



Legal Demand to Cover Medical and Living Costs of People While Fighting Against COVID-19

Currently, the lives of all people in Burma are in peril due to a systematic failure to prepare, plan, and strategize on how to deal with the imminent hazardous threat of COVID-19. The government, a combination of both civilian and military parts, has been superficially and very thinly conducting (inadequate) infection surveillance while surprisingly declaring that there are zero infections in Burma up to 20 March 2020.¹ If Burma truly has zero infections, such news would be wonderful, but the systemic failures noted above suggest that is far from reality.

Importantly, the government is responsible for devising a detailed plan and strategy to fight against COVID-19 in line with guidelines from the World Health Organization (WHO). More importantly, in terms the costs incurred by people who suffer from COVID-19, firstly, the country needs to bear binding obligation under international law, specifically under Article 12 (1)(2) para (c) and (d) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Burma has already ratified agreement on 6 October 2017.²

Secondly, unlike India, which is one of the Federal Countries in which healthcare is the responsibility of the State Government, national health is not a concern of the central government of Burma under the 2008 Constitution.³ Essentially, this situation was predicated by the fact that the governments of Ethnic States have tiny incomes as State revenue arising from the exploitation of land and natural resources owned by the Ethnic States/Provinces squarely goes to the budget of the central government.

¹ Note: Firstly, Daw Aung San Suu Kyi made this statement and it was also confirmed by the Ministry of Health and Sports on 20 March 2020. <<http://moths.gov.mm/Main/content/new/covid-19-ရ-ဂ-စ-က-ပ-က-ည-ရ-မ-န-င-ပ-တ-သက-သတ-ထ-တ-ပ-န-ခ-င-20-3-2020-9-30pm>> accessed on March 20, 2020.

² United Nations Treaty Collection, International Covenant on Economic, Social and Cultural Rights (ICESCR), 16 December 1996 <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=_en>; Article 12: “1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”

³ The 2008 Constitution, Schedule One, para 9 (f).

In China, which is a State party to the ICESCR, the state incurs all medical costs for people who suffer from COVID-19.⁴ Similarly, Thailand is also a State party to that international law. Accordingly, Thai citizens do not have to worry about treatment costs as they can use their 30 Baht, virtually amounting to free healthcare, system in government hospitals or their health insurance. In Scandinavian countries – such as Sweden, Norway, Denmark and Finland, which are also State parties to ICESCR, all COVID-19 associated treatment is free.⁵

As the USA is not a State party to the said Convention, the costs of healthcare for the general public are normally a tremendous issue. However, with this particular COVID-19 issue, by materializing the general responsibility of every government to protect people, both the Congress and local governments are undertaking approaches to help ensure the best outcomes for their people. What about the health policy of Burma in this regard? To date, no clear information is available, which is problematic for the reasons below:

Clearly, wherever you have to pay for health care, individuals with mild symptoms in the lower-income groups will hesitate to visit a health care facility, and that may also be the case in some individuals with severe disease. These behaviours will extend the epidemic.⁶

Based on the legal aspect stated above, our Legal Aid Network firstly demands the government of Burma incur the medical and living costs for all people in the country, at least for the following social strata, free of charge for both testing and treatment, during the entirety of the battle of fighting against COVID-19:

1. Ethnic nationalities who have low income in Ethnic States/Provinces;
2. IDPs, in the territories who are amidst the national armed conflicts;
3. Workers who are returning from Thailand and other countries;
4. Workers in factories, construction sites, plantations, transportation lines, hotels, restaurants, tea shops, and so on, and house maids;
5. Poor farmers;
6. Religious leaders;
7. Activists working in CSOs and journalists; and
8. Civil service persons who have low income.

Secondly, we also demand that, due to a particular situation of Burma, stated in the second and third paragraphs, social welfare assistance, in terms of financial aid, must be provided to COVID-19 patients who are confirmed by the hospitals, and their families whom are on lockdown, either by the government or the employers until the entire treatment process

⁴ http://www.chinatoday.com.cn/ctenglish/2018/ttxw/202003/t20200315_800197030.html
http://www.chinatoday.com.cn/ctenglish/2018/ttxw/202003/t20200318_800197458.html

⁵; In EU countries, in severe situations such as a coronavirus infection and every other grave and/or life threatening disease or injury, all therapies are free for all individuals, including for non-EU citizens. See EU Charter of Fundamental Rights, Article 35 <<https://fra.europa.eu/en/eu-charter/article/35-health-care#TabNational>>.

⁶ Commented by Professor Dirk Pfeiffer, chair professor of One Health at City University's Jockey Club College of Veterinary Medicine and Life Sciences; Zhuang Pinghui, "A Coronavirus Lesson from China: Don't Make Patients Pay for Tests and Treatment" *South China Morning Post* (11 March 2020) <<https://www.scmp.com/news/china/society/article/3074506/coronavirus-lesson-china-dont-make-patients-pay-tests-and>> accessed on March 20, 2020.

is completed. To this end, the Union Assembly, also known as the Pyidawnsu Hluttaw, shall make law.

Thirdly, we also demand the government of Burma to immediately terminate war against the Ethnic Resistance Organizations (EROs), which has caused billions of dollars of State funds being used by the Myanmar Army alone. Seven-decades long history has described that none of democratic and ethnic resistance organizations could be annihilated by Myanmar Army merely by military mean. Both civilian and military parts of the government must stop abusing and wasting State funds in this way. These funds must instead be entirely used for the expenditures related to the health, education, and social welfare of all ethnic nationalities in Burma.

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