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# **BURMA 2017 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. In 2016 parliament selected National League for Democracy (NLD) member Htin Kyaw as president and created the position of State Counsellor for NLD party leader Aung San Suu Kyi, formalizing her position as the civilian government's de facto leader.

Under the constitution, civilian authorities have no authority over the security forces; armed forces Commander-in-Chief Senior General Min Aung Hlaing maintained effective control over the security forces.

Ethnic cleansing against the Rohingya minority in Rakhine State occurred during the year. In early August some security forces deployed throughout northern Rakhine State, committing enforced disappearances and arbitrary arrests and displacing villagers, the majority of whom were Rohingya. On August 25, the Arakan Rohingya Salvation Army (ARSA) claimed responsibility for coordinated attacks against 30 security outposts in northern Rakhine State, killing 12 security personnel. Augmented security forces, as well as local vigilante groups acting independently or in concert with security forces, then reportedly committed widespread atrocities against Rohingya villagers, including extrajudicial killings, disappearances, rape, torture, arbitrary arrest, and burning of tens of thousands of homes and some religious structures and other buildings. This displaced more than 655,000 Rohingya to neighboring Bangladesh as of December, as well as an unknown number within Rakhine State, and more than 20,000 villagers from other ethnic groups, many of whom were evacuated by the security forces.

In addition to the atrocities in Rakhine State, the most significant human rights issues included: arbitrary or unlawful killings; politically motivated arrests; authorities' human rights violations against civilians in other ethnic minority areas and conflict zones, particularly in Kachin State and Shan State; continued harsh conditions in prisons and labor camps; restrictions on freedom of speech,

assembly, and association, including intimidation and arrest of journalists; restrictions on freedom of religion; continued statelessness for some populations and severe restrictions on freedom of movement; criminalization of same-sex sexual activities, although the law was rarely enforced; and trafficking in persons, including forced labor of adults and children.

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 extrajudicial killings, forced labor of adults and children, and failure to protect civilians in conflict zones.

## **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 May 17, police at a jade mine operated by military-owned Myanmar Economic Holdings Limited in Hkamti Township, Sagaing Division, reportedly opened fire without warning on a group of miners who had illegally entered the property, resulting in the deaths of four miners and injuries to additional miners.

In January, Ko Ni, a prominent Muslim lawyer, advocate for constitutional reform, and adviser to Aung San Suu Kyi, was shot and killed outside Yangon International Airport by an assassin identified as Kyi Lin. Kyi Lin also killed a taxi driver who tried to intervene. Authorities opened an investigation into the killings, which resulted in the arrest of four persons including a retired military officer, although the alleged prime conspirator, former military officer Win Khaing, reportedly remained at large. Civil society groups claimed police, who ultimately report to the military, intentionally underinvestigated the case. 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.

In Rakhine State, following the August 25 coordinated attacks by ARSA, security forces, aided in some cases by vigilantes, reportedly committed arbitrary and unlawful killings against Rohingya villagers throughout northern Rakhine State. On August 30, in Tula Toli Village (also known as Min Gyi), security forces assigned to the army's Western Command reportedly committed a massacre. One report indicated that all male Rohingya villagers who had not fled ahead of the military's arrival, as well as some women and children, were unlawfully executed. The military and some government officials denied such abuses occurred and took no steps to seek accountability for the perpetrators.

The United Nations, media, human rights groups, and Bangladesh border authorities reported security forces planted land mines along the border of Bangladesh in northern Rakhine State in September, with some suggesting the mines were planted to prevent Rohingya refugees from returning. Sources alleged at least nine internally displaced persons (IDPs) died from wounds characteristic of landmine injuries while fleeing northern Rakhine State to Bangladesh.

The trial against the soldier who admitted to accidentally killing Gum Seng Aung in June 2016 in Myitkyina, Kachin State, continued to experience delays. There were no substantive updates during the year.

During the year there were multiple reports of alleged ARSA members killing civilians in northern Rakhine State for collaborating with the government; however, it appeared two of these reports were not credible. On August 1, the government reported "extremists" killed six ethnic Mro villagers in northern Rakhine State. Civil society organizations reported ARSA was not likely active in that village and suspected the deaths were related to methamphetamine trafficking. In September the government organized a trip for journalists to see the alleged mass graves of 45 Hindus whom the government said ARSA killed in northern Maungdaw Township on August 25, but civil society organizations and some local villagers were unable to corroborate the claim of the government, and other local villagers suggested instead they were killed by security forces or vigilante groups that were not associated with Rohingya.

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

## **b. Disappearance**

There were many reports of disappearances by security forces.

In the weeks prior to the August 25 attacks, there were reports police arrested Rohingya men from 15 to 40 years old without charges or warrants due to purported links to ARSA, and several of those detained reportedly were not heard from since. Family members who went to police stations to inquire about their disappeared relatives' whereabouts were not provided with any relevant information. On August 21, military soldiers and police officers reportedly arrested 10 persons from Tha Man Thar Village in Maungdaw Township. The military later released four and told family members of the other six that police knew nothing about their whereabouts. After August 25, the pace of enforced disappearances reportedly increased. The military and some government officials denied such abuses occurred and took no steps to seek accountability for the perpetrators.

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, raped, beat, 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.

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.

There were widespread reports of torture of Rohingya villagers, including children, in northern Rakhine State, including beatings, rape, and killings in front of family members. Rifle butts were allegedly used to hit Rohingya villagers' stomachs and heads, and refugee testimonials referred to the military, sometimes jointly with ethnic Rakhine Buddhists, breaking legs, arms, and ribs of fleeing Rohingya villagers.

In January a mobile phone video taken by a member of the security forces during clearance operations in northern Rakhine State in November 2016 and posted on YouTube showed police beating civilian Rohingya. The government launched an

investigation into police misconduct. Police reportedly prosecuted four persons and demoted one officer for the abuses recorded in the video, but details regarding the results of any investigation were not made public.

