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BURMA 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Burma has a quasi-parliamentary system of government in which the national parliament selects the president and constitutional provisions grant one-quarter of parliamentary seats to active-duty military appointees. The military also has the authority to appoint the ministers of defense, home affairs, and border affairs and one of two vice presidents, as well as to assume power over all branches of the government should the president declare a national state of emergency. General elections were held on November 8 and widely accepted as a credible reflection of the will of the people, despite some structural flaws. Voters in all constituencies where the government determined elections could be held safely elected members of parliament in both the upper and the lower houses, as well as state and regional legislatures. The government cancelled polling in more than half of the townships in Rakhine State, in addition to cancellations in Shan State, Kachin State, and elsewhere due to insecurity. Results declared on November 14 showed the National League for Democracy maintained its majority of parliament, while a military-aligned party lost seats. By the terms of the constitution, the military itself filled by appointment 25 percent of seats in both the upper and lower houses of parliament, as well as in state and regional legislatures. National League for Democracy leader Aung San Suu Kyi continued to be the civilian government's de facto leader and, due to constitutional provisions preventing her from becoming president, remained in the position of state counsellor.

The Myanmar Police Force is primarily responsible for internal security. The Border Guard Police is administratively part of the Myanmar Police Force but operationally distinct. Both fall under the Ministry of Home Affairs, led by an active-duty military general, so they are subordinate to the armed forces' command. The armed forces under the Ministry of Defense are responsible for external security but are engaged extensively in internal security, including combat against ethnic armed groups. Under the constitution, civilian authorities have no authority over the security forces; the armed forces commander in chief, Senior General Min Aung Hlaing, maintained effective control over all security forces. Members of the security forces continued to commit numerous serious human rights abuses.

Extreme repression of and discrimination against the minority Rohingya population, who are predominantly Muslim, continued in Rakhine State. Intense fighting between the military and the ethnic Rakhine Arakan Army in January

displaced thousands more civilians, further disrupted humanitarian access to vulnerable populations, and resulted in serious abuses of civilian populations. Fighting between the military and ethnic armed groups in northern Shan State, as well as fighting there among ethnic armed groups, temporarily displaced thousands of persons and resulted in abuses, including reports of civilian deaths and forced recruitment by the ethnic armed groups.

Significant human rights issues included: unlawful or arbitrary killings, including extrajudicial killings by security forces; enforced disappearance by security forces; torture and cases of cruel, inhuman, or degrading treatment or punishment by security forces; harsh and sometimes life-threatening prison conditions; arbitrary arrest or detention; political prisoners or detainees; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious abuses in internal conflicts, including killings of civilians, enforced disappearances or abductions, torture and physical abuses or punishments, unlawful recruitment of child soldiers, arbitrary denial of humanitarian access, and other conflict-related abuses; severe restrictions on free expression, including arbitrary arrest and prosecution of journalists, and criminal libel laws; substantial interference with the rights of peaceful assembly and freedom of association; severe restrictions on religious freedom; serious restrictions on freedom of movement; the inability of some citizens to change their government peacefully through free and fair elections; restrictions on political participation; serious acts of corruption; lack of investigation of and accountability for violence against women; trafficking in persons; crimes involving violence or threats targeting members of national, ethnic, and religious minority groups; laws criminalizing consensual same-sex sexual conduct between adults, although those laws were rarely enforced; and the use of forced and child labor, including the worst forms of child labor.

There continued to be almost complete impunity for past and continuing abuses by the security forces. In a few cases the government took limited actions to prosecute or punish subordinate officials it claimed were responsible for crimes, although in ways that were not commensurate with the seriousness of the acts. In the few cases where the military claimed to try to convict perpetrators, the process lacked transparency and no details were provided about the identity of the individuals, the crimes they were charged with, or their sentences.

Some ethnic armed groups committed human rights abuses, including killings, disappearances, physical abuse and degrading treatment, unlawful recruitment and use of child soldiers, forced labor of adults and children, and failure to protect local

populations in conflict zones. These abuses rarely resulted in investigations or prosecutions.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were numerous reports security forces committed arbitrary or unlawful killings (see also section 1.g.) of civilians, prisoners, and other persons in their power.

On April 7, seven persons in Paletwa Township, Chin State, were killed when military airstrikes hit the village. Those killed included two children, a mother, and an infant. Eight others were injured. On June 10, Myo Thant, a 43-year-old also from Paletwa Township, was shot and killed by members of military's 22nd Light Infantry Brigade.

In late June, a 60-year-old farmer named Lone Hsu was killed and a woman was injured when soldiers opened fire on a village in northern Shan State. The incident sparked a protest by more than 10,000 persons in Kyaukme Township, who called for an end to military brutality against civilians. On June 29, the military announced the squadron commander would be court-martialed because the shooter--an infantry soldier--had died in battle. There was no report of action as of November.

There were reports of suspects in custody dying as a result of police mistreatment. On August 10, two 17-year-old boys, sentenced to two years' incarceration at the Mandalay Community Rehabilitation Centre for robbery, died under suspicious circumstances after a failed escape attempt, according to local media. The families of the deceased noted injuries found on the bodies of both boys.

b. Disappearance

There were reports of disappearances by security forces.

Khaing Khant Kyaw, a student at the Defense Services Medical Academy in Rangoon, disappeared in late August after he criticized military leaders in an August Facebook post. As of November, his whereabouts were unknown, according to the news service *Myanmar Now*.

According to the Chin Human Rights Organization, at least 18 persons from Paletwa Township in Chin State and from Rakhine State remained missing as of November, some two years after disappearing. At least three were reportedly abducted by the ethnic Rakhine Arakan Army (AA) (see also section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture; however, members of security forces reportedly tortured and otherwise abused suspects, prisoners, detainees, and others. Such incidents occurred, for example, in prisons and in Rakhine State. Authorities generally took no action to investigate incidents or punish alleged perpetrators.

Human rights groups reported incidents of alleged torture by security forces and some ethnic armed groups in ethnic minority areas. In Rakhine State, hundreds of prisoners reportedly were subject to torture and abuse by state prison and security officials.

Sexual violence by security force members continued. On January 14, a Chin woman was hospitalized after she was reportedly tortured while in the custody of military forces operating under the Western Command in Ann, Rakhine State. She was arrested on suspicion that her husband had been in contact with members of the AA. In another case on June 29, a woman in Rakhine State's Rathedaung Township was allegedly raped by three military personnel at gunpoint. The 36-year-old woman filed a complaint with Sittwe Police Station, and the police station accepted the complaint and opened cases for rape, abduction with the intent to rape, and aiding and abetting rape. The military was also conducting an internal investigation.

Although there were reports of official investigations into some cases of alleged sexual violence, the government released no information on them.

Security forces reportedly subjected detainees to harsh interrogation techniques designed to intimidate and disorient, including severe beatings and deprivation of food, water, and sleep.

There was a widespread impression that security force members enjoyed near complete impunity for abuses committed. Police and military tribunals were often not transparent about investigations, trials, or punishments they claimed to have

undertaken. There was no information to suggest that human rights training was a prominent part of overall security forces training or that rights abuses were punished in ways commensurate with the seriousness of crimes committed.

On September 16, the military's Office of the Judge Advocate General announced that it was "investigating possible wider patterns of violations in the region of northern Rakhine State in 2016 and 2017." The announcement came after release of a report by a government-appointed commission on violence in the region that found security forces had committed war crimes (see section 5, Government Human Rights Bodies).

On June 30, the military announced that two officers and a soldier had been convicted for "weakness in following the instructions" during the "Gu Dar Pyin incident." Rakhine State's Gu Dar Pyin village was the site of a massacre by the military in 2017, part of its campaign of mass atrocities that forced more than 740,000 Rohingya to flee to Bangladesh. The military did not provide any other information, such as the names and ranks of those convicted, their role in the massacre, or their sentences.

Prison and Detention Center Conditions

Conditions in prisons, labor camps, and military detention facilities were reportedly harsh and sometimes life threatening due to overcrowding, degrading treatment, and inadequate access to medical care and basic needs, including food, shelter, and hygiene.

Physical Conditions: There were 46 prisons and 50 labor camps, the latter referred to by the government as "agriculture and livestock breeding career training centers" and "manufacturing centers." A prominent human rights group estimated there were approximately 70,000 prisoners. Women and men were held separately. Overcrowding was reportedly a serious problem in many prisons and labor camps. In March, before the latest general amnesty, a human rights group reported that occupancy at the country's largest prison was nearly triple capacity. Some prisons held pretrial detainees together with convicted prisoners. More than 20,000 inmates were serving court-mandated sentences in labor camps located across the country.

Corruption was endemic in the penal system. Some authorities reportedly sent prisoners whose sentences did not include "hard labor" to labor camps in contravention of the law and "rented out" prisoners as labor to private companies

for personal financial gain, although official policy prohibited both practices. In spite of reforms in recent years, conditions at the camps remained life threatening for some, especially at 18 labor camps where prisoners worked as miners.

Bedding was often inadequate and sometimes consisted of a single mat, wooden platform, or laminated plastic sheet on a concrete floor. Prisoners did not always have access to potable water. In many cases family members had to supplement prisoners' official rations, medicine, and basic necessities. Inmates also reportedly paid prison officials for necessities, including clean water, prison uniforms, plates, cups, and utensils.

Medical care was inadequate and reportedly contributed to deaths in custody. Prisoners suffered from health problems, including malaria, heart disease, high blood pressure, tuberculosis, skin diseases, and stomach problems, caused or exacerbated by unhygienic conditions and spoiled food. Former prisoners also complained of poorly maintained physical structures that provided no protection from the elements and had rodent, snake, and mold infestations.

Prison conditions in Rakhine State were reportedly among the worst.

Administration: Prisoners and detainees could sometimes submit complaints to judicial authorities without censorship or negative repercussions, but there was no clear legal or administrative protection for this right.

Some prisons prevented full adherence to religious codes for prisoners, ostensibly due to space restrictions and security concerns. For example, imprisoned Buddhist monks reported authorities denied them permission to observe holy days, wear robes, shave their heads, or eat on a schedule compatible with the monastic code. For the general prison population, some authorities allowed individual or group worship, but prohibited long beards, wearing robes, or shaved heads.

Independent Monitoring: The ICRC had conditional and limited access to all prisons and labor camps; it did not have access to military detention sites. With prior approval from the Prison Department, it could visit prisons and labor camps twice monthly but could not meet privately with prisoners. The ICRC reported its findings through a strictly confidential bilateral dialogue with prison authorities. These reports were neither public nor shared with any other party.

The Ministry of Home Affairs Department of Corrections operates the prison and labor camp system. The International Committee of the Red Cross (ICRC) and the

UN Office on Drugs and Crime were able to visit facilities during the past year, although some restrictions on access remain.

