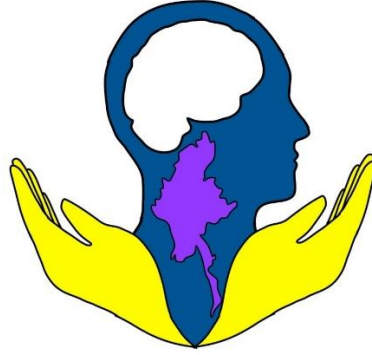




Myanmar Federation of Persons with Intellectual Disabilities-MFPID

Safeguarding Policy

March 2024

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1. Introduction

In Myanmar, the well-being and living conditions of persons with intellectual disabilities have been a pressing concern. Challenges such as the lack of rehabilitation, limited development opportunities, and insufficient access to employment have underscored the need for concerted action. Recognizing these obstacles, stakeholders came together to establish the Federation of Intellectual Disabilities, a crucial initiative aimed at networking with international organizations, local civil society organizations, and aligning with the United Nations Convention on the Rights of Persons with Disabilities.

Representatives from key organizations such as the Myanmar Autism Association, the Myanmar Down Syndrome Association, and Future Stars convened to initiate the Blossom project, which laid the groundwork for the establishment of the Myanmar Federation of Persons with Intellectual Disabilities (MFPID). Following meticulous drafting and approval of the constitution by persons with intellectual disabilities organizations from Yangon, Mandalay, Bago and Taunggyi, the MFPID was officially formed on June 25, 2023. Subsequently, in adherence to the constitution, an election was held on August 20, 2023, resulting in the election of fifteen executives to lead the federation forward.

The objectives of establishing the MFPID are as follows:

- (a) To appoint committee members to the National Committee on the Rights of Persons with Disabilities in accordance with the Law on the Rights of Persons with Disabilities.
- (b) To offer assistance to the National Committee in adherence to the guidelines outlined in the United Nations Convention on the Rights of Persons with Disabilities.
- (c) To consistently monitor and evaluate the implementation of laws to ensure the inclusion of rights pertaining to persons with intellectual disabilities.
- (d) To effectively manage and utilize resources such as property, goods, housing, educational facilities, and vocational training centers to enhance the quality of life and employment prospects for persons with intellectual disabilities.
- (e) To construct and maintain buildings on leased land for the benefit of individuals with intellectual disabilities.
- (f) To maintain, renovate, and modify buildings utilized by the Federation to ensure they are accessible and user-friendly for persons with intellectual disabilities.
- (g) To facilitate partnerships and collaborations that promotes the interests and well-being of persons with intellectual disabilities without imposing limitations.
- (h) To accept deposits through various means, including interest-bearing systems, to sustain the initiatives of the Federation.
- (i) The behavior mentioned above highlights the Federation's dedication to working collaboratively with both individuals and other organizations, whether collectively or in part. This cooperative strategy is fundamental to realizing the stated objectives and crucial for bolstering the success of endeavors aimed at improving the welfare of persons with intellectual disabilities. Additionally, the Federation is committed to endorsing activities deemed essential for reaching its goals and promoting the well-being of persons with intellectual disabilities.

2. Purpose of the Policy

This purpose of this policy is to prevent and protect staff and partners and beneficiaries particularly children, persons with intellectual disability and community members including vulnerable adults from harm particularly sexual harassment, exploitation and abuse (SHEA). This includes harm arising from:

- The conduct of staff or personnel associated with MFPID
- The design and implementation of MFPID's programmes and activities

The policy lays out the commitments made by MFPID and informs staff and associated personnel of their responsibilities in relation to safeguarding. This policy provides a framework as how to prevent, report and respond to safeguarding incidents.

What is safeguarding?

Safeguarding means protecting staff's and partners' and beneficiaries' particularly children's persons' with intellectual disability and vulnerable adults' health, wellbeing and rights, and enabling them to live free from harm, abuse and neglect. It takes all reasonable steps to prevent harm particularly sexual harassment, exploitation and abuse from occurring; to protect people especially vulnerable adults, persons with intellectual disability and children, from that harm; and to respond appropriately when harm does occur.

Those systems must be survivor-centered and safeguarding puts beneficiaries and affected persons at the center of all we do.

MFPID has a strong commitment to the welfare of all those involved in the scope of our work including our partners and to protecting from harm, particularly sexual harassment, exploitation and abuse (including child abuse, person with intellectual disability and vulnerable adults) and responding robustly when these harms take place.

MFPID has zero tolerance towards any form of harm, particularly sexual harassment, exploitation and abuse committed by staff or personnel associated with MFPID. MFPID is committed to providing a safe working environment which is free from harm, particularly sexual harassment, exploitation, and abuse and which upholds the rights and dignity of all.

MFPID will work with the main statutory agencies – local authorities, police department, Government department, INGOs/NGOs and local Civil Society Organizations (CSOs) to promote safer communities, prevent harm and abuse and to deal with suspected or actual case of abuse. Our procedures aim to make sure that safety, needs and interests of children, persons with intellectual disability and vulnerable adults are always respected and upheld. This includes upholding human right and human dignity.

MFPID's work is guided by:

- the UN Convention on the Rights of the Child (CRC), with specific reference to article 19 on protection from all forms of violence, injury, exploitation, abuse, neglect, mistreatment and sexual abuse; and
- the UN Convention on the Rights of Persons with Disabilities (CRPD) including its special provisions for the protection of children with disabilities from cruel, inhuman or degrading treatment or punishment (article 15) and exploitation and abuse, including gender-based violence (article 16).
- the recognition of the rights of children and adults with disabilities to access services, justice, and full participation in their communities, in line with the CRPD. This means that effective safeguarding from the additional risks faced by those with disabilities must not include preventing them from accessing these rights.

In all activities involving children, including fundraising, communications and programme activities, primary consideration should be given to children's rights, following the four key principles of the CRC, namely, the "best interest" of the child, the child's right to life and development, the child's right to be heard/participate, and the child's right to non-discrimination.

