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Freedom Status: Partly Free
Aggregate Score: 32/100 (0 = Least Free, 100 = Most Free)
Freedom Rating: 5/7 (1 = Most Free, 7 = Least Free)
Political Rights: 5/7 (1 = Most Free, 7 = Least Free)
Civil Liberties: 5/7 (1 = Most Free, 7 = Least Free)

Quick Facts

Population: 52,400,000
Capital: Nay Pyi Taw
GDP/capita: \$1,161
Press Freedom Status: Not Free
Net Freedom Status: Not Free

OVERVIEW

Myanmar's transition from military dictatorship toward democracy is ongoing, with relatively free parliamentary elections in 2015 ushering in a peaceful transfer of power to the National League for Democracy (NLD). However, ethnic peace remains elusive as military offensives and other violent conflicts offset a government push for more comprehensive negotiations with ethnic armed groups. Persecution of the country's mostly Muslim Rohingya minority has created sustained refugee outflows.

Key Developments

- Following the NLD's overwhelming victory in 2015 parliamentary elections, the ruling Union and Solidarity Development Party (USDP) and military representatives accepted the results, setting the stage for a peaceful transfer of political power. The NLD-led parliament held its opening session in February and elected the country's new president in March.

- Over the military's objections, in April the parliament installed NLD leader Aung San Suu Kyi – who was constitutionally barred from the presidency – in the newly created post of state counselor, granting her authority to direct policies not under military jurisdiction.
- The government took several steps that signaled an opening of associational and organizational space, including scrapping the restrictive Emergency Provisions Act, releasing dozens of students who had been arrested the previous year on unlawful assembly charges, and engaging with nongovernmental organizations (NGOs).
- The NLD government's push for the creation of a more comprehensive peace mechanism was hampered by military offensives against various ethnic rebel groups, attacks by such groups against security forces, and continued divisions among signatories and nonsignatories to a 2015 national cease-fire agreement.

Executive Summary

The USDP and military representatives accepted the results of parliamentary elections held in 2015, permitting a historic transfer of political power to an NLD-dominated parliament, which opened its first session in February 2016. In March, Htin Kyaw, the NLD's primary presidential candidate, won the presidency with 360 of the 652 parliamentary votes cast in the country's first relatively free presidential election. Days later, NLD lawmakers approved a bill that elevated party leader Aung San Suu Kyi, who was constitutionally barred from running for the presidency because members of her immediate family hold foreign citizenship, to the newly created and powerful position of state counselor. The USDP condemned the move as an improper consolidation of power.

The NLD government in 2016 took a series of actions that indicated an opening of associational and organizational space following decades of military dictatorship. Government representatives made efforts to engage with civil society groups, in particular by holding consultations regarding the implementation of laws on NGO registration. In April, a court ordered the release of 69 students who had been arrested the previous year on unlawful assembly charges, and in October, the government repealed the Emergency Provisions Act, which the military government had frequently employed to jail political activists. However, concerns about freedom of expression persisted amid a spike in prosecutions for online defamation under the 2013 Telecommunications Law.

Separately, while corruption remained rampant at both the national and local levels, the new NLD government took modest steps to address the problem. In April, Aung San Suu Kyi issued an official regulation banning civil servants from accepting gifts worth more than 25,000 kyat (\$21).

The NLD government struggled to negotiate a more comprehensive peace agreement with the many ethnic armed groups in Myanmar. Aung San Suu Kyi convened a high-profile peace conference in August, though officials later downplayed it as a trust-building exercise for the hundreds of delegates who attended. Military offensives against various ethnic rebel groups, and attacks by such groups against security forces, continued. In October, armed men attacked police posts in Rakhine State, killing nine officers; officials blamed the Rohingya Solidarity Organisation (RSO), a militant group that was active in the 1980s and 1990s. Security forces subsequently launched violent reprisals against the local Rohingya Muslim population, which reportedly included torture and rape, worsening the community's already dire humanitarian situation and causing a new outflow of refugees to Bangladesh. Separately, activists continued to report abuses by the military against civilians in Northern Shan and Kachin States, where fighting between armed groups and state forces has increased in recent years.

POLITICAL RIGHTS AND CIVIL LIBERTIES

Political Rights:

A. Electoral Process:

- A1. Is the head of government or other chief national authority elected through free and fair elections?
- A2. Are the national legislative representatives elected through free and fair elections?
- A3. Are the electoral laws and framework fair?

