

Consultancy services for the Elaboration of a National Child Protection Policy for the Government of Myanmar

Section in Charge: Child Protection

How does the consultancy relate to work plan:

Outcome reference: 106 – Children in need of support, care and protection are identified by and have access to public social welfare systems.

Output reference: 002 – Increased social welfare system capacity to respond to child protection cases.

1. Background:

Myanmar acceded to the Convention on the Rights of the Child (CRC) in 1991, and subsequently ratified the Optional Protocol on the sale of children, child prostitution and child pornography in 2012. In 2013 the Government also ratified ILO Convention 182 on the elimination of the worst forms of child labour. The Government is committed to the development and protection of children from any form of abuse and exploitation. The Ministry of Social Welfare Relief and Resettlement (MoSWRR), and specifically the Department of Social Welfare (DSW) having the responsibility of child protection, has taken some measures to offer care and protection to children and has taken some action for fulfilling children's rights within the CRC. DSW runs 23 services across the country for children including 5 day care facilities, 10 (boys and girls) training centres (which also serve as remand placements for convicted juveniles) and 225 registered institutions. The MoSWRR and DSW also carry out informative, educational and communication campaigns on child rights/development and positive parenting.

DSW has limited reach and scope across the country. Myanmar is composed of 330 townships, 65 districts and 14 States and Regions. DSW has offices in all 14 States and Regions, and in 7 of the 65 districts. All other ministries and departments (including health, education, supreme court, attorney general's office, police, general administration department) have offices in every region and state, each district, and across all townships (in government controlled areas). The capacity of DSW has been seen as a major constraint, and is slowly being addressed. In fiscal year 2014, MoSWRR requested an increased budget to allow DSW to expand its presence in a number of townships. After negotiations, budget expansion has been granted for DSW to expand to 5 new districts this fiscal year. The budget will also allow the strengthening of existing district offices. DSW has agreed to prioritize case management / and social work case managers in the district office expansion plan (between 3-4 case managers are now planned for in each of the 12 district offices).

This expansionary plan and initiation marks an important milestone in Myanmar's social welfare system's development. There are other governmental agencies and inter-governmental platforms which plan, coordinate and/or intervene in matters related to the protection of children:

- The National Committee on the Rights of the Child was established in the 1993 Child Law, chaired by the MoSWRR. State, regional and township CRCs were also established by law, although few are operational.
- The Myanmar Police Force operates Anti-Trafficking Task Forces (ATTF) across Myanmar that are responsible for anti-trafficking work, including for children. ATTF has recently established child protection units in Yangon, Mandalay and Nay Pyi Taw – although their roles and responsibilities are not yet clearly defined.
- The Supreme Court operates two Juvenile Courts – one in Yangon, and one in Mandalay. However, the mandates of these courts are only for children in conflict with the law and do not extend to child victims and witnesses.
- The Ministry of Labour has recently set up a task force to implement ILO convention 182 and the Factories and General Labour Laws Inspection Department (FGLLID) has initiated trainings for factory

inspectors on child labour.

- Under the leadership of MoSWRR and DSW, a national social protection strategy is under development that articulates the need for social services and case management.
- The Ministry of Foreign Affairs and the Ministry of Defence signed an Action Plan with the United Nations in June 2012 to end the use and recruitment of children in the armed forces. 7 Non-State Actors are also listed by the Secretary General's Annual Report on Children and Armed Conflict.

CHILD PROTECTION IN MYANMAR – SITUATION SUMMARY

Data is lacking in all sectors in Myanmar, including in the area of child protection. However, the information available indicates that there are considerable child protection concerns in the country.

In 2011, UNICEF and the Department of Social Welfare released a report on the Situation of Children in Residential Care Facilities in Myanmar, detailing results from 147 registered and unregistered facilities. Key findings included the fact that 73% of children in institutions have one or both parents alive, and 50% of children were brought to an institution by their parents or relatives. While the study was an important step forward, it only covered a small portion of institutions in the country. The total number of residential care facilities in Myanmar, and the total number of children in such facilities is unknown, although the study also indicated that the number of orphanages is growing.

