (Article 43(b))<sup>21</sup> and the Basic Education Law (BEL) (Article 16 (h))<sup>22</sup> prescribe ethnic languages as the language of teaching at the basic education level. However, the indication of “if necessary” in the NEL limits full recognition and implementation of Ethnic Education. Although teaching in ethnic languages is recognized by the law, ethnic schools are not recognized by the government. They were fully resourced and supported by Ethnic Armed Organizations or Regional Organizations in ethnic groups dwelling states which have been affected by armed conflicts for decades such as Kachin, Kayah, Kayin, Mon, and Shan States. Myanmar Education Consortium reported that 287,734 children who live in outreach and remote area, are studying at 2,445 Ethnic Basic Education Schools (excluding the numbers of children and numbers of Monastic Schools) managed by Ethnic Basic Education providers which are not recognized by the government.<sup>23</sup>
18. **Language barrier in schools generates disfavor to ethnic children:** According to the findings of Mid Term Review of NESP 1 (2019), approximately 30% of school-aged children are from ethnic minority groups<sup>24</sup> who are attending the government schools and are at high risk to drop out for having to learn two new languages (Myanmar and English according to the Basic Education Law, Article 16 (f) and (g))<sup>25</sup> and the National Education Law, Article 43. (a)<sup>26</sup>)when children start schooling at age 6 and to complete their

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community and school-based early childhood development, and education programs for vulnerable children and young people who cannot attend primary schools. The Myanmar Education Consortium was founded in March 2013 and is currently funding sixteen partners: Save the Children, the Burnet Institute and World Vision Myanmar have been working in partnership throughout the program. In June 2014 an additional 13 organisations started projects in partnership with MEC. (Source: <https://www.burmalibrary.org/en/myanmar-education-consortium>)

<sup>21</sup> The National Education Law, Chapter 7, Article 43.(b) An ethnic language may, if necessary, be used alongside Myanmar as a language of teaching at the basic education level.

<sup>22</sup> Unofficial translation on the Basic Education Law (2019): unpublished, Chapter 6, Article 16. (h) the Ethnic language can be used as a median of instruction together with Myanmar language in Basic Education level (unofficial translation)

<sup>23</sup> Annual Report, Myanmar Education Consortium (1 June 18 to 31 May 19). Chapter 2: With and for whom in 2018-19. Website: <https://myanmareducationconsortium.org/knowledge-sharing/mec-publications/knowledge-sharing-mec-publications/>

<sup>24</sup> There are children who study in monastic schools, ethnic schools and other type of schools which are not supported by MoE.

<sup>25</sup> Unofficial Translation on the the Basic Education Law (2019): unpublished, Chapter (6), Article 16. (f) *teaching of Myanmar subject in all Basic Education Schools* (g) *teaching of English from the primary level;*

<sup>26</sup> The National Education Law (2014), Article 43.(a) *The teaching and learning may be in Myanmar or English or a combination of Myanmar and English;*

education. For ethnic children, the challenge of learning starts from basic education in government schools as “*There are no explicit learning strategies to cater for ethnic language speakers across Myanmar*”<sup>27</sup>. Although some government schools allow teaching ethnic language in the school, the Mother Tongue Based (MTB) approach is still rejected and denied in the government schools.