The military did not permit access to its detention facilities.

Improvements: The UN Office of Drugs and Crime strengthened its health system program in four prisons by including measures to respond to the COVID-19 pandemic.

d. Arbitrary Arrest or Detention

The law does not prohibit arbitrary arrest, and the government continued to arrest persons, often from ethnic and religious minority groups, and notably in Rakhine State, on an arbitrary basis. Persons held generally did not have the right to appeal the legality of their arrest or detention administratively or before a court.

The law allows authorities to order detention without charge or trial of anyone they believe is performing or might perform any act that endangers the sovereignty and security of the state or public peace and tranquility. The civilian government and the military continued to interpret these laws broadly and used them arbitrarily to detain activists, student leaders, farmers, journalists, political staff, and human rights defenders.

Personnel from the Office of the Chief of Military Security Affairs and police commonly conducted searches and made arrests at will, despite the law generally requiring warrants.

Arrest Procedures and Treatment of Detainees

The law generally requires warrants for arrest, but this this requirement was not always followed.

By law authorities may hold suspects in pretrial detention for two weeks (with a possible two-week extension) before bringing them before a judge or informing them of the charges against them. According to the Independent Lawyers' Association of Myanmar, police regularly detained suspects for two weeks, failed to file a charge, and released suspects briefly before detaining them for a series of two-week periods with pro forma trips to the judge in between.

The law grants detainees the right to consult an attorney, but in some cases authorities refused to allow suspects this right. The law provides access to fair and equal legal aid based on international standards and mandates the independence of and legal protection for legal aid workers. The government failed to provide adequate funding and staffing to implement the law fully. Through September the legal aid program handled 300 cases.

There is a functioning bail system, but bribery was a common substitute for bail. Bail is commonly offered in criminal cases, but defendants were often required to attend numerous pretrial hearings before bail was granted.

In some cases the government held detainees incommunicado. There were reports authorities did not inform family members or attorneys of arrests of persons in a timely manner, reveal the whereabouts of those held, and often denied families the right to see prisoners in a timely manner.

Arbitrary Arrest: There were reports of arbitrary arrests, including detention by the military in conflict areas.

Amnesty International documented arbitrary detention in several townships in Rakhine State. A villager from Kyauktaw Township witnessed soldiers arresting 10 villagers, including her husband, on March 16. She said soldiers punched, kicked, and used guns to hit those who resisted.

On July 24, land activist Gei Om was taken into custody after a local official sent a letter of complaint to authorities in Mindat Township, Chin State, alleging that Gei Om had spread false news about possible illicit activities, was involved in an illegal land dispute settlement in 2016, and had been collecting illegal taxes from villagers. Prior to his arrest, Gei Om helped local community leaders to monitor the impact of a model farm project to harvest oil seed plants designed by the Management Committee of Mindat Township, according to the International Federation for Human Rights. They reportedly found that those in charge of the model farms had engaged in illegal logging and that the farms had caused environmental damage in Natma Taung National Park.

Pretrial Detention: Judges and police sometimes colluded to extend detentions. According to the Independent Lawyers' Association, arbitrary and lengthy pretrial detentions resulted from lengthy, complicated legal procedures and widespread corruption. Periods of detention prior to and during trials sometimes equaled or exceeded the sentence that would result from a conviction.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Although habeas corpus exists in law, security forces often arrested and detained individuals without following proper procedures, in violation of national law. Arbitrary arrest or detention was sometimes used to suppress political dissent, according to the Assistance Association for Political Prisoners.

e. Denial of Fair Public Trial

The law calls for an independent judiciary, but the government manipulated the courts for political ends and sometimes deprived citizens of due process and the right to a fair trial, particularly in freedom of expression cases.

The criminal justice system was overburdened by a high number of cases lodged against small-time drug users, who constituted an estimated 50 percent of caseloads in the courts.

Corruption in the judiciary remained a significant problem. According to civil society organizations, officials at all levels received illegal payments at all stages of the legal process for purposes ranging from influencing routine matters, such as access to a detainee in police custody, to substantive decisions, such as fixing the outcome of a case.

The case of political activist Aung That Zin Oo (known as James) illustrates the prolonged delays, procedural irregularities, and political maneuvering that mark the judicial process. On August 25, a township court convicted James of carrying fake identification cards during a 2015 protest and sentenced him to six months at hard labor. James was tried and convicted because the local immigration office refused to drop the charges against him, although all charges against others arrested with him were dropped when the National League for Democracy (NLD) government took office in 2016.

The military and the government directly and indirectly exerted influence over the outcome of cases. Former military personnel, for example, served in key positions, and observers reported that the military pressured judicial officials in cases involving military interests, such as investments in military-owned enterprises.

Trial Procedures

The law provides for the right to a fair and public trial but also grants broad exceptions, effectively allowing the government to violate these rights at will. In ordinary criminal cases, the government allowed courts to operate independently, and courts generally respected some basic due process rights such as allowing a defense and appeal. Defendants do not enjoy a presumption of innocence or the rights to be informed promptly and in detail of the charges against them; to be present at their trial; to free interpretation; or, except in capital cases, to consult an attorney of their choice or have one provided at government expense. There is no right to adequate time and facilities to prepare a defense; defense attorneys in criminal cases generally had 15 days to prepare for trial. There is a fair trial standards manual, but because of the low standard of legal education, prosecutors, defense attorneys, and judges were often unfamiliar with precedent, case law, and basic legal procedures. While no legal provision allows for coerced testimony or confessions of defendants to be used in court, authorities reportedly accepted both. There were reports of official coercion to plead guilty despite a lack of evidence, with promises of reduced sentences to defendants who did so.

Although the law provides that ordinary criminal cases should be open to the public, members of the public with no direct involvement in a case were sometimes denied entry to courts. Defense attorneys generally could call witnesses and conduct cross-examinations. Prodemocracy activists generally were able to retain counsel, but other defendants' access to counsel was inadequate.

Local civil society groups noted the public was largely unaware of its legal rights, and there were too few lawyers to meet public needs.

Political Prisoners and Detainees

The government continued to detain and arrest journalists, activists, and critics of the government and the military. According to civil society groups who use a definition of political prisoners that includes those who may have engaged in acts of violence and excludes some charges related to freedom of expression and religion, there were 36 convicted political prisoners as of October. Another 584 individuals were facing trial for their political views, of whom 193 were in pretrial detention and the rest were out on bail, according to the Assistance Association for Political Prisoners. The ICRC had very limited access to political prisoners.

Authorities held some political prisoners separately from common criminals, but political prisoners arrested in land rights disputes were generally held together with common criminals.

On May 18, the Union Election Commission annulled Aye Maung's status as a lower house lawmaker and barred him from running in future elections due to his treason conviction. In 2019 Aye Maung, then chairman of the Arakan National Party, was sentenced to 20 years in prison for high treason and another two years for defamation of the state after remarks interpreted by the government as expressing and encouraging support for the AA.

Many former political prisoners were subject to surveillance and restrictions following their release, including the inability to resume studies or secure travel, identity, or land ownership documents.

Civil Judicial Procedures and Remedies

No specific mechanisms or laws provide for civil remedies for human rights abuses; however, complainants may use provisions of the penal code and laws of civil procedure to seek civil remedies. Individuals and organizations may not appeal an adverse decision to regional human rights bodies but may make complaints to the Myanmar National Human Rights Commission.

Property Restitution

Under the constitution the state owns all land, although there is a limited amount of freehold land and the law allows for registration and sale of private land ownership rights. Most land is held in long-term lease, meaning that while this leasehold land is still owned by the government, it is leased to private parties on a long-term basis with a general expectation that the leasehold will automatically roll over upon its expiration. The law provides for compensation when the government acquires privately held land for a public purpose; however, civil society groups criticized the lack of safeguards in the law and declared that compensation was infrequent and inadequate when offered. The government can also declare land unused or "vacant" and assign it to foreign investors or designate it for other uses. Authorities and private-sector organizations seized land during the year; restitution was very limited. In Mon State, for example, retired military personnel acting as private-sector land agents obtained land use rights to pursue development of rubber plantations, while those displaced received minimal compensation.

The General Administration Department of the Office of the Union Government oversees land restitution. There is no judicial review of land ownership or confiscation decisions, although there are limited administrative processes to

manage objections. Administrative bodies subject to political control by the national government make final decisions on land use and registration. Researchers and civil society groups stated land laws facilitated land confiscation without providing adequate procedural protections. In some cases, advance notice of confiscations was not given.

The law does not favor recognition of traditional land-tenure systems (customary tenure). In March the new Vacant, Fallow, and Virgin Lands Management Law came into effect, requiring anyone occupying land classified as "vacant, fallow, or virgin" to apply for permits within six months. Continued use of the affected land without applying for permits meant land users would be in trespass and could be sentenced to up to two years in prison. If rigorously enforced, this order could result in millions of persons losing rights of access to their lands. Understanding of the new law and the application process was low in affected communities.

Beginning in September, police began to arrest farmers for violating the new law. Eight farmers were sentenced to two years' imprisonment for farming land in Ayeyarwady Region that the local government seized as vacant and sold to a private company.

Civil society groups argued the new law was unjust and called for its immediate suspension. These groups also called for customary tenure to be defined and included in all land laws since it is included in the National Land Use Policy.

Observers were concerned about official statements suggesting that the new law could also be used to prevent displaced Rohingya from returning to their land or receiving adequate compensation. Officials stated that burned land would revert to the government and posted signs in several venues to that effect. Given that the military bulldozed villages, demolished structures, and cleared vegetation to build security bases and other structures in Rakhine State and given that the land law states that land not used productively within four years reverts to the government, civil society groups saw little progress in returning land confiscated by the government.

In March a group of 41 Karenni farmers and activists who were detained for more than six months for damaging property in a dispute with the army predating the new law were released from prison in Loikaw, Kayah State, after completing their sentences and paying fines. During the year many other farmers were awaiting trial in similar cases.

Neither restitution nor adequate compensation was provided to persons or communities whose land was confiscated under the former military regime.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law protects the privacy and security of the home and property, but these protections were poorly enforced. The law does not protect the privacy of correspondence or other communications.

Some activists reported the government systematically monitored citizens' travel and closely monitored the activities of politically active persons, while others reported they did not experience any such invasions of privacy. Special Branch police, official intelligence networks, and other administrative systems (see section 2.d.) were reported agents of such surveillance.

The government and military commonly monitored private electronic communications through online surveillance. Police used Cellebrite technology to breach cell phones. While Cellebrite halted new sales in the country and stopped servicing equipment that was already sold in late 2018, authorities continued to employ the technology.

