Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**248**
Land:	Myanmar
Kilde:	US Department of State
Titel:	Country Report on Human Rights Practices 2018
Udgivet:	13. marts 2019
Optaget på baggrundsmaterialet:	26. juni 2019

BURMA 2018 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. In 2015 the country held nationwide parliamentary elections that the public widely accepted as a credible reflection of the will of the people. The National League for Democracy (NLD) party leader Aung San Suu Kyi was the civilian government's de facto leader and, due to constitutional provisions preventing her from becoming president, remained in the position of state counsellor. During the year parliament selected NLD member Win Myint to replace Htin Kyaw as president, and the country held peaceful and orderly by-elections for 13 state and national offices.

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 the security forces.

Independent investigations undertaken during the year found evidence that corroborated the 2017 ethnic cleansing of Rohingya in Rakhine State and further detailed the military's killing, rape, and torture of unarmed villagers during a campaign of violence that displaced more than 700,000 Rohingya to neighboring Bangladesh. Some evidence suggested preparatory actions on the part of security forces and other actors prior to the start of violence, including confiscation of knives, tools, iron, and other sharp objects that could be used as weapons in the days preceding attacks by the Arakan Rohingya Salvation Army (ARSA). An additional 13,764 Rohingya fled to Bangladesh between January and September. The government prevented assistance from reaching displaced Rohingya and other vulnerable populations during the year by using access restrictions on the United Nations and other humanitarian agencies. The military also committed human rights abuses in continuing conflicts in Kachin and Shan States.

Human rights issues included reports of unlawful and arbitrary killings by security forces; torture; harsh and sometimes life-threatening prison conditions; political prisoners; arbitrary or unlawful interference with privacy; arbitrary arrest and prosecution of journalists and criminalization of defamation; substantial

interference with the rights of peaceful assembly and freedom of association, including arrests of peaceful protesters and restrictions on civil society activity; restrictions on religious freedom; significant restrictions on freedom of movement, in particular for Rohingya; corruption by some officials; unlawful use of child soldiers by the government; trafficking in persons; crimes involving violence or threats targeting members of national, ethnic, and religious minorities; and the use of forced and child labor. Consensual same-sex acts among adults remained criminalized, although those laws were rarely enforced.

Although the government took some limited actions to prosecute or punish officials responsible for abuses, the vast majority of such abuses continued with impunity.

Some nonstate groups committed human rights abuses, including killings, unlawful use of child soldiers, forced labor of adults and children, and failure to protect civilians 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 many reports security forces committed arbitrary or unlawful killings (see also section 1.g.).

Security forces used excessive and sometimes lethal force against civilians. On January 16, police in Mrauk-U shot and killed seven and injured 12 Rakhine demonstrators who were protesting a decision by officials to cancel an annual event in commemoration of the anniversary of the end of the Arakan Dynasty. Police beat demonstrators--some of whom threw stones and attempted to take over a government administrative building--in addition to firing live rounds into the crowd.

There were several documented extrajudicial killings of Rohingya in Rakhine State during the year and several documented assaults by police against unarmed Rohingya.

On April 5, government soldiers shot and killed the environmental rights activist and community leader Saw O Moo in Karen State. The military stated that Saw O

Moo, who was riding a motorcycle with a Karen National Liberation Army (KNLA) fighter, was suspected of involvement in planning attacks. His family and other activists denied this claim and said he was only giving a ride to the KNLA fighter.

With additional, albeit still limited, access to northern Rakhine State granted by the government during the year, Amnesty International reported that Arakan Rohingya Salvation Army (ARSA) fighters were almost certainly responsible for a massacre of 53 Hindu villagers in Kha Maung Seik Village, Maungdaw Township, in August 2017.

The trial of four people charged in the death of Ko Ni, a prominent Muslim lawyer and adviser to Aung San Suu Kyi who was assassinated outside Rangoon's international airport in January 2017, continued as of October. Civil society groups and religious groups noted Ko Ni's death had a chilling effect on lawyers working for constitutional reform and accountability for military abuses, as well as on Muslims fighting for improved treatment.

Arbitrary and unlawful killings related to internal conflict also occurred (see section 1.g.).

b. Disappearance

There were reports of disappearances by security forces.

There was no action taken during the year or additional information regarding the whereabouts of Rohingya men ages 15 to 40 who were reportedly arrested in 2017 by police without charges or warrants due to purported links to ARSA, several of whom reportedly were not heard from since their arrest.

Disappearances related to internal conflict also occurred (see 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 prisoners, detainees, and other citizens and stateless persons in incidents not related to armed conflict. Such incidents occurred, for example, in Rakhine and Kachin States. The government did not launch any investigation into reports of sexual violence by the military in prior years.

Security forces reportedly subjected detainees to harsh interrogation techniques designed to intimidate and disorient, including severe beatings and deprivation of food, water, and sleep. Human rights groups continued to report incidents of torture in ethnic minority areas. Authorities generally took no action to investigate incidents or punish alleged perpetrators.

At least two contingents of Border Guard Police (BGP) in northern Rakhine State in August 2017 tortured and otherwise abused 25 Rohingya men and boys, according to a report released during the year by Amnesty International. Torture included severe beatings, burnings, and sexual violence lasting several days or even weeks. One Rohingya teenager described being beaten severely while hung from a chain attached to the ceiling, first with a hard plastic stick, and then with gloves filled with nails.

On August 21, Human Rights Watch reported that the BGP apprehended and tortured six Rohingya refugees who fled to Bangladesh in 2017 and had since returned to Rakhine State. Authorities, accusing them of illegal border crossing, tried the refugees in Burmese, which they did not understand, and sentenced them to four years in prison.

Prison and Detention Center Conditions

The Ministry of Home Affairs operates the prison system and continued during the year to significantly restrict access by international organizations--other than the International Committee of the Red Cross (ICRC)--to prison and detention facilities generally. The military also operates detention facilities and did not permit access. There were continued reports that conditions in prisons and labor camps were harsh and sometimes life threatening due to overcrowding, degrading treatment, and inadequate access to medical care and basic needs, including food, shelter, and hygiene, although observers noted some minor improvement in more centrally located prisons.

Physical Conditions: The Department of Corrections under the Ministry of Home Affairs operated an estimated 47 prisons and 48 labor camps, officially called "agriculture and livestock breeding career training centers" and "manufacturing centers," according to the government. More than 20,000 inmates were serving their sentences in these labor camps across the country. 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. In

spite of reforms in recent years, conditions at these camps remain life threatening for some, especially at 18 camps where prisoners work as miners.

A prominent human rights group estimated there were more than 90,000 prisoners; women and men were held separately. Overcrowding was reportedly a serious problem in many prisons and labor camps; a human rights group reported that occupancy at the country's largest prison was more than double capacity. Some prisons held pretrial detainees together with convicted prisoners. Authorities held some political prisoners separately from common criminals, but political prisoners whom authorities arrested for problems related to land rights were generally held together with common criminals.

Medical supplies and bedding were often inadequate. Bedding 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 with medicine and basic necessities. Inmates reportedly paid wardens for necessities, including clean water, prison uniforms, plates, cups, and utensils.

Detainees were unable to access adequate and timely medical care. 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 infestation.

There were reports of custodial deaths due to health problems associated with prison conditions and lack of adequate and timely medical care.

Prison conditions in Rakhine State were reportedly among the worst, with hundreds of Rohingya arbitrarily detained in prison and nonprison facilities, denied due process, and subjected to torture and abuse by Rakhine State prison and security officials.

Administration: Some prisons prevented full adherence to religious codes for prisoners, ostensibly due to space restrictions and security concerns. For example, imprisoned monks reported authorities denied them permission to observe Buddhist holy days, wear robes, shave their heads, or eat on a schedule compatible with the monastic code. Citing security considerations, authorities denied permission for Muslim prisoners to pray together as a group, as is the practice for

Friday prayers and Ramadan. Prisoners and detainees could sometimes submit complaints to judicial authorities without censorship or negative repercussions. The ICRC followed up with relevant authorities on allegations of inappropriate conditions.

Independent Monitoring: Although the ICRC had unfettered access to prisons, prisoners, and labor camps, it did not have access to military detention sites. 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.

d. Arbitrary Arrest or Detention

The law does not specifically prohibit arbitrary arrest, and the government continued to use the Unlawful Associations Act to arrest persons, often in ethnic and religious minority areas, on an arbitrary basis.

The law allows authorities to extend sentences after prisoners complete their original sentence. 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.

Role of the Police and Security Apparatus

The Ministry of Home Affairs is generally responsible for the country's internal security, with oversight of the Myanmar Police Force (MPF) and the General Administration Department, which has a role in security planning as part of its overall civil administrative responsibilities. The home affairs ministry is led by an active-duty military general who is nominated by the armed forces commander in chief in accordance with the constitution.

In conflict and some cease-fire areas, and in northern Rakhine State, representatives from the Ministry of Border Affairs, also led by an active-duty military general appointed by the commander in chief, have significant roles in security planning, as does the military itself. In these areas, lines of authority for internal security may be blurred. During the operations in northern Rakhine State beginning in August 2017, military commanders assumed primary control over all

security arrangements and appeared to wield considerable operational influence over the BGP, which is administratively part of the MPF.

The MPF is a national police force with approximately 80,000 police officers. While the MPF continued to make progress in developing baseline capacity, there were still significant gaps in expertise and resources that posed challenges to building a force that effectively serves the public. The MPF specialized units devoted to counternarcotics, antitrafficking in persons, and other transnational crimes continued to make progress in developing operational and investigative capacity.