Under the 2008 constitution, whose drafting was controlled by the military, the bicameral Assembly of the Union consists of the 440-seat House of Representatives, or lower house, and the 224-seat House of Nationalities, or upper house. Representatives serve five-year terms. A quarter of the seats in both houses are reserved for the military and filled through appointment by the commander in chief, an officer with broad powers who is selected by the military-dominated National Defense and Security Council (NDSC).

The legislature elects the president. Military members have the right to nominate one of the three presidential candidates, and the elected members of each chamber nominate the other two. The candidate with the largest number of votes in a combined parliamentary vote wins the presidency; the other two candidates become vice presidents. The NLD selected Htin Kyaw as its primary presidential candidate, and he won the presidency with 360 of the 652 parliamentary votes cast in the March 2016 election. The first vice president was Myint Swe, the military-nominated candidate, and the second vice president was Henry Van Thio, also of the NLD.

Unlike with the 2010 parliamentary elections, international electoral observers concluded that the 2015 polls were generally credible and that the outcome reflected the will of the people, despite a campaign period marked by anti-Muslim rhetoric, the exclusion of Muslim candidates, and the disenfranchisement of hundreds of thousands of Rohingya, most of whom are Muslim. The NLD won 135 of the 168 elected seats in the upper house, 255 of 330 elected seats in the lower house, and 496 of 659 seats across 14 state and regional legislatures. The military-backed USDP placed second with 12 seats in the upper house, 30 in the lower house, and 76 in the states and regions. (Myanmar's first-past-the-post system allowed the NLD to translate its popular vote margin into a much larger majority in terms of seats; it took 57 percent of the popular vote, compared with the USDP's 28 percent.) The remaining seats were captured by ethnic minority and other parties as well as independents. While ethnic parties fared poorly overall, the Shan Nationalities League for Democracy (SNLD) and the Arakan National Party (ANP) performed well in their respective states.

After the elections, commander in chief Min Aung Hlaing, former military ruler Than Shwe, and outgoing president Thein Sein each met with Aung San Suu Kyi and agreed to support a smooth transition. However, constitutional provisions barred the NLD leader from becoming president due to the foreign nationality of her immediate family members. Changes to the constitution require a three-quarters parliamentary supermajority, meaning military support would be required in practice. To circumvent these restrictions, the NLD used its parliamentary majority to create the new post of state counselor, a powerful role akin to that of a prime minister, which Aung San Suu Kyi assumed in April 2016 amid military objections.

B. Political Pluralism and Participation:

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system open to the rise and fall of these competing parties or groupings?

B2. Is there a significant opposition vote and a realistic opportunity for the opposition to increase its support or gain power through elections?

B3. Are the people's political choices free from domination by the military, foreign powers, totalitarian parties, religious hierarchies, economic oligarchies, or any other powerful group?

B4. Do cultural, ethnic, religious, or other minority groups have full political rights and electoral opportunities?

New political parties were generally allowed to register and compete in the 2015 elections, which featured fewer restrictions on party organization and voter mobilization than the 2010 vote. Only sporadic interference from government officials was reported. Ninety-one parties competed in the elections, and many of them, including the NLD, convened meetings and large rallies throughout the country.

The government has allowed members of the parliament to speak about democratic rights since 2011. While the legislators' time to speak has often been severely limited, many of their speeches receive coverage in the domestic media. Since winning a seat in 2012 by-elections, Aung San Suu Kyi has gained political influence, as demonstrated by the NLD's dramatic 2015 electoral victory. However, critics argue that she has failed to strongly challenge incumbent interests or alter state policy. She and her aides have notably downplayed the plight of the Rohingya minority.

The military retains considerable power over political affairs, though the 2015 results and subsequent transition talks suggested a waning ability or determination to influence electoral outcomes. The 2008 constitution allows the military to dissolve the civilian government and parliament and rule directly if the president declares a state of emergency. The military has the right to administer its own affairs, and members of the former military government received blanket immunity for all official acts.

Minority groups face restrictions on their political rights and electoral opportunities. A 2014 amendment to the Political Parties Registration Law prohibited residents without full citizenship from forming political parties or contesting elections. The measure effectively curbed political participation by Rohingya, who were rendered stateless by a 1982 law and lack full citizenship documents. A sitting Rohingya lawmaker from the USDP was barred from running in 2015. That year, under pressure from Buddhist nationalists, the president issued a decree revoking the temporary identification cards, or "white cards," that had allowed Rohingya to vote in previous elections. A Constitutional Tribunal ruling later in 2015 then found that voting by white-card holders was unconstitutional. Nearly all Rohingya were consequently left off the voter rolls for the 2015 elections. Other Muslims with citizenship documents were able to vote, but of more than 6,000 candidates on the final list, only about 28 were Muslim. A total of 75 candidates were disqualified by election officials, including a number of Rohingyas and other Muslims.