Authorities in Rakhine State required Rohingya to obtain a permit to marry officially, a step not required of other ethnicities. Waiting times for the permit could exceed one year, and bribes usually were required. Unauthorized marriages could result in prosecution of Rohingya men under the law, which prohibits a man from "deceitfully" marrying a woman, and could result in a prison sentence or fine.

There were reports of regular, unannounced nighttime household checks in northern Rakhine State and in other areas.

g. Abuses in Internal Conflict

There were long-running armed internal conflicts across the country. Reports of killings, disappearances, beatings, torture, forced labor, forced relocations, the unlawful recruitment and use of child soldiers, excessive use of force, disregard for civilian life, sexual violence, and other abuses committed by government forces and armed opposition and rebel groups were common. Within the military, impunity for abuses and crimes continued, although the military took disciplinary action in limited cases.

Conflict continued and escalated between the military and the AA in central and northern Rakhine State and expanded into southern Chin State; clashes between the military and multiple armed groups in northern Shan State took place throughout the year. Heavy fighting between the military and the AA displaced tens of thousands of civilians and resulted in civilian casualties and credible reports of military abuses. Although fighting between the two sides quieted in November and December and some individuals returned home, the situation remained tense and most displaced persons were unable to do so. The military also clashed with the Karen National Union in Karen State, temporarily displacing hundreds in February and March.

Killings: Military officials reportedly killed, tortured, and otherwise seriously abused civilians in conflict areas without public inquiry or accountability. Following ethnic armed groups' attacks on the military, the military reportedly often directed its attacks against civilians, resulting in deaths. Some ethnic armed groups, most notably the AA, also allegedly committed abuses. The AA allegedly killed off-duty police and military personnel as well as civilians suspected of providing information to the military. Multiple local and international groups reported that the number of dead and injured civilians in the fighting between the military and the AA from January to April alone far surpassed the total for all of 2019--by one accounting, 151 were killed and 394 wounded through the middle of April--as the overall humanitarian situation deteriorated while the geographic scope of fighting grew.

The military blamed the AA for these and other killings of police: a police lieutenant was killed in Kyauktaw, Rakhine State on June 13; a police captain was shot by multiple assailants at the same station on August 12; two off-duty Border Guard Police officers were abducted in Maungdaw, Rakhine State on September 8, one was killed and the other was missing as of October. On September 8, four persons, including two children, were killed and another 10 wounded when the military fired artillery into a village in Myebon Township, Rakhine State, according to local residents and press.

Abductions: Government soldiers and nonstate armed groups abducted villagers in conflict areas.

The AA often abducted officials and others for propaganda purposes. On January 21, the AA released lower house member of parliament Hawi Tin after two months in custody. The AA detained him and several Indian nationals en route from

Paletwa, Chin State, to Kyauktaw, Rakhine State. On October 19, the AA claimed responsibility for the October 14 abduction of two NLD candidates who were campaigning in Taungup Township, Rakhine State. The NLD rejected AA demands for the release of students and other protesters in exchange for the candidates.

Physical Abuse, Punishment, and Torture: Nongovernmental organization (NGO) reports provided credible information that the military tortured and beat civilians alleged to be working with or perceived to be sympathetic to ethnic armed groups in Rakhine State. There were also continued reports of forced labor and forced recruitment by the United Wa State Army, the Restoration Council of Shan State, and the Ta'ang National Liberation Army.

In May a video released by Radio Free Asia on social media showed soldiers viciously beating five blindfolded and bound men from Ponnagyun Township, Rakhine State, on April 27 aboard a naval vessel. The five were forced to confess to being AA members, although relatives and local villagers claimed they were civilians from a village the military shelled on April 13. The military released a statement on May 12 admitting that members of the security forces performed "unlawful interrogations" and promising to "take actions."

Civilians, armed actors, and NGOs operating inside the country and along the border reported continued indiscriminate landmine use by the military and armed groups.

Child Soldiers: Four ethnic armed groups--the Kachin Independence Army, the armed wing of the Kachin Independence Organization; the Shan State Army, the armed wing of the Shan State Progress Party; the United Wa State Army; and the Democratic Karen Benevolent Army--were listed in the UN secretary-general's 2020 report on Children and Armed Conflict as perpetrators of the unlawful recruitment and use of children. The military was conditionally delisted by the secretary-general as a perpetrator of unlawful recruitment and use of children due to continued progress on child recruitment, although the secretary-general called for continued progress on use of children.

The penalties imposed for recruiting and using child soldiers in a manner inconsistent with relevant laws were not commensurate with the seriousness of these actions. Most child recruitment or use cases reportedly culminated in reprimands, demotions, relocations, fines, or decreases in pensions, penalties significantly less severe than those prescribed by criminal law. Despite military

directives prohibiting the use and recruitment of children, some children were still used by the military for noncombat roles in conflict areas. On child recruitment, reports continued that middlemen fraudulently facilitated enrollment of underage recruits, sometimes at the request of the recruits' families. The Ministry of Defense undertook to investigate military personnel implicated in unlawfully recruiting child soldiers. There was, however, no evidence that the government prosecuted soldiers in military or civilian courts for recruiting or using child soldiers.

The military generally allowed UN monitors to inspect for compliance with agreed-upon procedures for ending the unlawful use and recruitment of children and identifying and demobilizing those already recruited. There were, however, some delays in securing official permissions, and access to conflict areas was often denied. The government allowed the United Nations to engage ethnic armed groups on the signing of joint plans of action to end the recruitment and use of child soldiers and to demobilize and rehabilitate those already serving.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/trafficking-in-persons-report/.

Other Conflict-related Abuse: The government restricted the passage of relief supplies and access by international humanitarian organizations to conflict-affected areas of Rakhine, Chin, Kachin, and Shan States. The government regularly denied access to the United Nations, international NGOs, and diplomatic missions, asserting the military could not ensure their security or by claiming that humanitarian assistance would benefit ethnic armed group forces. In some cases the military allowed gradual access as government forces regained control over contested areas.

A World Health Organization vehicle with UN markings transporting COVID-19 test samples to Rangoon came under fire in Minbya Township, Rakhine State, on April 20, during heavy fighting in the area. The driver was hit and died of his injuries on April 21. The military and the AA traded blame for the attack. Based on the nature of the attack and the vehicle's passage through a military checkpoint shortly before coming under fire, most observers believed the AA was responsible, although the attack may have been unintended. The government announced the formation of a four-member committee to investigate the attack.

In a separate incident, a convoy of five clearly marked World Food Program trucks came under fire in southern Chin State on April 29 while transporting food aid to

vulnerable communities around Paletwa, the site of numerous recent clashes between the military and the AA. One of the drivers suffered a minor injury, and three of the five trucks were damaged. The World Food Program supplies ultimately reached Paletwa on May 2, traveling the final distance by boat.

Reports continued that the military forced civilians to act as human shields, carry supplies, or serve in other support roles in conflict areas such as northern Shan, southern Chin, and Rakhine States. On October 5, military forces conscripted 14 Rohingya civilians, many of them teenagers, to act as "guides" in the village of Pyin Shae, in Buthidaung Township, according to local civil society, officials, and multiple press reports. The soldiers, anticipating a clash with the AA forced the villagers to walk in front of them--using them, in effect, as human buffers. One press report indicated the military might also have believed the area was mined. When the group came under fire from AA forces, two teenage boys were killed and a man was seriously injured; the others fled.

As of November, an estimated 326,500 persons remained displaced by violence in Rakhine, Chin, Kachin, and Shan States. An increase of 60,000 in 12 months in Rakhine and Chin States was driven by the fighting between the AA and the military. In some cases, villagers driven from their homes fled into the forest, frequently in heavily mined areas, without adequate food, security, or basic medical care.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides that "every citizen shall be at liberty in the exercise of expressing and publishing freely their convictions and opinions," but it contains the broad and ambiguous caveat that exercise of these rights must "not be contrary to the laws enacted for national security, prevalence of law and order, community peace and tranquility, or public order and morality." Threats against and arrests of journalists and others who criticized the government or military continued.

Freedom of Speech: Freedom of speech was more restricted than in 2019. Authorities arrested, detained, convicted, intimidated, and imprisoned citizens for expressing political opinions critical of the government and the military, generally under charges of defamation, incitement, or violating national security laws. This included the detentions and trials of activists and ordinary citizens. The

government applied laws carrying more severe punishments than in the past, including laws enabling years-long prison sentences.

Some persons remained wary of speaking openly about politically sensitive topics due to monitoring and harassment by security services and ultranationalist Buddhist groups. Police continued to monitor politicians, journalists, and writers.

On January 17, the Karen State government charged Karen environmental activist Saw Tha Phoe over his role in a traditional prayer ceremony to protect local water resources against pollution from a coal-powered cement factory. He fled when police attempted to arrest him and was still in hiding as of November. The local government General Administration Department filed a complaint against Saw Tha Phoe for making or circulating statements that may cause public fear or alarm and incite the public to commit an offense against the state or "public tranquility."

On May 7, the Kayah State government placed numerous restrictions on civil society and political activities, using COVID-19 as a pretext to ban any speeches, writing, pictures, posters, placards, pamphlets, or other activity deemed to be defamatory to authorities, according to *The Irrawaddy* newspaper.

On September 4, Maung Saungkha, an activist, poet, and cofounder of the freedom of expression activist organization Athan, paid a fine to avoid a prison sentence over an act of peaceful protest to mark the first anniversary of the mobile internet shutdown in Rakhine and Chin States. Saungkha unfurled a banner asking: "Is the internet being shut down to hide war crimes in Rakhine [State] and killing people?"

Military officers brought or sought to bring charges against several prominent religious figures based on their criticism of the military, including multiple Buddhist monks. Cases against at least three prominent, protolerance monks critical of the military and Burmese Buddhist ultranationalism, Sein Ti Ta, Myawaddy Sayadaw, and Thawbita, remained open as of November.

As of November, proceedings continued in the cases against democracy activist Nilar Thein and four others for their protest during a court hearing for Peacock Generation members (see Academic and Freedom and Cultural Events below). Nilar Thein and the four others were charged with "obstructing" and "deterring" a public official. The maximum sentence is three years in jail.

Freedom of Press and Media, Including Online Media: Independent media were active and able to operate, despite many official and unofficial restrictions. The government continued to permit the publication of privately owned daily newspapers. As of November, authorities approved 47 dailies; however, press freedom declined compared with 2019, and security forces detained journalists under laws carrying more severe sentences than those used in previous years.

Local media could cover human rights and political issues, including, for example, democratic reform and international investigations of the 2017 ethnic cleansing in Rakhine State, although they observed some self-censorship on these subjects. Official action or threats of such action increased against journalists reporting on conflict in Rakhine State involving the AA. The government generally permitted media outlets to cover protests and civil unrest, topics not reported widely in state-run media.