There were continued reports during the year of harassment and extortion of Rohingya by the BGP, including through surprise raids of private homes, usually with the involvement of the military, to inspect whether residents present matched official household lists. Such lists were often lost or damaged, and as a result these raids sometimes resulted in arbitrary detentions. The BGP also used excessive force. For example, BGP forces on June 28 shot an 11-year-old Rohingya boy in the leg near the border with Bangladesh without provocation while the boy was gathering firewood.

Civil society groups noted corruption remained a concern and that the MPF's Special Branch continued to engage in surveillance and monitoring. Security forces continued to intimidate civilians through physical abuse and threats to livelihoods. Legal mechanisms exist to investigate abuses by security forces but were seldom used and generally perceived to be ineffective.

Arrest Procedures and Treatment of Detainees

While the law generally requires warrants for searches and arrests, personnel from the Office of the Chief of Military Security Affairs and police reportedly conducted searches and made arrests at will.

Except in capital cases, the law does not grant detainees the right to consult an attorney or, if indigent, to have one provided by the state. The government amended the legal aid law in May to provide the public access to fair and equal legal aid based on international standards and to ensure legal aid workers could operate independently and with legal protection, but by year's end the legal aid system was not yet operational.

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 and refused detainees the right to consult a lawyer promptly.

There were reports of suspects in custody dying as a result of mistreatment by police. On September 26, Aung Aung, a taxi driver who was arrested September 12 with two men accused of theft, died after allegedly being beaten by police during his detention. The Myanmar National Human Rights Commission opened an investigation in the case.

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

In May the military in northern Rakhine State rounded up dozens of Rohingya, almost all of them young men, who had previously fled to Bangladesh and returned informally. These Rohingya were processed for illegal entry into Burma and subsequently pardoned, allegedly on condition that they agree to be processed through the government's official repatriation process.

Pretrial Detention: 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. Lawyers noted police regularly detained suspects for the legally mandated period, failed to lodge a charge, then detained them for a series of two-week periods with trips to the judge in between. Judges and police sometimes colluded to extend detentions. According to lawyers, arbitrary and lengthy pretrial detentions resulted from lengthy legal procedures, large numbers of detainees, judicial inefficiency, widespread corruption, and staff shortages. Periods of detention prior to and during trials sometimes equaled or exceeded the sentence that would result from a guilty conviction.

Amnesty: On April 17, President Win Myint pardoned and the government released 8,541 prisoners, including 36 whom the Assistance Association for Political Prisoners-Burma considered political prisoners. The majority of the pardoned political prisoners were arrested under the Unlawful Associations Act on charges of affiliation with ethnic armed groups. The president also nullified a previous condition of political prisoners' release under which they could be forced to serve the remaining prison term if convicted of any crime in the future.

e. Denial of Fair Public Trial

The law calls for an independent judiciary, although the government appeared to manipulate the courts for political ends and sometimes deprived citizens of due process and the right to a fair trial, particularly regarding the freedom of expression. High-ranking officials, including President Win Myint and State Counsellor Aung San Suu Kyi, spoke publicly regarding pending trials during the year.

The criminal justice system was overburdened by a very high number of cases lodged against small-time drug users, which constituted an estimated 40 to 50 percent of caseloads in the courts. Corruption 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 military and the government, directly or indirectly, were able to exert influence over the outcome of cases, often through overly broad or arbitrary application of legislation on speech or association. In one high-profile case, two Reuters journalists were convicted under a colonial-era law for reporting work in spite of exculpatory evidence presented during trial and procedural irregularities (see section 2.a.).

The attorney general of Yangon Region, one judge, and four other judicial officials were charged with corruption during the year (see section 4).

Trial Procedures

The law provides for the right to a fair and public trial, but it also grants broad exceptions, effectively allowing the government to violate these rights at will. In ordinary criminal cases, the court generally respected some basic due process rights such as the right to an independent judiciary, public access to the courts, and the right to a defense and an appeal. In practice, defendants do not enjoy the rights to presumption of innocence; 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, but defense attorneys in criminal cases generally had 15 days to prepare for trial.

Defendants have the right to appeal judgments. In May the Union Attorney General's Office adopted 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. No legal provision allows for coerced testimony or confessions of guilt by defendants to be used in court; nonetheless, authorities reportedly engaged in both. There were reports of coercion to plead guilty despite a lack of evidence with promises of reduced sentences to defendants who did so.

Ordinary criminal cases were open to the public, but in practice members of the public with no direct involvement in a case were denied entry to courts. There is no right to confront witnesses and present evidence, although defense attorneys could sometimes call witnesses and conduct cross-examinations. Prodemocracy activists generally appeared able to retain counsel, but defendants' access to counsel was often inadequate. There were reports of authorities not informing family members of the arrests of persons in a timely manner, not telling them of their whereabouts, and often denying them the right to see prisoners in a timely manner. Local civil society groups noted the public was largely unaware of its legal rights, and there were too few lawyers to meet public needs.

The government retained the ability to extend prison sentences under the law. The minister of home affairs has the authority to extend a prison sentence unilaterally by two months on six separate occasions, for a total extension of one year.

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 that 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, 53 political prisoners in pretrial detention or detained with trials in process, and 216 individuals released on bail while facing trial for political charges as of September. These numbers did not include detainees and prisoners in Rakhine State, estimated to be in the hundreds, many of whom likely meet the definition of political prisoner.

The former child soldier Aung Ko Htway, who was arrested in August 2017 for defaming the military following an interview he gave to an international media outlet detailing his experience as a former child soldier, was given a two-year

prison sentence on March 29. He received an additional six-month sentence for contempt of court.

Many released political prisoners experienced significant surveillance and restrictions following their release, including an inability to resume studies undertaken prior to incarceration, secure travel documents, or obtain other documents related to identity or ownership of land.

Civil Judicial Procedures and Remedies

No specific mechanisms or laws provide for civil remedies for human rights violations; 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.

Property Restitution

Under the constitution, the state owns all land; however, the law allows for registration and sale of private land ownership rights. Authorities and private-sector organizations perpetrated land grabs during the year, and restitution for past and recent land grabs was very limited.

The law provides for compensation when the government acquires land for a public purpose; however, civil society groups criticized the lack of safeguards in the law to provide payment of fair market compensation and said that compensation was infrequent and inadequate in such cases.

The government can also declare land unused and assign it to foreign investors or designate it for other uses. There is no provision for judicial review of land ownership or confiscation decisions; administrative bodies subject to political control by the national government make final decisions on land use and registration. Researchers and civil society groups had concerns that land laws facilitate land confiscation without providing adequate procedural protections. In some cases of land confiscation, compensation was inadequate or not provided, and advance notice was not given.

The 2016 land use policy emphasizes the recognition, protection, and registration of legitimate land tenure rights of small-holders, communities, ethnic nationalities, women, and other vulnerable groups. It also includes the recognition, protection, and ultimate registration of customary tenure rights, which previously were not

legally recognized. In September parliament passed and the president signed amendments to the Vacant, Fallow, and Virgin Land Management Act that featured limited protections for land "defined in accordance with cultural and traditional systems of local ethnic nationalities." On November 9, the Ministry of Agriculture announced that, effective from that date, small-holders have six months to register their land or risk becoming a trespasser on their own land; if rigorously enforced, this order could result in millions of people losing rights of access to their lands.

Civil society groups, however, raised concerns that laws continued not to recognize rights in traditional collective land ownership and shifting cultivation systems, which are particularly prevalent in areas inhabited by ethnic minority groups. Parallel legal frameworks and traditional forms of land tenure in areas controlled by ethnic groups in Kachin, Mon, Kayin, and Shan States were not recognized by the government. Ethnic and civil society groups staged protests during the year in Kachin and Kayin States, Mandalay Division, and elsewhere over the government's land policies.

Observers were concerned that the law could be used to prevent displaced Rohingya, who had security of tenure over lands in northern Rakhine State that were burned by the military, from returning to those lands or receiving adequate compensation from the government. Government officials stated that burned land would revert by law back to the government, without clarifying if such land would be returned to those who previously had security of tenure. There was no systematic effort to document the security of tenure Rohingya previously enjoyed over land from which they were displaced since August 2017.

Following the military campaign in Rakhine State, authorities bulldozed village remains, demolished structures, and cleared vegetation, to reshape some former Rohingya villages and replace former establishments with security bases and other structural developments.

The law requires that land be returned if not used productively within four years, but civil society groups reported land taken by the military was left unused for much longer periods and that there was little progress in returning other land confiscated by the government.

The General Administration Department under the Ministry of Home Affairs oversees land return. Adequate compensation was not provided to the many farmers and rural communities whose land was confiscated without due process

during the former military regime, including by the Myanmar Oil and Gas Enterprise, the Myanmar Ports Authority, and the military itself.

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

The law protects the privacy and security of the home and property, but observers said these protections were poorly enforced.

The law does not protect the privacy of correspondence or other communications of citizens, and activists reported authorities had expanded surveillance of civil society organizations' operations.

Some activists reported the government systematically monitored the travel of citizens and closely monitored the activities of politically active persons, while others reported they did not experience any such invasions of privacy. The government reportedly conducted surveillance in some circumstances by using the Special Branch police, official intelligence networks, and other administrative procedures (see section 2.d.).

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 this law was rarely enforced.

In January state-run newspapers made public the names of more than 1,400 individuals, including children, whom the government allegedly deemed to be terrorists, the families of terrorists, or sympathizers of terrorist groups. No information was provided regarding how such determinations were made and whether the individuals in question were formally charged or in detention, wanted for prosecution, or sought for questioning. There did not appear to be any formal judicial process involved. Observers noted publishing such a list put the individuals at risk of harm.

