

Myanmar

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Myanmar

Sanam Amin*

Part 1: Overview of Myanmar

A. Country Background

Myanmar Facts	
Geographical size	676,578 sq km ¹
Population	51.5 million (Men: 48.22%; Women: 51.78%)* ² <i>*Does not include an estimated 1.2 million comprising the entire Rohingya population and some Kachin</i>
Ethnic breakdown	Highly disputed as the government lists 135 ethnic groups, breaking 8 major ethnic groups into sub-categories of clans and dialects. ³
Official language: Recognized regional languages:	Burmese/Myanmar Most ethnic languages are not recognized or formally taught
Literacy rate	89.5% (Men: 92.6%; Women: 86.9%) ⁴
Life expectancy	66.8 (Men: 63.9; Women: 69.9) ⁵
GDP	US\$56.8 billion (per capita est US\$1,105) ⁶
Government	Unitary presidential republic since 2011
Political and social situation	Ruling party consists of previous members of military regime, several of whom were actively involved in military operations against ethnic groups in northern and southeastern Myanmar. The military retains control of the Ministries of Defence, Home Affairs and Border Affairs, and 25% of parliamentary seats. Although Myanmar gained independence in 1948, it was ruled by successive military juntas between 1962 and 2010. A nationwide uprising in 1988 led to general elections in 1990, the results of which were revoked when the opposing National League for Democracy won by a landslide. Adoption of a military-dominated constitution in 2008 eventually led to general elections in 2010, but were widely considered to lack fairness and credibility. ⁷ The next general election is scheduled to take place on 8 November 2015.

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1 'Myanmar publishes census, but Rohingya minority not recognized' Reuters, 29 May 2015, available at <http://in.reuters.com/article/2015/05/29/asia-migrants-myanmar-idINKBN0OE1SJ20150529>, accessed on 6 May 2015.

2 Republic of the Union of Myanmar, 'The 2014 Myanmar Population and Housing Census: The Union Report' 29 May 2015.

3 'Myanmar publishes census, but Rohingya minority not recognized' Reuters, 29 May 2015, available at <http://in.reuters.com/article/2015/05/29/asia-migrants-myanmar-idINKBN0OE1SJ20150529>, accessed on 6 May 2015.

4 Republic of the Union of Myanmar, 'The 2014 Myanmar Population and Housing Census: The Union Report' 29 May 2015.

5 Republic of the Union of Myanmar, 'The 2014 Myanmar Population and Housing Census: The Union Report' 29 May 2015.

6 'Country Overview: Myanmar' The World Bank, October 2014, available at <http://www.worldbank.org/en/country/myanmar/overview>, accessed on 1 August 2015.

7 'UN doubts fairness of election in Myanmar' New York Times, 21 October 2010, available at <http://www.nytimes.com/2010/10/22/world/asia/22nations.html>, accessed on 5 Aug 2015.

B. International Human Rights Commitments and Obligations

Myanmar has ratified three core human rights instruments: (1) the Convention on the Rights of the Child (CRC), (2) the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and (3) the Convention on the Rights of Persons with Disabilities (CRPD). In July 2015, it also signed the International Covenant on Economic, Social and Cultural Rights (ICESCR). Further, Myanmar is party to a number of other conventions relating to disarmament, terrorism, transnational crime, and conditions during warfare (details are fully listed in the table below). Reservations mostly reject articles covering arbitration for disputes with other States and referral to the International Court of Justice.⁸ However, Myanmar invariably submits its country reports late, and many concerns raised in the Committee's lists of issues remain unaddressed by the government, such as the recommendation to raise the minimum age of marriage for girls, or to raise the minimum age for employment. Moreover, Myanmar's 2008 Constitution is mired with provisions that contradict its international obligations; for instance, although almost two decades have passed since the CEDAW was ratified, Art 352 still stipulates that while the State will not discriminate against applicants for civil service posts, "nothing in this Section shall prevent the appointment of men to positions that are suitable for men only."