The military continued to react harshly to perceived critical media commentary through prosecution by civil authorities. Members of the ruling party increasingly prosecuted journalists perceived as critical. Officials continued to monitor journalists in various parts of the country, according to Freedom House.

On April 3, Takotaw Nanda (also known as Aung Kyi Myint), a *Channel Myanmar News* journalist, was sentenced to two years' imprisonment for allegedly disrupting a public service and unlawful assembly after live-streaming on Facebook a May 2019 protest against a Mandalay Region cement plant. In May 2019, Aung Marm Oo, editor-in-chief of Development Media Group in Rakhine State, went into hiding after charges were filed that the group reported human rights violations in the continuing fighting between the military and the AA. Aung Marm Oo, also known as Aung Min Oo, received death threats, while Special Branch police interrogated journalists at the media group and questioned his family members.

Authorities took actions against journalists for erroneous reporting on the COVID-19 pandemic. On May 21, chief editor of Dae Pyaw News Agency, Zaw Min Oo, was sentenced to two years in prison for falsely reporting a COVID-19 death in Myawady, Karen State, on April 3. He was charged with publishing or circulating a statement, rumor, or report that could arouse "public mutiny, fear, alarm or incitement." On July 10, Zaw Min, a reporter from Khit Thit Media, was fined for incorrectly reporting a local quarantine center had no staff to feed nine patients and no masks or soap were available.

The government relaxation of its monopoly on domestic television broadcasting continued, with five private companies broadcasting using Ministry of Information platforms. The news broadcasters, however, were subject to the same informal restrictions as were print and online media. The government offered three public channels--two controlled by the Ministry of Information and one by the military; the ministry channels regularly aired the military's content. Two private companies that had strong links to the previous military regime continued to broadcast six free-to-air channels. The government allowed the general population to register satellite television receivers for a fee, but the cost was prohibitive for most persons outside of urban areas. The military, government, and government-linked businesspersons controlled the eight privately or quasi-governmentally owned FM radio stations.

Violence and Harassment: Government agents, nationalist groups, and businesspersons engaged in illegal enterprises, sometimes together with local authorities, continued to attack and harass journalists who criticized government policy on a range of issues.

On February 9, ultranationalists from the Ma Ba Tha-linked Myanmar National Organization protesting in Rangoon threatened and physically intimidated staff at Khit Thit Media and 7 Day News, according to Tharlon Zaung Htet, editor of Khit Thit Media and a member of the government-sponsored Myanmar Press Council.

On March 4, *Frontier Myanmar* journalist Naw Betty Han and Ko Mar Naw, a photojournalist from *Myanmar Times*, were detained for one day and allegedly tortured by the ethnic Karen Border Guard Forces in Myawaddy Township, Karen State, for reporting on the Chinese Shwe Kokko development project.

On May 13, Kyaw Lin, a journalist who reported for online independent news outlets Myanmar Now and Development Media Group, was assaulted in Sittwe, Rakhine State, by two individuals shouting death threats. Kyaw Lin had reported on fighting between the AA and the military. In 2017, an unknown attacker stabbed him in Sittwe after he published an article on local land prices. The perpetrators of the May 13 assault were still at large as of October.

Authorities prevented journalists' access to northern Rakhine State except on government-organized trips that participants reported to be tightly controlled and designed to advance the government's narrative. The government continued to use visa issuance and shortened visa validities to control foreign journalists, especially those not based in the country.

Censorship or Content Restrictions: Although generally not enforced, laws prohibit citizens from electronically passing information about the country to foreign media, exposing journalists who reported for or cooperated with international media to potential harassment, intimidation, and arrest. There were no reports of overt prepublication censorship, and the government allowed open discussion of some sensitive political and economic topics, but legal action against publications that criticized the military or the government increased self-censorship.

Self-censorship was common, particularly on issues related to Buddhist extremism, the military, the situation in Rakhine State, and the peace process. Journalists reported that such self-censorship became more pronounced after the 2018 trial and conviction of two Reuters journalists. The government ordered media outlets to use certain terms and themes to describe the situation in northern Rakhine State and threatened penalties against journalists who did not follow the government's guidance, exacerbating self-censorship on that topic.

The military filed a complaint to the Myanmar Press Council when a January 25 Reuters story quoted a lawmaker as saying that army artillery fire had caused the deaths of two Rohingya women. After the reported advocacy by the press council, however, the military withdrew its complaint on March 18 "in the interest of maintaining good relations with the press council."

The government censorship board reviews all films to be screened inside the country.

Journalists continued to complain about the widespread practice of government informants attending press conferences and other events, which they said intimidated reporters and the events' hosts. Informants demanded lists of hosts and attendees.

Libel/Slander Laws: A criminal defamation clause in the telecommunications law was frequently used to restrict freedom of expression; charges were filed against journalists, activists, and ordinary citizens perceived as critics of the government and the military.

Noted filmmaker and human rights activist Min Htin Ko Gyi was freed on February 21 after serving seven months in prison for libel for Facebook posts that were critical of the military's role in politics.

As of November, a case against three prominent political activists, lawyer Kyi Myint, poet Saw Wai, and former army captain Nay Myo Zin, continued in the courts. In late 2019 the military charged them with defamation for remarks they made in April 2019 about amending the military-drafted 2008 constitution. Nay Myo Zin was serving a one-year prison term in Insein Prison on the same charge from another military lawsuit.

National Security: In March the government and military designated the Arakan Army as a terrorist organization and an unlawful association under the law. Nay Myo Lin, founder and editor of *Voice of Myanmar*, a local Mandalay news outlet, was arrested on March 30 for publishing an interview with an AA spokesperson. He was charged in a local court under sections of the law prohibiting organizations and individuals from contacting or associating with outlawed organizations--a charge carrying a maximum life sentence. Police released Nay Myo Lin on April 10 when the court decided to drop the case.

Internet Freedom

The government censored online content, restricted access to the internet, and continued to prosecute internet users for criticism of the government and military and their policies and actions. In March the Ministry of Transport and Communications issued a series of directives ordering internet providers to block websites.

By order of the Transport and Communications Ministry, mobile phone operators in 2019 stopped mobile internet traffic in eight townships in northern Rakhine State and in Paletwa Township in southern Chin State due to "disturbances of peace and use of internet services to coordinate illegal activities." Although the ministry announced on June 23 that internet restrictions were extended only through August 1, as of November only 2G data networks were available, according to Human Rights Watch. Some persons reported being unable to access the internet at all. On October 31, the ministry announced all mobile operators should extend restrictions on 3G and 4G mobile data services in the eight townships until at least December 31.

The telecommunications law includes broad provisions giving the government the power to temporarily block and filter content, on grounds of "benefit of the people." According to Freedom House, pressure on users to remove content continued from the government, military, and other groups. The law does not

include provisions to force the removal of content or provide for intermediary liability, although some articles are vague and could be argued to cover content removal. Pressure to remove content instead came from the use or threat of use of other criminal provisions.

In the second half of March, the Posts and Telecommunications Department ordered mobile operators to block more than 2,000 websites, including 67 allegedly distributing "fake news." In May it followed up by instructing the operators to block a further 22 sites alleged to contribute to "fearmongering" and "misleading of the public in relation to the coronavirus." Neither the government nor the operators released a full list of the blocked websites, but among those that could no longer be accessed were several registered news organizations, including Rakhine State-based Development Media and Narinjara News, *Voice of Myanmar*, Karen News from Karen State, Mandalay-based *In-Depth News*, and *Mekong News*, which was based in eastern Shan State's Tachileik.

The government's Social Media Monitoring Team reportedly continued to monitor internet communications without clear legal authority, according to Freedom House. Social media continued to be a popular forum to exchange ideas and opinions without direct government censorship, although there were military-affiliated disinformation campaigns on social media.

The government limited users' ability to communicate anonymously by enforcement of SIM card registration requirements. Subscribers must provide their name, citizenship identification document, birth date, address, nationality, and gender to register for a SIM card; noncitizens must provide their passports. Some subscribers reported being required by telecommunications companies to include further information beyond the bounds of the regulations, including their ethnicity.

Academic Freedom and Cultural Events

Government restrictions on academic freedom and cultural events continued.

The government tightened restrictions on political activity and freedom of association on university campuses. In September and October, approximately 57 students at universities across the country, who protested human rights violations in Rakhine State, called on the government to lift internet restrictions in Rakhine and Chin states and urged reform of laws to comply with international standards for the protection of freedom of expression and peaceful assembly. They were arrested and faced a variety of criminal charges, according to the All Burma

Federation of Student Unions. The students were charged with unlawful assembly, various speech-related crimes, antimilitary incitement, and other crimes, according to the federation. As of November, more than 20 were imprisoned, while the remainder were awaiting sentencing or were in hiding while facing arrest warrants, according to the Assistance Association for Political Prisoners.

The government generally allowed the informal establishment of student unions, although among university rectors and faculty there was considerable fear and suspicion of student unions because of their historical role in protests. Although some student unions were allowed to open unofficial offices, the All Burma Federation of Student Unions, as in previous years, was unable to register but participated in some activities through informal networks.

There were reported incidents of the government restricting cultural events. There is a ban on street art. On April 3, three street artists were arrested for painting a mural about the coronavirus pandemic, according to Human Rights Watch. The artists were charged with violating a law criminalizing speech that "insults" religion after Buddhist hardliners complained the mural portrayed a grim reaper figure that they believed looked like a Buddhist monk, spreading the COVID-19 virus. On July 17, the artists were freed after charges were dropped.

In a series of seven verdicts delivered between October 2019 and June 2020, courts handed down prison sentences to the leader and five other members of the satirical street performance group Peacock Generation. Group leader Zayar Lwin was sentenced to a total of five and one-half years in prison; the others received sentences of two to six years. The military brought the charges after a performance in which members satirically criticized the military's political power in a democracy. At year's end up to 25 members still faced charges that carry up to six months in prison, while two members were released in June and August, respectively, having already completed sentences of more than a year.

Public film showings were possible with the cooperation of the Ministry of Information. The MEMORY! film festival showed prescreened classic films in public spaces in Rangoon "under the high patronage of the Ministry of Information." According to the organizers, mutual trust with the ministry enabled freedom of expression for organizers, participants from civil society organizations, and audiences. Organizers showed films including challenging themes. While MEMORY! faced information ministry censorship, mostly for nudity or Buddhist imagery, no film was banned in its entirety, and journalistic fora and public discussions around the films were free of interference.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, but the government restricted these rights. In addition to direct government action, the government's failure to investigate or prosecute attacks on human rights defenders and peaceful protesters led to de facto restrictions on freedom of assembly and association.

Freedom of Peaceful Assembly

Although the constitution provides the right to peaceful assembly, it was not always respected. While the law only requires notification of protests, authorities treated notification as a request for permission. Authorities used laws against criminal trespass and provisions criminalizing actions the government deemed likely to cause "an offense against the State or against the public tranquility" to restrict peaceful assembly.

