

# Union Human Rights Commission Law

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## **Union Human Rights Commission**

(2021; Federal Union Parliament Law Number..... )

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(2021    Month    Day)

## **Federal Union Parliament**

The Committee Representing Pyidaungsu Hluttaw and

The National Unity Consultative Council enacted this Law

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## **Section (1)**

### **Name and Definition**

1. This Law shall be called the Union Human Rights Commission Law.
2. The following terms in this Law shall be defined as follows:
  - a. The State refers to the Republic of the Union of Myanmar.
  - b. The Government means a civilian-led interim National Unity Government or any executive body that duly replaces it through a legitimate act of law.
  - c. Parliament means the Federal Union Parliament established under the Federal Democracy Charter, or the interim Committee Representing the Pyidaungsu Hluttaw until the establishment of the Federal Union Parliament, or any other legislative body that duly replaces the aforementioned bodies through a legitimate act of law.
  - d. The President means the President of interim National Unity Government, or in their absence the Vice-President of the interim National Unity Government.
  - e. A Union Minister means a minister within the interim National Unity Government, or the executive body that duly replaces it through a legitimate act of law.
  - f. Human Rights means:
    - i. Human rights, as enshrined in the United Nations Universal Declaration of Human Rights;
    - ii. Human Rights as enshrined in international human rights treaties ratified by the State, and other applicable human rights standards;
    - iii. Human rights recognized in the Federal Charter of the Federal Democracy Union of Myanmar.
  - g. The Commission means the Union Human Rights Commission established by this Law.
  - h. Commission Member means any of the members of the Commission including the Chairperson and Vice-Chairperson of the Union Human Rights Commission.
  - i. The Selection Board is a committee for the purpose of selecting or replacing members of the Commission, in accordance with Section 3.
  - j. The Commission Office is the office formed to perform the work and duties of the Union Human Rights Commission at union level and in states/federal units of the union.
  - k. Civil Society Organization/s is defined as a not-for-profit, rights-based organization formed in Myanmar or in border areas, registered or unregistered, community-based or national, which furthers a human rights cause or related cause.

## **Section (2)**

### **Aim, Vision, Mission and Objectives**

3. The aims, vision, mission and objectives are the guiding principles in the application of this Law and the operation of the Commission, and are as follows:

## **Aim of this Law**

- a. To establish a national human rights institution that adheres to The Paris Principles (principles relating to the Status of National Human Rights Institutions, United Nations General Assembly Resolution 48/134 of 20 December 1993).
- b. To provide the people of Myanmar with a mechanism to effectuate Section 2 of this Law.

## **Vision**

- c. To facilitate the creation of a free, just and impartial society where everybody can access and enjoy human rights.

## **Mission of the Union Human Rights Commission**

- d. To protect and promote human rights for all without discrimination on the basis of sex, gender, sexual orientation, gender identity, ethnicity, religion, language, color, race, national, ethnic or social origin, migration status, political or other opinion, property, disability, birth or other status.
- e. To respect, protect and fulfil Human Rights standards with full impartiality and independence, without exception.
- f. To exemplify the leadership needed to establish a society built upon Human Rights and legal structures based on the rule of law.

## **Objectives**

- g. To ensure the State and non-State actors respect, protect and fulfill human rights for all people in Myanmar.
- h. To adhere to the principles in the Federal Democracy Charter, and assist the government in building a federal democracy which respects human rights.
- i. To promote and protect human rights enshrined in international human rights treaties and other international human rights instruments, resolutions of the United Nations General Assembly, Security Council and Human Rights Council, regional human rights agreements and declarations which are adopted by the State.
- j. To ensure the safety and protection of journalists, human rights defenders, civil society members and activists so they can conduct their work freely, without harassment or persecution from State and non-State actors.
- k. To protect the inherent dignity of all people and guarantee the full respect for human rights, with special recognition for vulnerable groups including children, women, the elderly and oppressed and marginalized groups.
- l. To acknowledge the differing experiences of women within Myanmar society, especially minoritized ethnic women, and women who experience gender discrimination, domestic violence or sexual and gender-based violence.
- m. To cultivate peace and reconciliation through human rights education, dialogue and mediation.
- n. To inform the public about incidents of human rights violations and highlight the impunity for such violations.
- o. To be accessible to the public, so they may engage with human rights.

- p. To investigate and attempt to resolve human rights related issues and complaints in accordance with international human rights standards.
- q. To monitor and inspect places of deprivation of liberty.
- r. To coordinate and cooperate with international human rights bodies, regional human rights bodies, organizations based in states/federal units of the union, civil society organizations and non-governmental organizations.