Broadly, Myanmar has shown little desire to implement the provisions of any international treaties it is party to. For instance, despite ratifying the CRC in 1991, acceding to the ILO Convention 29 on Forced Labor in 1955 and the ILO Convention 182 on the Worst Forms of Child Labor in 2013, forced labour and child soldier recruitment remain prevalent. Since signing a joint action plan with UNICEF in 2012, Myanmar's army periodically releases batches of child soldiers but has yet to prosecute anyone for recruiting them. Recruitment deploys coercion and misrepresentation and takes advantage of gaps in age verification protocols, recruitment procedures, and accountability mechanisms.⁹ In many cases, military officials systematically falsified

8 Myanmar reservations do not recognize Art 15 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime Preamble, supplementing the United Nations Convention Against Transnational Organized Crime, and Art 29 of the Convention on the Elimination of All Forms of Discrimination against Women.

9 "Tatmadaw hands over 42 child soldiers to parents, guardians" *Global New Light of Myanmar*, 24 January 2015; 'Child soldiers: an ongoing battle in Burma' *The Irrawaddy*, 23 January 2015, available at <http://www.irrawaddy.org/contributor/child-soldiers-ongoing-battle-burma.html>, accessed on 14 August 2015; 'Child soldiers and Burma's long road to reform' *Democratic Voice of Burma*, 25 January 2015, available at <https://www.dvb.no/analysis/child-soldiers-and-burmas-long-road-to-reform-children-human-rights-unicef-burma-myanmar/47651>, accessed on 14 August 2015; 'Under the radar: ongoing recruitment and use of children by the Myanmar army' *Child Soldiers International*, 23 January 2015, available at http://www.child-soldiers.org/user_uploads/pdf/undertheradarongoingrecruitmentanduseofchildrenbythemyanmararmy23jan1525065.pdf, accessed on 14 August 2015.

official documents and forced parents to sign blank forms, which were later presented as formal consent.¹⁰

In addition, a July 2015 Reuters investigative report found that the military still regularly subjects Rohingya living in Rakhine State near the Bangladesh border to forced labour, threatening or physically abusing them if they refuse to cooperate. Villagers interviewed anonymously revealed they were often forced to work as porters, tend fields, or maintain infrastructure for the military for little or no pay and under threat of violence. According to the Arakan Project in 2014, 8,000 Rohingya, including hundreds of children, were driven into forced labour by the military.¹¹

Table 1: Ratification Status of International Instruments – Myanmar¹²

Treaty	Signature Date	Ratification Date, Accession (a), Succession (d) Date
Convention against Torture and Other Cruel Inhuman or Degrading Punishment		
Optional Protocol of the Convention against Torture		
International Covenant on Civil and Political Rights		
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		
Convention for the Protection of All Persons from Enforced Disappearance		
Convention on the Elimination of All Forms of Discrimination against Women		22 Jul 1997 (a)
International Convention on the Elimination of All Forms of Racial Discrimination		
International Covenant on Economic, Social and Cultural Rights	16 Jul 2015	

10 'Child soldiers and Burma's long road to reform' Democratic Voice of Burma, 25 January 2015, available at <https://www.dvb.no/analysis/child-soldiers-and-burmas-long-road-to-reform-children-human-rights-unicef-burma-myanmar/47651>, accessed on 14 August 2015; 'Under the radar: ongoing recruitment and use of children by the Myanmar army' Child Soldiers International, 23 January 2015, available at http://www.child-soldiers.org/user_uploads/pdf/undertheradarongoingrecruitmentanduseofchildrenbythemyanmararmy23jan1525065.pdf, accessed on 14 August 2015.

11 'Forced labor shows back-breaking lack of reform in Myanmar military' Reuters, 2 July 2015, available at <http://www.reuters.com/article/2015/07/02/us-myanmar-rohingya-forcedlabour-idUSKCN0PC2L720150702>, accessed on 14 August 2015.

12 United Nations Human Rights, Office of the High Commissioner, available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx, accessed on 1 November 2016.

