

MYANMAR

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child		15 Jul 1991 a	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography		16 Jan 2012 a	
Protocol to Prevent, Suppress and Punish Trafficking in Persons		30 Mar 2004 a	
UN Optional Protocol on the Involvement of Children in Armed Conflict	28 Sep 2015		
UN Convention for the Protection of All Persons from Enforced Disappearance			
Hague Convention on International Child Abduction			

In Myanmar, there are three laws that refer directly or indirectly to missing children:

1. Penal Code of 1861;
2. Child Law of 1993; and
3. Anti-Trafficking Law of 2005.

General Child Protection

In June 2012, the Government of Myanmar and the United Nations signed an action plan to eliminate the recruitment and employment of children in the Armed Forces.¹ According to a statement from the Myanmar Army's Chief of Staff, the Armed Forces have released 272 child soldiers since 2012.² However, in 2014 a 17-year old child soldier was jailed for leaving the military.³

The Government has made efforts to sanction officials involved in exploiting young children, but prosecution has been difficult.⁴ Children of the urban poor, street children, and orphans tend to be the

¹ U.S. DEP'T OF STATE, *Trafficking in Persons Report Country Narratives Burma (2013)* 112, at <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215412.htm> (last visited on Apr. 25, 2016) (on file with the International Centre for Missing and Exploited Children).

² Salai Thant Sin, *Burmese Child Soldier Imprisoned for Leaving Military*, THE IRRAWADDY, Jan. 22, 2014, <http://www.irrawaddy.org/burma/burmese-child-soldier-imprisoned-leaving-military.html> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

³ *Id.*

⁴ *Trafficking in Persons Report Country Narratives Burma (2013)*, *supra* note 214.

primary targets of army recruiters.⁵ Street children, if they do not first fall victim to various forms of exploitation, are often arrested by police and placed in government institutions.⁶

Terre des Hommes, a global NGO dedicated to child protection, helps children living in government facilities reunite with their families. Since 2010 when the program began, the organization has helped 470 children return home.⁷ Terre des Hommes has begun communicating with the Myanmar Police Force⁸ to establish a better mechanism for protecting street children and helping reunite them with their families whenever possible.⁹

Definition of “Missing Child”

While there is no specific definition of a “missing child” in Myanmar’s domestic legislation, the Child Law of 1993 defines a “child who is in need of protection and care” broadly, including those who have been neglected, orphaned, earn a living by begging, inflicted with a contagious disease, are of unsound mind, are in the custody of cruel parents or guardians, or who use narcotic drugs.¹⁰

Additionally, the Child Law criminalizes abetting runaways,¹¹ employing a child to beg,¹² and using a child in pornography materials.¹³ “Abetting a runaway” is described in the Child Law as follows:

Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 6 months or with fine which may extend to kyats 1000 or with both:

Inducing a child to escape from a training school, home, temporary care station or custodian; abetting the run away; harbouring, concealing or preventing the child from going back to the original place, knowing that the child has escaped.

Kidnapping and Abduction

The Myanmar Penal Code of 1861 contains articles very similar to those of Malaysia, with a few distinguishable differences. It comprises a wide range of kidnapping and abduction categories, including that which is for ransom, moveable property, murder, slavery, or exploitation, as well as for kidnapping from lawful guardianship and from Myanmar.¹⁴ Article 361 states:

whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping

⁵ *Id.* at 111.

⁶ TERRE DES HOMMES MYANMAR, at <http://www.tdh.ch/en/countries/myanmar> (last visited Apr. 22, 2016) (on file with the International Centre for Missing & Exploited Children).

⁷ *Id.*

⁸ The Myanmar Police Force is formally known as The People’s Police Force. See Online Burma/Myanmar Library, at <http://www.burmalibrary.org/show.php?cat=2120> (last visited 27 May 2016) (on file with the International Centre for Missing & Exploited Children).

⁹ *Id.*

¹⁰ The Child Law (1993), The State Law and Order Restoration Council Law No. 9/93, July 14, 1993, Article 32 (on file with the International Centre for Missing & Exploited Children).

¹¹ *Id.* at Article 65.

¹² The Child Law (1993), *supra* note 223, at Article 66 (c).

¹³ *Id.* at Article 66 (f).

¹⁴ Penal Code of 1861 of Myanmar (on file with the International Centre for Missing & Exploited Children).

of the lawful guardian of such minor or person of unsound mind without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.¹⁵

This Article also contains the same exception as that of Malaysia's Penal Code, stating:

This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such an act is committed for an immoral or unlawful purpose.¹⁶

Parental Abduction

Myanmar is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and there are no specific legal provisions or entry and exit requirements preventing a parent from taking a child out of the country.

Reporting Mechanism

There are no clear reporting mechanisms or hotlines in the country specifically dealing with cases of missing children or even child protection more generally. However, the People's Police Force's emergency number (199) can be used to register complaints and receive reports of missing persons.