In Rakhine State local authorities prohibited Rohingya families from having more than two children, although this prohibition was inconsistently enforced. Also in Rakhine State, local authorities required members of the Rohingya minority 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. In 2016 the BGP in Buthidaung Township issued instructions to village

administrators outlining additional requirements for members of the Rohingya community to obtain a permit to marry. Unauthorized marriages could result in prosecution of Rohingya men under the penal code, which prohibits a man from "deceitfully" marrying a woman, and could result in a prison sentence or fine.

g. Abuses in Internal Conflict

The military and eight ethnic armed groups signed the Nationwide Ceasefire Agreement (NCA) in 2015, and two more ethnic armed groups signed the NCA during the year. Nonetheless, incidents involving use of excessive force, disregard for civilian life, and other abuses in conjunction with long-running internal conflicts occurred across the country. The UN Fact-Finding Mission report, published in September, documented a pattern of disregard for civilian life, targeting of civilians, extrajudicial killings, and the use of sexual violence by the military during the past several years.

In Kachin State and parts of Shan State, clashes continued among NCA signatory groups, nonsignatory groups, and the military, with credible allegations of abuse of civilian populations by both the military and ethnic armed groups. The majority of such clashes occurred in northern Shan and Kachin States. In central and southern Rakhine State and southern Chin State, sporadic clashes between the Arakan Army and the military continued, and in early August, the Arakan Army clashed with the Arakan Liberation Party. In Shan State the military clashed with the Ta'ang National Liberation Army (TNLA) and the Restoration Council of Shan State (RCSS), even though the latter is an NCA signatory. Fighting between the RCSS and TNLA also continued. Both of these groups, and the military, were alleged to have abducted, tortured, and killed suspected combatants as well as burned villages. In Chin State and most of the southeast, widespread and systematic violent abuses of civilian populations in ethnic minority areas continued to decline, largely due to a number of bilateral cease-fire agreements reached with ethnic armed groups. These areas also broadly fall under the NCA.

In Kachin and Shan States, continuing armed clashes between the military and ethnic armed groups displaced thousands of persons, compounding long-term displacement of conflict-affected communities in these areas. The military blocked humanitarian access to ethnic armed group-controlled areas, where many of the displaced resided, and nongovernmental organizations (NGOs) reported the military at times fired into internally displaced person (IDP) camps.

Military air and artillery strikes from January to April in Kachin State, especially around the village of Tanai, forced thousands to flee their homes. Air strikes on January 26 killed at least two civilians. Nearby Kachin Independence Army (KIA) bases housed family members and civilians as well as fighters, and attacks on those bases killed or wounded both KIA members and civilians.

The military continued to deploy forces in most ethnic armed groups' areas of influence and controlled most cities, towns, and highways. Reports continued of widespread abuses by government soldiers and some ethnic armed groups, including killings, beatings, torture, forced labor, forced relocations, and the use of child soldiers. Impunity for these abuses and crimes generally continued, although the military took disciplinary action in some cases.

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 exercised a harsh form of collective punishment against civilians. Military attacks, including aerial bombing operations, also resulted in civilian deaths. Some ethnic armed groups, most notably the RCSS and TNLA, allegedly killed civilians suspected of being members of rival armed groups. Clashes between government forces and ethnic armed groups, as well as among ethnic armed groups, broke out periodically in northern Shan State during the year.

In April seven soldiers were sentenced to 10 years in prison with hard labor for the killing of 10 Rohingya men and boys in the village of Inn Din in September 2017. The military stated four officers were among those sentenced, but did not release the names, ranks, or locations of detention. No steps were taken for accountability in other 2017 massacres in Rakhine State that were credibly documented by the United Nations and human rights groups.

On July 12 government soldiers reportedly killed six TNLA female medics in what the TNLA described as an execution following torture and rape. The military stated the six were killed during fighting between government and TNLA soldiers.

Abductions: There were reports government soldiers and nonstate armed groups abducted villagers in conflict areas.

On August 17, TNLA soldiers took Nang Mo Hom at gunpoint from her home in Shan State. The TNLA said she had obstructed its soldiers from collecting customs duties and was responsible for the death of one soldier, who was killed by

government forces while seeking to extort money from local residents. The TNLA released Nang Mo Hom in October after sentencing her to three years in prison and subsequently granting her amnesty, under its own alleged legal authority, which the government does not recognize.

During a crackdown in September on Christians in the Wa Self-Administered Division, the United Wa State Army (UWSA) detained a reported 200 Christian leaders while also destroying churches and imposing severe limits on Christian worship, teaching, and proselytizing. The UWSA later released most of those it detained. The government exerts no authority inside the Wa territory, which has been under UWSA control since 1988.

Physical Abuse, Punishment, and Torture: NGO reports provided credible information that the military engaged in torture and beating of civilians alleged to be working with or perceived to be sympathetic to ethnic armed groups in Kachin and Shan States. There were also continued reports of forced labor and forced recruitment by the KIA, the UWSA, and the TNLA.

The military continued to take steps to cease forcing civilians to serve as military porters, yet unconfirmed reports continued that the military forced civilians to carry supplies or serve in other support roles in areas with outbreaks of conflict, such as northern Shan, Rakhine, and Kachin States. There were also unconfirmed reports that the military used local villagers as human minesweepers in conflict areas.

Civilians, armed actors, and NGOs operating inside the country and along the border reported continued landmine use by the military and armed groups. Although the government and ethnic armed groups continued to discuss joint demining action, the discussions did not result in any joint demining activities. UNICEF received reports that the military unilaterally undertook limited landmine clearance operations in the southeast and in northern Shan State where it cleared small numbers of improvised explosive devices and unexploded ordnance when identified.

The Department of Rehabilitation in the Ministry of Social Welfare, Relief, and Resettlement and UNICEF continued to co-chair the one national and four state-level mine risk working groups (MRWG) in Kachin, Kayah, Kayin, and Shan States. In Kayin State the MRWG included representatives from the state-level Department of Social Welfare, military, and ethnic armed groups, including the

Karen National Union, Democratic Karen Benevolent Army, and Karen National Liberation Army-Peace Council.

The MRWGs coordinated mine-risk education, victim assistance, information management systems, and advocacy. They monitored and documented incidents and casualties from landmines and unexploded remnants of war. Between January and August, UNICEF and the MRWGs documented 193 casualties, including 45 children. Of these casualties, 89 percent occurred in Kachin and Shan States. Many incidents were not reported due to continuing conflicts in Kachin, Shan, and Rakhine States.

Child Soldiers: The government continued to implement the 2012 joint action plan with the United Nations to end underage recruitment and use of child soldiers in the context of the UN Country Task Force on Monitoring and Reporting (CTFMR), which oversees documentation and verification of grave violations against children. UN officials reported the military continued to make progress in decreasing the use and recruitment of children, as well as demobilizing soldiers recruited as children who were still serving in the armed forces. They also noted the timeframe for authorities to verify allegations of child soldier use and recruitment grew longer during the year.

In addition to the military, seven armed groups were listed in the UN Secretary General's 2017 report on Children and Armed Conflict as perpetrators of the recruitment and use of children: the Democratic Karen Benevolent Army, the Karen National Liberation Army, the Karenni Army, the Karenni National Progressive Party, the RCSS, Shan State Army South, and the UWSA.

From June 2012 to September 2018, the military released 924 individuals who were under the age of 18 when they were recruited, including 75 released at a ceremony in September. The military continued to implement age-verification procedures in the recruitment process, although there were reports middlemen continued to help underage recruits bypass these procedures, sometimes at the request of those recruits' families. Military directives issued in 2015 and 2016 to prohibit the use of children remained in effect.

The Ministry of Defense undertook efforts to investigate military personnel implicated in recruiting child soldiers. The military provided information to the CTFMR that linked specific accountability measures to the respective cases of child recruitment or use, allowing for verification of the military's accountability

measures. The military did not make these reports publicly available. By law all accountability measures fall under military discipline or justice regulations.

The United Nations reported that at least 683 of the 924 child soldiers released by the military since June 2012 have received some support for reintegration into civilian life, although the quality and effectiveness of that support was uneven. The Ministry of Social Welfare, Relief, and Resettlement, UNICEF, and other partners provided social assistance and reintegration support to discharged children.

The military generally allowed UN monitors to inspect for compliance with agreed-upon procedures, to cease recruitment of children, and to implement processes for identification and demobilization of those serving in armed conflict. There were some delays in securing official permissions, and access to conflict areas was generally denied. The government continued to prevent ethnic armed groups from signing joint plans of action with the United Nations to end recruitment 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/j/tip/rls/tiprpt/.

Other Conflict-related Abuse: The government further restricted the passage of relief supplies and access by international humanitarian organizations to conflict-affected areas of Rakhine, Kachin, and Shan States. The government regularly denied access to the United Nations, international NGOs, and diplomatic missions, arguing the military could not assure security or claiming humanitarian assistance would benefit ethnic armed group forces, although there was no ongoing conflict in northern Rakhine State. In some cases the military allowed gradual access only as government forces regained control over contested areas. Although locally based organizations had some access to the estimated 40,000 IDPs in areas outside government control, primarily in northern Kachin State, the military increased restrictions on access for local organizations, including through threats of prosecution under the Unlawful Associations Act against local humanitarian organizations operating in areas outside government control. The government has not granted the United Nations or other international organizations humanitarian access to areas in Kachin State outside of military control since June 2016. More than 107,000 persons remained displaced by conflict in Kachin and Shan States. 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 (see section 2.d.).