3. Scope

This policy applies to:

- All staff including teachers contracted by MFPID
- Religious workers
- Volunteers – members of chores, training facilitators, interns
- Committee members – all committee members related with school
- Part time service providers or contractors - carpenters, masons, school vendors, all MFPID contracted staff, ID Family Network, EC members, other board committee members
- Any other official visitors including donors, journalists, parents, community influencers, staff from CSOs, staff from INGOs and NGOs, researchers to MFPID project
- Partner Organizations – Doctors from abroad and in country, Government staff, other organizations, associations and schools
- Partners and donors
- Associated personnel working under a contractual arrangement involving of Consultants, volunteers, interns, trainees, representatives, contractors/suppliers
- Project targeting groups and communities
- Any other official visitors including journalists, celebrities and politicians to MFPID

4. Safeguarding Principles

MFPID's safeguarding principles are...

- 4.1 Safeguard the well-being of all individuals
- 4.2 Respect and promote dignity of the poor and treated people equally regardless of ethnicity, creed, gender, sexual orientation, age or disability
- 4.3 All children, persons with intellectual disabilities and vulnerable adults have the right to protection from all kinds of harm, particularly sexual harassment, exploitation and abuse (SHEA)
- 4.4 MFPID has a duty of care to children, persons with intellectual disabilities and vulnerable adults with whom we work, are in contact with, or who are affected by our work and operations
- 4.5 MFPID has a responsibility to help partners meet minimum requirements on protection
- 4.6 MFPID is responsible to ensure protective and safe environments to its beneficiaries
- 4.7 All activity is done in the best interests and benefits of the children, persons with intellectual disabilities and vulnerable adults
- 4.8 Ensure all staff, partners, beneficiaries and suppliers understand the meaning of safeguarding and comply to the procedure of the organizations.

In line with global policies, including the UN Secretary General's Bulletin on protection against sexual exploitation and abuse, and for the purpose of MFPID's work with, the following core principles will be adhered to:

Six Core Principles – Sexual Exploitation and Abuse

Updated October 2019 based on the Inter-Agency Standing Committee (IASC) secretariat revision of 12.09.2019

1. Sexual exploitation or sexual abuse by humanitarian/development workers constitute acts of gross misconduct and are therefore grounds for termination of employment.
2. Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief regarding the age of a child is not a defense.
3. Exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior is prohibited. This includes exchange of assistance that is due to beneficiaries.
4. Any sexual relationship between those providing humanitarian assistance and protection and a person benefitting from such humanitarian assistance and protection that involves improper use of rank or position is prohibited. Such relationships undermine the credibility and integrity of humanitarian aid work.

5. Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same agency or not, he or she must report such concerns via established agency reporting mechanisms.
6. Humanitarian workers are obliged to create and maintain an environment which prevents sexual exploitation and abuse and promotes the implementation of their code of conduct. Managers at all levels have particular responsibilities to support and develop systems which maintain this environment.

5. Addressing Safeguarding

MFPID commits to addressing safeguarding throughout its work, through the three pillars of prevention, reporting and response.

5.1 Prevention

Prevention of harm particularly sexual harassment, exploitation and abuse

In order to ensure safeguarding of children, persons with intellectual disabilities and vulnerable adults, the following prevention activities are to be carried.

Employees and all those who working under the contract with the MFPID must adhere the Code of Conduct (CoC) described in Annex 2 and sign a Self Declaration Form.

A. Behavior Protocols

All person associated with MFPID (employee, members of board of directors, staffs, interns, volunteers, independent consultants, contractors, donors, visitors, and partners) abide by and acknowledge in writing the receipt and understanding of behavior protocols. Signed agreement should be kept on file by the HR office.

B. Social Media

- MFPID will not take photograph or video, publish stories of children, persons with intellectual disabilities and vulnerable adults without the written consent of them and his/her parents/guardians.
- In all forms of communication, children, persons with intellectual disabilities and vulnerable adults are treated and portrayed with dignity and not as helpless victims
- Material posted on social medial or digital technology done not contain the name of children, persons with intellectual disabilities and vulnerable adults.
- MFPID discourages direct, un-facilitated, undocumented communication through social media without MFPID's knowledge between a MFPID person and children, persons with intellectual disabilities and vulnerable adults
- All contact with children, persons with intellectual disabilities and vulnerable adults (whether by phone, text, email or direct contact) should be supervised, accompanied.

C. Screening and Recruitment

- MFPID will not hire staff with a prior conviction for abuse cases, pedophilia or child or adult related offence.
- To prevent the risk of hiring someone that may pose and unacceptable risk to children, persons with intellectual disabilities and vulnerable adults, a proper recruitment process will be undertaken. This will also apply for recruitment of committee members, EC members, interns, volunteers and contractors.
- Ensure all staff have access to, are familiar with, and know their responsibilities within this policy.

- Advertisement and job description for identified post will include a reference to the commitment to MFPID's Safeguarding children, persons with intellectual disabilities and vulnerable adults Policy and request a background check for application.
- Basic screening of applicants for employment includes a written application, personal interviews and reference checks. During the interview process, applicants will be asked to describe their previous experience of working with children, persons with intellectual disabilities and vulnerable adults and whether any incident with children, persons with intellectual disabilities and vulnerable adults has occurred to the person before.
- Job offers made in relation to identified posts for employee, EC members, interns, volunteers and contractors will be subjected to the satisfactory clearance from referees.
- Individuals who are hired as staff and independent contractors are also notified of MFPID. Safeguarding children, persons with intellectual disabilities and vulnerable adults policy are made aware that they are expected to sign acknowledgement of behavior protocols set out above and also to sign a **Self-declaration form**.
- A dissemination action plan will be developed to distribute and receive signed acknowledgement of employee, EC members, intern and volunteer and a training and awareness planning will also be developed. Every workplace will display contact details for reporting and response of persons with intellectual disabilities, vulnerable adults and child protection incidents.
- Any volunteer who is recruited or designated for work with children and community will be asked to complete a disclosure form, and to provide a referee letter mentioning the person has no known conviction for child, person with intellectual disabilities and vulnerable adult abuse, neglect, exploitation and other violence and has been recommended as suitable to work with the children, persons with intellectual disabilities and vulnerable adults.
- Follow up on reports of safeguarding concerns promptly and according to due process within 36 hours.

D. Sub-Implementing Partner

All MFPID's partners will sign and abide by MFPID safeguarding children, persons with intellectual disabilities and vulnerable adults policy or their own organization's safeguarding policies for children, persons with intellectual disabilities and vulnerable adults. MFPID will provide necessary support (risk assessment, training, materials etc..) to the partners for effective implementation.

E. Training

MFPID will equip all employees, EC members, interns, volunteers, partners and others associated personnel with MFPID to understand and perform the Safeguarding children, persons with intellectual disabilities and vulnerable adults Policy.