There were widespread reports of rapes of Rohingya women, children, and at least one man in northern Rakhine State by military forces and Border Guard Police. Most documented rapes were gang rapes, and many were mass rapes. The UN special representative on sexual violence assessed sexual violence was used as a calculated tool of terror aimed at the extermination and removal of the Rohingya as a group. One woman from Chut Pyin Village (also known as Shoppara) reported five soldiers raped her on August 26, the day before her village was burned by security forces. She reported soldiers stabbed her in the side with a knife during the rape while threatening to shoot her. Authorities failed to conduct a credible investigation into these allegations.

### **Prison and Detention Center Conditions**

Conditions in prisons and labor camps continued to be harsh due to overcrowding, degrading treatment, and inadequate access to medical care and basic needs, including food, shelter, and hygiene.

Physical Conditions: The Correctional Department operated an estimated 43 prisons and approximately 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, where prisoners could opt to serve a shortened period of their sentence in “hard labor,” which was considered by many as more desirable.

A human rights group and prominent international nongovernmental organization (NGO) estimated there were 60,000 prisoners--50,000 men and 10,000 women--held in separate facilities in prisons and labor camps. Juvenile detainees were estimated to be a few hundred. Overcrowding was reportedly a problem in many prisons and labor camps. Some prisons held pretrial detainees together with convicted prisoners. Authorities held some political prisoners separately from common criminals, but political prisoners who 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, resulting from unhygienic conditions and spoiled food. The prevalence of HIV/AIDS and other sexually transmitted infections in prisons reportedly remained high. 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, including, according to one media report, children as young as 10 years 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 International Committee of the Red Cross (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 or nonprison 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 but requires permission of a court for detention of more than 24 hours. 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 to detain activists, student leaders, farmers, journalists, political staff, and human rights defenders.

The government generally did not allow detainees to challenge the legal basis of their detention in court prior to the two-week pretrial detention period.

### **Role of the Police and Security Apparatus**

The Ministry of Home Affairs, led by an active-duty military general who is nominated by the armed forces commander-in-chief in accordance with the constitution, oversees the Myanmar Police Force (MPF), which is largely responsible for law enforcement and maintenance of order, although the Defense Services Office of the Chief of Military Security Affairs also plays a significant role in the maintenance of law and order, particularly in conflict areas. As such, lines of authority for internal security may be blurred. For example, during the operations in Rakhine State beginning in August, military commanders assumed primary control over all security arrangements and appeared to wield considerable operational influence over the Border Guard Police, which are also overseen by the Ministry of Home Affairs.

Starting in August the Border Guard Police reportedly committed atrocities against Rohingya villagers in northern Rakhine State, either as independent measures or in concert with military forces. Regional police were either unable or unwilling to protect Rohingya victims, although they reportedly offered protection to other ethnic groups and their property.

In conflict and some cease-fire areas, security forces continued to intimidate civilians through physical abuse and threats to livelihoods. Public information was unavailable about the results of any military investigations into such abuses, and

security forces generally acted with impunity. Legal mechanisms exist to investigate abuses by security forces but were seldom used and generally perceived to be ineffective.

Outside of conflict and cease-fire areas, the MPF is the primary institution charged with internal security. While the MPF continued to make some progress in developing civilian policing capacity, a severe lack of resources and its close relationship with the military presented substantial challenges to effective policing. The MPF's investigative capacity was generally rudimentary, although some MPF commanders recognized the benefits of leveraging assistance from the international community to improve specialized units' ability to investigate serious crimes such as narcotics, trafficking in persons, and financial crimes. Some organizations noted a significant decrease under the new government of the pervasive and threatening influence security forces previously exerted on the lives of inhabitants, while others noted an increase in police surveillance and monitoring during the year.

### **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.

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.

Arbitrary Arrest: There were reports of arbitrary arrests. In December 2016 the military detained two affiliates of the Kachin Baptist Convention, Dumdaw Nawng Lat and Langjaw Gam Seng, in Mong Ko, Shan State; however, the military did not admit to holding the men until the end of January. The military detained the two men after they assisted a group of journalists in visiting a church in Mong Ko

allegedly bombed by the military. After holding the men incommunicado for one month, the military accused them of supporting the Kachin Independence Army (KIA) and charged both men under Article 17(1) of the Unlawful Associations Act, which has historically been used to arrest arbitrarily members of ethnic minority groups. In March the military announced an additional charge of defamation based on an interview the men gave to an international media outlet alleging the military bombed civilians during the conflict. On October 27, authorities sentenced Dumdaw Nawng Lat to four years and three months' imprisonment and Langjaw Gam Seng to two years and three months' imprisonment.

In August authorities arrested former child soldier Aung Ko Htway for defaming the military following an August 10 interview he gave to an international media outlet detailing his experience as a former child soldier. He was detained in Insein Prison and denied bail on October 2. His trial continued at the end of the year.

In October, U Khaing Myo Htun, the Arakan Liberation Party deputy information officer who in 2016 published a statement accusing the military of forced labor and using human shields in Rakhine State, was found guilty and sentenced to 18 months in prison, leaving three months remaining from the 15 months he had already spent in detention.

Pretrial Detention: By law suspects may be held in pretrial detention for two weeks (with a possible two-week extension) without 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 May 24, President Htin Kyaw pardoned and the government released 259 prisoners, including 64 whom the Assistance Association for Political Prisoners-Burma considered political prisoners. Among those released were Muslim interfaith activists Zaw Zaw Latt and Pwint Phyu Latt; Hla Phone, who criticized the military on Facebook; and eight of the 12 men arrested in 2014 under the now repealed Emergency Provisions Act for being members of the apparently nonexistent Myanmar Muslim Army.

