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Myanmar 2020

Serious human rights violations occurred across Myanmar as internal armed conflict between the military and ethnic armed groups continued. Indiscriminate airstrikes and shelling by the military took place in Rakhine and Chin States and thousands of civilians were displaced. Humanitarian groups faced severe restrictions on their activities, which limited their access to at-risk populations. The authorities imposed undue restrictions on access to information in Rakhine and Chin States, which negatively impacted the ability of communities to receive potentially lifesaving information, during both the COVID-19 pandemic and the ongoing armed conflict. Persecution of human rights defenders continued around the country. Authorities imposed arbitrary restrictions on the rights to freedom of expression, association and peaceful assembly.

Background

On 23 January, the International Court of Justice (ICJ) ordered Myanmar to prevent genocidal acts against the Rohingya Muslims pending the case filed by the Gambia. The ICJ also ordered Myanmar to regularly report on the implementation of this order.¹

The government repeatedly emphasized that the accountability of those responsible for human rights violations was an internal affair. Impunity continued to be pervasive, however, and the government made no meaningful moves towards establishing civilian oversight of the military or creating effective internal investigative and accountability mechanisms.

The COVID-19 pandemic saw varying degrees of lockdown measures in major cities, as cases continued to rise. The country's health care system was ill-equipped to cope with such large-scale outbreaks, and the economic impact of the pandemic negatively impacted at-risk populations, including internally displaced people and millions living in poverty.

In the general election held on 8 November, Aung San Suu Kyi's National League for Democracy retained its parliamentary majority.

Voting was called off in conflict-affected parts of the country, including much of Rakhine State. As a result, over 1.5 million mainly Rakhine people were deprived of their right to vote. The vast majority of the Rohingya population had already been disenfranchised prior to the 2015 election, through the annulment of “White Card” identity papers.

Human rights violations in the context of internal armed conflict

During the year civilians were killed or injured by indiscriminate airstrikes and shelling by the military in many parts of Rakhine State and Paletwa township, Chin State²

Since the escalation of the conflict between the military and the Arakan Army in early 2019, cases of forced labour, arbitrary detention, and torture and other ill-treatment of civilians by government troops increased.

In Kachin and northern Shan States, reports of human rights violations against civilians by the military continued to emerge in the context of several armed conflicts. Reports of human rights abuses by ethnic armed groups included abductions, murder, illegal detention, forced and child recruitment into armed groups, forced portering, and extortion.

On 12 June, the Union Minister of Social Welfare, Rescue and Resettlement announced that it would form two bodies to clear anti-personnel mines nationwide as part of its plan to resettle civilians displaced by armed conflict. Both the military and ethnic armed groups continued to use anti-personnel mines and improvised explosive devices (IEDs).³

Internally displaced people

There were some 300,000 individuals displaced in Rakhine, Chin, Kachin and northern Shan States due to armed conflict between the Myanmar military and various ethnic armed groups. Along the Thai-Myanmar border, tens of thousands remained displaced from conflict decades earlier.

Tens of thousands of people were displaced during the year in Rakhine State due to armed conflict. This added to the existing displacement crisis in the state, where 130,000 mostly Rohingya Muslims remained effectively interned in camps since violence in 2012. In Kachin State, almost 100,000 people remained in camps, having been displaced since the 2011 resumption of fighting between the Kachin Independence Army and the military.

The government earmarked for closure many camps for internally displaced people, but none were closed during the year. Repatriation of Rohingya refugees in Bangladesh who fled atrocities in Rakhine State in 2016 and 2017 had yet to commence.

Denial of humanitarian access

UN agencies and international NGOs delivering humanitarian aid and supplies faced significant impediments in their efforts to conduct activities. The authorities restricted access to conflict-affected areas and where governance was contested by the government and ethnic armed groups.

Restrictions on humanitarian actors were particularly acute in Rakhine State, where a cumbersome bureaucracy and government-imposed travel bans prohibited access to at-risk populations, including in conflict and displacement settings.

Travel within Rakhine State was risky for humanitarian groups. In April, a WHO vehicle carrying COVID-19 test samples in Minbya township, Rakhine State, came under gunfire and the driver was killed. On 28 October, two men were injured and one killed aboard an ICRC-contracted aid vessel in Rathedaung Township. In both cases, the Myanmar military and Arakan Army denied responsibility.

Freedoms of expression, association and assembly

Authorities used a range of repressive laws to arrest, prosecute and imprison individuals who exercised their rights to freedoms of expression, association and peaceful assembly.

Arbitrary and politically-motivated arrests and prosecutions took place throughout the year, and 58 people were imprisoned.⁴ The authorities often pursued charges under Section 66(d) of the 2013 Telecommunications Law and Sections 505(a) and 505(b) of the Penal Code against critics and human rights defenders.

Authorities charged poetry troupe the Peacock Generation with “online defamation” under these two laws for their peaceful Thangyat performances criticizing the military. Thangyat is a traditional art form fusing poetry, comedy and music for satirical ends, performed during the New Year water festival in April. Six members of the group were sentenced to between two and six years’ imprisonment. By year’s end, three remained in prison.

Authorities used national security legislation to arbitrarily limit the right to freedom of expression and information. The 1908 Unlawful Associations Act was often used by authorities to target, harass, intimidate and punish activists and journalists, especially those belonging to ethnic and religious minorities.

On 24 March, the government designated the Arakan Army as a terrorist organization, which effectively outlawed any communication with the group. At least three journalists were prosecuted under the Counter-Terrorism Law and Sections 17(1) and 17(2) of the Unlawful Associations Act for contacting the Arakan Army. Media workers practised self-censorship and routinely disclosed that they were not able to contact the relevant ethnic armed group for comment, for fear of prosecution.