All employees, EC members, interns and volunteers will receive induction training on Safeguarding children, persons with intellectual disabilities and vulnerable adults Policy within one months of recruitment. Refresher training will also be provided once a year.

MFPID will also raise awareness of communities on Safeguarding children, persons with intellectual disabilities and vulnerable adults Policy (once a year).

F. Safeguarding Focal Person

A Safeguarding focal person is designated by the EC to oversee MFPID's obligation described in this policy. The role of the Safeguarding focal person is to ensure that the risks of harm to children, persons with intellectual disabilities and vulnerable adults are prevented and responsible for receiving and responding to complaints of abuses in the MFPID work areas. The Safeguarding focal person has the ultimate responsibility to oversee effective implementation of the policy and will

report to the Secretary of the EC of any incidents and to conduct the investigations and to ensure that COC for this policy is displayed at prominent places within the office, as well as online, and to make it accessible to all members of staff.

In all MFPID's Head Office and sub-offices, a designated Safeguarding focal person assigned by the EC and will be responsible for implementing the policy. He/she will also coordinate and work closely with the Safeguarding focal person of the MFPID's head office.

G. Risk assessment and management

In order to safeguard and to reduce the possibility of incidents, risks are assessed and controls are to be in place in all MFPID works. Each programme must conduct a regular risk assessment to ensure all activities are conducted in a safe environment and a dignified manner. The Safeguarding officer under the guidance of the Safeguarding focal person will maintain a Risk Register for each office that will be regularly assessed and updated.

5.2 Enabling reports

Reporting Children, persons with intellectual disabilities and vulnerable adults incidents

MFPID will ensure that safe, appropriate, accessible means of reporting safeguarding concerns are made available to staff and the communities we work with.

All staff members and associated personnel have a mandatory duty to report any concerns, suspicious, complaints or allegations related to safeguarding particularly sexual harassment, exploitation or abuse of children, persons with intellectual disabilities and vulnerable adults to the Safeguarding Focal Person, or line manager. If the staff member does not feel comfortable reporting to their Safeguarding Focal Person or line manager (for example if they feel that the report will not be taken seriously, or if that person is implicated in the concern) they may report to any other appropriate staff member. For example, this could be a senior manager or President/Chairman or EC member or the member of the HR Team in person, via email or telephone. Failure to report such matters may result in disciplinary action. **(Please see Incident Report Form in Annex 4).** MFPID will acknowledge the complainant within **48 hours**.

Safeguarding Focal Person

A Safeguarding focal person is designated by the EC to oversee MFPID's obligation described in this policy.

Daw Zin Myo Than safeguarding.mfpid@gmail.com 09-443671638

Daw Moe Thuzar speakup.mfpid@gmail.com 09-268253634

If beneficiary or community member suspicious that he/she or other person is experiencing or at risk of experiencing sexual harassment, exploitation and abuse by MFPID's staff member or other associated personnel, all staff members and associated personnel must report immediately and it will be addressed as a priority. If a staff member or associated personnel or community member suspects that someone connected or external to MFPID (e.g a teacher or community leader or visitor) is or about to commit sexual harassment, exploitation and abuse toward a child or person with intellectual disabilities or vulnerable adult, report it immediately. If a staff member or other associated personnel does not report an incident or suspicious, there might be breach of the Code of Conduct and they may face disciplinary action.

MFPID will ensure that the safety, dignity and rights of the survivor are respected at all times. MFPID is committed to ensuring that adherence to confidentiality in the management of complaints and allegations of sexual harassment, exploitation and abuse, is strictly maintained. Children's, persons' with intellectual disabilities and vulnerable adults' safety, dignity and rights are vital

and will be respected at all times. Therefore their confidentiality must be protected at all stages. Identified information about Children, persons with intellectual disabilities and vulnerable adults protection incident will be shared on a “need to know” basis only.

The subject of the complaint (alleged perpetrator) and all witness must cooperate fully and openly with internal and statutory investigations and hearings. MFPID preserve the right to inform the children’s, persons’ with intellectual disabilities and vulnerable adults’s incidents to other recruiting agencies for the best interest of the children, persons with intellectual disabilities and vulnerable adults.

Complaints can be:

- Anonymous Complaint: Accept and handle anonymous complaints if there is sufficient information to clarify the issues. MFPID will also accept complaints from external sources such as members of the public, partners and official bodies.
- Malicious complaints: If the complaint was deliberately made falsely with the aim to cause harm, an appropriate disciplinary action will be taken (including termination of employment).

5.3 Response

5.3.1: Complaint Handling / Incident Management Procedures

Responses for Children or persons with intellectual disabilities or vulnerabl adults incidents will include the following:

- Complaints and concerns will always be investigated and acted upon swiftly (action taken within 48 hours).
- MFPID will take whatever action is appropriate, necessary and possible, without risk of further harm to any individual and to ensure the safety of those involved. Where children or persons with intellectual disabilities or vulnerabl adults are concerned, their welfare will be the utmost consideration.
- Disclosure from children or persons with intellectual disabilities or vulnerabl adults will be treated with sensitivity and without pressing for information. The staff will reassure children or persons with intellectual disabilities or vulnerabl adults that they have done the right thing by coming forward and let them know they need to tell someone else.
- Disclosure or concerns reported by children or persons with intellectual disabilities or vulnerabl adults should also be received on the basis that information may be shared with relevant authorities. No staff member or volunteer will prejudice their own standing at work by responsibly reporting potential or will suspected children’s or persons’ with intellectual disabilities or vulnerabl adults’s abuse. If reporter requested to be anonymous MFPID will respect his/her choice and only when intentional false accusation is found after investigation, MFPID will further manage the issues as staff management issue.
- The Safeguarding focal person receiving the complaint should make a risk assessment for the immediate future and do whatever they can to mitigate these risks. They must carefully record the complaint and pass the record, without delay, to the Secretary of the EC.
- If alleged perpetrator is the person who has no affiliation with MFPID and if MFPID need technical assistant, the organization will ask PSEA Network in Myanmar Safeguarding Focal Person for response. It will still record the incident and provide necessary psychosocial support to the survivor and the family.
- If alleged perpetrator is the person who has affiliation with MFPID, the Secretary will convene the meeting. This must be held within 24 hours. If urgent action is required to protect the persons with intellectual disabilities or vulnerable adults or children or others then this should be done immediately.
- The meeting will include the Secretary, Human Resource Manager, Officer/ Senior Staff, Safe-guarding focal person unless otherwise they are other reasons not to include these persons. The

meeting will be to assess the concern and decide next steps, including who else needs to be kept informed. Parents or guardians of children or persons with intellectual disabilities or vulnerable adults involved will also be informed if appropriate. Apart from this, careful confidentiality will be observed.