### **e. Denial of Fair Public Trial**

The law calls for an independent judiciary, although there are also legal provisions that allow the government to manipulate the courts for political ends, and these provisions were sometimes used to deprive citizens of due process and the right to a fair trial, particularly with regards to the freedom of expression. Institutional corruption in the judicial system was a problem, and it sometimes appeared the judiciary was under the de facto control of the military or government. According to studies by civil society organizations, officials at all levels received extralegal payments at all stages in the legal process for purposes ranging from routine matters, such as access to a detainee in police custody to fixing the outcome of a case. The Office of the Supreme Court of the Union published a 2016 annual report on disciplinary actions taken against judges and court staff. Although no legal action was taken against judges for corruption, warnings were issued against 25 township court judges and 23 district court judges.

### **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. 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, but in most appellate hearings, the original verdicts were upheld. No legal provision allows for the compelled 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 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 insufficient 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 during the year. According to civil society groups who use a definition of political prisoners that includes those that may have engaged in acts of violence and excludes some charges related to freedom of expression and religion, there were 45 convicted political prisoners, 49 political prisoners in pretrial detention or detained with trials in process, and 127 individuals released on bail while facing trial for political charges as of October. 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.

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. Under the code of criminal procedure, released political prisoners faced the prospect of serving the remainder of their sentences if rearrested for any reason.

### **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 land grabs was very limited.

The 2016 land use policy emphasizes the recognition, protection, and registration of legitimate land tenure rights of smallholders, 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. The law allows the government to 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 under either law; administrative bodies subject to political control by the national government make final decisions on land use and registration. Civil society groups raised concerns the laws do not recognize rights in traditional collective land ownership and shifting cultivation systems, which are particularly prevalent in areas inhabited by ethnic minority groups. Acquisition of privately owned land by the government remained governed by the 1894 Land Acquisition Act, which provides for compensation when the government acquires land for a public purpose. Civil society groups criticized the lack of safeguards in the law to provide payment of fair market compensation.

Researchers had concerns that land laws, including the Farmland Law and the Vacant, Fallow, and Virgin Land Law, facilitate land confiscation without providing adequate procedural protections. Parallel legal frameworks and traditional forms of land tenure in areas controlled by ethnic groups in Kachin, Mon, Kayin, and Shan States may not have formal legal recognition under the land laws.

Parliament's Land Acquisition Investigation Commission did not have legal authority to implement and enforce recommendations in its 2013 report to return thousands of acres of confiscated but unused land or provide compensation to farmers from whom the government took the land, and media sources reported little progress in returning confiscated lands. The law requires 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.

The General Administrative Department under the Ministry of Home Affairs, one of the ministries whose minister is appointed by the military, oversees land return. During the year there were at least four cases of previously confiscated land being returned to farmers. 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.

**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. Beginning on March 31, the government enforced registration requirements for all SIM cards and consequently blocked six million unregistered SIM cards. Mobile subscribers must provide their name, a copy of their identification, date of birth, address, gender, and nationality in order to register their SIM card.

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.).

A 1998 Supreme Court directive prohibits legal officials from accepting petitions for marriages and from officiating at marriages between Burmese women and foreign men. The directive was sporadically enforced.

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. According to human rights organizations, in April 2016 Border Guard Police in Buthidaung Township issued new instructions to village administrators outlining additional requirements for members of the Rohingya community to obtain a permit to marry. The new required documents included: a letter from the district immigration authorities verifying the couple were of legal age to marry; a letter from a station commander showing the couple was free of criminal offenses; a letter from a health assistant assuring the couple was free of communicable

diseases; and a letter from village administrators confirming the individuals were single, unmarried, and that any previous marriage was dissolved at least three years prior. 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**

Human rights abuses in Rakhine State outside the scope of armed conflict are noted in other sections throughout this report.

Incidents involving use of excessive force and other abuses in conjunction with long-running internal armed conflicts occurred across the country but varied widely. 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 Nationwide Ceasefire Agreement (NCA) signed by eight ethnic armed groups in 2015. In Kachin State and parts of Shan State, clashes among NCA signatory, nonsignatory groups, and the military continued, 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 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 NGOs reported the military at times fired into IDP camps.

In mid-December the military launched air strikes against several KIA outposts in Kachin State, including around the KIA headquarters of Laiza. At least one civilian was reportedly killed in the fighting, and many IDPs were forced to flee.

On December 24, the military launched heavy artillery near Laiza that landed on nearby IDP camps and injured one woman.

The military continued to station 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. The military was also accused of rapes of members of ethnic minority groups in Shan, Kachin, and Rakhine States. Impunity for these abuses and crimes continued.

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. The military's use of indiscriminate force, including during aerial bombing, 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 broke out periodically in northern and southern Shan State during the year.

On May 25, soldiers from Battalion 319 shot and killed Nhkum Gam Awng, Maran Brang Seng, and Labya Naw Hkum, from Mai Hkawng Roman Catholic IDP camp in Mansi Township, Kachin State. According to camp officials, soldiers arrested the men while they were collecting firewood. NGOs reported villagers found the buried bodies on May 28. On September 15, the military invited villagers to observe court proceedings for six soldiers involved in the killings. Five soldiers reportedly pled guilty, while the battalion commander reportedly pled not guilty. The verdict and sentencing remained pending at year's end.

On August 9, photographs of the dismembered bodies of Hpaukap Naw Lat and Labang Naw Bawk near a military outpost near Namti, Kachin State, circulated on social media. The men's families contacted local military personnel, who said the men died while attempting to plant a land mine. The military accused the men of being members of the KIA. Local villagers reported, however, the men picked up the land mine to use while fishing. Several villagers reported witnessing military personnel detain the two men near Namti on the evening of August 8. Witnesses heard explosions in the morning of August 9. Authorities allegedly refused to allow family members to see the bodies before the military buried them. The police did not open an investigation.

Abductions: There were reports government soldiers abducted villagers in conflict areas. In Shan State human rights organizations alleged the military detained seven villagers, including a seven-year-old boy, on July 18, in retaliation against a village following a military confrontation with the RCSS.

Physical Abuse, Punishment, and Torture: NGO reports documented the military's 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.

Prominent civil society groups reported the military committed numerous crimes of sexual violence against ethnic women and girls in ethnic states.

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.

