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Freedom in the World 2016 - Myanmar

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2016 scores

Freedom Status: Not Free

Aggregate Score: 28

Freedom Rating: 5.5

Political Rights: 6

Civil Liberties: 5

Ratings Change, Trend Arrow: ↑

Myanmar's civil liberties rating improved from 6 to 5, and it received an upward trend arrow, after the opposition National League for Democracy won a landslide victory in parliamentary elections that were seen as largely free and fair, notwithstanding the disenfranchisement of the Rohingya minority.

Quick Facts

Population: 52,147,000

Capital: Nay Pyi Taw

GDP/Capita: \$1,203.80

Press Freedom Status: Not Free

Net Freedom Status: Not Free

OVERVIEW

Opposition leader Aung San Suu Kyi's National League for Democracy (NLD) won an overwhelming victory in November 2015 parliamentary elections, and the ruling Union and Solidarity Development Party (USDP) accepted the results, setting the stage for the peaceful formation of a new government in early 2016. However, military appointees would retain 25 percent of the seats in both houses, and as many as 1 million people – most of them from the ethnic Rohingya minority – were disenfranchised, having been excluded from the voter list ahead of the elections.

Offensives by the military against various ethnic rebel groups and the government's unwillingness to engage in a comprehensive political dialogue continued to hamper the prospect of a nationwide cease-fire agreement in 2015. Despite strong reporting before and during the elections,

infringements on media freedoms persisted. Freedom of assembly was also under threat, as student protests were violently quelled.

The spread of anti-Muslim discrimination continued. Political parties actively avoided fielding Muslim political candidates, and the parliament adopted four measures – dubbed the Protection of Race and Religion Bills – that restricted polygamy, religious conversion, interfaith marriages, and birth rates in designated regions.

POLITICAL RIGHTS AND CIVIL LIBERTIES

Political Rights: 11 / 40 (+2)

A. Electoral Process: 3 / 12

Under the 2008 constitution, whose drafting was controlled by the military, the bicameral Assembly of the Union consists of the 440-seat House of Representatives, or lower house, and the 224-seat House of Nationalities, or upper house. Representatives serve five-year terms. A quarter of the seats in both houses are reserved for the military and filled through appointment by the commander in chief, an officer with broad powers who is selected by the military-dominated National Defense and Security Council (NDSC). The legislature elects the president. Military members have the right to nominate one of the three presidential candidates, and the elected members of each chamber nominate the other two. The candidate with the largest number of votes in a combined parliamentary vote wins the presidency; the other two candidates become vice presidents.

Unlike in the 2010 elections, international electoral observers concluded that the 2015 electoral process was generally credible and the outcome reflected the will of the people, despite a campaign period marked by anti-Muslim rhetoric, the exclusion of Muslim candidates, and the disenfranchisement of hundreds of thousands of Rohingya, most of whom are Muslim. The NLD won 135 of the 168 elected seats in the upper house, 255 of 330 elected seats in the lower house, and 496 of 659 seats across 14 state and regional legislatures. The government-backed USDP placed second with 30 seats in the lower house, 12 in the upper house, and 76 in the states and regions. The remaining seats were captured by ethnic minority and other parties as well as independents. While ethnic parties fared poorly overall, the Shan Nationalities League for Democracy (SNLD) and the Arakan National Party (ANP) performed well in their respective states.

After the elections, commander in chief Min Aung Hlaing, former military ruler Than Shwe, and outgoing president Thein Sein each met with Aung San Suu Kyi and agreed to support a smooth transition. However, constitutional provisions barred the NLD leader from becoming president due to the foreign nationality of her immediate family members. Changes to the constitution require a three-quarters parliamentary supermajority, meaning military support would be required in practice.

B. Political Pluralism and Participation: 8 / 16 (+2)

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

The government has allowed members of the parliament to speak about democratic rights since 2011. While the legislators' time to speak has often been severely limited, many of their speeches

receive coverage in the domestic media. Since winning a seat in 2012 by-elections, Aung San Suu Kyi has gained political influence, as demonstrated by the NLD's dramatic 2015 electoral victory. However, critics argue that she has failed to strongly challenge incumbent interests or alter state policy. She and her aides notably downplayed the plight of the Rohingya minority during 2015.

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

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

C. Functioning of Government: 3 / 12

The military remains a dominant force in policymaking, particularly through its constitutional control over the defense, home affairs, and border affairs ministries. The military effectively controls at least six seats on the powerful 11-member NDSC. Over one-fifth of the total budget is devoted to the military. Although the military budget remains opaque and the 2011 Special Funds Law allows the military to circumvent parliamentary oversight to access additional funds, details on part of the budget were shared publicly for the first time in 2015 and faced limited parliamentary scrutiny.

