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World Report 2017 - Burma

Burma's new government led by the National League for Democracy (NLD) took office in March 2016 after sweeping the November 2015 elections. Headed by State Counsellor Aung San Suu Kyi and President Htin Kyaw, the NLD controls a majority of both upper and lower house parliamentary seats in the country's first democratically elected, civilian-led government since 1962. However, the new government inherited deep-rooted challenges, including constitutional empowerment of the military, repressive legislation, weak rule of law, and a corrupt judiciary.

The political transition began promisingly, with the April release of over 200 political prisoners and detainees. Nonetheless, the NLD-led government has thus far not capitalized on its initial momentum in guiding the country toward substantive reform or the creation of democratic institutions.

Fighting between the Burmese armed forces and ethnic armed groups intensified or flared up in several regions during the year, resulting in abuses against civilians and massive displacement. Violent attacks by unknown insurgents against border guard posts on October 9 in Maungdaw, northern Rakhine State, resulted in the deaths of nine officials and sparked the most serious humanitarian and human rights crisis in Rakhine State since the October 2012 "ethnic cleansing" campaign against the Rohingya.

Under the deeply flawed 2008 constitution, the military retains autonomy from civilian oversight and extensive power over the government and national security, with control of the Defense, Home Affairs, and Border Affairs Ministries. It is guaranteed 25 percent of parliamentary seats, which constitutes an effective veto over any constitutional amendments, and is authorized to assume power in a national state of emergency.

Ethnic Conflict and Armed Forces Abuses

Fighting between the Tatmadaw (Burmese armed forces) and ethnic armed groups worsened over the year in Kachin, Rakhine, Karen, and Northern Shan States, displacing thousands of civilians. Government forces have been responsible for serious abuses, including extrajudicial killings, torture, sexual violence, and destruction of property. Government shelling and airstrikes have been conducted against ethnic areas, in violation of the laws of war. Both government and non-state groups have been implicated in the use of anti-personnel landmines and forced recruitment, including of children.

The legacy of the Burmese military's "divide and rule" approach persists, as the conflict's spillover and ensuing abuses compound tensions among ethnic groups.

The Nationwide Ceasefire Agreement (NCA) orchestrated under the previous Thein Sein government was signed in October 2015 by eight non-state armed groups, fewer than half of the country's total. Since its adoption, military operations and clashes between signatory and non-signatory armed groups have continued.

From August 31 to September 3, Aung San Suu Kyi presided over the 21st Century Panglong Conference, billed as a forum for re-engaging armed groups and other national stakeholders in the

country's peace process. Intensified fighting on the ground has continued unabated since the conference.

In Northern Shan State, fighting between the Ta'ang National Liberation Army and the Restoration Council of Shan State/Shan State Army-South, at times with the support of the Tatmadaw, flared throughout the year.

Fighting between the military and the Kachin Independence Army (KIA) in Kachin State increased steadily since mid-August. In September, fighting between ethnic armed groups and government forces in Karen State displaced about 5,900 civilians.

Violence over the past five years has left 220,000 people displaced nationwide—120,000 in Rakhine State and 100,000 in Shan and Kachin States.

Security threats, weak infrastructure, and restrictions imposed by government and non-state authorities regularly impeded access by humanitarian agencies to civilians displaced in conflict-affected areas. Restrictions on access to Internally Displaced Persons (IDPs) in Kachin and Shan States increased in late 2016.

Abuses against Rohingya

Muslim minorities in Burma, in particular the 1.2 million ethnic Rohingya, continue to face rampant and systemic human rights violations.

Outbreaks of violence in Maungdaw district in northern Rakhine State escalated following an October 9 attack on three border outposts that left nine police officers dead. Asserting that both the initial and subsequent attacks were carried out by armed Rohingya militants, the government initiated "clearance operations" to locate the alleged attackers while locking down the area, denying access to humanitarian aid groups, independent media, and rights monitors.

The security operations led to numerous reports of serious abuses by government security forces against Rohingya villagers, including summary killings, rape and other sexual violence, torture and ill-treatment, arbitrary arrests, and arson. The military employed helicopter gunships during a series of clashes beginning on November 11. At time of writing, the government said it had arrested over 300 alleged suspects. Local groups reported the use of torture and a number of deaths in custody.