- The meeting may instigate an investigation if it is thought that there may have been a breach of organizational policy or standards. The meeting will designate an investigating officer and an investigation team (at least two each). One is observer while the other one investigator is interviewing, observer provide feedback and support and will continue to guide and monitor the process.

5.3.2 Protection of Retaliation

MFPID prohibits retaliating against any individual who raises any concern or reports about sexual harassment or exploitation or abuse or participates in an investigation of such report. No adverse employment action will be taken for any employee making a good faith report of alleged harassment.

False allegations

If a complaint is found with the intention of harming the other party, disciplinary action will be taken, including the termination duties.

5.3.3: Investigation Process

The investigation team will consist of 2 to 3 people assigned by (the Secretary, Human Resource Manager/Officer, Senior Staff, Safeguarding Focal Person) and the responsibilities of the investigation team is as follow.

- The investigation team will also make recommendations on improving the policies and practices that may have enabled the breach of Safeguarding children, persons with intellectual disabilities and adults obligations, as well as on how to rebuild intellectual disable community trust and on what help should be provided to minimize the harm to survivors of the incident.
- If a member of staff is the subject of an allegation, that staff member will be asked to take leave from their duties on full pay until an investigation has been completed. If a volunteer is the subject of an allegation, that volunteer will be asked to withdraw from their work until an investigation has been completed. In both cases, it should be made clear that suspension does not imply guilt but rather protects all parties whilst an investigation is undertaken.
- MFPID will provide psychological support and other emergency support to both the alleged survivor and the alleged abuser/perpetrator as far as possible whilst an investigation is carried out. (For detail investigation process, please see in the annex 5)

5.3.4: Disciplinary Procedure

MFPID has zero tolerance towards sexual harassment, exploitation and abuse. If staff member or associated personnel is found to have committed child or person with intellectual disabilities or adult incident, MFPID will take disciplinary action as per the MFPID disciplinary policy. If required MFPID will refer to matter to law enforcement agencies/authorities, and share information about the perpetrator with other organizations if/when requested. The decision should be documented and a record kept as to the course of action decided upon.

5.3.5: Appeal Procedure

MFPID wishes to resolve any complaint in a satisfactory manner for both the complainant and the organization. If the complainant does not accept the outcome he/she can appeal the next level EC within the organization.

Data Protection

MFPID is committed to apply the highest level of protection in the processing of personal data and to treat all information received with utmost confidentiality.

6: Monitoring and Evaluation

MFPID will monitoring the implementation of the policy, review and evaluate every 12 months on the effectiveness of the policy and make any changes as needed. An annual report on compliance including information of children or persons with intellectual disabilities or vulnerable adults incidents is developed and reported to the EC members. As MFPID, we will network with organizations within the country for the prevention from harm. Between 5% to 15 % of budget shall be separately allocated in every budget planning for the implementation of safeguarding activities. Such percentage of budget shall be specifically outlined in project budget.

This policy will be reviewed and updated every 2/3 years by EC Members. Staff members are welcomed to comment on this policy and suggest ways to improve by contacting HR Department or EC.

This policy was developed by EC on: 9 March 2024.

Definitions

Child: any person under the age of 18 as defined in the UN Convention on the Right of the Child (UNHCR) and Myanmar Child Rights Law.

Vulnerable Adult: Someone over the age of 18 who, for physical, social, economic, environmental or other factors can be more vulnerable to abuse, exploitation or other harms or who may be in need of community care due to a mental health problem, learning disability, physical disability, age or illness, unable to protect themselves from abuse or neglect.

Beneficiary: person(s) (both adults and children) MFPID serves, directly or indirectly, as a part of the work of MFPID.

Disability: is an evolving concept that results from the interactions between persons with impairments, as well as attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others.

Perpetrator - a person who carries out a harmful, illegal or immoral act.

Survivor (Victim): person who experience any form of exploitation or abuse and whose claims have been substantiated through any persons who experience any form of exploitation or abuse and whose claims have been substantiated through an administrative investigation process or by a governmental judicial process.

Community member: A person living in a community within which MFPID operates, however, they are not necessarily engaged with any programmes.

Complainant: This is the person making a complaint; it may be the person who experienced what is being reported (the survivor), or it may be another person (a third-party complainant) who becomes aware of an issue

Complaint: The specific grievance of anyone who has been negatively affected by an individual's action towards them, or who believes that an organisation has failed to meet a stated commitment that is intended to keep them safe from harm. Individuals can make a complaint on behalf of someone else as a third party, even if they were not directly affected by the alleged harm.

Confidentiality: a principle wherein information, data and photographs are kept secure and private.

Type of abuses

There are many different types of abuse, including but not limited to:

- **Physical:** 'the use of force which results in pain or injury or a change in a person's natural physical state' or 'the non-accidental infliction of physical force that results in bodily injury, pain or impairment'. This includes hitting, beating, kicking, shaking, biting, strangling, scalding, burning, poisoning and suffocating. Much physical violence against children in the home is inflicted with the object of punishing.
- **Sexual:** Any actual or threatened sexual act of violence perpetrated against a child or adult, whether by force or under unequal or coercive conditions. This include rape, abusive sexual contact like unwanted touching, incest, behavioural sexual harassment and all forms of sexual activities including pornography.
- **Emotional and psychological:** Behavior that have harmful effects on the person's emotional health and development, or any form of mental cruelty that results in mental distress, the denial of basic human and civil rights such as self-expression, privacy and dignity.

- **Neglect:** where basic needs such as food, warmth and medical care are not met, or when there is a failure to protect a child from exposure to any kind of danger, resulting in serious impairment of a child, young person or vulnerable adult's health or development.

Exploitation: profiting monetarily, accepting any other forms of benefits, or agree to accept the benefits by one or more of the followings done by adult or any other person:- forcing or committing the child in sexual exploitation (child prostitution); forcing the child to involve in sexual activities in other means, forced labor, and taking out the human organs of the child or sale the child's organs.