Treaty	Signature Date	Ratification Date, Accession (a), Succession (d) Date
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families		
Convention on the Rights of the Child		15 Jul 1991 (a)
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	28 Sep 2015	
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography		16 Jan 2012 (a)
Convention on the Rights of Persons with Disabilities		7 Dec 2011 (a)

C. National Laws Protecting Human Rights

The 2008 Constitution provides for non-discrimination on the basis of race, birth, religion, official position, status, culture, sex, and wealth. It also proclaims that the State will guarantee every person equal rights before the law and provide legal protection. However, these provisions are not enforced; by and large, ethnic and religious minorities face discrimination and lack legal recourse, especially as regards land rights. Likewise, women continue to be excluded from the political arena and from Myanmar's peace process.

The 1898 Code of Criminal Procedure outlines standard rules for arrest and trial for criminal offences but these procedures are routinely sidestepped, both in the context of handling human rights defenders and in conflict zones. Security forces often charge detainees with offences even before a hearing is scheduled. The detention and extrajudicial killing of freelance journalist, Aung Kyaw Naing (aka Par Gyi), in military custody demonstrates how little attention is paid to due process.¹³

¹³ 'Case closed in Par Gyi inquiry, widow vows to appeal' *The Irrawaddy*, 23 June 2015, available at <http://www.irrawaddy.org/case-closed-in-par-gyi-inquiry-widow-vows-to-appeal.html>, accessed on 14 August 2015.

Par Gyi Murder and Trial

In October 2014, Myanmar army soldiers killed Aung Kyaw Naing (also known as 'Par Gyi'), a freelance journalist who was covering the conflict in Mon State where fighting had broken out in September 2014.¹⁴

On 23 October, in a letter to the interim Myanmar Press Council, the Myanmar army said that their soldiers had detained Aung Kyaw Naing in Kyaikmaraw Township, Mon State, on 30 September after he returned from covering an outbreak of heavy fighting between the Myanmar army and the Democratic Karen Benevolent Army (DKBA) in a DKBA-controlled area.¹⁵ The letter went on to say that soldiers from LIB 208 had shot and killed Aung Kyaw Naing on 4 October after he allegedly tried to steal a gun from a soldier and escape.¹⁶ However, exhumation of his body revealed signs of torture.¹⁷

On 8 May 2015, the National Human Rights Commission (NHRC) released a statement disclosing that a secret military tribunal had acquitted two Myanmar army soldiers for the killing.¹⁸ The tribunal reached their verdict on 27 November 2014 before the NHRC recommended the case be tried in civilian court in December.¹⁹

On 23 June 2015, Kyaikmaraw Township Court, Mon State, issued its verdict in the civilian investigation of Aung Kyaw Naing's killing. The verdict determined that he had died of a gunshot wound, but did not specify who was responsible.²⁰ His widow expressed dissatisfaction with the verdict and stated an intention to appeal to a higher court.²¹ Previously, on 10 June, military officials had already ignored a summons to appear as witnesses.²²

14 'Missing reporter killed in custody of Burma army: report' The Irrawaddy, 24 October 2014, available at <http://www.irrawaddy.org/burma/missing-reporter-killed-custody-burma-army-report.html>, accessed on 18 August 2015.

15 'Army detains journalist who covered fighting with rebels, wife alleges' The Irrawaddy, 21 October 2014, available at <http://www.irrawaddy.org/burma/army-detains-journalist-covered-fighting-rebels-wife-alleges.html>, accessed on 18 August 2015; 'Missing reporter killed in custody of Burma army: report' The Irrawaddy, 24 October 2014, available at <http://www.irrawaddy.org/burma/missing-reporter-killed-custody-burma-army-report.html>, accessed on 18 August 2015; 'Police open investigation into journalist's killing, wife says' The Irrawaddy, 27 October 2014, available at <http://www.irrawaddy.org/burma/police-open-investigation-journalists-killing-wife-says.html>, accessed on 18 August 2015.

16 'Demonstration to call for investigation into journalist's killing' The Irrawaddy, 24 October 2014, available at <http://www.irrawaddy.org/burma/demonstration-call-investigation-journalists-killing.html>, accessed on 18 August 2015.