Satellite imagery in November revealed widespread fire-related destruction in Rohingya villages, with a total of 430 destroyed buildings in three villages of Maungdaw district.

Government travel restrictions placed on humanitarian agencies have led to critical food insecurity and malnutrition, and an estimated 30,000 Muslim villagers remain displaced.

The government has continually failed to adequately or effectively investigate abuses against the Rohingya, and did not act on recommendations to seek UN assistance for an investigation into the violence.

The ongoing crisis in Maungdaw represents the most serious and widespread violence against the Rohingya since the ethnic cleansing campaign carried out in June and October 2012. Four years

after the 2012 violence, about 120,000 Rohingya remain displaced in camps in Rakhine State. Humanitarian conditions for both remaining IDPs and newly resettled persons remain dire due to restrictions on movement and lack of access to livelihoods and basic services.

The effective denial of citizenship for the Rohingya—who are not recognized on the official list of 135 ethnic groups eligible for full citizenship under the 1982 Citizenship Law—has facilitated enduring rights abuses, including restrictions on movement; limitations on access to health care, livelihood, shelter, and education; arbitrary arrests and detention; and forced labor. Travel is severely constrained by authorization requirements, security checkpoints, curfews, and strict control of IDP camp access. Such barriers compound the health crisis caused by poor living conditions, severe overcrowding, and limited health facilities.

The government refuses to use the term Rohingya, which the group self-identifies as but is rejected by nationalist Buddhists in favor of the term “Bengali,” which implies illegal migrant status in Burma. Aung San Suu Kyi refers to the group as the “Muslim Community in Rakhine State,” and has requested that international stakeholders, including the United States, European Union, and United Nations, follow suit.

The new Burmese government established two bodies to address sectarian tensions in Rakhine State—a government committee and a nine-member national/international advisory commission led by former UN Secretary-General Kofi Annan, which initiated its year-long research mandate in September.

Freedom of Expression and Assembly

Restrictions on the rights to freedom of expression and assembly persist, amid the government’s failure to contend with the range of rights-abusing laws that have been long used to criminalize free speech and prosecute dissidents.

In its final months of rule, Thein Sein’s government continued arresting activists using politically motivated charges, failing to fulfill the former president’s 2013 pledge to release all political prisoners by the end of his term. In April, the new NLD-led government released 235 political prisoners and detainees in a series of amnesties.

However, the nod toward a new era of openness was contradicted by the government’s continued use of problematic legislation to restrict free speech. In April, two Muslim interfaith activists were convicted on charges under section 17(1) of the Unlawful Association Act and sentenced to an additional two years in prison with hard labor. Numerous activists were arrested under section 66(d) of the Telecommunications Act for “defaming” Aung San Suu Kyi, President Htin Kyaw, or the military in social media posts. These include Maung Saungkha, who was sentenced to six months in prison in May for a poem he posted on Facebook, and Aung Win Hlaing, sentenced to nine months in prison in September for calling the president an “idiot” and “crazy” on Facebook.

Parliament put forward a new Peaceful Assembly and Peaceful Procession Law in May, yet despite slight improvements the proposed revisions maintain regulations that allow for at-will crackdowns on peaceful protests, blanket prohibitions on certain protest speech, and criminal penalties for any violation of its restrictions.

Arrests and prosecutions for participation in peaceful assemblies have continued under the new administration. Police arrested 90 political activists in May, including student leaders of an interfaith peace walk in Rangoon; demonstrators against the Letpadaung mine in Sagaing Division; and 76 labor rights activists marching to the capital, Naypyidaw, to protest treatment by local factory owners. Fifty-one of the labor activists were charged with unlawful assembly, rioting, and disturbing public tranquility under the Burmese penal code; 15 were convicted in October and sentenced to between four and six months in prison.

Throughout the year, as many as 60 Arakanese men were arrested under section 17(1) of the Unlawful Association Act for alleged ties to the Arakan Army. From March to July, 28 were found guilty and sentenced to two to five years in prison with hard labor.