19. **Education in Emergency (EiE) is still not under the MoE plan:** Myanmar is among the high chance of disaster risk countries and ranked as 130 out of 172 countries.<sup>28</sup> Moreover, due to armed conflict with several Ethnic Armed Groups at border areas, approximately 500,000 children are in conflict and emergencies.<sup>29</sup> Education program report 2018 indicates that approximately 184,000 children aged 3–17 in the conflict-affected areas of Kachin, Rakhine and the northern Shan States, as well as those in natural disaster zones, are at risk of missing their education.<sup>30</sup> The MTR of NESP 1 indicated that the EiE was missing and not addressed in the NESP.<sup>31</sup> Most of the EiE programs are responded by the NGO partners of the government while the MoE provided learning facilities, volunteers, and teachers’ salaries at the temporary learning space in some affected areas to address the EiE. However, the government needs a strong plan to respond EiE plan with the development partners.
20. **MoE still Centralizes the Education System:** The current education system is centralized as Education Ministers were not appointed in Regions and States. Instead, only education directors are appointed by the MoE at the central level. Those positions perform the implementation of education at the State and Region level and lack decision making authority as decisions come from the central level. The communication channel between the State/Region Directors with the central MoE is made through the Social Ministers of the relevant States and Regions. Education access for all children depends on the successful practice of decentralization. The lack of decision making authority on education at the highest position at the State and Region level is a barrier to achieve education access to all children in Myanmar.
21. **Recommendation (8): Recognize Ethnic Basic Education providers and ethnic education systems by providing clear terms and definitions in the basic education law.**
22. **Recommendation (9): Ensure that a plan for Education in Emergency (EiE), the collaborative mechanism between the MoE and State/Regional governments, and the national budget system which can be assessed by all education sectors are well in place in the upcoming NESP 2.**
23. **Accepted recommendation for investment in education and implementation status:** Regarding investment in education and provision of free education, the government also accepted the recommendation from the 2<sup>nd</sup> Cycle of UPR, made by Brunei Darussalam

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<sup>27</sup> Mid Term Review of the National Education Strategic Plan (2016-2021), Page ix, Key findings no. 13

<sup>28</sup> [https://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_natural\\_disaster\\_risk](https://en.wikipedia.org/wiki/List_of_countries_by_natural_disaster_risk)

<sup>29</sup> Children and Armed Conflict, UNICEF. Website: <https://www.unicef.org/myanmar/child-protection/children-and-armed-conflict>

<sup>30</sup> UNICEF, Education Program Report (2018). Website: <https://www.unicef.org/myanmar/education>.

<sup>31</sup> Mid Term Review of the National Education Strategic Plan (2016-2021), Page ix

number A – 143.114.<sup>32</sup> This accepted recommendation was partially implemented as free education for secondary students could not yet be achieved.

24. **Free and Compulsory Education could not be extended to the Middle school level yet:** According to the prescription of Article 4. (j) and Article 17 of the NEL (2014),<sup>33</sup> free and compulsory education will be extended step by step to higher grade after it is successfully implemented at the primary level (grade 1 to 5). Implementation of free and compulsory education is improving at the primary education level as its enrolment rate has been increased in both rural (94%) and urban (95%) settings in 2017 compared to the rate in 2010, rural (87%) and urban (92%).<sup>34</sup> However, free and compulsory education could not be extended to lower-middle or middle school levels so far and it affects the school transaction from the primary to the middle level. The key barriers for children to access middle school educations are daily transportation costs, boarding school costs, and tuition fees. Myanmar Living Condition Survey 2017 showed that the enrolment rate dropped at the middle school level which showed 68% in rural and 81% in urban in 2017.<sup>35</sup> The enrolment rate declines even more at the high school level.<sup>36</sup>
25. **Mainstream education’s lack of link with Technical and Vocational Education and Training (TVET) and Alternative Education (AE):** Children who pass the middle school education can have access to TVET. Since TVET does not have a matriculation system, the TVET students who want to pass the high school education to join the university need to join the mainstream education at the government school. However, there is a lack of an official link between government high school education and TVET. Likewise, Non-Formal Primary/Middle Education lacks the link with mainstream education.<sup>37</sup>
26. **Recommendation (10): Ensure that free and compulsory education increased to middle level and reduce quality gaps, students’ retention, and transaction rates.**
27. **Recommendation (11): Ensure that the upcoming NESP 2 includes strong TVET and AE links to mainstream education where thousands of children are being out of the system.**
28. **Children with Disability (CWD):** Myanmar ratified the CRPD in 2011 and the Law on the Rights of Persons with Disabilities was enacted in 2015. Access to education for CWD is

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<sup>32</sup> A – 143.114 *Continue to invest in education and ensure the continued provision of free education for its primary and secondary students (Brunei Darussalam)*