Under the Peaceful Assembly and Peaceful Procession Law, organizers of public gatherings, such as peaceful demonstrations or processions, were required to notify police prior to the event. Failure to do so could result in criminal sanctions. On 4 September, poet and activist Maung Saungkha was convicted under Section 19 of this law after he placed a banner over a highway during a protest marking the one-year anniversary of restrictions on mobile internet communications in parts of Rakhine and Chin States. Maung Saungkha chose to pay a fine of 30,000-kyat (US\$22.50) rather than serve a 15-day prison sentence.

During September the authorities arrested 15 members of the All Burma Federation of Student Unions (ABFSU). They had participated in peaceful anti-war demonstrations and pamphleting awareness campaigns around the country, calling for an end to the conflict in Rakhine and Chin States, and for the restoration of mobile internet services in areas affected by the government-ordered slowdown.

Six of them were charged under sections 505(a) and 505(b) of the Penal Code. One was charged under Section 25 of the Natural Disaster Management Law, and eight were charged under Section 19 of the Peaceful Assembly and Peaceful Procession Law. Prison terms of up to six years were handed down in several cases and legal proceedings were ongoing. Other ABFSU members remained in hiding.

Access to information

In August, the government partially lifted restrictions on mobile internet connectivity imposed in June 2019 in the conflict-affected areas of northern Rakhine and southern Chin States. Areas where service was restored saw a drastic reduction in connection speeds. This impeded the flow of information, especially the documentation of human rights violations and abuses and the dissemination of crucial health care information during the COVID-19 pandemic.

Authorities cited national security in their use of broad powers to block websites critical of the government. They issued three directives between 19 and 31 March to block a total of 2,147 websites under Section 77 of the Telecommunications Law, which granted the government broad and arbitrary powers to suspend telecommunications networks.

The authorities restricted meaningful access to independent media and human rights monitors in conflict-affected areas. Journalists and media outlets faced pressure, intimidation and harassment for reporting on sensitive issues. The threat of arrest loomed large for those reporting on conflict, disproportionately affecting journalists from ethnic minority groups. Aung Marm Oo, editor-in-chief of a Rakhine State-based news agency reporting on violations during the conflict between the military and the Arakan Army, remained in hiding where he had been since May 2019. He faced charges under Section 17(2) of the Unlawful Associations Act, which provided for up to five years' imprisonment for any person who managed, assisted or promoted an unlawful association.

Corporate accountability

In September, links were exposed between international businesses and the financing of the military, including many units directly responsible for crimes under international law and other human rights violations.¹ Leaked official documents revealed how the military received huge revenues from shares in Myanmar Economic Holdings Limited, a secretive conglomerate whose activities included the mining, beer, tobacco, garment manufacturing and banking sectors.

Lesbian, gay, bisexual, transgender and intersex (LGBTI) people

Section 377 of the Penal Code criminalized consensual same-sex relations. Although this provision was rarely enforced, the fact that it remained on the books created a hostile environment that legitimized harassment, discrimination and violence against LGBTI people, placing them at risk of attack and extortion by police and other authorities.

Right to education

On 13 February, Children's Day, an artillery shell landed on the Basic Education Post-Primary School in Kha Mhwe Chung village, of San Hnyin Wai Village Tract in Buthidaung Township, injuring at least 17 students.

The military occupied school buildings in Rakhine State, using them as temporary bases. Appropriation of educational facilities not only denied children their right to education, but potentially turned schools into military targets, placing the lives and safety of civilians at risk.

Violence against women and girls

Progress towards a Prevention of and Protection from Violence Against Women (PoVAW) law was stalled. Members of parliament continued to debate crucial provisions of the draft law, including on the definitions of rape. Under the Penal Code, marital rape was not considered a crime. Although the latest version of the PoVAW criminalized marital rape, its penalties were lighter than for rape outside of marriage.

On 21 January, Myanmar's Independent Commission of Enquiry (ICOE), a domestic body charged with investigating atrocities against the Rohingya in Rakhine State during 2016 and 2017, released an executive summary of its findings in which it claimed that there was “no evidence of gang rape committed by Myanmar's security forces”. The ICOE conceded, however, that it had not carried out interviews with Muslim Rohingya survivors who had fled to Bangladesh. The ICOE's claim directly contradicted the findings of human rights groups, attending medical practitioners and the UN Independent International Fact-Finding Mission on Myanmar, which documented widespread and systematic rape against Rohingya women and girls.

On 11 September, the military admitted that three of its soldiers raped an ethnic Rakhine woman during operations in Rathedaung Township on 30 June, despite their previous denials when the allegations were first raised by local media after rape charges had been filed by the survivor in July. In its statement, the military publicly named the survivor but not the perpetrators. In late December, the three soldiers were each sentenced to 20 years' imprisonment with hard labour.

1. [World court orders Myanmar to protect the Rohingya \(Press release, 23 January\)](#)
2. [Myanmar: Indiscriminate airstrikes kill civilians as Rakhine conflict worsens \(Press release, 8 July\)](#)
3. [Myanmar: Villages burned, civilians injured and killed as Rakhine State conflict escalates \(Press release, 12 October\)](#)

4. ["I will not surrender": The criminalization of human rights defenders and activists in Myanmar \(ASA 16/2041/2020\)](#)
5. [Myanmar: Leaked documents reveal global business ties to military crimes \(Press release, 10 September\)](#)

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