Discrimination: Discriminatory abuse exists when values, beliefs or culture result in a misuse of power that denies opportunities to some groups or individuals.

Violence: The use or threat of physical force or power that harms the adults at risk including mob violence, oppression and harassment. It can also include gender-based violence that are primarily or exclusively committed against women and girls. (eg. Trafficking in person and forced prostitution)

Harassment: Intimidation, hostility, humiliation, bullying, verbal or other offenses which might interfere with work or individual dignity. Harassment consists of any unwanted conduct affecting the dignity of women and men at work. It includes unwelcome physical, verbal or non-verbal conduct and it could amount to discrimination. Indicators of harassment may include: -

Unwanted physical contact: Unnecessary touching, patting, pinching, brushing against another individual's body, Insulting or abusive behaviour or gestures, Physical threats or coerced sexual favours

Unwanted verbal conduct: Unwelcome advances, patronising titles or nicknames, propositions or remarks, innuendo, lewd comments, jokes, banter or abusive language, Reference to an individual or a group's age, gender, colour, race, nationality, ethnic or national origins, disability, sexual preference, with the intention of causing offence, Repeated suggestions for unwanted social activities inside or outside the workplace

Unwanted non-verbal conduct: Racially or sexually based graffiti referring to an individual's characteristics or private life, abusive or offensive gestures, leering, whistling, Display of pornographic or suggestive literature or other items, pictures or films/videos or inappropriate use of Video Display Units or network systems (including e-mail) for this purpose.

Codes of Conduct

All person affiliated with MFPID (employee, EC members, interns, volunteers independent contractors, donors, visitors, and partners) abide by and acknowledge in writing the receipt and understanding of behavior protocols. Signed agreements should be kept on file by the relevant office.

Staff and associated personnel must:

1. Treat and respect every child in equal terms.
2. Recognize and allow children freedom to participate and freedom of expressions.
3. Recognize and respect the dignity of children and persons with intellectual disabilities while teaching and admonishing according to disciplinary measures.
4. Prevent children and persons with intellectual disabilities from risk of harm and necessary arrangements for prevention shall be done in advance.
5. Help children to preserve their personal belongings and public assets and properties and must assign them necessary responsibility according to their age and their level of maturity to have the habits of taking responsibilities.
6. Make necessary arrangements to help children to take part in children's program, occasions and activities with no harm to them.
7. Inform and report to the safeguarding focal persons immediately about any current child or person with intellectual disabilities abuse, neglect, exploitation and violence cases and take necessary measures to safeguard the child and person with intellectual disabilities, and provide necessary medical care and treatment immediately.
8. Treat children and persons with intellectual disabilities with respect and equality and without discrimination regardless of nationality, religion, status, cultural, ethnic or social origin, and sex.
9. Behave in a way that sets a good manner in clothing and personal well grooming and well speaking when communicating with children and persons with intellectual disabilities.
10. Aware and understand the rights of privacy and autonomy and safety needs of the children and persons with intellectual disabilities, and protect them accordingly.
11. Listen carefully to the voices of children and persons with intellectual disabilities if the children or adults inform and report any of the unnecessary risks or harms, and take necessary actions immediately.
12. Inform and report any concerns or suspicious regarding safeguarding incident such as any forms of child and adult abuse, exploitation, and neglect or breach of this policy by MFPID staff or associated personnel to the child and person with intellectual disabilities safeguarding focal persons immediately.
13. Ensure that children and persons with intellectual disabilities are treated equally and without discrimination based on religion, race, culture, gender or sex or on any other grounds;
14. Treat children and persons with intellectual disabilities with respect compassion, humanely and courtesy and without harassment;
15. Ensure that in dealing with children and persons with intellectual disabilities, their actions are in no way demeaning;
16. Be aware of situation that may present risks and manage these; MFPID sometimes helps children or persons with intellectual disabilities or vulnerable adults to travel to events, activities that required travel. In such cases the parents or caregivers, or other legally required entity or individual, give informed consent prior to the travel. Sometime donors or sponsors visit to project area will be accepted by MFPID and the organization will definitely arrange its staff to accompany with visitors. The children's or persons' with intellectual disabilities or vulnerable adults's health, safety and well-being are the most important priorities during travel supported by MFPID or donor visit to project area.

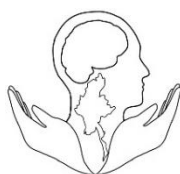
17. Build mutual trust and understanding with children or or persons with intellectual disabilities or vulnerable adults.
18. Recognize and respect the children or persons with intellectual disabilities or vulnerable adults to privacy
19. Listen to what the children and persons with intellectual disabilities have to say and reveal and take appropriate and immediate actions as required
20. Maintain professional boundaries in dealing with children under 18 or persons with intellectual disabilities or beneficiaries
21. Adhere to expected behavior regarding communication, social media and digital technology
22. Contribute to creating and maintaining an environment that prevents safeguarding violations and promotes the implementation of the Safeguarding Police
23. Report any concerns or suspicious regarding safeguarding incident or breach of this policy by MFPID staff or associated personnel to the Safeguarding Focal Person within office working hours.
24. Sexual exploitation or sexual abuse by humanitarian/development workers constitute acts of gross misconduct and are therefore grounds for termination of employment.
25. Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief regarding the age of a child is not a defense.
26. Exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior is prohibited. This includes exchange of assistance that is due to beneficiaries.
27. Any sexual relationship between those providing humanitarian assistance and a person benefiting from such humanitarian assistance that involves improper use of rank or position is prohibited.
28. Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same agency or not, he or she must report such concerns via established agency reporting mechanisms.
29. Humanitarian workers are obliged to create and maintain an environment which prevents sexual exploitation and abuse and promotes the implementation of their code of conduct. Managers at all levels have particular responsibilities to support and develop systems which maintain this environment.