<sup>33</sup> The National Education Law (2014);

*Article 4 (j) Once free, compulsory education has been successfully implemented at the primary level it shall be extended step by step (to higher grades)*

*Article 17. After free, compulsory education has been successfully implemented at the primary level it shall be extended step by step (to higher grades)*

<sup>34</sup> Myanmar Living Condition Survey 2017, Report 1, page 111, figure 7.6 Net total primary, middle and high school enrollment rates in 2010 and 2017. Website:

<https://www.mm.undp.org/content/myanmar/en/home/library/poverty/MLCS.html>

<sup>35</sup> Ibid

<sup>36</sup> Ibid

<sup>37</sup> Mid-term Review of the National Education Strategic Plan (2016-2021); NESP MTR Team 2019

prescribed in Article 24 (a) and (b)<sup>38</sup> and Article 15<sup>39</sup> of the National Education Amendment Law. According to UNICEF 2016 data, 67% of children with disabilities (CWD) are not in school and it was found in 46 instances that children who were perceived as being disabled were refused to school admission.<sup>40</sup> Parents and caregivers of CWDs reported that 97% of CWDs of the age group (2-4) and 56% of the age group (5-9) have never had opportunities to attend school.<sup>41</sup> Thus, despite the ratification of CRPD and the enactment of Law Related to People with Disability (LRPD) in which education for CWD was prescribed specifically, no significant improvement for access to education was observed nor benefited CWDs. There are numerous cases of CWDs and their parents/caregivers who have difficulties in enrolling in basic education schools.

29. **Cases of the CWDs:** Education Movement Committee for CWD recorded the cases of CWDs who were refused for school admission. A girl of 13 who lives in Hmaw Bi Township, Yangon Region was an intellectually disabled child. Her parents tried to enrol her in school since she was six years old but got constantly rejected by the teachers and the headmistress until she gets 13 years old now. The reason for being refused for school admission include: the negative attitude toward the CWD by the Township Education Officer and the headmistress who said that it would not make any difference even if this child had education, there were only two young teachers who had to teach 100 children in that primary school, and parents of non-disabled children worried that the CWD would disturb their children. Another CWD boy of age 13 enrolled at the State High School in La Mine Village, Ye Township in Mon State. The headmistress refused him for having full enrolment in the school. Thus he was enrolled in the State Middle School which was more than 500 yards (0.914 meters) away from his village and is having difficulty in going back and forth to school. In another case, the CDW admitted to the school but due to having difficulty in moving around the school in a wheelchair, the members of Sub-Office of Organization of People with Disability requested the headmistress to repair some places of the school and she refused to do so for not having the budget.
30. **Barriers for the CWDs access to education due to lack of resource:** Study by the Education Movement Committee for CWD in responding to numerous cases of CWDs' difficult access to school found that no specific directives nor a clear policy/guideline on education access for the CWDs were provided to schools; duty bearers and teachers are lack of proper understanding on a new perspective, and concept about disability and human rights; lack of understanding on right to education of CWDs at schools; limited support on

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<sup>38</sup> The Law on the Rights of Persons with Disabilities (2015), Article 24. *The children with disabilities - a) must have the opportunities for early childhood care and lifetime education. b) must have the right to have access to free education as other to the level that is allowed by the Ministry of Education at State schools in their village or in the nearest area. Article 25. The Ministry is to make arrangements for special education programs, out of school education programs, and vocational schools for children with disabilities who are not able to attend the regular schools.*

<sup>39</sup> The National Education Admenment Law, Article (15). Translation not available.

<sup>40</sup> UNICEF 2016. *Situation Analysis of Children with Disabilities in the Republic of the Union of Myanmar*. Yangon, UNICEF Myanmar. Website: <https://reliefweb.int/report/myanmar/situation-analysis-children-disabilities-myanmar-2016>

<sup>41</sup> Ibid

physical, mental, intellectual, and understanding for the learning of CWDs; negative attitude by people and school buildings not appropriate for the CWDs.

