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Human Rights and Democracy Report 2015 - Human Rights Priority Country update report: July to December 2016 - Burma

Burma continues to make progress on human rights, especially on civil and political rights, though allegations of conflict-related human rights abuses have tarnished an otherwise positive trajectory. Civil society remains vibrant and a number of repressive laws are in the process of being repealed or reformed. In August, State Counsellor Aung San Suu Kyi launched a new peace initiative which brought most of the key actors to the table for a constructive dialogue. The international community responded to the continued transition by discontinuing the long-standing UN General Assembly Resolution on Burma.

However, the government has inherited enormous challenges. Under the 2008 Constitution, the military continue to be in charge of the security ministries and effectively control local administration. They also have an effective veto on constitutional change through their constitutionally mandated 25% of seats in parliament. Most significantly, the situation in Rakhine State deteriorated in response to an October attack on police posts by Rohingya militants. The subsequent security operations led to accusations of human rights violations on the part of the military. On the peace process, the military also stepped up offensive operations in Kachin and Shan States leading to further widespread displacement of civilians.

The government has embarked on an ambitious legislative reform agenda which could transform human rights in Burma. This will take time, but early successes have included scrapping the “midnight inspection” clause of the Ward and Village tract administration law (16 September) and abolishing the 1950 Emergency Provisions Act (5 October), which enabled security forces to arrest and detain civilians indefinitely without filing official charges. Nevertheless, many repressive laws remain:

- the 4 laws on so-called ‘protection of race and religion’ (which discriminate against women and minorities)
- the 1982 Citizenship law (which renders many Rohingya stateless)
- the 1894 Land Acquisition Act (used especially by the military regime to confiscate land)

Many of Burma’s existing laws do not comply with international standards and are open to abuse by police and local officials, with no oversight from central government.

We continue to have concerns about the use of article 66(d) of the 2013 Telecommunications Law, which effectively limits freedom of expression. It has been used on various occasions during this

period, in reaction to social media posts, to arrest, imprison and fine activists and journalists, including those who have criticised the National League for Democracy government or the military. Bail is often denied: for example Eleven Media's CEO and Editor were still in jail by the end of the reporting period following their arrest for alleging that a senior government official received a watch as a bribe. We are also concerned by reports that the death of a reporter in Monywa, Sagaing Region on 13 December, was connected to reporting on illegal logging. Collectively, such infringements have a chilling effect on Burma's otherwise lively media and could lead to self-censorship.

The Assistance Association for Political Prisoners in Burma assess that, as of 22 December, 87 political prisoners remained behind bars with a further 110 awaiting trial. Addressing this issue will require systemic reform of the police and judiciary, as well as the legal framework underpinning such arrests and charges.

State Counsellor Aung San Suu Kyi has made a priority of the peace process, holding a flagship peace conference ("Union Peace Conference: 21st Century Panglong") at the end of August. The conference was the most inclusive since 1947 and brought most of the key actors together, which was a significant achievement. However, in Kachin and northern Shan States, clashes continue between the military and the Northern Alliance (Kachin Independence Army, Myanmar National Democratic Alliance Army, Ta-ang National Liberation Army, and the Arakan Army), causing civilian casualties and displacing thousands. Humanitarian access to conflict-affected areas continues to be restricted and serious concerns remain about the targeting of civilians, forced displacement, forced labour, summary executions, arbitrary arrest and detention, torture and ill treatment, use of child soldiers and sexual violence. The UK continues to support the peace process both bilaterally and in conjunction with other governments through the Peace Support Fund and the Joint Peace Fund.

The main area of progress by the military has been the reduction in the number of cases of child soldiers. On 9 September, they released 55 children and young people, bringing the total number of children officially discharged since the signing of the 2012 Action Plan to 800.

In September, the National Human Rights Commission came under scrutiny after 4 of its members bypassed the courts by recommending a financial settlement in a child slavery and torture case. The Lower House of parliament voted for punitive action against the Commissioners, who resigned and avoided charges. Their vacant positions have not been filled.

The situation in Rakhine State dominated human rights monitoring in the last 3 months of 2016. According to the UN, there are 3,400 children with severe acute malnutrition and some 120,000 mainly Rohingya people still displaced in around 39 "temporary" camps across the state. The Rohingya continue to face severe discrimination with restrictions on their freedom of movement having a corresponding impact on access to healthcare and education. On 23 August, Aung San Suu Kyi announced the establishment of a new hybrid Burmese/international Rakhine Advisory Commission headed by Kofi Annan, to provide advice and recommendations for a durable solution to the problems of Rakhine State. It will submit its report by September 2017. During this review period, the Commission visited Rakhine 3 times, with progress set back by the continued security operations in the north of the state. An effective citizenship verification programme continues to be a challenge: on 28 December, the government announced that out of the 397,497 who surrendered

their temporary citizenship certificates in Rakhine State, 6,077 have now been given an ID card for National Verification.

This situation in Rakhine deteriorated following the 9 October attacks on 3 Burmese border guard police posts by Rohingya militants in which 9 police officers and 8 attackers were killed. Subsequent media, humanitarian and diplomatic access to northern Rakhine was limited by the imposition of a curfew while the military carried out security operations to find the perpetrators and retrieve the weapons taken during the attacks. There have been widespread allegations of human rights violations in the security response and reports of a serious humanitarian impact, particularly relating to torture and ill treatment, extrajudicial killing, arson, mass rape and other forms of sexual violence. Baroness Anelay, the Prime Minister's Special Representative on Preventing Sexual Violence in Conflict and Minister of State at the Foreign and Commonwealth Office, raised these concerns with the Burmese government, along with the wider PSVI and Women, Peace and Security agendas, when she visited on 9-12 November.

According to the UN Office for the Coordination of Humanitarian Affairs, at least 65,000 people have fled to neighbouring Bangladesh. The UN Security Council discussed the situation in Rakhine State on 17 November. The UN Special Rapporteur on Human Rights in Burma, Yanghee Lee, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, and the UN Secretary-General's Special Advisor on Myanmar, Vijay Nambiar, issued statements on 18 November, 29 November and 8 December respectively. The government of Burma set up the Rakhine Investigation Commission on 1 December to look into the initial attacks and allegations of abuses, which is due to report by 31 January 2017.

Burma reported on 7 July to the Committee on the Elimination of Discrimination against Women. The Committee provided concluding observations on 22 July, raising concerns over the lack of progress on the legislative bill on the Prevention and Protection of Violence against Women. The third EU-Burma Human Rights Dialogue was held at the Ministry of Foreign Affairs in Naypyidaw on 22 November. It covered a wide range of human rights issues, including accession to core international human rights conventions and the situation in Rakhine.

The UN Special Rapporteur on Human Rights, Yanghee Lee, presented a report to the UN General Assembly on 27 October, following her fourth visit to Burma in this role in June. The report acknowledges some progress, documents serious and widespread concerns about human rights violations and abuses and sets out a series of recommendations to the authorities in Burma on addressing them. She is due to return to Burma in January 2017.