Staff and associated personnel must not:

1. Reframe from doing corporal punishment, punitive action, violent and harmful behavior or performance to the children and persons with intellectual disabilities
2. Engage in any forms of discrimination regardless of children's and persons' with intellectual disabilities religion, economic situation, social situation, health situation, educational conditions and status.
3. Show disrespect for children's and persons' with intellectual disabilities sense of shame and degrading the dignity of children or persons with intellectual disabilities and never express the weaknesses of the children or persons with intellectual disabilities or fail to obstruct such kinds of sayings.
4. Talk dirty words to children or persons with intellectual disabilities, take photos and videos and show or give pornographic letters and photos to children and persons with intellectual disabilities.
5. Allow sale or use of food that may have risk, alcohol, beetle nuts, cheroots or cigarettes, drugs, toys weapons
6. Neglect the factors and conditions that may affect the physical, mental and intellectual development of the children and persons with intellectual disabilities

7. Use children or persons with intellectual disabilities in any forms for the benefits of one own.
8. Hold, touch, rub and talk children and persons with intellectual disabilities in an inappropriate or culturally insensitive manner
9. Meet with a child or person with intellectual disabilities, talk to and abduction where there is no one at all.
10. Take photos and videos of children and persons with intellectual disabilities or distribute them without the permission of the children or persons with intellectual disabilities themselves, their guardians and the responsible personnel.
11. Urge children and persons with intellectual disabilities to act and perform, abduct, encourage or fail to prevent/obstruct on any issues conflicted with the law.
12. Spend time alone with children or persons with intellectual disabilities away from others
13. Do things for children or persons with intellectual disabilities of a personal nature that they can do themselves according to their age and developmental stages (e.g. toileting, bathing and changing clothes)
14. Take part in harmful traditional practices, ignore or neglect children's and persons' with intellectual disabilities participation
15. Watch video and pornography and download such materials, keep, create and publish and produce by using computer, machines that are owned by the school or organization,.
16. Use language in an appropriate manner including language that causes shame or humiliation, or belittling or degrading human dignity, discriminate against that have negative impact on children and persons with intellectual disabilities.
17. Engage children under the age of 18 and persons with intellectual disabilities in any form of sexual intercourse or sexual activity, including paying for sexual services or acts regardless of the age of majority or age of consent locally
18. Hire children and persons with intellectual disabilities for domestic or other labour which is inappropriate given their age or developmental stage, which interferes with their time available for education and recreational activities, or which places them at significant risk of injury
19. Invite unaccompanied children and persons with intellectual disabilities into your home, unless they are at immediate risk of injury or in physical danger
20. Sleep close to unsupervised children and persons with intellectual disabilities unless absolutely necessary, in which case I must obtain my supervisor's permission, and ensure that another adult is present if possible
21. Engage sexual relationships with any children or persons with intellectual disabilities (under the age of 18) regardless of the age of majority or age of consent locally
22. Sexually abuse or exploit children, persons with intellectual disabilities and vulnerable adults
23. Subject a child or person with intellectual disabilities and vulnerable adult to physical, emotional or psychological abuse or neglect
24. Exchange money, employment, goods or service for sexual activity. This includes any exchange of assistance that is due to beneficiaries of assistance
25. Engage in any sexual relationships with beneficiaries of assistance, since they are based on inherently unequal power dynamics
26. Place themselves in a position where they could be accused of sexually abusing a child or person with intellectual disabilities and vulnerable adult
27. Use language, make suggestions or offer advice which is inappropriate or abusive, including language that causes shame or humiliation, or belittling or degrading human dignity
28. Sleep or be alone with a child or person with intellectual disabilities and vulnerable adult in the same room with whom they are working unless accompanied by responsible person
29. Behave in an inappropriate physical manner (eg. touching, viewing or holding the private parts of children or persons with intellectual disabilities and vulnerable adults)
30. Show favoritism to any individual for sexual favors in return

31. Act in ways intended to shame, humiliate, belittle or degrade children or adults at risk, or otherwise perpetrate any form of emotional abuse
32. Be intoxicated under the influence of alcohol or drugs whilst children or persons with intellectual disabilities or vulnerable adults are in their care
33. Fondle, hold, kiss, hug or touch children or persons with intellectual disabilities or vulnerable adults in an inappropriate or culturally insensitive way
34. Hit or use other corporal punishment against a child while the child is in MFPID's care or MFPID person is conducting MFPID work
35. Show favor to particular children or persons with intellectual disabilities
36. Engage in any commercially exploitative activities with children including child labor including as domestic helper (Child labor is work that is mentally, physically, socially or morally dangerous and harmful to children, or that interferes with their schooling (See ILO Convention 182 and 138 for further explanation of child labor) or trafficking



Myanmar Federation of Persons with Intellectual Disabilities

Safeguarding Policy

"Declaration of commitment"

I have signed MFPID Safeguarding Children, Persons with Intellectual Disabilities and Vulnerable Adults Policy with the acknowledgement that;

- 1) I have read and understood the detail content of Safeguarding Children, Persons with Intellectual Disabilities and Vulnerable Adults Policy (including annexes).
- 2) I will work within the procedure of Safeguarding Children, Persons with Intellectual Disabilities and Vulnerable Adults policy as set up in the organization.
- 3) I have not been accused or convicted of any offences relating to the abuse or exploitation of children or persons with intellectual disabilities or vulnerable adults.
- 4) I admit to accept any discipline by MFPID for breach of any agreement involved in this policy.

Signature _____
 Name _____
 Position _____
 Address _____

 Date _____

Signature _____
 Name _____
 Safeguarding Focal Person _____
 Address _____

 Date _____

Guidance and actions to be taken if an abuse have been received or suspected

What to do if children or at risk adults experiencing abuse tells you about it

- If children or persons with intellectual disabilities or vulnerable adults experiencing abuse or neglect speaks to you about this, assure them that you are taking them seriously. Listen carefully to what they are saying, stay calm and get a clear and factual picture of the concern. Ask who, when, what but no why.
- Be honest and avoid madding assurances that you may nit be able to keep, for example, complete confidentiality. Be clear and say that you need to report the abuse. Do not be judgmental and try to keep an open mind.
- Do not keep concerns relating to potential abuse of children or persons with intellectual disabilities or vulnerable adults to yourself. Confidentiality may NOT be maintained if the withholding of information will prejudice the welfare of the child or person with intellectual disabilities or vulnerable adult.
- All staff (Professionals and volunteers) of any services involved with children or or persons with intellectual disabilities or vulnerable adults should inform the safeguarding focal persons if they are concerned that children or at risk adult has been abused or may be at risk of harm within office working hours.
- If you hear about an incident of abuse from a third party (this is when someone else tells you about what they have heard or seen happen to an adult at risk, encourage them to report it themselves or help them to report the facts of what they know.