17 'Myanmar activists demand independent probe into journalist's killing' Reuters, 29 October 2014, available at <http://uk.reuters.com/article/2014/10/29/uk-myanmar-journalist-idUKKBN0III0120141029>, accessed on 18 August 2015.

18 Statement of the Myanmar National Human Rights Commission with regard to the case involving the death of Ko Aung Naing (a) Ko Aung Kyaw Naing (a) Ko Par Gyi Statement No (6 /2015), Myanmar National Human Rights Commission, 8 May 2015.

19 'Military acquittal raises fresh doubts about civilian inquest' Myanmar Times, 12 May 2015, available at <http://www.mmtimes.com/index.php/national-news/14402-military-acquittal-raises-fresh-doubts-about-civilian-inquest.html>, accessed on 18 August 2015; Statement No 3/2014 of Myanmar National Human Rights Commission on death of Aung Kyaw Naing (aka Par Gyi), Myanmar National Human Rights Commission, 2 December 2014.

20 'Army witnesses spurn court summons over journalist's killing' The Irrawaddy, 12 June 2015, available at <http://www.irrawaddy.org/burma/army-witnesses-spurn-court-summons-over-journalists-killing.html>, accessed on 18 August 2015.

21 'Army witnesses spurn court summons over journalist's killing' The Irrawaddy, 12 June 2015, available at <http://www.irrawaddy.org/burma/army-witnesses-spurn-court-summons-over-journalists-killing.html>, accessed on 18 August 2015.

22 'Army witnesses spurn court summons over journalist's killing' The Irrawaddy, 12 June 2015, available at <http://www.irrawaddy.org/burma/army-witnesses-spurn-court-summons-over-journalists-killing.html>, accessed on 18 August 2015.

Established in September 2011, the Myanmar National Human Rights Commission claims to follow the Paris Principles.²³ However, the Commission lacks financial independence from the government, making its neutrality questionable. So far, its main response to complaints has been to forward them to the subject of the complaint, leading to dangerous consequences for anyone registering a grievance against the military. For instance, in February 2015, a court in Hpakant Township, Kachin State, fined a Kachin man, Brang Shawng, 50,000 kyat (US\$50) for defamation under Art 211 of the Criminal Code. The sentence came in apparent retaliation for a complaint he'd filed with the Commission stating that Ja Seng In (his 14-year-old daughter) had been fatally shot by military forces on September 2012. It was not clear how the military came to know of his complaint to the Commission; meanwhile, no investigation into his daughter's death has been conducted.²⁴

D. National Laws Threatening Human Rights

The Constitution (2008)

The 2008 Constitution itself comprises the chief threat to civil and political rights as it is structured to ensure the military's power remains intact. Some problematic articles are:

Article 37: identifies the State as the ultimate owner of all lands and all natural resources above and below the ground, water, and in the atmosphere, undoing the provisions of Art 372, which allowed the right to property ownership "if it is not contrary to the provisions of this Constitution."

Article 59(e): requires presidential or vice-presidential candidates to have lived continuously in the country for at least 20 years, meaning political exiles or activists who left Myanmar to avoid persecution cannot be considered. 59(f) bars anyone who has a parent, spouse or child with foreign citizenship. (This clause is widely thought to have been framed specifically to bar Aung San Suu Kyi, whose husband was British, and who has children with British citizenship.)

Articles 109, 141, and 161: guarantees unelected military personnel 25% of the seats in each legislative body (110 out of 440 seats in the People's Assembly, 56 out of 224 seats in the National Assembly, and an equivalent number of representatives to one third of the elected state and divisional parliamentary representatives).

23 "We won't be influenced by the gov't" *Myanmar Times*, 19 September 2011, available at <http://www.mmmtimes.com/index.php/national-news/2090-we-won-t-be-influenced-by-the-govt.html>, accessed on 14 August 2015.