C. Functioning of Government:

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government?

C2. Is the government free from pervasive corruption?

C3. Is the government accountable to the electorate between elections, and does it operate with openness and transparency?

Though the NLD has begun to lay out plans for policy changes among its various ministry portfolios, the military remains a dominant force in policymaking, particularly through its constitutional control over the Defense, Home Affairs, and Border Affairs Ministries. The military effectively controls at least six seats on the powerful 11-member NDSC. Over one-fifth of the total budget is devoted to the military. Although the military budget remains opaque and the 2011 Special Funds Law allows the military to circumvent parliamentary oversight to access additional funds, details on part of the budget were shared publicly for the first time in 2015 and faced limited parliamentary scrutiny.

Corruption is rampant at both the national and local levels. In a first step to address the problem, Aung San Suu Kyi in April 2016 issued an official regulation banning civil servants from accepting gifts worth more than 25,000 kyat (\$21). An Anti-Corruption Commission established in 2014 has only penalized a handful of people in connection with its investigations. Privatization of state-owned companies and other economic reforms in recent years have allegedly benefited family members and associates of senior officials. The government has ignored tax evasion by the country's wealthiest companies and individuals.

Additional Discretionary Political Rights Question B: -3/0

Is the government or occupying power deliberately changing the ethnic composition of a country or territory so as to destroy a culture or tip the political balance in favor of another group?

1. Is the government providing economic or other incentives to certain people in order to change the ethnic composition of a region or regions?

2. Is the government forcibly moving people in or out of certain areas in order to change the ethnic composition of those regions?

3. Is the government arresting, imprisoning, or killing members of certain ethnic groups in order to change the ethnic composition of a region or regions?

The government has long used violence, displacement, and other tactics to alter the demographics of states with ethnic unrest or insurgencies. The Rohingya in Rakhine State have faced particularly harsh restrictions for decades, including limits on family size and the ability and right to marry. Hundreds of Rohingya remain imprisoned for dubious offenses such as marrying an unapproved spouse. Children born to unrecognized couples or beyond a two-child limit imposed on Rohingya in some areas are often denied legal status and services. The 2015 revocation and confiscation of temporary identification cards led to the disenfranchisement and loss of citizenship rights for hundreds of thousands of Rohingya. Human rights experts have continued to label the abuses

against the Rohingya as crimes against humanity, while some analysts have argued that they constitute either genocide or a precursor to genocide.

In August 2016, the NLD government created a joint advisory panel led by former UN secretary general Kofi Annan to help develop conflict-resolution mechanisms to address tensions between Buddhists and Muslims (mainly Rohingya) in Rakhine State, and to ensure the delivery of humanitarian aid there, among other tasks. However, the group failed to include a single Rohingya representative, nor was it mandated to investigate human rights abuses.

In October, armed men attacked police posts in Rakhine State, killing nine officers; officials blamed the Rohingya Solidarity Organisation (RSO), a militant group that was active in the 1980s and 1990s. Security forces launched a severe crackdown on Rohingya communities in the northern part of the state, which reportedly included torture and rape, worsening already dire humanitarian conditions and causing a new outflow of refugees to Bangladesh.

Civil Liberties:

D. Freedom of Expression and Belief:

D1. Are there free and independent media and other forms of cultural expression?

D2. Are religious institutions and communities free to practice their faith and express themselves in public and private?

D3. Is there academic freedom, and is the educational system free of extensive political indoctrination?

D4. Is there open and free private discussion?

Media freedoms have improved substantially since the official end of government censorship and prepublication approval in 2012. However, other restrictions limit journalists' freedom. Existing media laws allow authorities to deny licenses to outlets whose reporting is considered to have insulted religion or endangered national security, and the threat of prosecution under criminal defamation laws has encouraged a climate of pervasive self-censorship.

In 2016, there was a notable increase in the number of defamation cases brought against journalists and social media users, some of which were initiated in response to criticism of government or military authorities. Those involving online commentary were generally filed under the broadly worded 2013 Telecommunications Law, which allows penalties of up to three years in prison. The editor in chief of the independent *Daily Eleven* and the chief executive of its parent company were imprisoned on defamation charges in November, in connection with an article implicating the chief minister of Yangon in illegal business dealings with a drug trafficker. Separately, a journalist fired from the English-language *Myanmar Times* claimed that the government had pressured the paper to dismiss her following the October publication of an article on allegations that the security forces had raped more than two dozen women in Rakhine State.