What to do if you suspect abuse

Everyone with a duty of care to the children or persons with intellectual disabilities or vulnerable adults should:

- act to protect the children or persons with intellectual disabilities or vulnerable adults.
- deal with immediate needs and ensure the person is, as far as possible, central to the decision-making process
- report the abuse to the safeguarding focal persons within MFPID office working hours
- if a case has or may have been committed, contact the police to discuss or report it
- record the events
- a concern may be a direct disclosure by the children or persons with intellectual disabilities or vulnerable adults, or a concern raised by staff or volunteers, others using the service, a career or member of the public, or an observation of the behavior of the children or persons with intellectual disabilities or vulnerable adults, or the behavior of another.

How to make a report of suspected abuse

- All concerns of abuse or neglect of children or persons with intellectual disabilities or vulnerable adults can be reported to Safeguarding Focal Person (person name, phone number, email ID) within MFPID office working hours.
- However, if a serious case has taken place or there is a need for an immediate police response to protect the children or persons with intellectual disabilities or vulnerable adults, consider dialing reaching out to police.

What happens when I make a report of suspected abuse?

Referrals to the MFPID will be taken from anyone who has a concern that children or persons with intellectual disabilities or vulnerable adults. Details from the referrals about the allegation of abuse will be needed so it is helpful to have the facts of the circumstances ready to hand.

The referrals may be passed to the local safeguarding team or allocated to a worker who will seek to:

- Clarify the circumstances of the alleged abuse or neglect
- Take any immediate steps to protect the children or persons with intellectual disabilities or vulnerable adults, if needed.
- Decide if the safeguarding children or persons with intellectual disabilities or vulnerable adults procedures are the required and appropriate response to the situation.
- Work in partnership with other agencies, like the police or health services, where necessary.
- The allocated worker will call a multi-agencies strategy meeting where details of the investigation and responsibility of all the agencies working together and they will all follow the Safeguarding children or persons with intellectual disabilities or vulnerable adults Policy.

Incident Reporting Form

CONFIDENTIAL

Number of disclosure/concern:

Referral Details:

Date:

Time:

Area/ Place:

How was the information received? (attach any written information to this form): Please tick:

In person

Letter

email

phone

Details of person making disclosure/raising concern: (if provided)

Name:

Address/ Area:

Contact phone:

Occupation:

Relationship to Child/Vulnerable Adult(s):

Details of Child/Vulnerable Adult(s):

Name:

Age:

Date of Birth:

Gender:

Ethnicity:

Religion:

Language: (is interpreter/ signer needed)

Any disability:

School (if applicable)

Education Level:

Occupation:

Others (any):

Alleged perpetrator' s Details:

Age:

Date of Birth/ Age:

Gender:

Ethnicity:

Religion:

Relationship to vulnerable adults:

Occupation:

Ethics of the investigator and guidelines for workplace investigations

Key steps to respond to Sexual exploitation, abuse and harassment of children and vulnerable adults:

- (1) Immediately report significant complaints to the Executive Committee
- (2) Treat the complainant with respect and communicate with the survivor (victim) to feel safe
- (3) Investigate the complaint promptly and thoroughly.

Interviewing with the complainant

- Interviewing with the survivor/ the person who express grievance (victim)
- Interviewing other employees and other parties (contrators, external witness, etc.) who may have access to relevant information
- Reviewing emails, records and other appropriate communications
- Review of the personal files (including pre-disciplinary written statements) of stakeholders
- Actions taken on emerging issues (including training and discipline that should be clearly documented)

Following are the investigation guidelines

- To inform employees of their rights and to impose specific penalties on the alleged perpetrator based on the nature of the abuse.
- Not to harm the complainant or if the complaint is not valid, not to prejudice the alleged complainant.
- Give the alleged perpetrator the opportunity to testify on their side of the incident and identify other supporting witnesses.
- Ensured that all personal information of those involved in the investigation, resolution of complaints and records related to the abuse process are kept confidential.
- To ensure that the survivors/victims and the alleged perpetrators continue to work in a safe workplace during the investigation of the incident, If necessary, conduct pre-planned workplace assignments. This may include temporarily relocating the alleged perpetrators to another workplace.
- Determine the appropriate scope for investigation - the area of scope may change depending on the complaint and should be reviewed if the information received changes.
- It is important to select someone with good social skills as an investigator and consider the approach to interviewing survivors/victimants and alleged perpetrators for each investigation. If the team does not have an expert for internal investigation, hire an experienced person from external.
- If there is a delay in starting an investigation (eg the appropriate internal investigator is traveling or the organization is looking for a suitable external investigator), document the reason for the delay. If the organization had to speak legally, it would need to explain why the investigation could not have initiated immediately.
- The investigator should review existing organizational policies and procedures for abuse and discrimination. You don't want the situation to worsen by not following the policies you have established yourself.
- Externally inform the whistleblower that strict action will be taken against and that no penalty will be incurred as a result of the complaint, and that the investigator should be notified immediately in order to clear up any concerns.
- Instruct the alleged person not to contact the reporter regarding the complaint and that doing so may result in punishment. If the alleged person violates the directive, take immediate action.

- Termination of a duty for violating these instructions during an investigation by an employee or executive is not a common occurrence.
- The investigator needs to have an open mind of the collecting and reviewing information and not make a final decision until all relevant information is obtained and analyzed.
- Protect all parties involved from undue powers and encourage them the confidentiality of information for meaningful investigation.
- At the end of the interview, consider asking the complainant what he/she expects to be the result of the investigation. The organization does not need to make concessions to unreasonable demands, but some requests (eg relocation, additional training, time-off) will help solve problems properly.
- Justice is important. The investigation must be handled fairly and be transparent for both parties and all parties involved.
- The investigator must be impartial and upright and have sufficient time and necessary skills for the investigation. Key areas to consider are...
- An investigator who has conflicts of interest or is perceived to have a conflict of interest may not only make your organization unprofessional, but also cause the entire investigation to fall apart.
- The investigator may not be for every case, but should be as impartial as the participants think.
- The organization may select an in-house (internal) investigator. In these cases, an internal administrative system should be considered to prevent bias or intention.
- Organizations that choose to retain external investigator should consider any requirements that external investigators may have. A third party attorney investigator who conducts a fair investigation needs to be divided between a fair investigator and lobbyist.
- The investigator should consider whether a specialized professional is needed or not and if necessary, whether the investigator should/shouldn't cooperate with another professional in the investigation.
- An investigator needs to create an environment where witness testimony can be relied upon and consistent with available information. (either by taking note, voice recording and other means/methods)
- In order to keep a reliable record of the witnesses who proved the investigator's findings, the investigator should keep a record of the steps taken during the investigation and the investigator's decision-making.
- Appropriate documentation should also be kept of the scope of the investigation conducted by the investigator to enhance clarity.
- Lawyers should understand abuse policies and be respectful to others, Union representatives, Friends and family members must be allowed to be present during interviews.
- The investigator shall not draw any conclusions until the investigation is completed.
- Steps must be taken to preserve the confidentiality of the investigation without guaranteeing anonymity or complete confidentiality of the information.