### **Section (3)**

#### **Formation of the Commission**

- 4. This Law establishes the Union Human Rights Commission with a minimum of five Commission Members and a maximum of nine Commission Members.
- 5. The Selection Board will be formed with nine members to select candidates for appointment to the Commission. Appointments are as follows:
  - a. The Ministry of Human Rights, under the direction of the Minister of Human Rights, must conduct an open consultation meeting with Civil Society Organizations that have expertise on National Human Rights Institutions (NHRI) to determine the selection of five Civil Society Organization representatives for the Selection Board. The consultation shall include the nomination of Civil Society Organization representatives, by other Civil Society Organization members, to be considered for the Selection Board through a democratic voting process, which each attending Civil Society Organization having five votes for five seats at the selection board. The five candidates with the most votes, shall be presented to the Minister of Human Rights for the Selection Board. The consultation meeting must have inclusive dialogue and democratic voting process.
  - b. The Minister of Human Rights and the Minister for Women, Youth and Children Affairs within the Government shall select one member each for the Selection Board.
  - c. Two persons must be nominated from Parliament, selected by Parliament through casting votes, with the two candidates with the most votes becoming Selection Board members.
  - d. In total nine persons shall be on the Selection Board, and all Selection Board members must model and practice human rights in accordance with international standards and no current or former members of the military, defense or security organizations shall be eligible for membership on the Selection Board.
- 6. The Selection Board shall compile a list of 15 candidates considered highly suitable for appointment to the Commission in accordance with the following standards:
  - a. Proficiency in knowledge and work related to international human rights law.
  - b. Experience in promoting and protecting human rights through human rights education, advocacy, social welfare, investigation, and monitoring as part of civil society, academia or other profession or activity.
  - c. Respect for fundamental human rights principles and understanding of cultural issues and the needs and aspirations of individuals, different communities, and groups in society.
  - d. Ability to carry out the work of a Commission Member independently and impartially.
  - e. No record of being a perpetrator of, or a supporter or defender of, or a person responsible for or connected to, human rights violations.

- f. A person who has the vision for achieving the goals of the Commission, as prescribed in Section 2.
7. Prior to selecting candidates, the Selection Board shall:
  - a. Advertise the vacancies widely to capture a diverse group of potential candidates.
  - b. Plan for the implementation of broad consultation and participation exercises during application, screening, selection and appointment stages to ensure transparency.
  - c. Provide the public and potential candidates a description of desired experience, qualifications and qualities for Commissioner Members and the criteria by which they will be selected.
8. On selecting candidates, the Selection Board shall:
  - a. Set the procedures to ensure at least two third of the Commission Members are represented by women, ethnic nationalities, LGBTQI persons, disabled persons and religious minorities.
  - b. Ensure the equitable representation of men and women, and of the diversity of society, including factors, such as ethnicity, age, religion, culture and language.
  - c. Provide 30 days for the screening of commission candidates and make announcements with full transparency.
  - d. Screen the commission candidates in accordance with Article 7.
  - e. Submit the list of the scrutinized candidates to Parliament within 14 days of the end of the screening period.
  - f. Consider that the duty of the Selection Board has been completed once the Government has approved the members of the Commission with the approval of a simple majority of Parliament.
9.
  - a. The Parliament shall finally select by ballot from the list of candidates submitted by the Selection Board up to nine persons for appointment as members of the Commission. The Chairperson and Vice-Chairperson of the Commission shall be appointed according to the highest number of votes.
  - b. Where Parliament is not able to select the minimum number of members, the vacancies shall be advertised again, and the selection process begin anew in respect of those unfilled positions only. Persons selected will proceed to appointment.
10. The Parliament shall send the list of selected Commission Members to the Government for announcement.
11. A person selected for appointment to the Commission shall, prior to appointment:
  - a. Be considered as retired from civil service if a civil servant.
  - b. Resign if they work for a department or organization or business, whether local or international, that could interfere with the duties as a Commission Member.
12. Commission Members shall act impartially and independently in carrying out the duties of the Commission and shall refrain from engaging in any other activity or activities detrimental to the functions of the Commission or presenting an actual or perceived conflict of interest.
13.
  - a. The Commission Chairperson is recognized at the equivalent level of Union Minister and the Vice-Chairperson and members are at the equivalent level of deputy Union Minister.
  - b. In accordance with subsection 13(a), Commission Members will be given financial remuneration, expenses, and facilities appropriate to the equivalent ministry level.