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 landmine activities. 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 Social Welfare (DSW) and UNICEF continued to cochair 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 DSW, national MRWG, military, and ethnic armed groups, including the Karen National Union (KNU), Democratic Karen Benevolent Army, and Karen National Liberation Army-Peace Council. In March the DSW facilitated a meeting between the Directorate of Military Engineers and six demining NGOs to discuss support for demining activities from the international community.

The MRWG coordinated mine risk education, victim assistance, information management systems, and advocacy. MRWG members monitored and documented incidents and casualties from land mines and unexploded remnants of

war. As of September, UNICEF reported 124 casualties, including 38 children. Many incidents were not reported due to continuing conflicts in Kachin, Shan, and Rakhine States.

Child Soldiers: There was limited progress in implementing the 2012 joint plan of action between the government and the United Nations to end recruitment of child soldiers and to demobilize and rehabilitate those serving in the armed forces. The United Nations reported that progress on implementation had stalled since May, and there were reports that the military and its middlemen continued to recruit child soldiers from large cities such as Rangoon and Mandalay. The UN Country Task Force on Monitoring and Reporting (CTFMR)--the official mechanism for monitoring and reporting grave violations against children--continued its work with the government, as required by the memorandum of understanding between the United Nations and the government. The CTFMR met quarterly and submitted quarterly reports to the Security Council. Its last meeting was on December 15. During the year it received 15 complaints of child soldier recruitment. Normal verification procedures could take up to six months to confirm, and none of the 15 cases had yet completed verification. CTFMR monitoring was limited in part because of limitations on UN access to conflict-affected areas. During the year the government released 49 child soldiers identified within the military's ranks. The military continued identifying suspected cases in addition to those reported by the CTFMR to the military. The CTFMR received these reports through its hotline, the forced-labor complaint mechanism, and community-based networks. Children who fled military service or received demobilization from civil society organizations rather than through the official CTFMR process continued to face arrest and imprisonment on charges of desertion while the military investigated their cases. Some children who previously were demobilized through the official CTFMR process had been re-recruited by the military once they were of legal age.

The Ministry of Defense undertook efforts to investigate and punish military personnel for recruitment of child soldiers. During the year the military punished 19 officers for previous recruitment of child soldiers. UN experts noted only low-level soldiers were held accountable, despite involvement by higher-level personnel.

The military continued enforcing its ban of all recruitment at the battalion level and continued to sanction military officers and noncommissioned personnel for complicity in child soldier recruitment and use. Former child soldiers generally did not receive meaningful reintegration support, although the military began working with the Union of Myanmar Federation of Chambers of Commerce and

Industry, the country's national chamber of commerce, to help develop the reintegration program for child soldiers to include private-sector opportunities. The military also provided information to the CTFMR that linked specific accountability measures to the respective case(s) of child recruitment or use, allowing for verification of the military's accountability measures. The military did not make these reports available to the public.

The United Nations reported the government continued upholding its commitment under the action plan to allow 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. Nonetheless, UN monitors complained of insufficient access, noting that travel authorizations were often not granted until three or more months after an application was submitted, which complicated the United Nation's ability to investigate claims effectively. They also noted that access to conflict areas was generally denied.

The Ministry of Social Welfare, Relief, and Resettlement (MSWRR), UNICEF, and other partners provided social assistance and reintegration support to discharged children.

Military officials, in cooperation with the CTFMR, continued training military officers, including recruitment officers and officers up to the rank of captain, on international humanitarian law. UNICEF trained personnel assigned to the country's four recruitment hubs and reported increased numbers of prospective child soldiers rejected at this stage.

Ethnic armed groups reportedly continued to use forced recruitment and child soldiers and sometimes demanded ransom to release child soldiers. Human rights groups reported ethnic armed groups known to recruit and use child soldiers included the KIA, Democratic Karen Benevolent Army, Karen National Liberation Army, Karen National Liberation Army-Peace Council, Karenni Army, Shan State Army South, and the United Wa State Army. 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/](http://www.state.gov/j/tip/rls/tiprpt/).

Other Conflict-related Abuse: The government 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 and international NGOs, arguing the military could not assure the NGO workers' security or claimed humanitarian assistance would benefit ethnic armed group forces. In some cases the military allowed gradual access only as government forces regained control over contested areas. Although locally based organizations generally had more access to the 46,000 IDPs in areas outside government control, primarily in northern Kachin State, the military also increasingly restricted access for local organizations as military presence and control in these areas increased. At year's end the government had not granted UN or international organizations humanitarian access to areas in Kachin State outside of military control. More than 98,000 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.).

On June 5, the military dropped leaflets over Tanai Township in Kachin State announcing "clearance operations" to begin on June 15. The leaflet warned the military would assume residents who did not leave by June 15 were cooperating with the KIA and would be treated as combatants. More than 1,000 villagers fled the area to shelter in churches and monasteries near neighboring villages. Local NGOs reported restrictions on humanitarian access to these IDPs.

On August 11, the military launched a raid and fired artillery into Kasung Village, Kachin State. Two churches were reportedly damaged and more than 1,000 residents fled to nearby Namti Village. Artillery caused heavy damage to a Roman Catholic church and moderately damaged a Baptist church and several houses, and there were reports military personnel looted the Roman Catholic church. On August 17, local NGOs reported the military blocked a delivery of humanitarian assistance. On August 23, the military and the KIA withdrew and all villagers were able to return to their homes.

Three journalists--Aye Naing and Pyae Phone Aung of DVB and Lawi Weng of Irrawaddy--were arrested on June 26 after covering a public ceremony organized by the TNLA and charged under the colonial-era Unlawful Associations Act of Section 17(1). Bail was repeatedly denied. On September 1, the military withdrew cases against six local journalists it detained under Sections 17(1) and 66(d), including Aye Naing, Pyae Phone Aung, and Lawi Weng.

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 that “every citizen shall be at liberty in the exercise of expressing and publishing freely their convictions and opinions,” but it contains the broad and ambiguous caveat that exercise of these rights must “not be contrary to the laws enacted for national security, prevalence of law and order, community peace and tranquility, or public order and morality.” Threats against and arrests of journalists increased.