Reporters covering sensitive topics risk harassment and physical violence. In December, journalist Soe Moe Tun was found beaten to death after reporting on the illegal logging industry. The Myanmar Journalists' Association reported that another journalist had relocated to a different town after being threatened by individuals in the logging industry.

Previous constraints on internet access have largely unraveled, and the proliferation of smartphones has rapidly increased usage, but internet activity is still subject to criminal punishment under broadly worded legal provisions. The Electronic Transactions Law, which has been used to criminalize political activism on the internet, mandates fines or prison terms of three to seven years for "any act detrimental to" state security, law and order, community peace and tranquility, national solidarity, the national economy, or national culture, including "receiving or sending" related information. Journalists and others have faced cyberattacks and attempts to infiltrate their e-mail accounts by both state and nonstate actors.

The 2008 constitution provides for freedom of religion. It distinguishes Buddhism as the majority religion, but also recognizes Christianity, Islam, Hinduism, and animism. The government occasionally interferes with religious assemblies and attempts to control the Buddhist clergy. Authorities have also discriminated against minority religious groups, refusing to grant them permission to hold gatherings and restricting educational activities, proselytizing, and construction of houses of worship. Influential Buddhist monks in Karen State have built pagodas in church and mosque compounds, increasing tensions within diverse communities.

Anti-Muslim hate speech and discrimination continued to spread during 2016. In April, the newly appointed religious affairs minister suggested in a radio interview that members of the country's Muslim and Hindu minorities were not full citizens, sparking both criticism and strident statements of support. Social media and some state institutions and mainstream news websites have amplified such communal tensions. Ma Ba Tha, or the Committee for the Protection of Nationality and Religion, agitates for the protection of Buddhist privileges, urges boycotts against Muslim-run businesses, and disseminates anti-Muslim propaganda. In September, three Muslim men were arrested and imprisoned for illegally importing cows for the Eid al-Adha celebration.

In 2015, the parliament approved a revised version of a controversial education law, initially passed in 2014, that failed to meet student demands concerning decentralization, access to instruction in local languages, curriculum reform, and a clear role for student unions in setting education policy, among other issues. Opponents of the new law said it perpetuated the country's authoritarian approach to academic freedom, and student leaders pledged to continue pressing their demands.

The ability to engage in open and free private discussion without criminal repercussions has increased markedly since political reforms began under the previous administration. However, general surveillance by local security officials, under the purview of the military-controlled Home Affairs Ministry, remains a common practice. In September 2016, a parliamentary committee submitted draft legislation that would offer better protections from state surveillance.

E. Associational and Organizational Rights:

E1. Is there freedom of assembly, demonstration, and open public discussion?

E2. Is there freedom for nongovernmental organizations?

E3. Are there free trade unions and peasant organizations or equivalents, and is there effective collective bargaining? Are there free professional and other private organizations?

Under the Peaceful Assembly and Peaceful Procession Law, as revised in 2014, holding a demonstration without government "consent" is punishable with up to six months in prison; a

variety of other vaguely worded violations can draw lesser penalties. Authorities arrested a number of demonstrators under the law during the 2015 election campaign. However, in April 2016, the president pardoned 69 students arrested the previous year. A new Peaceful Assembly and Procession Bill proposed in the legislature still includes criminal penalties for vaguely worded offenses.

The 2014 Association Registration Law features simple, voluntary registration procedures for local and international NGOs and no restrictions or criminal punishments for noncompliance. Although the law was seen a positive development, in 2015 the Home Affairs Ministry issued implementing regulations that required NGOs to obtain government approval prior to registration, drawing sharp criticism from civil society leaders. However, consultations between civil society and the relevant committee in the new NLD government were held in 2016 to draw attention to the law and provide clarity on implementation rules.

Independent trade unions were banned until 2011, and union organizers continue to face retaliation for their work. In recent years, factory workers have held strikes in Yangon with fewer repercussions than in the past, though arrests for striking and other labor activism persisted in 2016. A 2013 law allowed for a minimum wage, and in 2015, after two years of heated negotiations, the figure was set at \$2.80 per day.

F. Rule of Law:

F1. Is there an independent judiciary?

F2. Does the rule of law prevail in civil and criminal matters? Are police under direct civilian control?

