

Policy document for the enactment of a reparation policy and legislation

Introduction

Today is the time when many forces are firmly committed to building a new Federal Union nation of Democracy as a time for negotiation and reconciliation in politics, economy, social affairs, land issues, rule of laws and nation security. It is also the time when the respective forces are working for the benefit of the people by conducting the political matters by face to face dialog as culture. In other words, it is a time for progress toward national reconciliation and peace processes.

Myanmar turned out to be the first member of the United Nations after becoming a free and sovereign nation, but because of the armed conflict for more than 70 years and the political system and practices of the governance model, it stand as a late nation in all sectors of social and economic development. During the armed conflict, there has been widespread repression of ethnic peoples including major human rights abuses and discrimination. As a result, as both individuals and groups, people have suffered from injuries and misery. Anger, bitterness, hatred has been occurred, and they lost trust with each other. They come to feel that their lives are insecure. It is only possible to reconcile in these suffering feelings to some degree to build reciprocal trust and be able to reach for peaceful coexistence.

Transition Period

Now is the time for the transition process that is looking ahead from the one side to the democratic system.

At this time, for mainly policymakers, representatives from different legislative assemblies, Administrative Authorities, it is the phase to focus on the interests of their citizens of various nationalities. As those who are working in decision-making roles will also need to take into account the lessons of the past when considering the policies, policies and procedures that are appropriate for the future of Myanmar society. They learn lessons from the events of our country that they have come across and build trust among the respective forces involved in the current and future interest to achieve national reconciliation and long term sustainable peace. In other words, transitional justice must be practiced.

Transitional Justice

Transitional Justice is a process and mechanism to bring justice for ensuring Democracy, reconciliation and peace. During the transition from authoritarianism to democracy, or to ceasefire negotiations to end civil war and internal armed conflict, It is responsible and accountable action throughout peace-building process for human rights abuses such as discrimination and oppression based on color, race and religious in the past.

In doing so, the rights of victims have been prioritized. The process intends to be fair to the victims and not a special court. Nor is it a process that comes with a single perspective of litigation. Countries often choose ways to implement this process based on the actual situation of their society (government, the people).

Whatever options are used, they are implemented through four mechanisms. These are:

- 1) Truth Seeking

2) Justice Seeking

(3) Reparation

And (4) Institutional Reform.

The objectives of the transitional justice process are:

1) The Truth Seeking

2) Justice Seeking

3) Dignity

And Combat against Impunity.

Reparation

It is a Mental and physical rehabilitation to Victims of human rights violations by various ways. This process is a practical application of the process of transitional justice. In addition, it supports one of the government's objectives, the Rule of Law, by another way. The main process is to develop a plan in line with Reparation Policies for the repression of human rights abuses caused by decades of armed conflict and the oppression of the political system.

Implementation of these processes may indicate that the government is willing to address the root causes of past abuses and also provide guarantees for the future. If so, it will be recognized as a government that respects human rights and compliments human dignity internationally in order to support national reconciliation and peace and to build a democratic and federal nation by taking the lessons from past events, which can reduce the current conflict and prevent to occur again in the future.

In addition, by restoring dignity and the grievance of the affected party, it impact on them and their families by reducing their emotional impact and they will diminish tensions, and contribute to the peace process and national reconciliation. The process of remedy is not only a process for the victim to recover, but also to support the victims' emotional and moral rehabilitation.

The objectives of the remedy process are:

1) To assist in dealing with grievances.

2) To restore the dignity of the victim

And (3) to ensure no further violations

The following needs to be considered in the process.

-It is involved of the study of Basic Concepts; For example, compensation for torture or pain; War compensation; Considerations for the indirect effects of war; Consideration should be given to the families of the dead.

-The rights of affected parties and responsibilities and accountability of the conducted person (for remedy)

- In remedies

- Restitution as originally intended for damages.

- Compensation as giving cash or replacement payments

- Rehabilitation as Physical and mental restoration

- Satisfaction
- The Guarantees of Non-repetition and etc. should be considered.
- In the form of additional treatments
- Interim Reparation
- Individual Reparation Grants (IRG))
- (Symbolic Reparation, Legal and Administrative Measures)

And Institutional Reform

- Dividing and arranging implementation plans from the Justice and Administration
 - Study of international experiences and successful models implemented by governments
 - Factors that should be considered in implementation processes (policy and law-making)
 - Information Collection
 - Principles
 - Identifying as eligible for reimbursement
 - Identifying appropriate remedies for individuals or society (eg museums, stone pillars, single-payer or long-term pensions, health care entitlements, etc.)
 - Ensuring that there is no transparency and corruption in the process
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Conclusion

1. It needs to come up with a law that will guarantee reimbursement for victims of human rights abuses.

2. Only the governments that actual represented to people have had international experience in drafting such laws, and also support other reform processes. (E.g., administration, judiciary, security, public service sectors)

3. Only if the government is in charge and took accountability, can it be considered as a comprehensive remedy. However, it is important to note that in the experience of other countries, supports for humanitarian assistance and development projects cannot be considered as rehabilitation programs.

(Reparations are for victims of human rights abuses in the past, It is based on the extent to which they suffer and must also acknowledge their suffering.) (Reparations Vs Development Program and Humanitarian Assistances)

4. By the implementation of the Transitional Justice Process (TJ Mechanisms), it supports Building trust among national groups, Peace, Reconciliation and cohabitation and it will also be recognized internationally as a respected and responsive government for human rights.

5. The Myanmar Human Rights Commission (MNHRC) itself has stated its purpose in this regard

(A) To further protect the fundamental rights of the citizens of the Constitution of the Republic of the Union of Myanmar

(B) To form a society that recognizes and protects the human rights of the United Nations in the Universal Declaration of Human Rights.

Thus, the Government of Myanmar will demonstrate its seriousness of human rights by taking into account the human rights violations suffered during the period of democratic transition and the objectives of the Myanmar Human Rights Commission will be strengthened as well.

6. 2008 Myanmar Constitution; Chapter I, Basic Principles of the Union; Article 32: The State is
The Union shall:

a. care for mothers and children, orphans, fallen Defense Services personnel's children, the aged and the disabled;

b. ensure disabled ex-Defense Services personnel a decent living and free vocational training.

However, there are no other law for the people of various nationalities affected and suffered through armed conflict during the civil war, , including the constitutional provisions has yet to be found. Therefore, if a remedial law could be enacted, it would be a great support for national reconciliation.

7. Protection of Human Rights - Chapter 7 of the Nationwide Ceasefire Agreement between the Republic of the Union of Myanmar and National Armed Groups, It is stated that the settlement is upheld to respect the promotion and protection of human rights and to protect women and children and promote their rights in accordance with international agreements.

In view of these facts, it is believed that if a democratically elected government conducts in the process of reforming the reparations process as one of the a transitional justice process, this will be a good support for future-driven policies.

Reparation working group

Reparation working group conducted interviews with victims of human rights abuses in 11 States and Regions in 2016 and 2017, and piloted needs assessments, and collected data and information. The collection was followed by a fair and accurate method of collection and truthful manner. This working group is comprised of civil society advocates for justice and the push for a state-led Reparation program.