The criminalization of expression perceived as a threat to the armed forces also continued. In late June, the Ta'ang Women's Organization was forced to cancel a press conference in Rangoon to launch a report documenting military abuses against ethnic Palaung in Northern Shan State. In August, Khine Myo Htun, an environmental activist and member of the Arakan Liberation Party, was charged with violating sections 505(b) and 505(c) of the penal code for accusing the armed forces of committing crimes against humanity. In October, veteran activist Htin Kyaw was arrested and charged with violating section 505(a) for accusing the military of committing human rights abuses.

While the relaxation of press censorship has been a key hallmark of the democratic transition, various forms of government control remain inscribed in the legal framework and employed to restrict media freedom. In June, the Ministry of Information banned the film "Twilight Over Burma" from a human rights film festival for its depiction of a relationship it claimed would threaten ethnic and military relations.

As part of the military's "clearance operations" in northern Rakhine State, the authorities denied independent journalists access to the region since early October. The *Myanmar Times* fired a journalist who had reported on allegations of rape by security forces in Maungdaw, reportedly under pressure from the Ministry of Information.

Burma's national penal code criminalizes consensual same-sex behavior between adult men. In recent years police have arrested gay men and transgender women assembling in public places, and politicians have called for the "education" of gay people.

Women's and Girls' Rights

Justice for women and girls in Burma remains elusive, particularly with regard to violence related to armed conflict. Sexual violence by the military, and to some extent ethnic armed groups, has been frequent, and the renewed violent clashes in Kachin and Northern Shan States has exacerbated the problem. Such crimes are facilitated by a near total lack of accountability, and no institutionalized complaint mechanism. Few prosecutions have been publicly reported, despite allegations of more than 115 cases of sexual violence perpetrated by the Burmese army since fighting renewed.

In October and November, media and local groups reported numerous incidents of rape and other sexual assault of Rohingya women and girls committed by security forces during the "clearing operations" in Maungdaw district. The government denied all reports of sexual violence, and the

military lockdown has prevented independent investigations into the abuses. This suppression is emblematic of the military's long-standing refusal to seriously investigate cases of sexual violence.

In May, the Tatmadaw announced that an investigation into the January 2015 rape and murder of two Kachin schoolteachers by suspected army soldiers had taken place, but no public information about charges or a trial was released. Women in conflict zones and displaced or stateless women are especially vulnerable to abductions, enforced disappearances, sexual violence, and exploitation.

Despite their central role in human rights and democracy activism in Burma, women have been marginalized in the government's various peace process initiatives, and their concerns have been noticeably absent from the negotiations. Women made up less than 10 percent of participants in the peace process, and women's rights groups were sidelined at the 21st Century Panglong Conference.

Women hold only 13 percent of seats in the new parliament; only one woman sits on the 18-person cabinet, and only 0.25 percent of village-level administrators are women.

Key International Actors

Burma's political transition has triggered an enthusiastic response from international stakeholders. Since the new administration took office, there have been only limited attempts by foreign governments to press for genuine legal and policy reforms.

In May, the United States government relaxed a range of sanctions to ease US business investments and financial transactions in Burma. Following a visit by Aung San Suu Kyi in September, the US announced plans to lift most remaining sanctions, which was carried out by executive order on October 7.

The US also resumed the General System of Preferences (GSP) trade status with Burma, despite serious concerns that Burma's labor practices do not meet GSP conditions on labor rights. In a contradictory move, the US State Department downgraded Burma in its annual Trafficking in Persons report to Tier 3, the lowest tier, in recognition of ongoing abuses related to human trafficking, child soldier recruitment, and forced labor.

The UN Human Rights Council in March once again adopted its resolution on Burma and extended the special rapporteur's mandate, requesting that she identify benchmarks for reform. However, the EU decided not to introduce a resolution at the UN General Assembly in November, underscoring the international community's softening approach.

As Burma's immediate neighbor with significant business and military ties within the country, China continued efforts to strengthen its geopolitical engagement with the Burmese government and advance the large-scale development projects that offer access to the country's natural resources and strategic regional borders, often to the detriment of local populations.