Corruption is rampant at both the national and local levels. Myanmar was ranked 147 out of 168 countries and territories surveyed in Transparency International's 2015 Corruption Perceptions Index. While the budget process has become more open, the government does not take significant steps to curb corruption. There are widespread allegations that economic reforms have benefited family members and associates of senior officials, and the government has ignored tax evasion by the country's wealthiest companies and individuals. A 2015 report by Global Witness found that the military, senior officers' families, and other elites controlled the poorly regulated, multibillion-dollar jade trade.

Discretionary Political Rights Question B: -3 / 0

The government has long used violence, displacement, and other tactics to alter the demographics of states with ethnic unrest or insurgencies. The Rohingya in Rakhine State have faced particularly harsh restrictions for decades, including limits on family size and the ability and right to marry. Hundreds of Rohingya remain imprisoned for dubious offenses such as marrying an unapproved spouse. Children born to unrecognized couples or beyond the two-child limit are often denied legal status and services.

In 2015, the revocation and confiscation of hundreds of thousands of temporary identification cards, held mainly by Rohingya, contributed to what became Southeast Asia's largest refugee crisis in decades, as thousands of people fled to seek asylum in neighboring countries. Former white-card holders were offered new temporary "green" cards, though these carried no voting or citizenship rights.

Human rights experts have labeled the treatment of the Rohingya as crimes against humanity, and in 2015 some analysts argued that it constituted either genocide or a precursor to genocide.

Civil Liberties: 17 / 60 (+1)

D. Freedom of Expression and Belief: 7 / 16 (+1)

The media played an important role during the 2015 election campaign, with several newspapers, online outlets, and foreign or expatriate-based broadcasters providing robust coverage of the competing parties, candidates, and issues at stake. However, domestic television and radio, the principle sources of information for the majority of the population, remained in the control of the military, the USDP government, or their allies in 2015, and state-media coverage favored the incumbents.

In May, media access to the parliament was severely restricted after the publication of photos that showed lawmakers sleeping during sessions or voting for absent colleagues. In June, writer and NLD member Htin Linn Oo was sentenced to two years in prison with hard labor for insulting religion through a 2014 speech that challenged the Organization for the Protection of Race and Religion (known by the Burmese acronym Ma Ba Tha), a hard-line Buddhist nationalist group, and asserted the incompatibility of Buddhism with extreme nationalism. In July, two men armed with slingshots and metal projectiles attacked the vehicle of the head of Eleven Media Group, one of the country's most outspoken and critical news editors; he was not harmed in the assault.

Previous constraints on internet access have largely unraveled, and the proliferation of smartphones has rapidly increased usage, but internet activity is still subject to criminal punishment under broadly worded legal provisions. In 2013 the penalties under the Electronic Transactions Law, which is routinely used to criminalize political activism on the internet, were reduced to fines or prison terms of 3 to 7 years (down from 7 to 15 years) for "any act detrimental to" state security, law and order, community peace and tranquility, national solidarity, the national economy, or national culture – including "receiving or sending" related information. Journalists and others have faced cyberattacks and attempts to infiltrate their e-mail accounts by both state and nonstate actors. In 2015, a series of arrests apparently marked the first use of defamation laws against social-media users. At least four people were detained beginning in October for Facebook posts deemed insulting to the military or Aung San Suu Kyi, and one was sentenced in December to six months in prison.

The 2008 constitution provides for freedom of religion. It distinguishes Buddhism as the majority religion, but also recognizes Christianity, Islam, Hinduism, and animism. The government occasionally interferes with religious assemblies and attempts to control the Buddhist clergy. Authorities have also discriminated against minority religious groups, refusing to grant them permission to hold gatherings and restricting educational activities, proselytizing, and construction of houses of worship. In January 2015, state officials ordered the removal of a large Christian cross on a hilltop near the Chin State capital of Hakha.

Anti-Muslim hate speech and discrimination continued to spread during the year. Social media and some state institutions and mainstream news websites amplified communal tensions. Ma Ba Tha agitated for the protection of Buddhist privileges, urged boycotts against Muslim-run businesses, and disseminated anti-Muslim propaganda. In September, Muslims in some areas

faced restrictions on traditional animal slaughter associated with the Eid al-Adha holiday after local officials gave in to demands from Ma Ba Tha. An investigative media report the same month found that Ma Ba Tha members had succeeded in closing down multiple Muslim-owned businesses, especially slaughterhouses, with assistance from local authorities. The group has also been accused of instigating violence, which political leaders have done little to stop.