Government agencies involved in anti-trafficking interventions often have insufficient and inconsistent data on the numbers of victims of cross-border trafficking. According to the Myanmar Police Force, in 2013 there were 35 (5 male, 30 female) sanction-approved child trafficking cases; however, these numbers do not reflect the overall number of cases of children who were identified and supported outside the criminal justice system, or the victims who were left without appropriate support due to lack of evidence or other obstacles. According to available official data, Myanmar nationals are mainly trafficked into Thailand and China, though some children have been repatriated from as far away as Malaysia and Indonesia.

Child work is highly prominent and highly visible in Myanmar across both rural and urban settings, and existing studies from recent years have confirmed high prevalence of employment of children across various industries. The IHLCA 2009–2010 reports the labour force participation of children aged 10–14 years as 18 per cent among the poor and 10 per cent even among the non-poor. Children perform various jobs including selling items (most prevalent), manual labour, food preparation and packing, services, factories and workshops. Even where the tasks undertaken by children are not dangerous, work is damaging in that it prevents them from going to school or engaging in recreation and play and places them under stress.

Although official and comprehensive data on child labour are not available, there is a shared understanding by the Government and stakeholders that the issue is highly problematic, and it is acknowledged that some children in Myanmar are also involved in hazardous work and other activities that constitute worst forms of child labour, such as trafficking and recruitment of children for use in armed conflict.

In Myanmar, there are currently two juvenile courts and approximately 9 detention centres for children known as training schools housing a mixture of children on remand sentences as well as other vulnerable children. There is no information available on how many children, if any, are held in other detention facilities.

Over the past three years, considerable steps have been taken to establish Community-Based Child Protection Systems, and link these community-based groups with statutory service-providers at the Township-level (there are 330 townships across Myanmar). Township child protection systems for referral and response were expanded from 20 to 25 townships in 2013. Township Child Right Committees – enshrined in the 1993 Myanmar Child Law, and comprised of local government representatives – have met to discuss and respond to child protection cases. In 13 of the 25 Townships, one DSW officer designated as a case manager is in place. A referral mechanism to address child rights violation and child protection cases, including the provision of direct services to children and families, is also in place (across a limited number of villages) in these 'systems building

townships' through a network of 284 Community Support Groups for child protection which comprise 4,583 members, NGOs, as well as DSW/Social Welfare Officers. 279 of the most serious child protection cases that were referred to the TCRC were resolved and follow up support provided (137 girls/142 boys). Given the rapidly changing political and social environment in Myanmar, there is considerable opportunity to strengthen and widen the social welfare system with a specific focus on children and their families. Such a system must be both reactive and proactive, and should ensure the capacity of the Government of Myanmar to provide child protective services for the most serious cases of violence, exploitation and abuse. Currently, based on the existing model only 13% of townships in the country have any coverage, and within these townships, only 10-15% of villages are being reached. Revisions to this model are now being made in light of the DSW expansionary planning.

Child Protection and Emergency / Armed Conflict

In June 2011, hostilities between the Kachin Independence Army (KIA) and the Armed Forces of the Union of Myanmar led to a return to open conflict in Kachin and Northern Shan State. Approximately 100,000 people remained internally displaced both in Government and Kachin Independence Organisation (KIO) controlled areas. Most of IDPs have experienced secondary or multiple forced displacements including during new fighting in November 2013.

Inter-communal violence between Muslim and Rakhine communities has led to forced displacement and isolation of the two communities in camps and within villages with a risk of a longer-term segregation and radicalisation. In Kachin and Rakhine, IDPs, whose majority are children, are living in camps and host communities with limited or no access to services such as education and health care, and with no livelihood opportunities.

Since 2007, the Monitoring and Reporting Mechanism (MRM) on the six Grave Violations against Children (i.e. recruitment and use of children by armed forces/groups, killing and maiming, sexual violence, abduction, attack on schools and denial of humanitarian access) as per UN Security Council Resolution 1612 has been functioning in Myanmar. This has led to the listing of 8 parties to the conflict including the Government, and to the signature of a Plan of Action in 2012 to end recruitment and use of children by Government Armed Forces (the Tatmadaw). In March 2014, the Government of Myanmar extended the Plan of Action and to release and reintegrate children associated with Tatmadaw, and asked extended support from the International Community to fulfil this renewed commitment and to further facilitate engagement with the 7 listed Non-State Actors.