The United Nations reported that conflict and fighting in Rakhine, Kachin, and Shan States led to substantially increased reports of the killing and maiming of children, including by landmines, and attacks on schools and hospitals.

There were some reports of the use of civilians to shield combatants.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides, "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 continued during the year.

Freedom of Expression: Freedom of expression was more restricted compared with 2017. Authorities arrested, detained, convicted, intimidated, and imprisoned citizens for expressing political opinions critical of the government and the military, generally under the charges of defamation, protesting without a permit, or violating national security laws. This included the detentions and trials of journalists and other figures, applying laws carrying more severe punishments than those used previously.

The criminal defamation clause under the Telecommunications Law, known as Section 66(d), was frequently used to restrict freedom of expression and press. Use of the law continued apace from 2017. According to a local activist group that advocates for freedom of expression, 198 criminal defamation cases have been filed under Section 66(d) since the law was introduced in 2013. Several journalists, as well as critics of the government and the military, continued to face charges under this law. On January 6, Mon State authorities sued a Facebook user, U Aung Ko Ko Lwin, for a post disparaging the Mon State Chief Minister Dr. Aye Zaw, citing the separate Law Protecting the Privacy and Security of Citizens, which similarly criminalizes defamation.

Ngar Min Swe, a former newspaper columnist and prominent critic of the government, was arrested in July on charges of "excit[ing] disaffection towards the government" for a Facebook post he wrote in January that was critical of Aung San Suu Kyi. On September 17, he was given a seven-year prison sentence.

Other government prosecutions of politicians and activists included the September 10 high treason (Article 122) and defamation of the state (criminal code Article 505(b)) charges against Aye Maung and Wai Hin Aung for remarks that reportedly expressed support for the Arakan Army, and the October 8 two-year prison sentence under Article 505(c) for inciting conflict between ethnic or religious groups of Maung Thway Chuun for his speech criticizing Christian leaders of the parliament and criticizing the government for allowing Buddhism to "disappear."

A court in Myitkyina on December 7 sentenced three Kachin peace activists--Lum Zawng, Nang Pu, and Zau Jat--to six months in prison with an additional 500,000 kyat ($320) fine for their involvement in a peaceful protest over conditions of internally displaced persons in Kachin State. They were charged under a section of Myanmar's penal code that criminalizes defamation of the military, based on statements they made at the April protest, which followed an increase in fighting between the military and the KIA. A court in Myitkyina then fined three other activists who led a peaceful demonstration calling for the release of the first activists.

Other problematic laws that remained in force, including the Unlawful Associations Act, Habitual Offenders Act, Electronic Transactions Law, Television and Video Act, Official Secrets Act, Law on Safeguarding the State from the Danger of Subversive Elements, and Sections 124(a) and 505(b) of the penal code (which cover "exciting disaffection towards the Government" and committing an "offense against the State or against the public tranquility," respectively), were used to censor or prosecute public dissent. The Law Protecting the Privacy and Security of Citizens, enacted in March, was also used to prosecute a critic of the NLD-appointed chief minister of Mon State.

On August 16, the chairman of the NLD in Magwe Region issued a notice instructing regional bodies to take legal action against people who use Facebook to severely defame State Counsellor Aung San Suu Kyi or the regional and national governments.

Some people 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, writers, and diplomats. 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.

Press and Media Freedom: Independent media were active and able to operate, despite some restrictions. The government continued to permit the publication of privately owned daily newspapers. As of October authorities approved 28 dailies; however, press freedom declined compared with 2017, and the security forces detained journalists under laws carrying more severe sentences than those it used in previous years.

Local media could cover human rights and political issues, including democratic reform, and international investigations of the 2017 ethnic cleansing in Rakhine State, although they observed some self-censorship on these subjects. The government generally permitted media to cover protests and civil conflict, topics not reported widely in state-run media.

The military continued to practice zero tolerance of perceived critical media commentary, while members of the ruling party increasingly used existing legislation to prosecute journalists and a former columnist perceived as critical.

Two Reuters reporters, who were detained in December 2017 and charged under the Official Secrets Act related to their investigation of security forces' activities in northern Rakhine State, remained incarcerated throughout their trial and were sentenced on September 3 to seven years in prison after a trial that many observers criticized as lacking due process. State Counsellor Aung San Suu Kyi, in a June 8 interview with Japanese broadcasting organization NHK and in public remarks at the World Economic Forum on the Association of Southeast Asian Nations (ASEAN) in September, rebuffed critics and defended the jailing of the two journalists.

Myanmar Now editor in chief Swe Win's 66(d) trial continued in Mandalay as of October, and the court rejected a motion to dismiss the case. In March 2017 Swe Win was arrested because of allegedly sharing a Facebook post suggesting the monk Wirathu, a prominent Ma Ba Tha figurehead, violated the monastic code of conduct by making statements commending the January 28 assassination of well-known Muslim constitutional lawyer Ko Ni (see section 1.a.).

On October 1, a Dawei township court charged the editor of the *Thanintharyi Journal* under the Media Law over the journal's November 2017 publication of a satirical article about a regional official.

On October 10, the Yangon regional government detained two editors and one journalist from the Eleven Media Group and charged them under Section 505(b) following publication of an article concerning the regional government's alleged financial malfeasance. Following President Win Myint's order to turn the case over to the Myanmar Press Council, the regional government dropped the charges on November 9, while holding out the possibility of reinstating charges if the press council's ruling was unsatisfactory.

Radio, television, and the internet were the primary mass communication media. Circulation of independent news periodicals declined outside of urban areas, and circulation of government-controlled print media far exceeded independent media circulation. Several print publications maintained online news websites that were popular among those with access to the internet. The military, government, and government-linked businesspersons controlled the content of the eight privately or quasi-governmentally owned FM radio stations.

The government loosened its monopoly and control on domestic television broadcasting. It offered six public channels--five controlled by the Ministry of Information and one by the military; the ministry channels regularly aired the military's content. 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 ministry signed licenses in February with five media companies, including formerly exiled media groups DVB and Mizzima Media, to broadcast their content in a landmark public-private broadcasting partnership. The ministry insisted that the five companies, which use state-owned broadcaster Myanmar Radio and Television's transmission infrastructure, abide by government guidelines on content, including avoiding using the term "Rohingya" in most cases. Many media outlets reported the cost of applying for and maintaining a television channel was prohibitive.

Violence and Harassment: Nationalist groups continued to target journalists who spoke out critically regarding intercommunal and Rakhine State issues. Businesspersons engaged in illegal enterprises, sometimes together with local authorities, also harassed and threatened journalists reporting on their activities, including with the threat of legal action. Officials continued to monitor journalists in various parts of the country.

Censorship or Content Restrictions: Although generally not enforced, laws prohibit citizens from electronically passing information about the country to media located outside the country, exposing journalists who reported for or cooperated with international media to potential harassment, intimidation, and arrest. There were no reports of overt prepublication censorship of press publications, and the government allowed open discussion of some sensitive political and economic topics, but incidents of legal action against publications that criticized the military or the government heightened concern among local journalists and increased the use of 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 such self-censorship became more pronounced because of the trial and conviction of the two Reuters journalists. The government ordered media 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, which exacerbated already high levels of self-censorship on this topic. Authorities prevented journalists from accessing northern Rakhine State, with the exception of government-organized trips that participants reported to be tightly controlled and designed to advance the government's narrative. The number of such trips increased during the year. The government continued to use visa issuance and shortened visa validities to control foreign journalists, especially those not routinely based in the country.

The government censorship board reviews all films to be screened inside the country. This process resulted in the censorship of one film scheduled for screening at the European Film Festival in September because of nudity.

Libel/Slander Laws: Elements of the military sued journalists on multiple occasions for what they perceived as defamation or inaccurate reporting. The military sometimes dropped the cases after a lengthy court process.

Individuals, including political figures, also used the Telecommunications Law to sue reporters for perceived defamation. U Thawbita, a Buddhist monk in Mandalay, surrendered to police on September 28 after being charged under 66(d) because of a Facebook post he wrote criticizing the commander in chief and the military's role in politics. He was released on bail, and the case continued at year's end.

Internet Freedom

The government generally did not restrict or disrupt access to the internet or censor online content. The government set up a Social Media Monitoring Team and reportedly monitored internet communications without clear legal authority and used defamation charges to intimidate and detain some individuals using social media to criticize the military, government officials, or the ruling party. There were also instances of authorities intimidating online media outlets and internet users. 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. According to the International Telecommunication Union, approximately 25 percent of the population had access to the internet in 2016, but estimated mobile phone penetration was 90 percent, and other experts noted the majority of mobile handsets in the country could connect to the internet. The most recent *Freedom on the Net* report issued in 2017 by international NGO Freedom House rated internet freedom in the country not free, consistent with previous years.

Section 66(d) of the Telecommunications Act limited freedom of expression online.

Academic Freedom and Cultural Events

Government restrictions on academic freedom and cultural events continued. The Ministry of Education in some cases demonstrated willingness to collaborate with international institutions to host educational and cultural events, as well as to expand educational opportunities for undergraduate students.

The government tightened restrictions on political activity and freedom of association on university campuses. In January, university administrations expelled 34 students in several universities for participating in student protests calling for increased education funding. In addition the Ministry of Education issued a directive in May forbidding speeches on political issues on university campuses and requiring details to be submitted in advance for the organization of seminars or talks, including names and biographies of all panelists and a list of all participants. Following widespread student protest, the ministry withdrew the directive and issued subsequent regulations that allowed political discussions while keeping in place the need for prior approval of topics and participant lists.