## **Section (4)**

### **Term in Office of Commission Members: Resignation, Dismissal and Filling of Vacancies**

14. The term of all Commission Members shall be five years and the Commissioners shall serve not more than two terms.
15. The current member of the Commission shall continue to perform their duties until the appointment of a new member of the Commission, except in the event of resignation or dismissal.
16. If the Chairperson of the Commission wishes to resign, they may submit their resignation in writing to the President.
17. If a member of the Commission, other than the Chairperson of the Commission, wishes to resign, they may submit their resignation in writing to the President through the Chairperson of the Commission.
18. No Commission Member shall be removed from office against their will, except where one of the following circumstances listed in Article 18 and determined based on an investigation conducted by the President and the Speaker of Parliament, who must unanimously agree on dismissal.
  - a. According to the medical examination in accordance with the law, it was found that a Commission Member has passed away or has a medical impediment that prevents them from performing their duties.
  - b. If a Commission Member is convicted by any court under existing law, which affects their credibility, duties, and responsibilities as a Commission Member, and affects the credibility of the Commission.
  - c. Failure to comply with the articles set by the Commission in accordance with this Law.
  - d. A Commission Member is found to have committed human rights abuses or violations.
  - e. A Commission Member is found to or is convicted of abuse of authority of the Commission and/or on corruption charges.
19.
  - a. The President shall appoint a new member with 30 working days if a position is vacant due to resignation, dismissal or death, or any other reason.
  - b. The selection of a new member in accordance with Article 8 shall be conducted from a previous list submitted by the Selection Board, or a new list formulated based on Articles 6 and 7 in coordination with the parliament.
  - c. If a vacancy is the position of the Chairperson or Vice-Chairperson of the Commission, another Commission Member shall be temporarily assigned to that position until Parliament can make a new appointment.
20. No criminal or civil action shall be prosecuted against the Commission or a member of the Commission or the person assigned by the Commission for any act or omission, or observation made, or opinion issued in good faith in the exercise of the functions and powers vested under this Law.
21. If the Chairperson of the Commission is unable to perform his duties for any reason, the Vice-Chairperson shall perform the duties of the Chairperson.
22. If an activity of a Commission Member is against the principles of the Commission or has violated human rights standards, the Chairperson or members of the Commission should be notified immediately, and the matter shall be promptly investigated.

## **Section (5)**

### **Functions and Powers of the Commission**

23. The Commission shall have the following functions and powers to promote and protect human rights:

#### **Human Rights Protection Functions**

- a. Form task forces or working groups to start the initiating work on transitional justice programs, in coordination with the Government.
- b. Recommend to the Government to ratify international human rights treaties the State should ratify.
- c. Establish human rights protection policies, in situations where human rights violations are found, and form relevant task forces to prevent further human rights violations and similar violations occurring in the future.
- d. Establish a task force to meet with civil society groups through interactive dialogue, on a monthly basis, to discuss issues concerning the safety and protection of journalists, human rights defenders, civil society members and activists.
- e. Ensure the duties and activities of the Commission include gender mainstreaming.
- f. Intervene, with leave of the Court in the Union and courts within the states/federal units of the Union, in judicial proceedings raising or dealing with significant issues of human rights law and fact.

#### **Human Rights Promotion and Public Relations Functions**

- g. Respond to any matter within the interest of the public, either referred to by parliament, executive or in public discourse.
- h. Facilitate activities and act as a mediator between civil society and Government, thereby giving civil society direct access to Government and decision makers.
- i. Ensure the dissemination of educational materials and promotional activities in various dialects and languages.
- j. Ensure education outreach for the protection and promotion of human rights to ethnic communities.
- k. Dissemination of information, raising awareness of human rights to the public, including promotion of activities and programs on fighting against all forms of discrimination.
- l. Conduct education activities for the public by establishing regular communication channels with relevant civil society organizations, business organizations, labor unions, ethnic organizations, minority organizations, schools and academic institutions and other stakeholders.
- m. Regularly publicly report on the functions and activities of the Commission through media and online channels.

#### **Research and Monitoring Activities**

- n. Monitor whether the actions of the Government and Parliament complies with international human rights law and standards.