Investigation of Missing Child Cases

If a report of a missing child is made to the police, it remains unclear what guidelines, if any, exist to help officers through the investigative process and ensure that the case is prioritized and handled immediately. In 2008, the Ministry of Home Affairs, in collaboration with UNICEF, detailed a plan to organize a special police force dedicated to child protection under the umbrella of the People's Police Force.¹⁷ The stated purpose of this police force is to:

(a) to assist protection of child rights in accordance with the *Convention on the Rights of the Child* and Child Law; (b) to protect [against] violence, abuse, neglect and exploitation of children; (c) to protect children in conflict with the law in line with the Child Law; and (d) to provide assistance for the correction of delinquent and street children.¹⁸

However, no information could be found to verify the existence of this specialized force or whether it has been implemented. While it is unknown whether or not the People's Police Force has a special department dedicated to child protection, the newly created Anti-Human Trafficking Department currently is coordinating with the Central Body for Suppression of Trafficking in Persons, under the Ministry of Home Affairs.¹⁹

¹⁵ *Id.* at Article 361 *Kidnapping from Lawful Guardianship*.

¹⁶ *Id.*

¹⁷ UN CONVENTION OF THE RIGHTS OF THE CHILD, Comm. on the Rights of the Child, *Consideration of the Reports submitted by States parties under article 44 of the Convention, Third and Fourth periodic reports of States parties due in 2008, Myanmar*, July 14, 2009 (on file with the International Centre for Missing & Exploited Children).

¹⁸ *Id.*

¹⁹ *Central Body for Suppression of Trafficking in Persons*, THE REPUBLIC OF THE UNION OF MYANMAR MINISTRY OF HOME AFFAIRS CENTRAL BODY FOR SUPPRESSION OF TRAFFICKING IN PERSONS, at <http://myanmarhumantrafficking.gov.mm/> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

Case Management/Database

Presently, there is neither a national missing children's database nor a case management system in place. Consequently, the number of missing children reports made annually is unknown.

In May 2012, the Myanmar Red Cross Society launched a "Restoring Family Links Service" to help families reconnect when "normal channels of communication are disrupted or difficult."²⁰ As this service is mainly focused on internally displaced persons, it is unclear what collaboration, if any, the Red Cross Society has had with the People's Police Force to ensure efficiency and proper data collection. While the Ministry of Social Welfare, Relief and Resettlement is tasked with helping reunify and rehabilitate victims of natural disasters and human trafficking, the level of involvement by the Ministry with cases of missing children is unknown.

Trafficking

In 2005, Myanmar passed its first Anti-Trafficking in Persons Law, which defined the various facets of the crime including fraudulent marriages and adoptions, the creation of false documentation, forced labor, and sexual exploitation. Article 16 created a Central Body for Suppression of Trafficking in Persons (Central Body) and relevant working groups. Led by the Ministry of Home Affairs, this Central Body consists of 18 ministries and government agencies, as well as civil society organizations, and in 2014, was joined by the Trafficking in Person's Division of the People's Police Force.²¹ In addition to undertaking preventative awareness campaigns, the Central Body laid out a five-year National Plan of Action in 2007 to combat human trafficking.²²

Beginning with the nation's signing of bilateral agreements with China and Thailand,²³ Myanmar recognizes the need to partner with neighboring countries and regional bodies to help ensure that borders are protected on both sides. As noted earlier, in October 2011, World Vision launched their End Trafficking in Persons Program working with the governments of the six Greater Mekong Sub-region countries to help reduce human trafficking by increasing awareness, training, and collaboration among government agencies, across provinces, and among nations.²⁴ In addition, in August 2013, Myanmar became the first of seven ASEAN countries to partner with the Australian Government to identify national anti-trafficking priorities and to ensure that government agencies have the technical and expert assistance they need to combat the growing epidemic.²⁵

²⁰ Myanmar Red Cross Society Launches Restoring Family Links Service, MYANMAR RED CROSS SOCIETY, May 10, 2012, at <http://myanmarredcrosssociety.org/rfl-launch/> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

²¹ The Government of the Union of Myanmar and the Government of Australia Sign the Cooperation Agreement on Anti-Trafficking in Persons, ASSOC. OF SOUTHEAST ASIAN NATIONS, Mar. 13, 2014, at <http://www.asean.org/issued-by-the-government-of-the-union-of-myanmar-and-the-government-of-australia/> (last visited Apr. 25, 2016) (on file with the International Centre for Missing & Exploited Children).

²² Central Body for Suppression of Trafficking in Persons, *supra* note 232.

²³ *Id.*

²⁴ Tackling Human Trafficking in the Greater Mekong Sub-region, *supra* note 134.

²⁵ The Government of the Union of Myanmar and the Government of Australia Sign the Cooperation Agreement on Anti-Trafficking in Persons, *supra* note 234.