31. **Recommendation (12): Develop and implement a national action plan on inclusive education, with sufficient budgetary allocations at all levels, to ensure that all children with disabilities have access to the mainstream education system by providing accessible learning environments.**
32. **Recommendation (13): Ensure that the second phase of the NESP continuously includes inclusive education and enforce its implementation, emphasizing on the development of accessible school infrastructure for all children with disabilities.**

## VIOLENCE AGAINST CHILDREN (VAC)

33. **Accepted recommendations and implementation status on VAC:** In the 2<sup>nd</sup> Cycle, the government accepted the recommendations made by Finland and Portugal, A - 143. 77 and recommendation no. A - 143.70.<sup>42</sup> According to the implementation experiences of MCRC, these recommendations were partially implemented: despite the legal framework already existed, implementation was ineffective due to limited resources.
34. **Lack of National Plan of Action on Violence against Children:** Being an ASEAN Member State, the government of Myanmar committed to implementing the ASEAN Regional Plan of Action on Elimination of Violence against Children (the ASEAN RPA on EVAC in 2016).<sup>43</sup> The ASEAN RPA on EVAC is a 10-year plan which covers the period from 2016 to 2025.<sup>44</sup> Four years after the adoption of the ASEAN RPA on EVAC, Myanmar has yet to develop and adopt a national strategy or a plan to address violence against children. Furthermore, Myanmar lacks countrywide reliable data and information, “survey and research findings” and “comprehensive data system” regarding violence against children.<sup>45</sup>
35. **Physical Violence including Corporal Punishment:** MCRC appreciates the prohibition of physical violence in the new CRL (2019), Article 56<sup>46</sup> in which corporal punishment is prohibited by the Law. Though country-wide data on the prevalence of the various forms

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<sup>42</sup> A - 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); A - 143.70 Take effective measures to prevent and combat marital rape and domestic violence, including the express criminalization of these practices (Portugal).* Website:

[https://www.upr-info.org/sites/default/files/document/myanmar/session\\_23\\_-\\_november\\_2015/recommendations\\_and\\_pledges\\_myanmar\\_2015.pdf](https://www.upr-info.org/sites/default/files/document/myanmar/session_23_-_november_2015/recommendations_and_pledges_myanmar_2015.pdf)

<sup>43</sup> ASEAN Regional Plan of Action on the Elimination of Violence Against Children (ASEAN RPA on EVAC) 2016; Website: [https://asean.org/?static\\_post=asean-regional-plan-action-elimination-violence-children-asean-rpa-evac](https://asean.org/?static_post=asean-regional-plan-action-elimination-violence-children-asean-rpa-evac)

<sup>44</sup> Ibid, Page 19.

<sup>45</sup> Ibid, Page 44.

<sup>46</sup> The Child Rights Law (2019), Article 56. *No-one shall commit physical violence, psychological violence or sexual violence that will inflict either losses or injury in any way upon the child. (Unofficial translation of Child Rights Law 2019)*

of violence against children is limited, the available data highlights this as a major problem in all settings especially within the family and school settings. A recent Child Protection Technical Baseline Report (2018-2019) of World Vision Myanmar, an assessment conducted in 24 townships, reveals that 62.3% of children between the age of 12 to 18 faced physical violence which happened more in school than at home.<sup>47</sup> According to Save the Children's project assessment on corporal punishment in 2015 and 2016 with child club members in 16 townships indicated that 93% of child club members said that although physical punishment was reduced, it was still practiced as a disciplining method with children. Among those respondents, the degree of punishment indicated that 59% was moderate, 15% severe, and 26% occasional.<sup>48</sup> To reduce corporal punishment, targeting parents and caregivers, the standardized Positive Discipline materials were developed and the task was led by the DSW in collaboration with some child focus organizations. However, the DSW has no proper plan to promote and disseminate the Positive Discipline method for parents and caregivers across the country. On the other hand, under the MoE, there is no clear and transparent plan to educate teachers to apply positive discipline methods with children at school although the directives released on the prohibition of physical punishment at schools.