Questions to ask the complainant

Who? What, when, Where and how? Who committed the alleged abuse? What happened or What was said? When did it happen and is it still happening? Where did it happen? How long has it happened? How it affected you?

How did you respond? How did you react when incident happen or after the incident?

How has the harassment affected you? Has it affected your career in any way?

Any one has relevant information? Has anyone experienced abuse? Who else have you told about this? Did someone see you when the abuse happened?

Has the person who abused you abused someone else? Do you know someone else who complained about this person's abuse?

Comments: Physical evidence or have other records relating to event(s)

How would you like to see the situation resolved?

Do you know any other appropriate information?

Questions to ask the alleged abuser

What is your response to this complaint?

If the alleged abuser claims the allegation is false, ask why the whistleblower/complainant made a false complaint

Who has other relevant information?

Comments: Is there any other record of physical evidence or other records related to the process/event(s)

Do you know any other relevant information?

Questions to ask a third party person involved

What do you find out? What did you hear? When it happened?

Describe the complainant's/reporter's behavior toward the alleged perpetrator and others in the workplace.

What did the complainant/reporter tell you? When did he/she tell you?

Do you know any other relevant information?

Who else has relevant information?

Legal framework

The Myanmar Constitution 2008 does not explicitly enshrine gender equality, however it does provide for equal rights before the law (Section 347) and non-discrimination based on sex (Section 348)¹. Regarding sexual exploitation and abuse, relevant provisions can be found in the *Penal Code*: sections 323 (causing hurt), 354 (sexual abuse against a woman), 376 (rape), 509 (sexual harassment) and 511 (attempt to commit an offence), among others². There are, however, barriers to women and particularly survivors of GBV in terms of accessing the criminal justice system which are discussed below. The *Anti-Trafficking in Persons Law* criminalizes trafficking of women, children and youth including the use of trafficking victims for pornography,³ attempts to traffic and providing assistance to traffickers also constitutes an offence.⁴ The recently enacted *Child Rights Law* (2019) raises the age of a child to 18, from previously 16.⁵ It also provides penalties for acts of sexual abuse against a child,⁶ employing a child in a nightclub, karaoke bar or massage parlor which may also be used as a place of sexual business,⁷ and making and distributing child pornographic photographs.⁸

Regarding sex workers, the *Suppression of Prostitution Act* (1949) remains in effect and criminalizes sex work. The law punishes those who engage in sex work or are suspected of engaging in sex work; clients of sex workers are not punished. As noted by UNAIDS, 'law enforcement practices often result in sex workers experiencing extortion, violence, arrest and incarceration.' A discussion on attitudes to sex workers is further below.

The *Majority Act* (1875) states that the age of majority, that is, to marry and divorce, is 18;⁹ similarly, the *Child Rights Law* (2019) states that the minimum age to marry is 18 years.¹⁰ The *Penal Code* states that the age of consent to sex is 14 years for females (Section 375), but does not provide a specific age restriction on males engaging in sex. As the legal system comprises of customary law, statutory law and judicial decisions, the age of majority may vary, but often place the female age lower than the male's; customary laws include Burmese Buddhist law, Hindu law, in addition to traditional customs of ethnic groups. According to the *Burma Laws Act* (1898), customary laws have the force of law.¹¹ Specific laws govern the age of marriage between different religions,¹² and those belonging to a certain religion.¹³

The draft *Prevention of Violence Against Women* law, under development since 2013, hopes to better protect women from all forms of violence, including domestic violence, marital rape, sexual violence, harassment and assault in the workplace and in public. Despite being submitted to Parliament in late 2017, it is still yet to be passed.¹⁴ In 2013, the Government launched its National

¹ *The Constitution of Myanmar* (2008).

² *The Myanmar Penal Code* (1948).

³ *Anti-Trafficking in Persons Law* (2005), sections 24 and 25

⁴ As above, sections 27 and 32.

⁵ Pyidaungsu Hluttaw Law No. 22/2019 (Burmese version available at: <http://www.myanmar-law-library.org/law-library/laws-and-regulations/laws/myanmar-laws-1988-until-now/national-league-for-democracy-2016/myanmar-laws-2019/pyidaungsu-hluttaw-law-no-22-2019-child-law-burmese.html>)

⁶ *Child Rights Law* (2019), section 100(c)(ii).

⁷ As above, section 101.

⁸ As above, section 105.

⁹ *Majority Act* (1875), section 3.

¹⁰ *Child Rights Law* (2019), section 23

¹¹ *Burma Laws Act* (1898), section 13

¹² *Myanmar Buddhist Women's Special Marriage Law* (2015).

¹³ For example, the *Christian Marriage Act* (1872), section 60, states that the legal age of marriage is 13 years for girls and 16 years for boys.

¹⁴ Miedema, S. and Than, T., 'Myanmar debates women's rights amid evidence of pervasive sexual and domestic violence', *The Conversation*, 10 December 2018, available at: <http://theconversation.com/myanmar-debates-womens-rights-amid-evidence-of-pervasive-sexual-and-domestic-violence-104536>

Strategic Plan for the Advancement of Women, which recognizes the work needed across Government to progress towards gender equality.

The Myanmar National Human Rights Commission was established in 2011 with a mandate to conduct inquiries in respect of complaints of human rights violations;¹⁵ while providing an alternative avenue that victims may choose over the formal justice system, the lack of transparency and application of cultural norms and practices rather than international human rights principles only serves to further entrench attitudes towards gender while moving away from a survivor-centered approach. As such, the Commission has been the subject of controversy,¹⁸ although it should not be completely ruled out as a stakeholder in advancing gender equality.

¹⁵ Myanmar National Human Rights Commission Mandate 1(d), available at: <http://www.mnhrc.org.mm/en/about/mandate/>