



## SUBMISSION FOR THE ELEVENTH WORKING SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING

### RIGHT TO WORK AND ACCESS TO THE LABOUR MARKET

In June 2019, Amnesty International published [a report](#) on the impact of conflict and displacement on older people across Myanmar.<sup>1</sup> This submission focuses on older women and men among the more than 100,000 people living in internally displaced person (IDP) camps in northern Myanmar; many have been displaced for almost a decade. While they have the right to travel outside the camps and seek work, older people are often discriminated against for employment and face exclusion from livelihood assistance programs, hindering their access to labour markets.

#### NATIONAL LEGAL AND POLICY FRAMEWORK

Although age is not among the grounds for which discrimination is prohibited by the Myanmar Constitution,<sup>2</sup> Myanmar's Ministry of Labour, Immigration, and Population has issued mandatory employment contract forms, under which discrimination on the basis of age is prohibited.<sup>3</sup> Amnesty International has not determined whether the mandatory contracts apply to day labour like that undertaken by displaced people.

#### CHALLENGES FACED BY OLDER PEOPLE

Almost a decade into the humanitarian response in northern Myanmar, the monthly amount of in-kind or cash assistance provided to displaced people has declined considerably; the expectation is that displaced people can work as day labourers, for example on nearby farms. Many older people describe being discriminated against in obtaining such work, primarily due to attitudes that see them as weaker, even when they did similar work before displacement and remain physically able to do so.

Zatan Hkawng Nyoï, 67, fled her village in 2011 and lives in an IDP camp in Kachin State. Before being displaced, she worked for decades on her farm, cultivating rice, fruits, vegetables, and spices. But she said that when employers come to the IDP camp to hire labourers for work in paddy fields nearby, they do not hire her, or other older people, because of her age. *"I've approached the employers and said I want to work,"* she said. *"They said I'm too old... They say that type of work requires demanding physical condition... I feel so sad because I need money and want to work, but there's no opportunity."*<sup>4</sup>

Amnesty International heard similar frustrations from other older women and men. A 63-year-old ethnic Kachin woman who had been a paddy and shifting cultivation farmer throughout her life said that, in her first years in an IDP camp, she worked as a daily labourer *"from time to time,"* but that for several years, no one would hire her anymore, because of her age.<sup>5</sup> A few displaced older people said that while they got occasional work during the peak harvest season, they were otherwise reliant on assistance. There were indications that even in rare instances

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<sup>1</sup> Amnesty International, *"Fleeing My Whole Life": Older People's Experience of Conflict and Displacement in Myanmar* (Index: ASA 16/0446/2019), 18 June 2019.

<sup>2</sup> Constitution of the Republic of the Union of Myanmar (2008), para. 348 ("The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth.").

<sup>3</sup> Example employment contract on file with Amnesty International, referencing a prohibition under law of any discrimination on the basis of age, among other grounds. See also *DLA Piper, Guide to Going Global: Employment, 2019*, p. 263 (identifying prohibited grounds of discrimination, including age, in Myanmar labour law).

<sup>4</sup> Amnesty International interview, Quarter #2 Lhaovo Baptist Church Camp, Kachin State, Myanmar, 11 December 2018.

<sup>5</sup> Amnesty International interview, name of IDP camp withheld to protect anonymity, Kachin State, Myanmar, 11 December 2018.

when older people are hired for day labour, they are paid less than younger displaced people—all of who are paid lower daily rates than people from the host community.<sup>6</sup>

None of the older people interviewed by Amnesty International sought judicial recourse for the discrimination. There is little trust in the judicial system, particularly in conflict-affected areas, and older people did not perceive the discrimination to break the law. As noted above, it's unclear if age discrimination is unlawful in Myanmar for informal, short-term work.

#### LIVELIHOOD ASSISTANCE PROGRAMS

Amnesty International encourages the OEWG to examine the interplay between states and private actors like companies and even aid organizations in not respecting older people's right to work. As the IDP camps in northern Myanmar have become the long-term home of tens of thousands of people and food and other assistance has decreased, many humanitarian and development organizations have undertaken programs to support livelihood opportunities. However, none of the displaced older people interviewed by Amnesty International had taken part in such a program, despite their ubiquity.

Older people appear to be excluded because of discriminatory attitudes, entrenched practice, and program design. People must be present throughout the livelihood trainings—which last several weeks or months—usually in rooms that are not accessible for people with disabilities, which disproportionately affects older people.<sup>7</sup> People who are illiterate at times cannot participate—even when literacy is not required for the specific livelihood opportunity—which again disproportionately affects older people. Some programs have a one-participant-per-family rule, which often results in families sending younger people.

Myanmar's Department of Social Welfare implements some livelihood assistance programs for displaced people. Other programs, run by local and international humanitarian organizations, are approved by the Ministry of Social Welfare, Relief, and Resettlement.

In general, discrimination in the right to work and in accessing the labour market leaves displaced older women and men entirely reliant on assistance—whether from humanitarian organizations or family members. It causes a cascade of negative effects on other rights, including to food, water, and physical and mental health. It can be particularly severe for the many displaced older people who live alone.

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<sup>6</sup> Amnesty International interviews with displaced older people and with humanitarian workers, Myanmar, December 2018.

<sup>7</sup> The denial of reasonable accommodations to people with disabilities, among other aspects that exclude them, constitutes discrimination on the basis of disability under the Convention on the Rights of Persons with Disabilities, which Myanmar has ratified. See Convention on the Rights of Persons with Disabilities (CRPD), adopted by the UN General Assembly in resolution 61/106, 13 December 2006, UN Doc. A/RES/61/106, Article 2 (Definitions), Article 5 (Equality and nondiscrimination).