36. **Recommendation (14): Ensure the effective implementation of Article 57 of the Child Rights Law (2019) related to the prohibition of corporal punishment against children in all settings.**
37. **Recommendation (15): Ensure to develop a specific plan for the promotion of public awareness on Positive Discipline to be applied by adults (including parents, teachers, employers, and caregivers) in all settings.**
38. **Sexual Violence:** MCRC appreciates that the government raised the age of marriage for both males and females to 18 in the new CRL (2019)<sup>49</sup> and it is supposed that the law might help reduce marital rape and domestic violence. However, concerning children, child rape cases of sexual violence increased by up to nearly 2,000 in 2016 and 2017.<sup>50</sup> Among the reported rape cases, 671 child rape cases occurred in 2017 and increased to 892 cases in 2018 as per data of the Ministry of Home Affairs.<sup>51</sup> Due to the increasing number of child rape cases, parents and caregivers are greatly concerned about the safety of their children. In the face of a child sexual violence case, the victims can hardly seek justice due to a corrupt judiciary system. Besides, the lawsuit is costly and lengthy before a perpetrator is sentenced. And in the worst, the victims bear the blame and shame due to negative attitudes of society toward them.

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<sup>47</sup> Annex (1) World Vision Myanmar, Baseline Report (2018-19)

<sup>48</sup> Annex (2) Save the Children International, Myanmar Country Office, Assessment on PHP (2015-2016)

<sup>49</sup> The Child Rights Law (2019), *Article 23 The age of marriage for both male and female shall be 18 years.*

<sup>50</sup> Stop Sexual Violence Against Children, June 3, 2018; Global New Light of Myanmar

<https://www.globalnewlightofmyanmar.com/stop-sexual-violence-children/>

<sup>51</sup> Myanmar Times 19 February 2018; website: <https://www.mmtimes.com/news/sexual-assault-cases-rising-myanmar.html>

39. **Challenges faced by the victims:** There are many challenges for children victims and survivors of sexual violence in seeking justice and these include lack of awareness by parents and caregivers on the mechanism to report such case, unable to get support for legal procedure, ineffective support of police officials and *case manager*<sup>52</sup> in many cases, lack of cooperation between the responsible staff like police and case managers, both victims and witnesses were being threatened by the perpetrator and witnesses dare not testify, the unreliable justice system (court closed by the arrival of plaintiffs who were told to come back later), a corrupted justice system that allows the victim to be “counter-sued” if the perpetrator is from the elites, unofficial costs of trials (expedite fees for police and court clerk), transportation costs, and fear of criticism by their community. Experiences of CSOs informed that in the face of child sexual violence cases, the service provided for Psychosocial Social Support for the child victim was substantially low.
40. **Limitation to respond to the cases:** In Myanmar, Case Management System has been established only in 49 townships out of 330 townships and 100 Government and NGO social work case managers were trained by 2018.<sup>53</sup> Child Focus Organizations in Myanmar experienced that resources are insufficient to effectively respond to child rape cases: limited support for case managers and the financial requirement to respond the sexual violence cases on time within 72 hours; government case managers are DSW staff and are over workload, township coordination mechanisms which need to give support for the victims are not functioning.
41. **Recommendation (16): Ensure to take effective and timely action against perpetrators by coordinating among the responsible ministerial departments such as health, police force, courts/judges and social welfare.**
42. **Recommendation (17): Expand the case management system and provide adequate support for case managers to effectively respond to child sexual violence cases in a timely manner.**
43. **Recommendation (18): Ensure that coping mechanisms such as psychological support and social reintegration measures are in place for girls and boys who have experienced sexual abuse and trauma.**

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<sup>52</sup> Case Managers are professionally trained, state social workers appointed by the Department of Social Welfare (DSW) to organize and carry out to address the needs of individual or their families in an appropriate, systematic, and timely manner through direct support and/or referrals, and in accordance with the objectives of a project or programme.

<sup>53</sup> UNICEF Child Protection website: <https://www.unicef.org/myanmar/child-protection>