Restrictions remained in place in 11 Rangoon townships on all applications for processions or assemblies. Some civil society groups asserted these restrictions were selectively applied and used to prevent demonstrations against the government or military.

Farmers and social activists continued to protest land rights violations and land confiscation throughout the country, and human rights groups reported the arrest of farmers and supporters. Many reported cases involved land seized by the former military regime and given to private companies or persons with ties to the military.

Whether civil society organizations were required to apply for advance permission before holding meetings and other functions in hotels and other public venues varied by situation and by government official. Some officials forced venues to cancel civil society events where such permission was not obtained.

On January 17, four activists--Naw Ohn Hla, Maung U, U Nge (also known as Hsan Hlaing), and Sandar Myint--were sentenced to one month in prison after they were found guilty of protesting without authorization. Police charged the four activists after they participated in a peaceful demonstration organized by residents of the Shwe Mya Sandi housing project in Karen State in April 2019.

On March 20, Than Hla (also known as Min Bar Chay), an ethnic Rakhine development worker, was found guilty of protesting without permission after he participated in a demonstration calling for justice and an end to security force violations in Rakhine State. He was sentenced to 15 days in prison; he was released the same day authorities announced that a second charge of protesting without permission was dropped.

Freedom of Association

Although the constitution and laws allow citizens to form associations and organizations, the government sometimes restricted this right.

The law on registering organizations stipulates voluntary registration for local NGOs and removes punishments for noncompliance for both local and international NGOs. In the run-up to the November general election, the government began insisting that NGOs receiving foreign funding were required to register.

Registration requires sponsorship from a government ministry. Some NGOs that tried to register under this law found the process extremely onerous. According to *Myanmar Now*, NGOs classed as "advocacy groups" would have to pay tax if the Internal Revenue Department determined, based on their tax return, that they made a "profit." Advocacy groups include those working on human, women's, labor, and land rights. NGOs expressed concern about the new rules and warned they could place an unfair burden on small organizations and limit their operations.

Activists reported that civil society groups, community-based organizations, and informal networks operated openly and continued to discuss human rights and political issues openly, although discussion of the most sensitive issues could lead to prosecution. They reported, however, that state surveillance of such operations and discussions was common and that government restrictions on meetings and other activity continued.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law does not protect freedom of internal movement, foreign travel, emigration, or repatriation. Local regulations limit the rights of citizens to settle and reside anywhere in the country. By law the president may require the registration of foreigners' movements and authorize officials to require foreigners to register every change of address exceeding 24 hours.

In-country Movement: Regional and local orders, directives, and instructions restricted freedom of movement.

Restrictions on in-country movement of Rohingya were extensive. Authorities required the largely stateless Rohingya to carry special documents and travel permits for internal movement in areas in Rakhine State where most Rohingya resided. Township officers in Buthidaung and Maungdaw Townships continued to require Rohingya to submit a "form for informing absence from habitual residence" in order to stay overnight in another village and to register on the guest list with the village administrator. Obtaining these forms and permits often involved extortion and bribes.

Restrictions governing the travel of foreigners, Rohingya, and others between townships in Rakhine State varied, depending on township, and generally required submission of a document known as "Form 4." A traveler could obtain this form only from the township Immigration and National Registration Department and only if that person provided an original copy of a family list, a temporary registration card, and letters from two guarantors. Travel authorized under Form 4 is generally valid for two to four weeks, but it is given almost exclusively for medical emergencies, effectively eliminating many opportunities to work or study. The cost to obtain the form varied from township to township, with required payments to village administrators or to the township immigration office ranging from the official amount of 30,000 to more than two million kyats ($22 to $1,460). The extensive administrative measures imposed on Rohingya and foreigners in Rakhine State effectively prevented persons from changing residency.

Rohingya faced prison terms of up to two years for attempting to travel out of Rakhine State without prior authorization. A total of 128 Rohingya from Rakhine State were arrested in November 2019 after disembarking from boats near beach resorts in the Ayeyarwady Region. They were charged for traveling without valid identity documents, which carries a maximum two-year prison sentence, a modest fine, or both. On April 8, a court dropped illegal travel charges against more than 200 accused persons, but according to activists hundreds more Rohingya charged with illegal travel remained in jails and youth detention centers across the country.

Foreign Travel: The government maintained restrictions to prevent foreign travel by political activists, former political prisoners, and some local staff of foreign embassies. Stateless persons, particularly Rohingya, were unable to obtain documents required for foreign travel.

e. Status and Treatment of Internally Displaced Persons

As of November, an estimated 326,500 individuals were living as internally displaced persons (IDPs) due to violence in Rakhine, Kachin, Chin, and northern Shan States. The large number of primarily ethnic minority IDPs in primarily ethnic-dominated parts of the country can be traced back to decades of conflict between the central government and ethnic communities.

As of November, an estimated 40,000 IDPs lived in areas of the country outside government control, primarily in northern Kachin State. Fighting in Rakhine, Chin, and Shan States displaced tens of thousands of additional persons during the year, compounding the long-term displacement of communities in these areas. Most of those newly displaced in Shan State, however, were able to return home. Locally based organizations had some access to IDPs in areas outside government control, but the military restricted their access, including through threats of prosecution. The military largely restricted access to IDPs and Rohingya in areas of Rakhine State to only the Red Cross and the World Food Program, resulting in unmet humanitarian needs among these IDPs. The government had not granted the United Nations or other international organizations humanitarian access to areas in Kachin State outside of military control since 2016.

The United Nations reported significant deterioration in humanitarian access during the year--a situation further exacerbated by the COVID-19 pandemic--and the military continued to block access to IDPs and other vulnerable populations in areas controlled by ethnic armed groups (see section 1.g., Other Conflict-related Abuse). The Arakan Army-military conflict in Rakhine State and the COVID-19 pandemic were cited as justifications for additional onerous restrictions on humanitarian access in Rakhine State, most of which were not justified on security or public health grounds, according to humanitarian partners operating in Rakhine State.

The government restricted the ability of IDPs and stateless persons to move, limiting access to health services, employment opportunities, secure refuge, and schooling. While a person’s freedom of movement generally derived from

possession of identification documents, authorities also considered race, ethnicity, religion, and place of origin as factors in enforcing these regulations. Residents of ethnic minority states reported the government restricted the travel of IDPs and stateless persons.

The approximately 132,000 primarily Rohingya IDPs in Sittwe, Pauktaw, and other townships were dependent on assistance from aid agencies. Humanitarian agencies provided access to clean water, food, shelter, and sanitation in most IDP camps for Rohingya, although the COVID-19 pandemic restricted access from August.

An October Human Rights Watch report on the detention of Rohingya described the IDP camps' severe restrictions on movement; limited access to education, health care, and work; and the denial of fundamental rights. It referred to the camps collectively as "An Open Prison Without End." According to the report, more than 130,000 Muslims--mostly Rohingya, as well as a few thousand Kaman--remain confined in IDP camps in central Rakhine State. Rohingya in the camps were denied freedom of movement through overlapping systems of restrictions--formal policies and local orders, informal and ad hoc practices, checkpoints and barbed-wire fencing, and a widespread system of extortion that made travel financially and logistically prohibitive. In 24 camps or camp-like settings, severe limitations on access to livelihoods, education, health care, and adequate food or shelter were compounded by increasing government constraints on humanitarian aid.

The COVID-19 pandemic further compounded freedom of movement restrictions in IDP camps. In general, IDP camps did not have dedicated quarantine centers or testing facilities due to lack of space and dedicated staff. If there was a positive case, movement restrictions were imposed on the entire camp and residents were not allowed to leave or enter the camp, according to the UN High Commission for Refugees. IDPs who required testing, hospitalization, and quarantine were moved to outside government facilities where the government and humanitarian organizations provided targeted support for the patient and direct contacts. IDPs received adequate care, and outside of a few isolated cases, there were no major COVID-19 outbreaks at IDP camps.

Camp shelters, originally built to last just two years, deteriorated without construction and maintenance, leading to overcrowding and vulnerability to flood and fire. According to Human Rights Watch, these IDP camp conditions were a direct cause of increased morbidity and mortality in the camps, including increased

rates of malnutrition, waterborne illnesses, and child and maternal deaths. Lack of access to emergency medical assistance, particularly in pregnancy-related cases, led to preventable deaths.

Approximately 70 percent of the 120,000 school-age Muslim children in central Rakhine camps and villages were out of school, according to Human Rights Watch. Given the movement restrictions, most could only attend underresourced temporary learning centers led by volunteer teachers. Restrictions that prevented Rohingya from working outside the camps had serious economic consequences. Almost all Rohingya in the camps were forced to abandon their pre-2012 trades and occupations.

Despite the adoption of a national camp closure strategy in 2019, the government's approach to "closing" IDP camps largely consisted of building new infrastructure near existing camps and reclassifying them as villages without addressing movement restrictions; providing security, livelihoods, or basic services; or consulting with IDPs on their right to return to their areas of origin or to resettle in areas of their choice.

f. Protection of Refugees

The government did not always cooperate with the Office of the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, or other persons of concern.

Abuse of Migrants and Refugees, and Stateless Persons: Dozens of Rohingya were arrested and charged under immigration laws after returning from Bangladesh informally in June and July during heightened scrutiny of border crossings because of the COVID-19 pandemic.

Access to Asylum: The law does not provide for granting asylum or refugee status, and the government has not established a system for providing protection to refugees. The UN High Commission for Refugees did not register any asylum seekers during the year.

g. Stateless Persons

The vast majority of Rohingya are stateless. Following the forced displacement of more than 700,000 Rohingya to Bangladesh in 2017, up to 600,000 Rohingya were

estimated to remain in Rakhine State. There were also likely significant numbers of stateless persons and persons with undetermined nationality throughout the country, including persons of Chinese, Indian, and Nepali descent. Although these latter groups did not face the same level of official and social discrimination as Rohingya, they were still subject at best to the lesser rights and greater restrictions of associate and naturalized citizenship.

The government recognizes 135 "national ethnic groups" whose members are automatically full citizens. The law defines "national ethnic group" as a racial and ethnic group that can prove origins in the country dating back to 1823, the year prior to British colonization. Despite this rule, the government has granted "national ethnic group" status to ethnic groups or withdrawn that status from them throughout the country on various occasions. The Rohingya are not on the list. Several ethnic minority groups, including the Chin and Kachin, criticized the classification system as inaccurate.

The law also establishes two forms of citizenship short of full citizenship: associate and naturalized. Citizens of these two types are unable to run for political office; form a political party; serve in the military, police, or public administration; inherit land or money; or pursue certain professional degrees, such as medicine and law. Only members of the third generation of associate or naturalized citizens are able to acquire full citizenship.