The government generally allowed the informal establishment of student unions. Nonetheless, no laws allow student unions to register officially with the government, and among university rectors and faculty there was considerable fear and suspicion of student unions. Although some student unions were allowed to open offices unofficially in some locations, 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.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, but the government restricted these rights.

Freedom of Peaceful Assembly

The constitution provides the right to peaceful assembly, although this right was not always respected in practice. 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 hold protests over land rights and older cases of land confiscation throughout the country, and human rights groups continued to report cases in which the government arrested groups of farmers and those supporting them for demanding the return of confiscated land. Many reported cases involved land seized by the military under the former military regime and given to private companies or persons with ties to the military.

Local government officials in Yangon Region, Kayah State, and elsewhere required civil society organizations to apply for advance permission before holding meetings and other functions in hotels and other public venues. Officials forced venues to cancel civil society events where such permission was not obtained. Officials in Mandalay Division and Kayah State required civil society organizations to request advance permission from the local government to meet with diplomats.

At least 42 persons were arrested in May for their participation in peaceful antiwar protests in Rangoon, Mandalay, and other cities. Three people who were arrested for their participation in a related poetry reading were sentenced on September 19,

two with fines of 20,000 kyats ($13) and one opting to serve 15 days in prison instead of paying the fine.

Following a peaceful protest on July 3 against the erection of a statue of the Burmese independence hero General Aung San, in Loikaw, Kayah State, 16 demonstrators were arrested; 11 of those 16 faced charges under Sections 505(b) for distributing pamphlets related to the protest. The trial continued as of October.

Common charges used to convict peaceful protesters included criminal trespass, violation of the Peaceful Assembly and Processions Act, and violation of Section 505(b) of the penal code, which criminalizes actions the government deemed likely to cause "an offense against the State or against the public tranquility."

Freedom of Association

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

In June the State Sangha Maha Nayaka Committee ordered local branches of the organization commonly known as Ma Ba Tha to remove signs using that name, following a 2017 ban on the use of the name after which the organization formally rebranded itself the Buddha Dhamma Parahita Foundation. Some of its members, including Wirathu, were sanctioned in 2017 for inflaming tensions towards the Muslim community using ultranationalist rhetoric. Some local branches of the organization continued to use the name on their signs in spite of the ban, and as of October no action had been taken against them.

The law on registering organizations stipulates voluntary registration for local NGOs and removes punishments for noncompliance for both local and international NGOs. Some NGOs that tried to register under this law found the process extremely onerous.

Activists reported civil society groups, community-based organizations, and informal networks operated openly and continued to discuss openly human rights and other political problems. They reported, however, that state surveillance of such operations and discussions was common and that government restrictions on meetings and other activity increased during the year.

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 explicitly and comprehensively protect freedom of internal movement, foreign travel, emigration, and repatriation. Laws provide rights for citizens to settle and reside anywhere in the country "according to law." Laws related to noncitizens empower the president to make rules for requiring registration of foreigners' movements and authorize officials to require registration for every temporary change of address exceeding 24 hours.

Abuse of Migrants, Refugees, and Stateless Persons: The government committed widespread and systematic abuses against the Rohingya population (see Stateless Persons).

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

The government restricted the ability of IDPs and stateless persons to move. 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, involuntarily confined, and forcibly relocated IDPs and stateless persons.

Restrictions on in-country movement of Rohingya were extensive. Authorities required the Rohingya, a largely stateless population, to carry special documents and travel permits for internal movement in five areas in Rakhine State where the Rohingya primarily reside: Buthidaung, Maungdaw, Rathedaung, Kyauktaw, and Sittwe. Township officers in Buthidaung and Maungdaw Townships continued to require Rohingya to submit a "form for informing absence from habitual residence" for permission 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 northern 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 (INRD) and only if that person provided an original copy of a family list, temporary registration card, and two guarantors. Travel authorized under Form 4 is generally valid for two to four weeks. The cost to obtain the form varied from township to township, with required payments to village administrators or to the township INRD office in amounts ranging from 50,000 to 100,000 kyats ($32 to $64). The government removed the Form 4 requirement between Maungdaw and Buthidaung townships in late 2017, only for individuals in possession of formal identity documents, although other formal and informal local restrictions on movement remained in place. Change of residency from one village or township to another in northern Rakhine State required permission from the INRD or the township, district, and state officials. While Rohingya could change residency, the government would not register them on a new household registration list in that new location. This practice effectively prevented persons from changing residency.

International and local humanitarian staff required travel authorizations from the union and state level to operate in Rakhine State. Local staff had to submit travel applications two weeks in advance, and they were often denied. Humanitarian access to northern Rakhine State was suspended entirely in August 2017; however, during the course of 2018, the Red Cross Movement, World Food Program, and several other organizations regained some degree of access. Media and human rights professionals were routinely denied access to Rakhine State.

Travel restrictions effectively prevented Rohingya from northern Rakhine State from traveling to other parts of the state, including the capital of Sittwe, and outside the state.

In May, Hla Phyu was arrested and convicted of false representation after attempting to leave an IDP camp in Rakhine State, where she had been living since her displacement during violence in 2012, and travel to Rangoon. The 23-year-old teacher, who is Muslim, had previously applied for official permission to travel without success, and eventually traveled without receiving permission. She was sentenced to a year in prison with hard labor.

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

Foreign Travel: The government maintained restrictions preventing foreign travel of political activists, former political prisoners, and some local staff of foreign embassies. While some administrative restrictions remained, local organizations

reported encountering far fewer delays and restrictions. Stateless persons, particularly Rohingya, were unable to obtain documentation necessary for foreign travel.

Exile: There was a sizeable diaspora, with some citizens choosing to remain outside the country after years of self-imposed exile. During the year the government encouraged exiles to help rebuild their country, and some returned home; however, the government appeared to maintain an opaque "black list" of individuals, including some from the exile community, who were prohibited from entering the country.

Internally Displaced Persons (IDPs)

An estimated 235,000 persons remained internally displaced by violence in Kachin, Rakhine, and northern Shan States as of September. The UN Office of Coordination for Humanitarian Affairs estimated that more than 28,000 people were displaced by armed conflict in Kachin and Shan States since January. The United Nations and other humanitarian agencies reported significant deterioration in humanitarian access during the year, and the military blocked access to IDPs and other vulnerable populations in areas controlled by nonstate armed groups (see section 1.g., Other Conflict-related Abuse). Approximately 128,000 Rohingya remained confined to IDP camps in Rakhine State following 2012 intercommunal violence. A small number of Kaman and Rakhine have also lived in IDP camps since 2012. This figure did not include an additional unknown number, likely in the tens of thousands, who were internally displaced following atrocities beginning in August 2017 in northern Rakhine State. Accurate figures were difficult to determine due to continued poor access to affected areas.

Fighting between government forces and ethnic armed groups continued in Kachin, Shan, Kayin, and Rakhine States. Ethnic armed groups also clashed among themselves in northern Shan State. Access to displaced persons in or near conflict zones continued to be a challenge, with the military restricting access by humanitarian actors seeking to provide aid to affected communities.

Some 101,000 Rohingya IDPs lived in Sittwe's rural camps, displaced since 2012, where they relied on assistance from aid agencies. Humanitarian agencies provided access to clean water, food, shelter, and sanitation in most IDP camps. The government limited health and education services and livelihood opportunities through severe and systematic restrictions on movement. Conditions in Aung Mingalar, the sole remaining Muslim quarter in Sittwe, remained poor, with

Rohingya allowed to leave the fenced and guarded compound only to shop for necessities at nearby markets or to visit outside health clinics if they paid a fee to security services. In an attempt to start closing the camps, the government relocated the Rohingya residents of some IDP camps in Rakhine State to nearby locations where they continued to be segregated and concentrated without improvements in freedom of movement or access to livelihoods.

In November, when in the past Rohingya have sought to flee Myanmar in boats after the start of the dry season, Myanmar naval authorities intercepted and detained a group of 106 Rohingya who attempted to leave Rakhine State by sea. Authorities returned some members of the group to Sittwe and others to an IDP camp. There were reports of Myanmar authorities detaining other groups also attempting to depart by boat.

During the year humanitarian agencies received travel authorizations to provide assistance sporadically, and international humanitarian staff were not allowed to travel outside of urban areas in Kachin, northern Shan, and northern Rakhine States for much of the year. Humanitarian access to Rakhine State was irregular and restricted, and humanitarian workers continued to be under pressure from local communities to reduce assistance to Muslim IDPs and villages.

The government continued to restrict humanitarian access throughout Rakhine State with inconsistent approvals of travel authorization requests. Local staff of humanitarian organizations, many of whom lived among affected populations, continued to have to apply for travel permits in order to provide services.

There were reports of some small-scale, spontaneous IDP and refugee returns in the southeast of the country.

Protection of Refugees

Access to Asylum: The country's laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. UNHCR did not register any asylum seekers during the year.

Stateless Persons

The vast majority of Rohingya were stateless. Following the forced displacement of more than 700,000 Rohingya to Bangladesh in 2017, an estimated 520,000 to

600,000 Rohingya remained in Rakhine State. There were likely significant numbers of stateless persons and persons with undetermined nationality throughout the country, including persons of Chinese, Indian, and Nepali descent.