- o. Monitor the Government's proposed amendments, draft laws, bills, existing laws, and suggest recommendations for new laws, or amendments, addendums or repeals, to harmonize domestic law with international human rights law and standards, through submissions to Parliament.
- p. Provide technical advice, human rights analysis, findings and recommendations at the request of the Government, Parliament, courts or other official State body, so that State actions and law issued are in line with international human rights laws and standards.
- q. Provide technical advice, human rights analysis, findings and recommendations in response to investigations of a complaint of human rights violations by any actor, with a mandate to prescribe time constraints on responses from actors and follow-up mechanisms.
- r. Research and document human rights issues through a task force or working group.
- s. Have the authority to conduct incidental activities or acts conducive to the performance of any function of the Commission.
- t. During periods of civil unrest or internal conflict, shall:
  - i. Monitor the human rights situation with heightened vigilance and independence.
  - ii. Regularly monitor and report on all human rights violations, through public statements and reports to Parliament.
  - iii. Conduct rigorous and systematic follow-up activities on human rights violations.
  - iv. Advocate its findings and recommendations to combat impunity, and to hold perpetrators of human rights violations accountable.

### **Coordination and Collaboration with National, Regional and International Human Rights Mechanisms**

- u. Cooperate with the Government and all Government departments, agencies and representatives in the furtherance of Human Rights.
- v. Consultation and cooperation with the regional and international human rights mechanisms and bodies.
- w. Engage, partner and act together with civil society from states/federal units of the union through meaningful consultations and be receptive to their recommendations.
- x. Support and advise the Government in the preparation of reports for submission in accordance with the obligations of the State under international human rights treaties, to which the State is a party. The Commission shall submit its own reports to treaty bodies, including but not limited to, the United Nations Human Rights Council Universal Periodic Review, independently and apart from the Government, where appropriate.

- y. Submit annual reports containing the human rights situation in the country, and the activities of the Commission, and appropriate recommendations regarding the duties and responsibilities of the Commission, which must be presented to Parliament and Government for discussion and debate, within 30 days of year end.
- z. Submit special reports on human rights issues to the Government and Parliament, as and when necessary.
- aa. Independently submit reports to international organizations related to human rights.

### **Investigation of Human Rights Complaints**

- bb. Receive, verify, and investigate complaints of human rights violations in alignment with the Paris Principles.
- cc. Shall have the authority to conduct investigations on its own initiative.
- dd. Create a publicly available complaint procedure memorandum and follow-up mechanism, outlining in detail how the Commission will determine which complaints to consider, investigate, refer to another competent authority or decline to examine.
- ee. Conduct inquiries into complaints made by an individual, or on behalf of another person, or civil society organization, or an organization representing a group of people, concerning accusations of human rights violations by public or private actors.
- ff. Ensure the personal data of the individuals who files complaints shall be kept strictly confidential.
- gg. The Commission shall ensure that the name and identifying information concerning any person appearing before it for examination, testimonies, documentary evidence, things furnished to it, are not published or disclosed by any person without the persons express permission.
- hh. Inform the complainant or complainants of remedies available to them and promote access to this.
- ii. Refer matters to other competent authorities, courts of law and tribunals for their adjudication after thorough consideration of the complaint, in appropriate circumstances.
- jj. Has the discretion to seek an amicable and confidential settlement of the complaint through an alternative dispute resolution process.
- kk. Has the discretion to settle complaints through a binding determination.
- ll. Make recommendations to the Government and other stakeholders on the outcomes of complaints and investigations, including proposing amendments to laws, reforming laws and administration practices, and other such changes.

- mm. Send complainants a response within 30 days of receiving a complaint.
  - nn. Request important information from the complainant through one of the communication channels prescribed by the Commission.
  - oo. The Commission shall participate in follow-up investigations related to the complaint, through detailed follow-up procedure established in accordance with the principles of this Law.
  - pp. Develop a program for compensation, reparation, physical and psychological support for victims of human rights abuses.
24. Nothing within this Law shall prevent criminal proceedings or other lawful tribunals from adjudicating on a matter under investigation or within the Commission's mandate.
  25. The Commission has the authority to compel evidence, summons witnesses to testify in person, written testimonies, oral evidence from victims, documentary evidence and compel the police to gather forensic evidence or other such evidence in the execution of this Law.
  26. The Commission has the authority to open an investigation on any matter concerning human rights, in the interest of the public.
  27. The Commission has the authority to travel to the location of an alleged human rights violation as part of an investigation.
  28. The Commission may help to provide necessary assistance to victims of human rights violations by liaising with human rights lawyers, news media, international community and families on the incidents and situations of human rights violations.
  29. The Commission has the authority to consider or investigate a human rights violation irrespective of an ongoing court case, police investigation, court martial or any other investigation or judicial proceedings.
  30. a. Any person who injures physically or in any other way threatens, intimidates, harasses, prejudices or otherwise harms or disadvantages another person on account of the other person actually or possibly giving or proposing to give information or evidence to the Commission, or making or proposing to make a complaint to the Commission or otherwise assisting or engaging with the Commission in the performance of its functions, shall be guilty of a criminal offence and liable to be prosecuted in a criminal court and punished.  
b. Nothing within this Law, shall limit criminal prosecution of any person who interferes or impedes the operations of the Commission or commits acts described in Article 30, or attempts or commits property damage, injury to person/s, threats of violence or other breaches of criminal law.
  31. The Commission may extend such assistance, support and protection as it sees fit to any person who actually or possibly gives or proposes to give information or evidence to the Commission or makes or proposes to make a complaint to the Commission or otherwise assists or engages with the Commission in the performance of its functions.
  32. The Commission has the authority, without prior notification, to inspect all areas and facilities, investigate and monitor places of deprivation of liberty, including but not limited to, detention facilities, prisons, police lockups, internal displacement camps, and other places of confinement.
    - a. Commission Members have the right to interview prisoners, prison staff, detainees and those confined, freely and privately.