Some Rohingya may be technically eligible for full citizenship. The process involves additional official scrutiny and is complicated by logistical difficulties, including travel restrictions and significant gaps in understanding the Burmese language. In practice this also requires substantial bribes to government officials, and even then it does not guarantee equality with other full citizens. In particular, only Rohingya are required to go through an additional step of applying for the National Verification Card (NVC), in which their identity papers will describe them as "Bengali" and presumes them to be noncitizens. This can lead to discrimination in access to public services and a wide range of societal discrimination. While members of other ethnic groups faced challenges, they are not singled out the same way Rohingya are in obtaining citizenship.

The law does not provide any form of citizenship (or associated rights) for children born in the country whose parents are stateless.

The government continued to call for Rohingya to apply for NVCs, created in 2015. The government claimed that these cards were necessary to apply for

citizenship as well as other government documentation, such as Citizenship Scrutiny Cards. NGO reports indicated that Rohingya were pressured or coerced to accept NVCs. For example, there were reported cases of government officials requiring Rohingya to have an NVC to go fishing or access a bank account. Many Rohingya expressed the need for more assurances about the results of the process as well as fear that after turning in their old documents they would not be issued new documents. Many said they were already citizens and expressed fear the government would either not affirm their citizenship or would provide a form of lesser citizenship, thereby formalizing their lack of rights. Rohingya in Rakhine State had to identify as "Bengali" to apply for NVCs, while some Muslims from other ethnic groups had to identify as "Bengali" to apply for Citizenship Scrutiny Cards in other parts of the country.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens a limited ability to choose their government through elections held by secret ballot. General elections are held every five years, and by-elections are held to fill empty seats due to locally cancelled races or other vacancies in nonelection years. The electoral system is not fully representative and does not assure the free expression of the will of the people. Under the constitution, active-duty military are appointed to one-quarter of all national and regional parliamentary seats, and the military has the right to appoint the ministers of defense, home affairs--which has responsibility for police, prisons, and other domestic security matters--and border affairs. The military can also indefinitely assume power over all branches of the government should the president declare a national state of emergency. The constitution prohibits persons with immediate relatives holding foreign citizenship from becoming president. Amending the constitution requires approval by more than 75 percent of members of parliament, giving the military effective veto power over constitutional amendments. NLD efforts to reform the 2008 military-drafted constitution failed in March due to the military's veto. Significant portions of the population were disenfranchised due to restrictive citizenship laws or the cancellation of elections due to security concerns.

Elections and Political Participation

Recent Elections: Observers considered the November 8 national election to be generally reflective of the will of the people, notwithstanding some structural shortcomings. The NLD, chaired by Aung San Suu Kyi, won approximately 80 percent of the contested 1,150 seats at the state, regional, and union levels in the election. The NLD won 396 of 476 races for national assembly seats; a military-

affiliated party won 33, and various ethnically based parties took 47. By-elections in 2017 and 2018 were also assessed as basically free and fair. Aung San Suu Kyi is constitutionally barred from the presidency due to her marriage to a British national.

Most potential Muslim candidates were disqualified from running in the November 8 general election by electoral authorities or blocked by their own parties from running, apparently on a discriminatory basis. Some political parties, including the NLD, nominated Muslim candidates. Two Muslim members of parliament were elected. Almost all members of the Rohingya community, many of whom voted prior to 2015, were disenfranchised and barred from running for office. The government also canceled voting in some conflict-affected ethnic minority areas.

The November general election featured more than 90 political parties and more than 5,640 candidates. The electoral commission cancelled elections across most of Rakhine and parts of Chin, Kachin, Mon, and Shan states and Bago Region, which generated further disillusionment in the electoral process among ethnic minorities and disenfranchised approximately 1.5 million persons nationwide. The government did not permit the right to vote for hundreds of thousands of voting age Rohingya in Rakhine State or in refugee camps in Bangladesh. The UN special rapporteur on the situation of human rights commented before the elections that there was "no evidence that the government was willing or prepared to facilitate the right to vote for hundreds of thousands of voting age Rohingya in Rakhine state or in refugee camps in Bangladesh."

Political Parties and Political Participation: Opposition parties exercised their rights to assemble and protest. New political parties were generally allowed to register and compete in elections, which featured fewer restrictions than in 2015 on party organization and voter mobilization. Only sporadic interference from military and government officials was reported during the campaign and on November 8, unlike during the 2015 election, when military Special Branch elements were very active as election preparations were underway.

Electoral competition was skewed in part by the Union Solidarity and Development Party's systematic support from the military, whose personnel and their families were eligible to vote in advance without observers present, in some cases in military barracks, despite a May change to the election law that requires service members to vote at public polling places on election day. Moreover, some legal provisions can be invoked to restrict parties' operations. The constitution requires that political parties be loyal to the state. Laws allow for penalties,

including deregistration, against political parties that accept support from foreign governments or religious bodies or that are deemed to have abused religion for political purposes or disrespected the constitution. The electoral commission, which is appointed by the ruling party, censored opposition party broadcasts on state-run television.

Participation of Women and Members of Minority Groups: No laws limit the participation of women and members of minority groups in the political process, and they did participate. Nevertheless, women and minority groups continued to be underrepresented in government, and policies limited participation in practice. For example, in some municipal elections, the vote was apportioned at the household level, with only one member, usually the male head of household, allowed to vote for the entire household. Women made up only approximately 17 percent of national and local elected legislators.

Ethnic minority parliamentarians from ethnic minority political parties comprised less than 9 percent of legislators at the national, state, and regional level; this did not include the numerous ethnic minority members of the NLD or the Union Solidarity and Development Party (see Recent Elections above for participation of Muslims and Rohingya).

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials and the government continued efforts to curb corruption.

Corruption: Corruption remained widespread, particularly in the judicial sector. Police reportedly often required victims to pay substantial bribes for criminal investigations and routinely extorted money from members of the public. The government took some steps to investigate and address corruption of government officials.

On May 22, former Tanintharyi Region chief minister Lei Maw was sentenced to 30 years in prison for bribery, becoming the most senior official ever to be jailed for corruption. On the other side of the ledger, on August 27, the telecommunications minister ordered a shutdown of the *Justice for Myanmar* website. The site, established in April, sought to expose corrupt links between the military and business communities.

Financial Disclosure: Public officials were not subject to public financial disclosure laws. The law requires the president and vice presidents to furnish a list of family assets to the speaker of the joint houses of parliament, and the law requires persons appointed by the president to furnish a list of personal assets to the president. The government did not make the reports available to the public.

Civil servants cannot accept gifts worth more than 25,000 kyats ($18). The rules also require civil servants to report all offers of gifts to their supervisors, whether they are accepted.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

The government did not allow domestic human rights organizations to function independently. Human rights NGOs were able to open offices and operate, but there were reports of harassment and monitoring by authorities, and authorities sometimes pressured hotels and other venues not to host meetings by activists or civil society groups. The government systematically denied international institutions or organizations attempting to investigate human rights abuses access to the country or sensitive regions.

Foreign human rights activists and advocates, including representatives from international NGOs, continued to be restricted to short-term visas that required them to leave the country periodically for renewal. The government continued to monitor the movements of foreigners and interrogated citizens concerning contacts with foreigners.

The United Nations or Other International Bodies: The government has not agreed to the opening of an Office of the UN High Commissioner for Human Rights and has not approved visa requests for its staff.

The government has also refused to cooperate with or give the Independent Investigative Mechanism for Myanmar, created by the UN Human Rights Council, access to the country.

The government continued to refuse entry to the UN special rapporteur on the situation of human rights in Myanmar but permitted UN Secretary General's Special Envoy on Myanmar Christine Schraner-Burgener to open an office in the country and to meet with opposition figures, IDPs, senior officials including Aung San Suu Kyi and Commander-in-Chief Min Aung Hlaing, and others in 2019.

In January the International Court of Justice unanimously ordered the government to preserve any evidence of atrocities against Rohingya; ensure that government and security officials refrain from any act that could contribute to genocide; and report to the court on its progress on these measures in May and every six months thereafter. The government submitted its first report in May. The report was not made public. The court's order followed a 2019 suit by the Gambia alleging that Myanmar violated the Genocide Convention by committing atrocities against Rohingya; failing to prevent and punish genocide; and committing continued violations of the convention. International human rights organizations continued to assert that the country remains in violation of its obligations.

Government Human Rights Bodies: The Myanmar National Human Rights Commission investigated some incidents of human rights abuses. The commission has the power to conduct independent inquiries, and in some cases it called on the government to conduct investigations into abuses. Human rights advocates questioned its ability to operate as a credible, independent mechanism, noting a lack of substantive investigations into allegations of widespread and systematic human rights abuses perpetrated by security forces. The commission supported the development of human rights education curricula, distributed human rights materials, and conducted human rights training. During the year it investigated one human trafficking case and pushed for equal rights for women police officers.

The Independent Commission of Enquiry for Rakhine State, formed by the government in 2018, released only the executive summary of its final report on January 21. It described the government security forces' actions in Rakhine State in 2017 as largely in response to a massive insurgency by the Arakan Rohingya Salvation Army and attempted to frame the 2017 violence as part of an armed conflict with Rohingya. The report argued that genocide did not occur and denied the existence of any credible reports of rape and sexual violence, while acknowledging that limited "war crimes and serious human rights violations may have occurred." As of November, the full report had not been released.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Rape of women is illegal but remained a significant problem, and the government did not enforce the law effectively. Rape of a woman outside of marriage carries a maximum sentence of 20 years'

imprisonment. Spousal rape is not a crime unless the wife is younger than 14, and the penalty is a maximum of two years in prison. The law prohibits committing bodily harm against another person, but there are no laws specifically against domestic violence or spousal abuse unless the wife is younger than 14. Overlapping and at times contradictory legal provisions complicated implementation of these limited protections.

The number of reported rapes increased over the previous year, but it was unclear whether this was due to increased awareness or increased incidences of rape. Police generally investigated reported cases of rape, but there were reports police investigations were not sensitive to victims. Civil society groups continued to report police in some cases verbally abused women who reported rape, and women could be sued for impugning the dignity of the perpetrator.

Domestic violence against women, including spousal abuse, remained a serious problem. Abuse within families was prevalent and considered socially acceptable. Spousal abuse or domestic violence was difficult to measure because the government did not maintain comprehensive statistics and victims typically did not report it, although the government attempted to document cases, and reported cases were on the rise. In April *Myanmar Times* reported the observation by Daw Htar, founder of the NGO Akhaya Women Myanmar, that over the two weeks when the government started community lockdowns in some areas, there was a spike in domestic violence complaints compared to the prelockdown period.