Provisions of the Citizenship Law contributed to statelessness. Following the entry into force of the 1982 law and procedures, the government released a list of 135 recognized "national ethnic groups" whose members are automatically full citizens. This list excluded the Rohingya, and subsequent actions by the government rendered the vast majority of the Rohingya ethnic minority stateless. The law defines "national ethnic group" only as a racial and ethnic group that can prove origins in the country dating back to 1823, the year prior to British colonization. Several ethnic minority groups, including the Chin and Kachin, criticized the classification system as inaccurate. While the majority of the country's inhabitants automatically acquired full citizenship under these provisions, some minority groups, including the Rohingya; persons of Indian, Chinese, and Nepali descent; and "Pashu" (Straits Chinese), some of whose members had previously enjoyed citizenship in the country, are not included on the government's list. The Rohingya and others are technically eligible for full citizenship via standard mechanisms unrelated to ethnicity, but they must go through a special process with additional scrutiny that in practice requires substantial bribes to government officials to access the government's family records or to ensure officials formally accept a citizenship application for processing. This process generally results in naturalized citizenship without the complete set of rights associated with full citizenship. The law does not provide protection for children born in the country who do not have a "relevant link" to another state.

The name Rohingya is used in reference to a group that self-identifies as belonging to an ethnic group defined by religious, linguistic, and other ethnic features. Rohingya maintained they have resided in what is now Rakhine State for generations. In 2016 the government established a policy of using "Muslims in Rakhine State" to refer to the population, although military officials and many government officials, particularly in Rakhine State, continued to use the term "Bengali," which is considered a pejorative. This term is still used on identification documents. The government offers a citizenship verification process to Rohingya to determine who qualifies for citizenship on the basis of mechanisms in the 1982 law that provide pathways to citizenship other than being a member of a national ethnic race. The Rohingya community participated in this process in a limited manner. The government no longer requires all participants to identify as "Bengali" as a condition of participating in the process, nor does it require

applicants to list their race or religion on forms in the earliest phases of the process, although implementing officials reportedly continued to require participants to identify as "Bengali." Those who are verified as a citizen (of whatever type) would have "Bengali" listed as their race on their citizenship scrutiny card. This process and the separate national verification process were not seen as credible by the Rohingya community, in part because many continued to be told they were required to apply as "Bengali," because the few Rohingya who received national verification cards or citizenship through these processes did not receive significant rights and benefits, and because the government implemented the process in a coercive manner. For example, there were reported cases that a government official required Rohingya to have a national verification card to go fishing or access a bank account. The government continued to call on Rohingya to participate, but many of them expressed the need for more assurances about the results of the process. 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--naturalized rather than full--thereby formalizing their lack of rights.

According to the Citizenship Law, two lesser forms of citizenship exist: associate and naturalized. According to other legal statutes, these citizens are unable to run for political office; serve in the military, police, or public administration; inherit land or money; or pursue certain professional degrees, such as medicine and law. According to the Citizenship Law, only the third generation of associate or naturalized citizens are able to acquire full citizenship.

Rohingya experienced severe legal, economic, and social discrimination. The government required them to receive prior approval for travel outside their village of residence; limited their access to higher education, health care, and other basic services; and prohibited them from working as civil servants, including as doctors, nurses, or teachers. Authorities singled out Rohingya in northern Rakhine State to perform forced labor and arbitrarily arrested them. Authorities required Rohingya to obtain official permission for marriages and limited the registration of children to two per family, but local enforcement of the two-child policy was inconsistent. For the most part, authorities registered additional children beyond the two-child limit for Rohingya families, yet there were cases of authorities not doing so.

Restrictions impeded the ability of Rohingya to construct houses or religious buildings.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government through elections held by secret ballot, although certain provisions prevent it from being a fully representational system and assuring the free expression of the will of the people. Constitutional provisions grant one-quarter of all national and regional parliamentary seats to active-duty military appointees and provide the military with the authority to appoint the ministers of defense, home affairs--which has responsibility for subnational governance as well as police, prisons, and other matters--and border affairs, and indefinitely assume power over all branches of the government should the president declare a national state of emergency. A separate constitutional provision prohibits persons with immediate relatives holding foreign citizenship from becoming president. Amending the constitution requires more than 75 percent approval by members of parliament, giving the military effective veto power over constitutional amendments.

Elections and Political Participation

Recent Elections: International organizations reported the country conducted its November by-elections for 13 national- and state-level offices in accordance with generally accepted democratic principles. Observers considered the 2015 national election to be generally reflective of the will of the people, notwithstanding some structural shortcomings. Observers raised concerns that 25 percent of seats in parliament were reserved for unelected military officers; potential Muslim candidates were disqualified by their political parties on an apparently discriminatory basis; almost all members of the Rohingya community, many of whom voted in elections prior to 2015, were disenfranchised; and the government canceled voting in some conflict-affected ethnic minority areas. The NLD, chaired by Aung San Suu Kyi, won more than 77 percent of the contested 1,150 seats at the state, regional, and union levels in the 2015 election.

Political Parties and Political Participation: Opposition parties and civil society organizations continued to exercise their rights to assemble and protest.

Participation of Women and Minorities: No laws limit the participation of women and members of minorities in the political process, and they did participate. Nevertheless, women and minorities continued to be underrepresented in government. Aung San Suu Kyi was the only woman in a cabinet of 24 ministers serving at the national level. The representation of women at both the national and the state and regional levels was more than 10 percent among elected

representatives. Women led two subnational governments, including the chief ministers of Kayin State and Tanintharyi Region.

As of October, five chief ministers of the seven ethnic states belonged to the ethnic groups of their states, including the chief minister of Rakhine State; one of two union-level vice presidents belonged to the Chin ethnic minority group and one belonged to the Mon ethnic group. The representation of ethnic minority parliamentarians from ethnic minority political parties at both the national, state, and regional level was approximately 9 percent. These figures from all levels did not account for ethnic minority members of the NLD (which included numerous ethnic members) or the Union Solidarity and Development Party.

Rohingya continued to be excluded from the political process, because their political rights (whether to vote or run for office) remained severely curtailed since the vast majority are stateless. Although Rohingya comprised approximately one-third of the total population in Rakhine State and clear majorities in some voting districts at the time of the 2015 national election, there were no Rohingya representatives in the state parliament, and most Rohingya-majority areas were represented by an ethnic Rakhine nationalist party.

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. Although anecdotal reports suggested corruption among elected officials declined significantly since 2016, the government's anticorruption efforts remained limited in some parts of the government, including the General Administration Department, which falls under the authority of the Minister of Home Affairs, an active-duty general who is appointed by the military per the constitution.

Corruption: Corruption remained a problem, particularly in the judiciary. Police reportedly often required victims to pay substantial bribes for criminal investigations and routinely extorted money from the civilian population. The government took some steps to investigate and address corruption of government officials.

In May, Minister of Finance Kyaw Win resigned while under investigation by the Anticorruption Commission. The investigation did not lead to charges.

In September the Yangon Region Attorney General and five other officials, including a judge, were arrested and charged with taking 70 million kyats ($45,500) in bribes to drop charges against three men accused of killing a popular comedian in January. The case continued as of October.

In October the Anticorruption Commission chairman stated his commission has no authority to investigate corruption in the military.

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 ($16). The rules also require civil servants to report all offers of gifts to their supervisors, whether or not they are accepted.

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

The government did not fully allow domestic human rights organizations to function independently. Human rights NGOs were able to open offices and operate, but there were some reports of harassment and monitoring by authorities, and that authorities sometimes pressured hotels and other venues not to host meetings by activists or other civil society groups.

Human rights activists and advocates, including representatives from international NGOs, continued to obtain 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: As of year's end, the government had not agreed to the opening of an Office of the UN High Commissioner for Human Rights (OHCHR). While formally allowing OHCHR staff to maintain a nominal presence in country, the government delayed visa issuance for some OHCHR staff members and continued to require travel authorization for travel to Rakhine State and conflict areas.

On September 17, the UN Fact-Finding Mission, established by the UN Human Rights Council, published its final report on the country, which detailed atrocities committed by the military in Rakhine, Kachin, and Shan States, as well as other areas, and characterized the "genocidal intent" of the military's 2017 operations in Rakhine State. The government denied the Fact-Finding Mission permission to enter the country and publicly disavowed the report.

The government continued not to allow the UN special rapporteur on the situation of human rights in Myanmar to enter the country, but permitted UN special envoy of the Secretary-General on Myanmar Christine Schraner Burgener, who was appointed in April, to enter the country on multiple occasions and meet with officials, including Aung San Suu Kyi and Commander-in-Chief Minh Aung Hlaing.

The ICRC had full access to independent civilian prisons and labor camps. The government also allowed the ICRC to operate in ethnic-minority states, including in Shan, Rakhine, and Kachin States.

Government Human Rights Bodies: The Myanmar National Human Rights Commission investigated some incidents of gross human rights abuses. In some prominent cases, it called on the government to conduct investigations into abuses, and in October it called on the government to facilitate the repatriation of Rohingya from Bangladesh. It also conducted investigations into police mistreatment of detainees (see section 1.d., Arrest Procedures and Treatment of Detainees). Its ability to operate as a credible, independent mechanism remained limited. The commission supported the development of human rights education curricula, distributed human rights materials, and conducted human rights training.

On July 30, the government announced the formation of the Commission of Enquiry (COE) for Rakhine State, headed by Rosario Manalo, a former deputy prime minister of the Philippines. The four-person COE did not release any findings as of October. Previous government-led investigations into reports of widespread abuses by security services against the Rohingya in northern Rakhine State in 2016 yielded no findings of guilt or accountability and were criticized by international observers as deeply flawed.