- b. Where appropriate, the Commission shall report, create recommendations, and undertake follow-up mechanisms on places of deprivation.
  - c. Where a place of deprivation does not meet human rights standards, the Commission must advocate for detainees' rights, through lobbying the Government to implement its findings and recommendations, and for the Government to inform the Commission of the effectuation of these findings and recommendations.
  - d. The Commission must place particular emphasis on the protection of children and other vulnerable groups within places of deprivation.
33. Upon completion of an investigation or considering a complaint, the Commission shall report its findings and recommendations to the Government and Parliament and make them available to the public.
34. Upon completion of an investigation or considering a complaint, the Commission may conduct:
- a. Relevant consultation with related civil society organizations, business organizations, labor unions, ethnic organization, and academic organizations.
  - b. Preparations for reports related to the performance of the Commission and announce regularly to the public.
  - c. Submissions or refer matters to the Government or Parliament.
35. The Commission can hire the necessary subject matter experts to effectively carry out its duties.
36. The Government, military, police, security forces and other unauthorized third parties, are strictly prohibited from interfering in the duties and responsibilities of the Commission, including but not limited to, complaints and investigations. Any such interference shall be a criminal offence punishable by law.
37. All reports detailed in Section 5 must be made publicly available in Burmese and English, and ethnic languages where appropriate.

## **Section (6)**

### **Office of the Commission and Financial Management**

38. Parliament shall guarantee the Commission adequate funding. It shall determine the Commission's annual budgetary allocation in consultation with the Commission after considering the Commission's needs.
39. The Commission may open the Head Office of the Commission and branch offices as necessary to carry out its duties.
40. The Commission has the right to independently perform financial management and administrative matters in accordance with the provisions of this Law.
41. The Commission can form task forces and working groups based on region or subject matters and assign duties to effectively perform the duties mentioned in this Law.
42. A staff structure must be drawn up to carry out the functions and duties of the Commission. Gender equality, ethnic and minority representation and experience in human rights shall be key considerations in the appointment of necessary officers and staff.
43. The office staff structure shall be the responsibility of the Commission, and an organizational chart shall be publicly available. Staff members shall be hired on the basis of experience and competence from diverse backgrounds, ensuring gender equality, and provided with comprehensive training and competitive salaries. Gender equality,

ethnic and minority representation and experience in human rights shall be key considerations in the appointment of necessary officers and staff.

44. The Commission shall prepare the necessary budget estimation for the effective implementation of the duties assigned under this Law and submit it to Parliament for scrutiny and approval.
45. The Commission may accept the non-binding financial support, which will not compromise the independence of the Commission, from any individual or organization, to promote and protect human rights.
46. The Commission shall maintain the financial records according to the accounting procedures, including income, annual audits, expenses, assets, responsibilities for payment, and compliance with revenue laws.
47. The operations of the Commission shall be exempt from tax on revenue, funds and monetary transactions.
48. The Commission shall refrain from using the information it receives in any way other than to implement to achieve its objectives.

## **Section (7)**

### **Miscellaneous Provisions**

49. This Law hereby repeals The Myanmar National Human Rights Commission Law, The Pyidaungsu Hlattaw Law No. 21/2014 (28 March 2014), The 13th Waning of Tabaung 1375 M.E, and dissolves the Myanmar National Human Rights Commission established under the aforementioned law.
50. This Law has been drafted in contemplation and anticipation of Myanmar transitioning to a bona fide federal democracy, based upon a new constitution.
51. The Commission may issue orders, memorandums, directives and procedural documents to implement the provisions of this Law.

**I sign according to the constitution of the Republic of Federal Democratic Union of Myanmar.**

**(By)**

**President**

**Republic of Federal Democratic Union of Myanmar**