F3. Is there protection from political terror, unjustified imprisonment, exile, or torture, whether by groups that support or oppose the system? Is there freedom from war and insurgencies?

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population?

The judiciary is not independent. Judges are appointed or approved by the government and adjudicate cases according to its decrees. Administrative detention laws allow individuals to be held without charge, trial, or access to legal counsel for up to five years if deemed a threat to state security or sovereignty. According to a report by the Assistance Association for Political Prisoners (Burma), at the end of November 2016 there were 195 political prisoners in the country, of whom 87 were currently serving sentences, 24 were in pretrial detention, and 84 were awaiting trial outside of prison. In October the parliament repealed the 1950 Emergency Provisions Act, which the previous military government had invoked frequently to silence and imprison dissidents.

Some of the country's worst human rights abuses, commonly committed by government troops, are against ethnic minorities, especially the Kachin, Shan, Chin, Karen, and Rohingya. Riots and mob violence against Rohingya and other Muslims have killed hundreds of people, displaced thousands of residents, and destroyed hundreds of properties, including religious sites, since 2012. The government's failure to protect victims, conduct investigations, and punish perpetrators is well documented. The anti-Muslim Ma Ba Tha and the similar 969 movement have been accused of stoking outbreaks of violence with inflammatory sermons, leaflets, and other materials, and local government officials have actively sought out administrative loopholes to destroy Muslim schools and houses of worship.

The government continued to negotiate with armed ethnic minority groups in 2016, but a comprehensive agreement regarding federalism and adherence to the 2008 constitution remained elusive. Discussions were hampered by persistent fighting in some regions, including military offensives in Kachin State and in Shan State.

A number of laws create a hostile environment for LGBT (lesbian, gay, bisexual, and transgender) people. Same-sex sexual conduct is criminalized under the penal code, and police subject LGBT people to harassment, extortion, and physical and sexual abuse.

G. Personal Autonomy and Individual Rights:

G1. Do individuals enjoy freedom of travel or choice of residence, employment, or institution of higher education?

G2. Do individuals have the right to own property and establish private businesses? Is private business activity unduly influenced by government officials, the security forces, political parties/organizations, or organized crime?

G3. Are there personal social freedoms, including gender equality, choice of marriage partners, and size of family?

G4. Is there equality of opportunity and the absence of economic exploitation?

Freedom of internal travel is generally respected outside of conflict zones. Numerous exiled activists who returned to the country have experienced substantial delays and evasion from government authorities when attempting to renew visas and residency permits, despite the call for exiles to return to work for the country's development. Illegal toll collection by state and nonstate actors has been a problem in some areas. The parliament voted in September 2016 to repeal a long-standing rule requiring overnight houseguests to be registered with local authorities, which particularly affected low-income people and activists and created opportunities for harassment, extortion, and invasions of privacy. Guests staying for more than a month must still be registered.

Contentious disputes over land grabbing and business projects that violate human rights continued in 2016. Instances of forced eviction and displacement, lack of sufficient compensation, and direct violence by state security officials abound. As of June 2015, the parliament's Farmland Investigation Commission reported that it had heard about 20,000 of the 30,000 cases submitted since 2013, and decided in favor of compensation for claimants in only 4 percent of the cases heard – a number that activists generally view as much too low. The NLD government's newly formed Central Committee on Confiscated Farmlands and Other Lands has been accused of including members who were themselves involved in land grabs.

Women of some classes have traditionally enjoyed high social and economic status, but women remain underrepresented in the government and civil service. Notwithstanding the prominence of Aung San Suu Kyi, whose father led Myanmar's independence struggle, few women have achieved recognition in politics, and she remains the only woman of ministerial rank in the current NLD cabinet. Sixty-four women were elected to the new parliament in 2015, up from 28 in the outgoing body.

Laws protecting women from violence and exploitation are inadequate, and violence against women is a persistent problem. The army has a record of using rape as a weapon of war against ethnic minority women, and security personnel typically enjoy impunity for sexual violence. Human trafficking is also a concern; the country was designated in June 2016 as one of the worst performers in the U.S. State Department's annual *Trafficking in Persons Report* due to the prevalence of child soldiers and forced labor.

Child labor is endemic in Myanmar. The International Labour Organization estimated in 2015 that nearly 1.1 million children, almost 10 percent of all children in the country, engaged in child labor. To address international concerns and improve childhood development, the government in 2014 had announced plans for a policy to end child labor. Various commercial and other interests continue to use forced labor despite a formal ban on the practice since 2000.