Freedom of Expression: Authorities arrested, detained, convicted, and imprisoned citizens for defaming religion and expressing political opinions critical of the government, the military, and ultranationalist Buddhist groups, generally under the charges of defamation, protesting without a permit, or violating national security laws. Freedom of expression was more restricted during the year compared with 2016. This included a higher number of detentions of journalists using various laws, including 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. There was a dramatic increase in Section 66(d) cases compared with prior years. According to the Research Team of Telecommunication Law, an activist group whose aim is to abolish Section 66(d), 93 cases were enforced under the law, including seven cases brought by members of the NLD and another seven cases brought by members of the military from March 2016 to mid-November. Fifteen cases had already reached a verdict. At least 11 cases against 19 journalists under this law were pending as of October.

In August parliament amended Section 66(d), reducing the maximum sentence to three years, restricting third parties from filing charges without written consent from the offended party, and allowing judges to authorize bail in most cases (see section 1.d.). Civil society organizations and journalists noted the amendment as a positive step but expressed concern the law could still be used to restrict freedom of expression and the press. Several journalists, as well as critics of the government and the military, continued to face charges under this law. Other problematic laws that remained on the books, 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 Section 505(b) of the penal code, 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.

In March, Swe Win, editor of Myanmar Now news agency, was arrested following charges filed against him by Kyaw Myo Shwe, a supporter of the Association for the Protection of Race and Religion (Ma Ba Tha), an ultranationalist Buddhist organization, under Section 66(d) of the Telecommunications Law. Kyaw Myo Shwe alleged Swe Win shared 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.). Swe Win was released on bail the next day by Mandalay Region's Maha Aung Myay Township Court but was rearrested on July 30 at Yangon International Airport. Police stated he was arrested for trying to leave the country while a case was pending against him. He was later released. As of September the court had postponed the trial of Swe Win, declaring permission had not yet been granted for plaintiff Kyaw Myo Shwe--detained in Obo Prison for organizing a protest against the government in Mandalay--to attend court proceedings.

On April 12, NLD official Myo Yan Naung Thein, who was charged with Section 66(d) of the Telecommunication Law and arrested in October 2016 for posting comments critical of the military's response in northern Rakhine State, was sentenced to six months in prison and released by a presidential pardon a few weeks prior to completing the sentence.

Some persons remained wary of speaking openly about politically sensitive topics due to monitoring and harassment by security services and ultranationalist Buddhist groups. Police continued to monitor politicians, journalists, 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 September authorities approved 28 dailies; however, press freedom declined compared with 2016, 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, although stories critical of political figures and the security forces sometimes resulted in criminal charges. The government generally permitted the media to cover protests and civil conflict, topics not reported widely in state-run media. Nonetheless, during the year the government detained three journalists related to their coverage of civil conflict, and two related to their coverage of the situation in Rakhine State. In June an Irrawaddy journalist, two DVB journalists, and their support staff were detained under the Unlawful Associations Act, which had not been used against journalists in recent years, for their coverage of a drug-burning ceremony by the TNLA. In December, two Reuters reporters were detained and charged under the Official Secrets Act related to their investigation of security forces' activities in northern Rakhine State.

Self-censorship continued, particularly on issues related to Buddhist extremism, the military, the situation in Rakhine State, and the peace process. The government ordered the 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 several government-organized trips that participants reported to be tightly controlled and designed to advance the government's narrative. The government continued to use visas to control foreign journalists, who reported visa validities ranged from 28 days to six months. The government barred the entry to the country by a journalist from Pakistan because of alleged security concerns regarding the situation in Rakhine State.

The military continued to practice zero tolerance of perceived critical media commentary. Editor Kyaw Min Swe of *The Voice* and satire columnist Kyaw Zwa Naing (pen name "British Ko Ko Maung") were charged with defamation under Section 66(d) of the Telecommunications Law and detained in June for writing and publishing a satirical story of a military film. As in similar cases, the court did not provide bail for Kyaw Min Swe, although the satirist was released based on the Telecommunications Ministry's comment he did not break the law. Kyaw Min Swe's case was one of the five cases withdrawn by the military in early September.

Radio and television were the primary mass communication media. Circulation of independent news periodicals remained stable outside of urban areas. 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 showed 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 announced it would allow five media outlets to apply for television channel licenses as private broadcasters. In April the ministry selected five media companies, including formerly exiled media groups DVB and Mizzima Media, to broadcast their content in a landmark public-private broadcasting partnership. The five companies planned to use state-owned broadcaster Myanmar Radio and Television's transmission infrastructure, but would develop their own content. Many media outlets, however, 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 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. Officials continued to monitor journalists in various parts of the country.

In December 2016 Eleven Media reporter Soe Moe Tun's body was found on the side of a road in Monywa, Sagaing Region. He was investigating illegal logging and wood smuggling there at the time of his death. Police reported Soe Moe Tun was attacked and beaten in the back of the head with a stick. His friends and relatives expressed frustration at the police's perceived lack of effort to investigate the case, and at year's end, no one had been charged. Police claimed their investigation continued.

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 continued to raise concern among local journalists and led to some self-censorship.

Instances of media self-censorship and suppression continued in connection with violence in northern Rakhine State. Reporters and media executives were reportedly fired for printing stories critical of the military's actions in Rakhine State. In one instance after the August 25 attacks on security forces in Rakhine State, state television station MNTV temporarily cut broadcasts of BBC coverage of Rakhine State.

The organizer of the annual Human Rights, Human Dignity International Film Festival told reporters the government required him to submit all films to the government censorship board prior to screening them at the festival. This process resulted in the censorship of one film.