Sexual Harassment: The law prohibits sexual harassment and imposes a maximum of one year's imprisonment and a fine for verbal harassment and a maximum of two years' imprisonment and a fine for physical contact. There was no information on the prevalence of the problem because these crimes were largely unreported. Local civil society organizations reported police investigators were not sensitive to victims and rarely followed through with investigations or prosecutions.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. The law allows the government to impose coercive birth-spacing requirements--36 months between children--if the president or national government designates "special regions" for health care based on factors such as population, migration rate, natural resources, birth rates, and food availability. Once a special region is declared, the government may create special healthcare organizations to perform various tasks,

including establishing family planning regulations. The government did not designate any such special regions during the year.

In Rakhine State, local authorities prohibited Rohingya families from having more than two children, although some Rohingya with household registration papers reportedly could circumvent the law.

Discrimination: By law women enjoy the same legal status and rights as men, including property and inheritance rights and religious and personal status, but it was not clear the government enforced the law. Customary law was widely used to address issues of marriage, property, and inheritance; it differs from the provisions of statutory law and is often discriminatory against women.

The law requires equal pay for equal work, but it was not clear the formal sector respected this requirement. NGOs reported some sectors did not comply, and other forms of workplace discrimination were common (see section 7.d.).

Poverty affected women disproportionately.

The law restricts the ability of Buddhist women to marry non-Buddhist men by imposing a requirement of public notification prior to any such marriage and allowing for objections to the marriage to be raised in court, although the law was rarely enforced.

Children

Birth Registration: The law automatically confers full citizenship to children of two parents from one of the 135 recognized national ethnic groups and to children who met other citizenship requirements. Moreover, the government confers full citizenship to second-generation children of both parents with any citizenship, as long as at least one parent has full citizenship. Third-generation children of associate or naturalized citizens can acquire full citizenship. Many long-term residents in the country, including the Rohingya, are not among the recognized national ethnic groups, however, and thus their children are not automatically conferred citizenship (see section 2.g.).

A prominent international NGO noted significant rural-urban disparities in birth registration. In major cities (e.g., Rangoon and Mandalay), births were registered immediately because registration is required to qualify for basic public services and to obtain national identification cards. In smaller towns and villages, birth

registration often was informal or nonexistent. For the Rohingya community, birth registration was a significant problem (see section 2.g.). The Advisory Commission on Rakhine State noted in its interim report that nearly half of all residents in Rakhine State lacked birth documentation.

A birth certificate provides important protections for children, particularly against child labor, early marriage, and recruitment into the armed forces and armed groups. Sometimes a lack of birth registration complicated access to public services in remote communities.

Education: By law education is compulsory, free, and universal through the fourth grade (up to age 10). This leaves children ages 10 through 13 vulnerable to child labor, since they are not required to attend school but are not legally permitted to work, because the minimum age for work is 14. The government continued to allocate minimal resources to public education, and schools charged informal fees.

Schools were often unavailable in remote communities and conflict areas, and access to them for internally displaced and stateless children also remained limited.

Child Abuse: Laws prohibit child abuse, but they were neither adequate nor enforced. NGOs reported corporal punishment was widely used against children. The punishment for child abuse is a maximum of two years' imprisonment or a modest fine. The Ministry of Social Welfare, Relief, and Resettlement continued child protection programs in partnership with UNICEF to improve data collection, develop effective laws, provide psychosocial assistance, and combat trafficking, and added COVID-19 awareness raising. Violence in Rakhine, Chin, Shan, and Kachin states exposed many children to an environment of violence and exploitation.

Online and street protests continued following the alleged May 2019 sexual assault of a two-year-old girl, pseudonym "Victoria," at a nursery school in Nay Pyi Taw. Protesters raised concerns about the transparency of the trial, and in July 2019 Win Ko Ko Thein, the leader of an online protest campaign, was arrested for Facebook posts "defaming" the police officers investigating the case. Both cases continued as of November. Legal violations during the "Victoria" trial included the police's December 2019 disclosure of the victim's name and of photographs further identifying the child and her parents, their occupations, and the family's address. On June 2, the promotions of three senior police officers responsible were suspended.

Child, Early, and Forced Marriage: The law stipulates different minimum ages for marriage based on religion and gender. The minimum age for Buddhists is 18, while the minimum age for non-Buddhists is 16 for boys and 15 for girls. Child marriage occurred, especially in rural areas. There were no reliable statistics on forced marriage.

Sexual Exploitation of Children: Children were subjected to sex trafficking in the country, and a small number of foreign child-sex tourists exploited children, according to Human Rights Watch. The 2019 Child Rights Law prohibits the sexual exploitation of children, including pimping and prostitution; separate provisions within the penal code prohibit sex with a minor younger than 14. The penalty for the purchase and sale of commercial sex acts from a child younger than 18 is 10 years' imprisonment. The law prohibits child pornography and specifies a minimum penalty of two years' imprisonment and a modest fine. The law on child rights provides for one to seven years' imprisonment, a substantial fine, or both for sexual trafficking or forced marriage. If a victim is younger than 14, the law considers the sexual act statutory rape. The maximum sentence for statutory rape is two years' imprisonment when the victim is between the ages of 12 and 14 and 10 years' to life imprisonment when the victim is younger than 12.

The country's antitrafficking in persons law requires a demonstration of force, fraud, or coercion to constitute a child sex-trafficking offense.

Displaced Children: The United Nations estimated that approximately 40 percent of IDPs were children. The mortality rate for child IDPs was significantly higher than the national average.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html.

Anti-Semitism

There was one synagogue in Rangoon serving a very small Jewish population. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at https://www.state.gov/trafficking-in-persons-report/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The law directs the government to ensure that persons with disabilities have easy access to public transportation. The government did not effectively enforce these provisions.

Civil society groups reported that children with disabilities attended school through secondary education at a significantly lower rate than other persons; many never attended school due to stigma and lack of any accommodation for their needs.

Persons with disabilities reported stigma, discrimination, and abuse from members of the public and government officials. Students with disabilities cited barriers to inclusive education as a significant disadvantage.

Military veterans with disabilities in urban areas received official benefits on a priority basis, usually a civil service job at pay equivalent to rank. Persons with disabilities in rural areas typically did not have access to livelihood opportunities or affordable medical treatment. Official assistance to civilian persons with disabilities in principle included two-thirds of pay for a maximum of one year for a temporary disability and a tax-free stipend for permanent disability. The law providing job protection for workers who become disabled was not implemented.

Members of National/Racial/Ethnic Minority Groups

Wide-ranging governmental and societal discrimination against members of minority groups persisted, including in areas such as education, housing, employment, and access to health services. Ethnic minority groups constituted 30 to 40 percent of the population. The seven ethnic minority states comprised approximately 60 percent of the national territory, and significant numbers of minority group members also resided in the country's other regions.

International observers noted that significant wage discrepancies based on religious and ethnic backgrounds were common.

Burmese remained the mandatory language of instruction in government schools. The government's official education plan does not cover issues related to mother

tongue instruction, but ethnic languages were taught as extra subjects in some government schools. Progress was slow due to insufficient resources provided by the government, the nonstandardization of regional languages, a lack of educational material in minority languages, and varying levels of interest. In schools controlled by armed ethnic groups, students sometimes had no access to the national curriculum.

The Rohingya are a predominantly Muslim ethnic group that claims to have lived in the area of Rakhine State for generations. The Rohingya faced severe discrimination based on their ethnicity and religion. Large numbers of Rohingya were forced into internal exile in 2012, and the majority of the population was forced into refugee camps in Bangladesh in 2017 during a military ethnic cleansing campaign.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

Political reforms in recent years made it easier for the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community to hold public events and openly participate in society, yet discrimination, stigma, and a lack of acceptance among the general population persisted. Transgender persons, for example, were subject to police harassment, and their identity is not recognized by the state. There were reports of discrimination based on sexual orientation and gender identity in employment. LGBTI persons reported facing discrimination from healthcare providers.

On March 12, an openly gay restaurant owner was sentenced to five years in prison under the "unnatural offenses" law for allegedly sexually assaulting a male member of his staff.

HIV and AIDS Social Stigma

There were continued reports of societal violence and discrimination, including employment discrimination, against persons with HIV/AIDS. Negative incidents, such as exclusion from social gatherings and activities; verbal insults, harassment, and threats; and physical assaults continued to occur. Laws that criminalize behaviors linked to an increased risk of acquiring HIV/AIDS remain in place, directly fueling stigma and discrimination against persons engaged in these behaviors and impeding their access to HIV prevention, treatment, and care services.

Although the law nominally decriminalizes drug use, possession of small amounts of illegal drugs still leads to long prison sentences. Excessive law enforcement activities and local antidrug groups threatened at-risk drug abusers and hindered access to HIV, harm reduction, and other essential health services. Likewise, the antisodomy law creates an environment that discourages men who have sex with men from accessing available services.

High levels of social stigma and discrimination against female sex workers and transgender women hindered their access to HIV prevention, treatment, and social protection services. Police harassment of sex workers deterred them from carrying condoms.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent unions, bargain collectively, and conduct strikes. The law permits labor organizations to demand the reinstatement of workers dismissed for union activity, but it does not explicitly prohibit antiunion discrimination in the form of demotions or mandatory transfers, nor does it offer protection for workers seeking to form a union. The law does not provide adequate protection for workers from dismissal before a union is officially registered.

Laws prohibit civil servants and personnel of the security services and police from forming unions. The law permits workers to join unions only within their category of trade or activity, and the definition of trade or activity lacks clarity. Basic labor organizations must have a minimum of 30 workers and register through township registrars with the Chief Registrar's Office of the Ministry of Labor, Immigration, and Population (Ministry of Labor). Township-level labor organizations require support from a minimum of 10 percent of relevant basic labor organizations to register; regional or state labor organizations require a minimum of 10 percent of relevant township labor organizations. Each of these higher-level unions must include only organizations within the same trade or activity. Similarly, federations and confederations also require a minimum number of regional or state labor organizations (10 percent and 20 percent, respectively) from the next lower level in order to register formally. The law permits labor federations and confederations to affiliate with international union federations and confederations.

The law provides for voluntary registration for local NGOs, including NGOs working on labor issues. Organizations that choose to register are required to send organizational bylaws and formation documents to the government and secure sponsorship from a government ministry. Broader restrictions on freedom of assembly remained in place (see section 2.b.).

The law gives unions the right to represent workers, to negotiate and bargain collectively with employers, and to send representatives to a conciliation body or conciliation tribunal. Union leaders' rights to organize, however, are only protected after the official registration of the union. The law does not contain detailed measures regarding management of the bargaining process, such as requiring bargaining to be in good faith or setting parameters for bargaining or the registration, extension, or enforcement of collective agreements. The National Tripartite Dialogue Forum, with representatives from government, business, and labor unions, met during the year. The forum consulted with parliament on labor legislation.