Legal and Policy Frameworks

The Myanmar Child Law was adopted in 1993, shortly after Myanmar ratified the CRC. Currently, a new Child Law is being drafted by MoSWRR and DSW with support from UNICEF. Revisions or re-drafting of legal frameworks is not specific only to children and child protection. Across all areas (education, health, private sector, banking sector), legal reform is a top priority. There is no child protection policy in Myanmar. However, there is an action plan for children. Revisions or re-drafting of policy directions and intent is also prevalent in other sectors. A recent Early Childhood Development policy, led by MoSWRR, has recently been adopted. In addition, a national strategy on social protection is currently being elaborated.

KEY CONSIDERATIONS for the Development of a National Child Protection Policy

Conflict-Sensitivity

For decades Myanmar has been beset by multiple ethnic conflicts and communal violence. This has resulted in large-scale internal and cross borders displacement, insecurity and the emergence of violently contested spaces along much of its borderlands. Such an environment has had a profoundly negative impact on the state of Myanmar's social welfare and child protection provision and the ability of many children to realise their right to access key protection services.

Social welfare and child protection has a critically important role to play in addressing ethnic grievances and aspirations in Myanmar. Getting child protection 'right' in Myanmar by ensuring that it is conflict sensitive and inclusive in its design and delivery will help advance the nations' prospects for peace and prosperity. Getting it wrong risks undermining a potential pillar of peace and the country's ability to realise its full potential.

Key considerations for the development of a national child protection policy include:

- How can the key actors involved in the child protection policy development become better informed of conflict sensitive approaches to education sector planning?
- How can the policy development be better informed through a conflict sensitive lens?
- What is the potential role that each component of protection policy (oversight, human resource development and deployment, coordination, referral and response) can play in contributing to building peace and social cohesion?

Alignment with National Child Law and the National Social Protection Strategy

As mentioned above, the national child law is being re-drafted. UNICEF is providing direct support to this process. In addition, a national social protection strategy is also currently being elaborated, also with UNICEF involvement. The development of a national child protection policy will need to take into strong consideration these developments and drafts to ensure appropriate alignment.

Striking a Balance

The development of a 'perfect' child protection policy in Myanmar would likely be out of step with the realities on the ground in terms of institutional capacity (government and non-government), knowledge and practices (including social norms). It will therefore be critical to develop a national child protection policy that takes a long view, articulating the overall aspirational policy aims and objectives; as well as a medium view, what policy directions and decisions are needed over the next 5-10 years, grounded in where Myanmar is today, in order to make progress against the long term objectives.

2. Objectives of the consultancy:

Overall Objective

Assist the Myanmar Government to consolidate and strengthen on-going efforts and measures to respond to child protection issues. This means ensuring prevention and protection of children from any forms of abuse and violence through the elaboration and adoption of a national child protection policy that is grounded in the new Child Law and other relevant legal instruments.

Specific Objective and Result

The specific objective of the assignment is to support the Government of Myanmar to elaborate and finalize a national child protection policy in close collaboration with UNICEF technical experts in country. The national policy should take into full account the new directions articulated in the draft Child Law, the national social protection strategy, the early childhood development policy and other sectoral initiatives that contribute (or will contribute) to the protection of children. The policy should aim to be ambitious in its long term aims, but specific and realistic for Myanmar in the short and medium term.

END Result: the elaboration and finalization of a national child protection policy with the Government of Myanmar.

3. Geographic Area:

National.

4. Duration (including potential extension):

July 2014 – March 2015

5. Supervisor:

The consultant will work under the day to day supervision of the CP systems strengthening cluster, with the close involvement and oversight of the chief of Child Protection Section.

6. Type of Supervision/support required from UNICEF:

The consultancy will require close collaboration with the Chief of Child Protection and relevant specialists in the CP section. The consultancy will act as a 'supporting role' for UNICEF senior technical staff who will lead the development of the policy alongside the Government.