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. On May 26, Ma Sandi Myint Aung, a Union Solidarity and Development Party (USDP) supporter from Bago, was sentenced to six months in prison under the Telecommunications Law for sharing Facebook posts deemed insulting to State Counsellor Aung San Suu Kyi; the charges were pressed by another Bago local. The 2016 defamation suit by the chief minister of Rangoon, Phyo Min Thein, against Eleven Media Group chief executive U Than Htut Aung and the editor in chief Wai Phyo was pending as of September. The chief minister had argued that an article insinuating he was corrupt because he wore an expensive wristwatch amounted to defamation.

## **Internet Freedom**

The government generally did not restrict or disrupt access to the internet or censor online content, although some NGOs reported the government blocked access to their web content on intercommunal dialogue. The government reportedly monitored internet communications under questionable legal authority and used defamation charges to intimidate and detain some individuals using social media to criticize the military. 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. 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 by international NGO Freedom House rated internet freedom in the country not free, and the rating worsened slightly from previous years.

Section 66(d) of the Telecommunications Act limited freedom of expression online. For example, on February 28, a social media user named Zaw Zaw was sentenced to six months' imprisonment under Section 66(d) for posting text and photographs on Facebook that were considered defamatory toward leaders of the civilian government.

### **Academic Freedom and Cultural Events**

There were similar government restrictions on academic freedom and cultural events as in 2016. 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.

Although the government restricted political activity and freedom of association on university campuses, it generally allowed the informal establishment of student unions. Nonetheless, there are no laws that allow student unions to register officially with the government, and among university rectors and faculty there was considerable fear and suspicion of student unions. The office of the Students' Union of Myanmar opened at Yangon University in July, and the Yangon University of Foreign Languages also opened a student union office. As in previous years, the All Burma Student's Union was unable to register but participated in some activities through informal networks.

There were reported incidents of the government restricting cultural events. In January the military sued a group of nine high school and college students from Patheingyi under Article 500 of the criminal code for allegedly defaming the armed forces by performing an antiwar play. In June the Motion Picture Classification Board banned the showing of a film entitled *Sittwe*, which was due to open at an international human rights festival in Rangoon. The board cited concerns the film, which is a documentary about Buddhist and Muslim youth affected by conflict and forced segregation in northwestern Rakhine State, could have "festered" religious tensions.

## **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, and peaceful protests were generally permitted around the country, although in November, the Rangoon region security and border affairs minister instructed police in 11 Rangoon townships to temporarily deny all applications for processions or assemblies, and sometimes the law was used to restrict peaceful protests if prior notification had not been granted or if conducted on private property. 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. The government also arrested some peaceful ultranationalist protesters. In September, four Burmese nationalists were sentenced to seven months in prison for staging an anti-Rohingya protest outside an embassy in April 2016. The four persons were sentenced for “inciting public unrest” and for violating the Peaceful Assembly and Peaceful Processions Act. The court justified the verdict on the basis that Kamayut Township had authorized the rally to take place in another location far from the embassy.

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 offence 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.

On May 23, the State Sangha Maha Nayaka Committee ordered that no group or individual would be allowed to operate under the banner of Ma Ba Tha, some of whose members, including Wirathu, had been sanctioned earlier in the year for

inflaming tensions towards the Muslim community using ultranationalist rhetoric. The formal name of the organization is the Association for the Protection of Race and Religion. Responding to the ban, Ma Ba Tha leaders rebranded the organization under the name Buddha Dhamma Parahita Foundation.

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 also reported, however, state surveillance of such operations and discussions was common.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://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 restricted freedom of movement.

The government restricted the ability of IDPs and stateless persons to move. While a person’s possession of identification documents primarily related to their freedom of movement, 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 Muslims in Rakhine State 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 ethnic minority primarily resides: 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 valid for 14 days. The cost to obtain the form varied from township to township, with payments required to village administrators or to the township INRD office in amounts ranging from 50,000 to 100,000 kyats (\$38 to \$76). 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 in order 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; however, by the end of the year, the Red Cross Movement, World Food Program, and several other organizations had 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 outside the state. There were reports the government prevented Rohingya living outside Rakhine State from traveling into the northern part of the state.

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

In October the Kayin State government reportedly issued a letter calling on Muslim travelers to request and receive authorization from village officials. This letter was reportedly rescinded by the chief minister a few days later. Similarly, in Thandwe in southern Rakhine State in October, local officials reportedly required registration of Muslim travelers arriving at the airport, although no official restriction was in place.

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 220,000 persons remained internally displaced by violence in Kachin, Rakhine, and northern Shan States at the end of the year. As of September the UN Office of Coordination for Humanitarian Affairs estimated more than 98,000 persons remained displaced because of continued armed conflict in Kachin and Shan States. Camps housing more than half of the IDPs were located in areas beyond government control where government forces restricted humanitarian access. Some IDPs also found refuge with hosting families, and others hid in forested areas straddling the border with China. Approximately 120,000 Rohingya had been confined to IDP camps in Rakhine State since 2012 intercommunal violence. A small number of Kaman and Rakhine had also lived in IDP camps since 2012. This figure did not include an additional unknown number, estimated between 30,000 and 100,000, who were internally displaced following atrocities

beginning in August in northern Rakhine State. Accurate figures were difficult to determine due to 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 government restricting access by humanitarian actors to provide aid to affected communities.

Nearly 90,000 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.

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. Humanitarian workers continued to be under pressure from local communities to reduce assistance to Muslim IDPs and villages, despite limited access to meet humanitarian needs.

Following the August attacks in northern Rakhine State, security forces launched security operations consisting of atrocities against civilians, and the government temporarily restricted all humanitarian access to central Rakhine State and the three townships of northern Rakhine State--Maungdaw, Buthidaung, and Rathedaung. The government allowed sporadic access to some parts of central Rakhine State to some organizations in September. In northern Rakhine State the government authorized only Red Cross Movement organizations to provide emergency assistance in that area, and humanitarian access remained severely limited at year's end. Beginning in August local staff of humanitarian organizations, many of whom lived among affected populations, had to apply for travel permits in order to provide services.