Between May and August, the president signed the so-called Protection of Race and Religion Bills, which were seen as advancing an anti-Muslim, Buddhist nationalist agenda. They included penalties for polygamy, special boards to approve religious conversions, obstacles to the marriage of Buddhist women to non-Buddhist men, and a mechanism allowing the government to restrict birth rates in certain regions based on vague development criteria.

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

E. Associational and Organizational Rights: 4 / 12

Under the Peaceful Assembly and Peaceful Procession Law, as revised in 2014, holding a demonstration without government "consent" is punishable with up to six months in prison; a variety of other vaguely worded violations can draw lesser penalties. While election-related assemblies were common in many areas during 2015, authorities continued to use the law to arrest demonstrators. In March, police attacked students protesting the new education law, arresting 127 and charging them with offenses including unlawful assembly and rioting. Other student activists were detained later in the year. In September, a conference on the sensitive topic of development projects' socioeconomic impact on communities in Karen State was closed down after state authorities claimed that the organizers did not seek the proper permissions.

The 2014 Association Registration Law features simple, voluntary registration procedures for local and international nongovernmental organizations (NGOs) and no restrictions or criminal punishments for noncompliance. Although the law was seen a positive development, in June 2015 the Home Affairs Ministry issued implementing regulations, or "by-laws," that required NGOs to obtain government approval prior to registration, drawing sharp criticism from civil society leaders.

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

F. Rule of Law: 1 / 16

The judiciary is not independent. Judges are appointed or approved by the government and adjudicate cases according to its decrees. Administrative detention laws allow individuals to be held without charge, trial, or access to legal counsel for up to five years if deemed a threat to state security or sovereignty. According to a report by the Assistance Association for Political Prisoners (Burma), 127 political prisoners were incarcerated as of early December 2015, and 472 were awaiting trial, a notable increase from a year earlier on both counts.

Some of the country's worst human rights abuses, commonly committed by government troops, are against ethnic minorities, especially the Kachin, Shan, Chin, Karen, and Rohingya. Riots and mob violence against Rohingya and other Muslims have killed hundreds of people, displaced thousands of residents, and destroyed hundreds of properties, including religious sites, since 2012, though such attacks reportedly declined in 2015. The government's failure to protect victims, conduct investigations, and punish perpetrators is well documented. The anti-Muslim Ma Ba Tha and the similar 969 movement have been accused of stoking outbreaks of violence with inflammatory sermons, leaflets, and other materials.

The government continued to negotiate with armed ethnic minority groups in 2015, but a comprehensive agreement regarding federalism and adherence to the 2008 constitution remained elusive. Discussions were hampered by persistent fighting in some regions, including continued offensives in Kachin State and in the Kokang portions of Shan State.

A number of laws create a hostile environment for LGBT (lesbian, gay, bisexual, and transgender) people. Same-sex sexual conduct is criminalized, and police subject LGBT people to harassment, extortion, and physical and sexual abuse. In Mandalay in August 2015, a division-level minister publicly urged police to arrest and "educate" gay and transgender people.

G. Personal Autonomy and Individual Rights: 5 / 16

Freedom of internal travel is generally respected outside of conflict zones. Numerous exiled activists who returned to the country have experienced substantial delays and evasion from government authorities when attempting to renew visas and residency permits, despite the president's call for exiles to return to work for the country's development. Illegal toll collection by state and nonstate actors has been a problem in some areas. Police continue to enforce a colonial-era loitering law and a houseguest registration law, which particularly affect low-income people and create opportunities for harassment, extortion, and invasions of privacy.

Contentious disputes over land grabbing and business projects that violate human rights continued in 2015. Instances of forced eviction and displacement, lack of sufficient compensation, and direct violence by state security officials abound. As of June 2015, the parliament's Farmland Investigation Commission reported that it had heard about 20,000 of the 30,000 cases submitted since 2013, and decided in favor of compensation for claimants in only 4 percent of the cases heard – a number that activists generally view as much too low.

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

Laws protecting women from violence and exploitation are inadequate. Growing anti-Muslim sentiment has affected the women's rights movement. In 2014, after a group of Buddhist women activists, part of a coalition of 97 civil society organizations, denounced the Protection of Race and Religion Bills, they received threats to their lives and safety. The army has a record of using rape as a weapon of war against ethnic minority women. Security personnel typically enjoy impunity for sexual violence, and new cases in ethnic minority areas continued to be reported during 2015. Human trafficking is also a concern; women and girls in displacement or refugee camps are at a higher risk of sexual violence and exploitation by traffickers.

Child labor is endemic in Myanmar. The United Nations estimates that one-third of children ages 7 to 16 are working due to poverty and conflict. To address international concerns and improve childhood development, the government in July 2014 announced plans for a policy to end child

labor. Various commercial and other interests continue to use forced labor despite a formal ban on the practice since 2000.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

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