7. Description of assignment:

Tasks	End Product/deliverables	Duration/ Deadline
Task 1: Conduct a thorough desk review of all information in Myanmar, as well as relevant policy frameworks in the region and beyond that should be considered in the elaboration of a policy for Myanmar. Identify gaps in knowledge and in close collaboration with UNICEF Child Protection Section, fill those gaps as best as possible, including through in-country field visits and discussions with government counterparts.	Desk review – Policy Framework for Child Protection in Myanmar	1 month October 2 weeks out of country – 2 weeks in country
Task 2: Support the UNICEF Child Protection Section in presenting relevant information, including power point and concept paper to MoSWRR and DSW; and support initial inter-Governmental task force meetings to elaborate a framework for the policy development.	Concept paper and associated presentations for initial consultative process with Government and stakeholders.	1 Month November All in country
Task 3: Prepare a zero draft of the National Child Protection Policy in close collaboration with UNICEF Child Protection Section and relevant technical focal points within MoSWRR and DSW.	Zero draft National Child Protection Policy	1 Month December Majority or all in-country
Task 4: Based on MoSWRR and DSW inputs as well as national task force deliberations and discussions, revise the policy with an aim towards finalization.	Conduct facilitate consultation process of the zero draft National Child Protection Policy.	TBD No later than April (contingent on Government Consultations) Mostly remote support – one final visit to Myanmar may

		be required
8. Advertisement / Invitation / Request for Expression of Interest Will be advertised on the UNICEF web site and circulated widely within professional CP and Social Policy Networks		
9. Selection process (EOI to be attached to TOR) Interested candidates are required to complete the Expression of Interest Form circulated with the call for proposals, answering the technical questions included. The consultant will be identified by UNICEF based on a competitive selection process, taking into account the candidate's experience, the quality of the answers produced, and of the lump-sum requested. If deemed opportune, UNICEF will require a telephone interview with shortlisted candidates.		
10. Qualification and specialized knowledge/experience required for the assignment: <i>Education</i> At least a Master's Degree in social policy, social sciences or a related field. <i>Experience</i> <ul style="list-style-type: none"> • At least 12 years' working experience in programme formulation or programme management on child development and protection issues. • Demonstrated international experience in elaboration of national child protection policies. • Demonstrated international experience in facilitating participatory processes and consensus building with diverse stakeholders. • Experience within a conflict setting / conflict sensitivity considered a strong asset. • Work experience in Asia, specifically South East Asia, considered a strong asset. 		
11. Funding Source: AusAid / Non-Grant		
12. Other conditions: Location of the Assignment: Task 1: Conducted partially or fully outside of Myanmar Task 2 and 3: Visit one – Ideally in Myanmar continuously over the period of 2 months in 2014 (November – December) Task 4: Combined home based revisions and final visit to Myanmar to be completed in the first months of 2015. Travel requirements: UNICEF will cover all travel expenses related to the position, including relevant Daily Subsistence Allowance (DSA) where applicable and as per the rules and regulations of UNICEF. Equipment: The consultant will use their personal computer device to conduct the work. Life and health insurance UNICEF does not provide or arrange life or health insurance coverage for consultants and individual contractors, and consultants and individual contractors are not eligible to participate in the life or health insurance schemes available to United Nations staff members. Consultants and individual contractors are fully responsible for arranging, at their own expense, such life, health and other forms of insurance covering the period of their services as they consider appropriate. The responsibility of UNICEF is limited solely to the payment of compensation for service-incurred death, injury or illness as per the provisions detailed below.		

Insurance for service-incurred death, injury or illness

Consultants and individual contractors who are authorized to travel at UNICEF expense or who are required under their contract to perform services in a UNICEF or United Nations office shall be provided with insurance coverage, through a UNICEF-retained third party insurance provider, covering death, injury and illness attributable to the performance of official UNICEF duties. Compensation in the event of service-incurred death, injury or illness shall be equivalent to amounts stipulated in the agreement between UNICEF and the insurance provider.

Payment

Payment schedule to be agreed based on deliverables

Confidentiality:

The documents produced during the period of this consultancy will be treated as strictly confidential, and the rights of distribution and/ or publication will reside solely with UNICEF.

The contract signed with the consultant will include the other general terms defined by UNICEF.

13. Nature of Penalty Clause to be stipulated in the contract:

UNICEF Myanmar reserves the right not to pay the Contractor or withhold part of the payable amount if one or more requirements established for this assignment is not met or deadline set for the accomplishment of the tasks is missed.