The Office of the UN High Commissioner for Refugees (UNHCR) noted some small-scale, spontaneous IDP 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 Myanmar Population and Housing Census reported in 2016 there were an estimated 1.09 million persons in Rakhine State who were not enumerated in the census. According to UNHCR, this number reflected an accurate estimate of the Rohingya population in Rakhine State, the vast majority of whom were stateless. Following the forced displacement of approximately 700,000 Rohingya to Bangladesh, an estimated 300,000 to 400,000 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 "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 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 were made to go through a special scrutinization process that generally resulted in naturalized citizenship and did not result in provision of rights generally associated with citizenship. The law does not provide protection for children born in the country who do not have a "relevant

link” to another state. UNHCR, the Advisory Commission on Rakhine State, and a number of human rights and humanitarian organizations continued to advocate amendment of the Citizenship Law to bring it in line with the country’s international human rights obligations and commitments (see section 6, Children).

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 hold that they have resided in what is now Rakhine State for generations. In May 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 pejorative term “Bengali,” and the term was 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. This process met with limited participation from the Rohingya community. 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 was 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, by requiring 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.

Local security officials in Rakhine State committed violent crimes and arbitrarily arrested an unknown number of Rohingya, according to reports. Many of these reports cited events from August to December.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides the ability for citizens 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 authority to appoint the ministers of defense, home affairs--which has responsibility for subnational governance as well as the 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 with foreign citizenship from becoming president. Amending the constitution requires more than 75 percent approval by members of parliament, giving the military veto power over constitutional amendments.

### **Elections and Political Participation**

Recent Elections: International organizations reported the country conducted its April by-elections 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 a large number of unelected seats in parliament were reserved for military officers; some candidates were disqualified on a 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 22 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, and one of two union-level vice presidents belonged to the Chin ethnic minority 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 or USDP, the former of which included numerous ethnic members, although no clear statistics existed.

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 population in Rakhine State, 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 April 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, 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 launched a new code of ethics for judges and prosecutors implementing reforms to better address corruption in the legal system. The government took some steps to investigate and address corruption of government officials.

In July, four senior officials from the Ministry of Home Affairs were prosecuted for a scandal involving returning confiscated land to its rightful owner. The Ministry of Home Affairs transferred the case to the Anti-Corruption Commission, and the defendants awaited trial at year's end.

**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 (\$19). 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 very few reports of harassment by authorities, although

surveillance was common, and there were reports authorities sometimes pressured landlords to not do business with activists or former political prisoners.

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 March 24, the UN Human Rights Council established an independent international fact-finding mission to “establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State, including but not limited to arbitrary detention, torture and inhuman treatment, rape and other forms of sexual violence, extrajudicial, summary or arbitrary killings, enforced disappearances, forced displacement and unlawful destruction of property, with a view to ensuring full accountability for perpetrators and justice for victims.” The government dissociated itself from the relevant resolution and did not grant the Fact Finding Mission permission to enter the country. The Human Rights Council extended the Fact Finding Mission's mandate for an additional year at the Human Rights Council meeting in September.

Unlike in past years, the government announced in December it would not allow the UN special rapporteur for the situation of human rights in Myanmar to enter the country. Earlier in the year, the government allowed the special rapporteur to enter but limited her access to parts of Kachin State and prevented her from meeting with some prisoners.

Following a 2012 government pledge to allow the ICRC prison access, 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 instances it called on the government to hold accountable members of the police force or military implicated in the crimes, and in others, it denied abuses occurred. Its ability to operate as a credible, independent mechanism remained limited. At the end of September, a commissioner from the Human Rights Commission visited northern Rakhine State and declared that security forces had not used disproportionate force or committed any human rights abuses. The commission supported the development of human rights education curricula, distributed human rights materials, and conducted human rights training.

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 on August 24, immediately preceding the ARSA attacks in northern Rakhine State. The government established a commission to implement the recommendations held in the final report headed by the MSWRR union minister. In her September 19 public address, Aung San Suu Kyi committed to implementing the recommendations as expediently as possible.

Multiple government-led investigations into reports of widespread abuses by security forces against Rohingya in northern Rakhine State in October and November 2016 did not result in prosecutions or accountability. The Investigation Commission on Maungdaw, headed by military-appointed Vice President Myint Swe, released its interim report on January 3, stating there was “insufficient evidence to take legal action” regarding allegations of rape, and the unrest was due to foreign-funded “extremists.” The military and police led separate investigations into security force abuses in northern Rakhine State, which fed into the Investigation Commission on Maungdaw’s final report released in August. In its final report, the government-led commission stated there was no credible basis for allegations of human rights abuses in northern Rakhine State. International experts pointed to serious flaws in the commission’s methodology, including interrupting alleged victims of abuses to assert that their testimony was false and then broadcasting the exchange on national television.

## **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 13 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 statistics and victims typically did not report it. 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 reported continued allegations of rape by military and security officials in Kachin, Shan, and Rakhine States. The military rejected all allegations rape was an institutionalized practice in the military but admitted in 2014 its soldiers had committed 40 known rapes of civilian women since 2011.

Sexual Harassment: The penal code prohibits sexual harassment and imposes fines or a maximum of one-year's imprisonment for verbal harassment and a maximum of two years' imprisonment 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: Coerced abortion or involuntary sterilization did not occur. In 2015, however, the government enacted the Population Control and Health Care Law, which contains provisions that, if enforced, could undermine protections for reproductive and women's rights, including imposing 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.).

Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

**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 if the government enforced the law. The law requires equal pay for equal work, but it was not clear if the formal sector respected this requirement. NGOs reported 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 (for example, 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 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. Many child rights activists in Rangoon noted such fees were decreasing and were less often mandatory.

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 (\$7.50). There was anecdotal evidence of violence against children occurring within families, schools, in situations of child labor and exploitation, and in armed conflict. The MSWRR expanded its child protection pilot programs. In Rakhine State continued violence left many families and children displaced or with restrictions on their movement, which in turn 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 Christian boys is 16 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. A review conducted by a UN organization in February found child marriage remained an important and underaddressed 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 (\$7.50). 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.).