The Advisory Commission on Rakhine State, established by Aung San Suu Kyi in 2016 and led by former UN secretary-general Kofi Annan, released its final report in August 2017, prior to the ARSA attacks in northern Rakhine State. Observers

questioned the government's claim to have implemented 81 of 88 recommendations in the Advisory Commission's final report as of October.

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

Women

Rape and Domestic Violence: Rape is illegal but remained a significant problem, and the government did not enforce the law effectively. Spousal rape is not a crime unless the wife is younger than 14 years. 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 stated cases were on the rise. Laws prohibit 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. Punishment for violating the law includes sentences ranging from one year to life in prison, in addition to possible fines. Overlapping and at times contradictory legal provisions complicated implementation of these limited protections.

The United Nations, media, and NGOs during the year documented the widespread use of rape and sexual violence by the military in Rakhine, Kachin, and Shan States since at least 2011. The military rejected all allegations that rape was an institutionalized practice in the military.

Sexual Harassment: The penal code 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. In 2015, however, the government enacted the Population Control and Health Care Law, which contains provisions that, if enforced, could impose coercive birth-spacing requirements. Under the law the president or the national government may designate "special regions" for health care following consideration of factors such as population, natural resources, birth rates, and food availability. Once a special region is declared, the government allows the creation of special health-care organizations to perform various tasks, including establishing regulations related to family planning methods. The government has not designated any such special regions since the law's enactment.

A two-child local order issued by the government of Rakhine State pertaining to the Rohingya population in two northern townships remained in effect, but the government and NGOs reported it was not consistently enforced (see section 1.f.).

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. The law requires equal pay for equal work, but it was not clear the formal sector respected this requirement. NGOs reported some sectors, such as the garment industry, did not comply. Poverty affected women disproportionately. The law governing hiring of civil service personnel states 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."

Customary law was widely used to address issues of marriage, property, and inheritance, and it differs from the provisions under statutory law.

Children

Birth Registration: The 1982 Citizenship Law automatically confers full citizenship status to 135 recognized national ethnic groups as well as to persons who met citizenship requirements under previous citizenship legislation. 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. Residents derive full citizenship through parents, both of whom must be one of the 135 officially recognized "national races." Under the law the government does not officially recognize Rohingya as an ethnic group.

A prominent international NGO noted significant rural-urban disparities in birth registration. In major cities (e.g., Rangoon and Mandalay), births were registered immediately. In larger cities parents must register births to qualify for basic public services and obtain national identification cards. In smaller towns and villages, however, birth registration often was informal or nonexistent. For the Rohingya community, birth registration was a significant problem (see section 2.d.). The Advisory Commission on Rakhine State noted in its interim report nearly one-half of all residents in Rakhine State lacked birth documentation and recommended the government introduce a comprehensive birth registration campaign.

A birth certificate provided 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, but more often a lack of availability, complicated access to public services in remote communities.

Education: By law, education is compulsory, free, and universal through the fourth grade. The government continued to allocate minimal resources to public education, and schools charged informal fees.

Education access for internally displaced and stateless children remained limited.

Child Abuse: Laws prohibit child abuse, but they were neither adequate nor enforced. NGOs reported corporal punishment was widely used against children as a means of discipline. The punishment for violations is a maximum of two years' imprisonment or a maximum fine of 10,000 kyats ($6.30). There was anecdotal evidence of violence against children occurring within families, schools, in situations of child labor and exploitation, and in armed conflict. The Ministry of Social Welfare, Relief, and Resettlement continued its child protection programs. In Rakhine State continued violence left many families and children displaced or with restrictions on their movement, and this dislocation at times exposed them to an environment of violence and exploitation. Armed conflict in Kachin and Shan States had a similar adverse effect on children in those areas.

Early and Forced Marriage: The law stipulates different minimum ages for marriage based on religion and gender: The minimum age for Buddhists is 18 years, and the minimum age for Christians is 16 for boys and 15 for girls, but child marriage still occurred. According to the 2014 census, more than 13 percent of women married between ages 15 and 19. There were no reliable statistics on forced marriage. Child marriage remained a problem in rural areas.

Sexual Exploitation of Children: Children were subjected to sex trafficking in the country, and a small number of foreign child-sex tourists exploited children. The law does not explicitly prohibit child-sex tourism, but it prohibits pimping and prostitution, and the penal code prohibits sex with a minor younger than 14 years. The penalty for the purchase and sale of commercial sex acts from a child younger than 18 is 10 years' imprisonment. The law prohibits pornography and specifies a penalty of two years' minimum imprisonment and a fine of 10,000 kyats ($6.30). 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 12 and 14, and 10 years' to life imprisonment when the victim is younger than 12.

Displaced Children: The mortality rate of internally displaced children in conflict areas was significantly higher than in the rest of the country (see section 2.d.). The United Nations estimated that 53 percent of the 128,000 IDPs in Rakhine State are children; the vast majority of this population is Rohingya. The UN estimated that 46 percent of the 98,000 IDPs in Kachin State are children and 48 percent of the 8,500 IDPs in northern Shan State are children.

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.html.

Anti-Semitism

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

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, hearing, intellectual, and mental disabilities. The law does not specifically prohibit discrimination against persons with disabilities in air travel and other forms of

transportation, but it directs the government to assure 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 often attended school through secondary education at a significantly lower rate than other persons, and many never attended school due to stigma and lack of any accommodation for their needs.

According to the Myanmar Physical Handicap Association, a significant number of military personnel, armed group members, and civilians had a disability because of conflict, including because of torture and landmine incidents. There were approximately 12,000 amputees in the country--two-thirds believed to be landmine survivors--supported by five physical rehabilitation centers throughout the country. Persons with disabilities reported stigma, discrimination, and abuse from civilian and government officials. Students with disabilities cited barriers to inclusive education as a significant disadvantage.

Military veterans with disabilities received official benefits on a priority basis, usually a civil service job at equivalent pay, but both military and ethnic-minority survivors in rural areas typically did not have access to livelihood opportunities or affordable medical treatment. Official assistance to nonmilitary 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. While the law provides job protection for workers who become disabled, authorities did not implement it.

National/Racial/Ethnic Minorities

Ethnic minorities constituted 30 to 40 percent of the population. The seven ethnic minority states composed approximately 60 percent of the national territory, and significant numbers of minorities also resided within the country's other regions. Wide-ranging governmental and societal discrimination against minorities persisted, including in areas such as education, housing, employment, and access to health services. International observers noted significant wage discrepancies based on religious and ethnic backgrounds were common.

Burmese generally remained the mandatory language of instruction in government schools. The government's National Education Strategic Plan, released in April 2017, did not cover issues related to mother-tongue instruction. In schools

controlled by ethnic groups, students sometimes had no access to the national curriculum. There were very few domestic publications in indigenous-minority languages.

Tension between the military and ethnic minority populations, while somewhat diminished in areas with cease-fire agreements, remained high, and the military stationed forces in some ethnic groups' areas of influence and controlled certain cities, towns, and highways. Ethnic armed groups, including the Kachin Independence Organization and the Karen National Union, pointed to the increased presence of army troops as a major source of tension and insecurity. Reported abuses included killings, beatings, torture, forced labor, forced relocations, and rapes of members of ethnic groups by government soldiers. Some groups also committed abuses (see section 1.g.).

The Rohingya in Rakhine State faced severe discrimination based on their ethnicity. Most Rohingya faced extreme restrictions on their ability to travel, avail themselves of health-care services, engage in economic activity (see section 7.d.), obtain an education, and register births, deaths, and marriages (see section 2.d.). Most of those displaced in 2012 remained confined to semipermanent camps with severely limited access to education, health care, and livelihoods.

The military and other security forces committed widespread atrocities against Rohingya villagers starting in August 2017 that were documented during the year, including extrajudicial killings, rape, torture, arbitrary arrest, and burning of hundreds of villages, religious structures, and other buildings. These atrocities and associated events forced more than 700,000 Rohingya to flee to Bangladesh as of September and constituted ethnic cleansing against the Rohingya.

Acts of Violence, Discrimination, 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. Consensual same-sex sexual activity remains illegal under the penal code, which contains a provision against "unnatural offenses" with a penalty of a maximum of 10 years' imprisonment and a fine. Laws against "unnatural offenses" apply equally to both men and women; these laws were rarely enforced. LGBTI persons reported police used the threat of prosecution to extort bribes. While the penal code is used more for coercion or

bribery, LGBTI persons, particularly transgender women, were most frequently charged under so-called shadow and disguise laws. These laws use the justification that a person dressed or acting in a way that is perceived as not being in line with their biological gender is in "disguise." According to a report by a local NGO, transgender women reported higher levels of police abuse and discrimination than other members of the LGBTI community.

In March, authorities in Rangoon used the "unnatural offenses" law to charge an openly gay restaurant owner for allegedly sexually assaulting a male member of his staff. The case was pending at year's end.

There were reports of discrimination based on sexual orientation and gender identity in employment. LGBTI persons reported facing discrimination from medical-care providers.

HIV and AIDS Social Stigma

The constitution provides for the individual's right to health care in accordance with national health policy, prohibits discrimination by the government on the grounds of "status," and requires equal opportunity in employment and equality before the law. Persons with HIV/AIDS could theoretically submit a complaint to the government if a breach of their constitutional rights or denial of access to essential medicines occurred, such as antiretroviral therapy, but there were no reports of individuals submitting complaints on these grounds. There are no HIV-specific protective laws or laws that specifically address the human rights aspects of HIV.

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.

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 the workers from carrying condoms.