The law stipulates that disputes in special economic zones be settled in accordance with original contracts and existing laws. The government appointed a labor inspector for each such zone and established zonal tripartite committees responsible for setting wage levels and monitoring the ratio of local and foreign labor.

The government partially enforced applicable labor laws; penalties were commensurate with those for other laws involving denials of civil rights. As of November the implementing regulations for the Settlement of Labor Dispute Law amended in 2019 remained in draft.

The law provides the right to strike in most sectors, with a majority vote by workers, permission of the relevant labor federations, and detailed information and three days' advance notice provided to the employer and the relevant conciliation body. The law does not permit strikes or lockouts in essential services such as water, electric, or health services. Lockouts are permitted in public utility services (including transportation; cargo and freight; postal; sanitation; information, communication, and technology; energy; petroleum; and financial sectors), with a minimum of 14 days' notice provided to the relevant labor organizations and conciliation body. Strikes in public utility services generally require the same measures as in other sectors, but with 14 days' advance notice and negotiation between workers and management before the strike takes place in order to

determine maintenance of minimum service levels. The law prohibits strikes addressing problems not directly relevant to labor issues.

The amended law no longer defines complaints as "individual" or "collective," but as "rights-based" or "benefits-based." A "rights-based" dispute includes violations of labor laws, whereas a "benefits-based" dispute pertains to working conditions as set by the collective agreement, contract, or position. The type of dispute determines the settlement procedure. Under the amended law, "rights-based" disputes do not go through a conciliation process or an arbitration proceeding but go directly to court proceedings. The amended law has no requirements for good faith bargaining and permits worker welfare committees to negotiate disputes, even in workplaces where unions exist. The amended law significantly increases fines for labor violations, but it eliminates prison terms as punishment for violations.

Labor groups continued to report labor organizations' inability to register at the national level, a legal prerequisite for entering labor framework agreements with multinational companies.

There were continued reports of employers engaging in forms of antiunion discrimination. The International Labor Organization (ILO), labor activists, and media outlets reported employers firing or engaging in other forms of reprisal against workers who formed or joined labor unions, including using the COVID-19 pandemic as a pretext for dismissing workers organizing unions in factories. Trade unions reported cases in which criminal charges were filed against workers for exercising their right to strike, and trade union members were arrested and charged with violating peaceful assembly laws when holding demonstrations regarding labor rights generally.

Worker organizations reported that formal dispute settlement and court procedures were not effective at enforcing labor laws. Workers resorted to engaging in campaigns with international brands to pressure factories to reinstate workers or resolve disputes. For example, in August, after negotiations between Kamcaine Manufacturing with the Industrial Worker's Federation of Myanmar regarding terminations, Kamcaine Manufacturing agreed to reinstate 57 dismissed union members, including seven executive members. Similarly at the Youngan factory, union organizers were dismissed, but the company later complied with the arbitration council's decision to reinstate the workers.

Labor organizations also reported that local labor offices imposed unnecessary bureaucratic requirements for union registration that were inconsistent with the law.

Workers and workers' organizations continued to report they generally found the Ministry of Labor to be helpful in urging employers to negotiate.

b. Prohibition of Forced or Compulsory Labor

Laws prohibit most forms of forced or compulsory labor, although it is allowed for use by the military and penal institutions. Laws also provide for the punishment of persons who impose forced labor on others. The law provides for criminal penalties for forced labor violations; penalties differ depending on whether the military, the government, or a private citizen committed the violation. The penalties are commensurate with analogous serious crimes such as kidnapping. The government did not effectively enforce the law, particularly in the areas where significant conflict was occurring.

The government established a forced labor complaints mechanism under the Ministry of Labor, which began receiving and referring cases during the year, replacing the previous mechanism run in coordination with the ILO. The ILO and unions expressed concerns that the government's mechanism does not provide sufficient protections for victims. Since February the mechanism had received at least 34 complaints and carried over an additional 24 open cases reported through the interim mechanism that took over from the ILO in 2019. Of these 58 combined cases, the labor ministry reported that 25 were officially listed as settled, while 33 were listed as continuing cases. Cases are listed as settled once they have been referred to the appropriate authorities and action has been taken. For example, cases of underage military recruitment are considered settled once they have been referred to the Ministry of Defense and the victim has been released from military service and provided social assistance. These complaints were in addition to the 61 complaints received directly by the ILO as of November.

Although reports of forced labor continued, the ILO reported their number of complaints decreased. Reports of forced labor predominantly arose in conflict and ceasefire areas. The complaints mechanism was not accessible in these areas.

The military's use of forced labor declined, although the 2020 Secretary-General's Report on Children and Armed Conflict noted an increase in use of children by the military with indicators of forced labor in conflict-affected areas in Rakhine State.

The military continued to compel forced labor by civilians as porters, cleaners, and cooks in conflict areas. Although the military and the government received complaints through the complaints mechanism about the military's use of forced labor, no military perpetrators were tried in civilian court, and it was not possible to confirm military assertions that perpetrators were subjected to military justice.

Prisoners in the country's 50 labor camps engaged in forced labor (see section 1.c., Prison and Detention Center Conditions).

The ILO did not receive any verified reports of forced labor in the formal private sector, although domestic workers remained at risk of forced labor. There were reports of forced labor in the production of a variety of agricultural products and of jade, rubies, and teak. Traffickers forced men to work domestically and abroad in fishing, manufacturing, forestry, agriculture, and construction, and they subjected women and girls primarily to sex trafficking or forced labor in garment manufacturing and domestic service.

Also see the Department of State's *Trafficking in Persons Report* at https://www.state.gov/trafficking-in-persons-report/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the worst forms of child labor. The 2019 Child Rights Law sets the minimum age at 14 for work in certain sectors, including shops and factories; the law establishes special provisions for "youth employment" for those older than 14. There is, however, no minimum age for work for all sectors in which children were employed, including agriculture and informal work. Some sector-specific laws identify activities that are prohibited for children younger than 18. The law prohibits employees younger than 16 from working in a hazardous environment, and the government prepared a hazardous work list. Penalties under the Child Rights Law are analogous to other serious crimes, such as kidnapping.

Trained inspectors from the Factories and General Labor Laws Inspection Department monitored the application of these regulations, but their legal authority only extends to factories. In addition, inspectors were hindered by a general lack of resources.

The United Nations documented a sharp reduction in the recruitment of children by the Burmese military for use in armed combat, although it continued to document cases, mainly in Rakhine State, of the use of children by the military in noncombat

roles. Both practices continue to occur within some ethnic armed groups (see section 1.g.).

The government did not effectively enforce the law. Child labor remained prevalent and highly visible. Poverty led some parents to remove their children from school before completion of compulsory education.

In cities children worked mostly as street vendors, refuse collectors, restaurant and teashop attendants, and domestic workers. Children often worked in the informal economy, in some instances exposing them to drugs and petty crime, risk of arrest, commercial sexual exploitation, HIV/AIDS, and other sexually transmitted infections (also see section 6). Children were also vulnerable to forced labor in teashops, agriculture and forestry, gem production, begging, and other fields. In rural areas children routinely worked in family agricultural activities, occasionally in situations of forced labor. Child labor was also reported in the extraction of gems and jade, as well as rubber and bricks.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* report at https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/ and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods.

d. Discrimination with Respect to Employment and Occupation

Labor laws and regulations do not prohibit employment discrimination.

Restrictions against women in employment exist based on social and cultural practices and beliefs. Women remained underrepresented in most traditionally male-dominated occupations (forestry, carpentry, masonry, and fishing) and were effectively barred by hiring practices and cultural barriers. Women were not legally prohibited from working in certain professions, except in underground mines. The law governing hiring of civil service personnel states that nothing shall prevent the appointment of men to "positions that are suitable for men only," with no further definition of what constitutes positions "suitable for men only."

There were reports government and private actors practiced discrimination that impeded Muslim-owned businesses' operations and undercut their ability to hire and retain labor, maintain proper working standards, and secure public and private contracts. There were reports of discrimination based on sexual orientation and gender identity in employment, including the denial of promotions and firing of

LGBTI persons. Activists reported job opportunities for many openly gay and lesbian persons were limited and noted a general lack of support from society as a whole. Activists reported that in addition to general societal discrimination, persons with HIV/AIDS faced employment discrimination in both the public and private sectors, including suspensions and the loss of employment following positive results from mandatory workplace HIV testing.

e. Acceptable Conditions of Work

The official minimum daily wage was above the poverty line. The minimum wage covers a standard eight-hour workday across all sectors and industries and applies to all workers in the formal sector except for those in businesses with fewer than 15 employees. The law requires the minimum wage to be revised every two years. Overtime cannot exceed 12 hours per workweek, should not go past midnight, and can exceed 16 hours in a workweek only on special occasions. The law also stipulates that an employee's total working hours cannot exceed 11 hours per day (including overtime and a one-hour break). The law applies to shops, commercial establishments, and establishments for public entertainment. The law requires employers to pay employees on the date their salary is due for companies with 100 or fewer employees. For companies with more than 100 employees, the employer is required to pay employees within five days from the designated payday. Up to 75 percent of the workforce was in the informal sector or self-employed and thus was not covered by the laws.

The 2019 Occupational Safety and Health law sets standards for occupational safety and health, and welfare. The law does not provide inspectors the authority to make unannounced inspections or initiate sanctions. The Ministry of Labor has the authority to suspend businesses operating at risk to worker health and safety until risks are remediated.

Labor unions reported instances in which workers could not remove themselves from situations that endanger their health or safety without jeopardizing their employment. Unions reported that workers concerned about COVID-19 positive cases in factories were nonetheless required to work. Penalties for safety and health violations were not commensurate with those for crimes like negligence.

The Ministry of Labor's Factories and General Labor Laws Inspection Department oversees labor conditions in the private sector. Inspectors were authorized to make unannounced inspections and initiate sanctions. Penalties were commensurate with those for similar violations. The government did not effectively enforce the

law. The number of labor law inspectors and factory inspectors was insufficient to address occupational safety and health standards, wage, salary, overtime, and other issues adequately. In some sectors other ministries regulated occupational safety and health laws (e.g., the Ministry of Agriculture, Livestock, and Irrigation).

Workers' organizations alleged government inspections were rare and often announced with several days' notice that allowed factory owners to bring facilities--often temporarily--into compliance. Corruption and bribery of inspectors reportedly occurred, according to UNICEF, unions, and the labor NGO Solidarity Center.

The public sector was reasonably likely to respect labor laws; frequent violations occurred in private enterprises. Workers continued to submit complaints to relevant government agencies and the dispute settlement mechanism.

There were no recent statistics available on industrial accidents leading to death or serious injury of workers. In July a landslide in a mining area killed at least 172 persons scavenging for jade in an area closed because of heavy rains.