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 [travel.state.gov/content/childabduction/en/legal/compliance.html](https://travel.state.gov/content/childabduction/en/legal/compliance.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/](https://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 directs the government to assure that persons with disabilities have easy access to public transportation. The government did not effectively enforce these provisions.

The Ministry of Health is responsible for medical rehabilitation of persons with disabilities, and the MSWRR is responsible for vocational training, education, and social protection strategies. The government recognized the Myanmar Federation of Persons with Disabilities to serve as an umbrella group for organizations that serve persons with disabilities. The National Committee for the Rights of Persons with Disability is the ministerial committee formed to monitor the implementation of the law; for the second consecutive year, it did not convene.

Civil society groups reported that often children with disabilities 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. Civil society organizations expressed disappointment the government's National Education Strategic Plan, which was released in April, did not cover issues related to mother tongue instruction and was not adequately informed by consultations with ethnic stakeholders. 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 KNU, 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 severe 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.

In early August the military deployed in parts of northern Rakhine State reportedly committed serious human rights violations and abuses, including enforced disappearances and arbitrary arrests. On August 25, ARSA claimed responsibility for coordinated attacks against 30 security outposts in northern Rakhine State. The security forces, as well as vigilante groups acting in concert with security forces, then reportedly committed widespread atrocities against Rohingya villagers, 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 655,000 Rohingya to flee to Bangladesh as of December 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 or “transportation for life.” 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.

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.

Law enforcement practices contributed to high levels of stigma and discrimination against female sex workers and transgender women that in turn 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 Bamar 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 to education opportunities. Religious groups noted the January assassination of Ko Ni had a chilling effect on Muslims fighting for improved treatment under the law (see section 1.a.).

In April, 12 nationalist monks and dozens of local residents in Rangoon forced two madrassahs to be chained shut. The group alleged the structures were illegal and demanded local officials close them. Muslim leaders noted the madrassahs had been used for prayers for many years and told local media they believed nationalists bullied them because of their religion.

In May nationalist monks claimed Rohingya were hiding illegally in Mingala Taungnyunt Township in Rangoon. Media reports indicated the monks informed local police about their suspicions, and when local police investigated and found no one to be living illegally in the neighborhood, the monks and Buddhist laypersons instigated violence against the Muslim community in the neighborhood. Media also reported two Muslim residents were injured before police intervened by firing warning shots into the air. Police arrested eight persons for their involvement in the violence.

On October 30, Buddhist leader Sitagu Sayadaw gave a sermon to soldiers, live-streamed on Facebook to more than 250,000 persons, at a military training school in Kayin State, where he quoted a parable in which a Buddhist king is told by his advisors that the killing of millions of Hindu Tamils only added up to one and a half real human beings. In his sermon the Sitagu Sayadaw also noted the need for Buddhist leaders and the military to work together for national unity. The remarks

were generally interpreted as condoning the military's abuses against members of religious minority groups and suggesting that in the course of battle, it is less of a sin for soldiers to kill non-Buddhists than to kill Buddhists.

Multiple sources noted that 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, with representatives of government, business, and labor, met quarterly during the year, with frequent meetings of two technical working groups to negotiate specific issues in the development of revised legislation on 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. In "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. Penalties for noncompliance with the settlement agreements called for in the law are low: 100,000 kyats (\$75) and/or a maximum of one year in prison.

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, and 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.

Media outlets reported far fewer allegations of dismissal, imprisonment, and beatings of workers for organizing activity than in previous years.

#### **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 but did not renew it despite its expiration in 2015. Both the military and the government responded to complaints logged by the complaints mechanism on an ad hoc basis during the lapse in the ILO mechanism, closing out 34 cases during the year, some of which were initiated in previous years. The ILO reported it continued to receive a significant number of complaints of forced labor, although the number was decreasing overall. Moreover, it noted the government's and military's use of forced or compulsory labor of adults and children and the failure to hold perpetrators accountable remained a problem (see section 7.c.). As

of August the ILO received an average of 36 complaints monthly. The ILO attributed the continuing high rates of reporting to increasing awareness of the illegality of forced labor along with strong support networks provided by the ILO and civil society organizations and the continued low levels of public trust and confidence in the national justice system. The government extended the ILO framework in November 2016, but it expired in December 2017.

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 contributing factor to forced labor and other abuses.

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/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

In January 2016 the government raised the minimum age for work in shops, establishments, and factories to 14 years and set out 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.

Trained inspectors monitored the application of these new regulations, including with regard to child labor, but a general lack of resources hindered inspectors throughout the country. Inspectors from the MSWRR monitored child-related cases at 25 Township Community on the Rights of the Child projects throughout the country. The Ministry of Labor worked with UNICEF on problems related to child protection and minimum age and worked with the ILO to address child labor. Since 2014 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. The government tasked a working group with drafting 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 started 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 launched vocational schools to train young workers for jobs in nonhazardous environments. The government coordinated its efforts with the ILO in an effort to benefit directly 3,600 children and 1,000 households with education, worker safety, and support services in Mon State, Ayeyarwady Region, and Rangoon target areas.

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 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 diseases (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 based on race, color, sex, religion, gender, political opinion, national origin or

citizenship, social origin, disability, sexual orientation or gender identity, age, language, HIV-positive status or other communicable diseases, or social status.

Women remained underrepresented in most traditionally male 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 sector, including suspensions and the loss of employment following positive results from mandatory workplace HIV testing.

#### **e. Acceptable Conditions of Work**

The official minimum daily wage was 3,600 kyats (\$2.70). 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. In December the government announced a committee of government, labor, and business representatives had agreed on increasing the minimum wage by 33 percent, subject to a 60-day comment period. The law requires the minimum wage to be revised every two years.

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. During the year 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, for example the Ministry of Agriculture, Livestock, and Irrigation.

The government and ILO announced plans for the country's third labor stakeholders' forum under the auspices of the multistakeholder Initiative to Promote Fundamental Labor Rights and Practices in Myanmar to take place in January 2018. As in previous years, the forum would invite 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.