Other Societal Violence or Discrimination

There were reports of other cases of societal violence, and anti-Muslim sentiment and discrimination persisted. Members of Buddhist nationalist groups, including members of Ma Ba Tha, continued to denigrate Islam and called for a boycott of Muslim businesses.

Muslim communities complained about unequal treatment by police, pressures to practice Islam in private, difficulty in obtaining citizenship cards, close monitoring of their travel by local government, and restrictions on education opportunities. In addition some Muslims reported discrimination by private parties in renting housing. Religious groups noted the January 2017 assassination of Ko Ni had a chilling effect on Muslims fighting for improved treatment under the law (see section 1.a.).

Anti-Muslim hate speech, and in particular anti-Rohingya hate-speech, was prevalent on social media, in particular Facebook, the most popular social media platform in Myanmar. Independent reporting indicated that the military, using false accounts, was also responsible for generating and promulgating hate speech content.

Multiple sources noted restrictions against Muslims and Christians impeded their ability to pursue higher education opportunities and assume high-level government positions and that Muslims were unable to invest and trade freely.

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 legal 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 for adequate protections for workers from dismissal before a union is officially registered.

Laws prohibit personnel of the defense services, armed forces, and police force 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 labor organizations require 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. 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. The law permits unions to assist in individual disputes and individual employment agreements. The law does not contain detailed measures regarding management of the bargaining process, such as a duty to bargain in good faith, a period for bargaining, registration, or extension or enforcement of collective agreements. The National Tripartite Dialogue Forum (NTDF), with representatives of government, business, and labor, met three times during the year. The NDTF consults with parliament on revising legislation on freedom of association, collective bargaining, and dispute settlement resolution.

The law stipulates that disputes in special economic zones be settled in accordance with original contracts and existing laws. Under the law on special economic zones, 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 law provides for 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. For

"public utility services" (including the transport; cargo and freight; postal; sanitation; information, communication, and technology; energy; petroleum; and financial sectors), lockouts are permitted with a minimum of 14 days' notice provided to the relevant labor organizations and conciliation body. Strikes in public utility services require generally the same measures as in other sectors, but with 14 days' advance notice and negotiation between workers and management before the strike takes place to determine maintenance of minimum service levels. The law prohibits strikes addressing problems not directly relevant to labor issues.

The law provides for a framework for the settlement of individual and collective disputes at the enterprise, township, regional, and national levels through conciliation or arbitration, but it lacks sufficient mechanisms for enforcement. The penalty for noncompliance with the settlement agreements called for in the law can be a fine of up to one million kyats ($650).

Labor groups reported their biggest challenge remained labor organizations' inability to register at the national level, a prerequisite for entering labor framework agreements with multinational companies, due to the registration requirements under the law. In addition the International Labor Organization (ILO), labor activists, and media continued to report concerns employers subsequently fired or engaged in other forms of reprisal for workers who formed or joined labor unions. Trade unions reported cases in which criminal charges were filed against workers for exercising their right to strike. Labor organizations also reported 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, but there were consistent reports of employers ignoring the negotiated agreements or engaging in other forms of antiunion discrimination.

b. Prohibition of Forced or Compulsory Labor

Laws prohibit all forms of forced or compulsory labor and provide for the punishment of persons who impose forced labor on others, but the government did not effectively enforce the law.

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. Prosecution of military perpetrators occurs under either the military

or penal code. Civilian perpetrators may be subject to administrative action or criminal proceedings under the penal code. The maximum penalty under the penal code is 12 months in prison; under the military code it is seven years in prison. International observers deemed the penalties sufficient to deter forced labor.

The government continued to implement some aspects of the ILO action plan to eliminate forced labor and in January extended the Supplementary Understanding with the ILO, which provides for a complaint mechanism for victims of forced labor through the end of the year. The government also signed a memorandum of understanding with the ILO in January to create an action plan to eliminate forced labor, which provides for an additional complaint mechanism as well as training and awareness-raising activities on forced labor.

The ILO reported it continued to receive complaints of forced labor, although the number was decreasing overall. Though the military and the government received complaints logged by the complaints mechanism, there was no evidence that they took enforcement action to address concerns. There was no evidence that the government prosecuted soldiers in civilian courts for recruitment or use of child soldiers.

Reports of forced labor occurred across the country, including in conflict and cease-fire areas, and the prevalence was higher in states with significant armed conflict. Forced labor reports included forced portering and activities related to the military's "self-reliance" policy. Under the self-reliance policy, military battalions are responsible for procuring their own food and labor supplies from local villagers--a major factor contributing to forced labor and other abuses.

Prisoners in the country's 48 labor camps engaged in forced labor (see section 1.c., Prison and Detention Center Conditions).

The ILO received reports of forced labor in the private sector, including excessive overtime with or without compensation by workers at risk of losing their jobs and also by bonded labor. Domestic workers also remained at risk of domestic servitude.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for work in shops, establishments, and factories is 14 years; the law establishes special provisions for "youth employment" for those older than 14. Employees from 16 to 18 must have a certificate to authorize them to carry out "work fit for an adult." The law prohibits employees younger than 18 from working in a hazardous environment, but the government has not finalized a hazardous work list enumerating occupations in which child labor is specifically prohibited.

Trained inspectors from the Factories and General Labor Laws Inspection Department monitored the application of these regulations, including with regard to child labor, but their legal authority only extends to factories. In addition inspectors were hindered by a general lack of resources. A child-labor working group met regularly, chaired by the minister of labor with representatives from government departments, the private sector, labor unions, and civil society. On February 5 the government formed the National Committee for the Elimination of Child Labor and tasked a working group to draft a national plan of action to implement ILO Convention 182 on the Elimination of the Worst Forms of Child Labor.

The Ministry of Labor worked with other ministries to collect better data on existing child labor and continued a campaign directed at parents to raise awareness of the risks of child labor and provide information on other education options available to children. The Ministry of Labor engaged with the Ministry of Education on two programs, one aimed at bringing children out of the workplace and putting them in school, and another to support former child soldiers in pursuit of classroom education or vocational training. The labor ministry supported vocational schools to train young workers for jobs in nonhazardous environments.

The criminal penalties for recruiting child soldiers for military officials under martial law range from dismissal from service and imprisonment in civil prison to a fine of seven days' pay (see section 1.g.). For civilians the law outlines penalties for child recruitment from a minimum 10 years' to a maximum of life imprisonment. Penalties under the law and their enforcement for other child labor violations were insufficient to deter violations.

Child labor remained prevalent and highly visible. Children were at high risk, with poverty leading some parents to remove them from schools before completion of compulsory education. In cities children worked mostly as street vendors or refuse collectors, as restaurant and teashop attendants, and as domestic workers. Children also worked in the production of garments.

Children often worked in the informal economy, in some instances exposing them to drugs and petty crime, risk of arrest, commercial sexual exploitation, and HIV/AIDS and other sexually transmitted infections (also see section 6).

Children were vulnerable to forced labor in teashops, agriculture, and begging. In rural areas children routinely worked in family agricultural activities, occasionally in situations of forced labor.

d. Discrimination with Respect to Employment and Occupation

Labor laws and regulations do not specifically prohibit employment discrimination.

Women remained underrepresented in most traditionally male-dominated occupations (mining, forestry, carpentry, masonry, and fishing) and were effectively barred from certain professions.

There were reports government and private actors practiced anti-Muslim discrimination that impeded Muslim-owned businesses' operations and negatively affected 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 they 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 government raised the official minimum daily wage to 4,800 kyats ($3.15) from 3,600 kyats ($2.40), effective in May. The minimum wage covers a standard eight-hour workday across all sectors and industries and applies to all workers except for those in businesses with fewer than 15 employees. The law requires the minimum wage to be revised every two years. Labor unions and activists criticized the raise in the minimum wage as too small for workers to keep up with the rising cost of living.

The law requires employers to pay employees on the date the 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. 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 Labor Dispute Law stipulates the terms and conditions required for occupational safety, health, welfare, and productivity, but information was limited about whether workers can remove themselves from situations that endanger their health or safety without jeopardizing their employment.

The Ministry of Labor's Factories and General Labor Laws Inspection Department oversees labor conditions in the private sector. Both resources and capacity constrained enforcement. The number of labor law inspectors and factory inspectors under the ministry was insufficient to address adequately occupational safety and health standards, wage, salary, overtime, and other issues. In certain sectors other ministries regulated occupational safety and health laws (e.g., the Ministry of Agriculture, Livestock, and Irrigation).

In January the government and the ILO held the Third Labor Stakeholders' Forum under the auspices of the multistakeholder Initiative to Promote Fundamental Labor Rights and Practices in Myanmar. The forum brought together more than 200 participants from the public and private sectors to discuss labor rights and various labor problems, including addressing freedom of association and collective bargaining, strengthening labor dispute settlement, and strengthening local capacity and institutions.

Enforcement of the laws generally took place in the public sector, but frequent violations occurred in private enterprises. Workers continued to submit complaints to relevant government agencies and the dispute settlement mechanism. 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.

The social security board covers all employees in companies with more than five employees, with the exception of six sectors (government, international organizations, seasonal farming and fisheries, construction, nonprofit organizations, and domestic work). In practical terms the board covered primarily industrial zones, the location of the majority of registered workers, and therefore supported less than 1 percent of individuals involved in workplace accidents or casualties. While the board provided hospitals and clinics, it did not keep independently verifiable statistics on accidents or workplace violations. Observers assumed workers in other sectors of the economy had even less support, and no statistics on accidents or workplace violations were available.