24 'Brang Shawng found guilty of defamation' *Democratic Voice of Burma*, 17 February 2015, available at <https://www.dvb.no/news/brang-shawng-found-guilty-of-defamation-burma-myanmar/48375>, accessed on 14 August 2015; 'Kachin man accusing army of killing daughter found guilty of defamation' *The Irrawaddy*, 17 February 2015, available at <http://www.irrawaddy.org/kachin-man-accusing-army-killing-daughter-found-guilty-defamation.html>, accessed on 14 August 2015.

Article 121: outlines disqualifying conditions for a People’s Assembly representative including “having committed an offence relating to disqualification” or a “person serving [a] prison term.” In 2010, this combined with the Political Parties Registration Law effectively barred many from running in the general election, at a time when Aung San Suu Kyi was under house arrest and a further 2,203 were incarcerated as political prisoners.²⁵

Article 232: requires the Defence, Home Affairs, and Border Affairs Ministers to be selected by the military.

Articles 299, 302, 308, and 311: allows the President to appoint or impeach the Chief Justices of the Supreme Court and High Court, meaning the judiciary has no independence from the executive branch.

Article 436(a): requires over 75% parliamentary support for any constitutional amendment to be approved. Since Arts 109, 141, and 161 reserve 25% of parliamentary seats for military appointees, this grants the army effective veto power.

Article 445: bars any proceedings against previous military juntas, granting them effective immunity from prosecution.

Aside from these glaring flaws in the Constitution, several national laws are also detrimental to human rights. The government frequently uses Art 505(b) of the Criminal Code and Arts 18 and 19 of the Peaceful Gathering and Demonstration Law to detain human rights defenders, and at times, also charges protesters with trespass under Art 447 of the Criminal Code. Further, in two separate cases in 2014, colonial era laws such as the 1923 Official Secrets Act and the 1950 Emergency Act were used to charge and sentence journalists. In the seven states inhabited by non-Burmese minorities, the 1908 Unlawful Association Act is still used by the military and the police to detain individuals suspected to have links with ethnic armed groups.²⁶

²⁵ Monthly Chronology, November 2010, Assistance Association for Political Prisoners; ‘Party registration laws set NLD a deadline’ The Irrawaddy, 9 March 2010, available at http://www2.irrawaddy.org/article.php?art_id=17995, accessed on 30 August 2015.

²⁶ Asian Legal Resource Centre & Asian Human Rights Commission, ‘Special dossier: cases under the Unlawful Associations Act 1908 brought against people accused of contact with Kachin Independence Army’ January 2013.

The Citizenship Law (1982)

By denying all Rohingya access to nationality or citizenship rights, the 1982 Citizenship Law is a stark example of legislation that threatens human rights. The government also maintains marriage, travel, and family restrictions on Rohingya in Rakhine State via Regional Order 1/2005 (the two-child policy) and Regional Order 1/2009 (requiring Rohingya to acquire official permission to marry or travel).²⁷

The 1982 Citizenship Law outlines three categories of citizenship (see the box on the 1982 Citizenship Law below).²⁸ Drafted by former dictator, Gen Ne Win, the 1982 Citizenship Law remains the key obstacle to Rohingya receiving full rights. It was designed to address the problem of ‘foreigners or aliens’ entering Myanmar in the period between British annexation in 1824 and Myanmar’s independence in 1948.²⁹ Despite repeated assurances to the international community that the government would address Rohingya statelessness, the majority of Rohingya within Myanmar continue to be denied citizenship because of strict adherence to this law.³⁰

Types of Citizenship Under the 1982 Citizenship Law

Full citizenship: only for the eight ethnicities (Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine, and Shan) residing in Myanmar prior to 1823.

Associate citizenship: for anyone who entered Myanmar before 1948 and claimed citizenship while not belonging to any of the eight recognized races. This category gives holders the right to live in Myanmar, but not the right to participate in politics.

Naturalized citizenship: for anyone who entered Myanmar before 1948 but did not apply for citizenship.

In addition, the law contains a provision allowing the State to revoke the associate or naturalized citizenships of any person, except a citizen by birth.

27 Fortify Rights, *Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims in Myanmar*, 25 February 2014.

28 Working People’s Daily, meeting held in the Central Meeting Hall, President House, Ahlone Road, 8 October 1982, translation of the speech by General Ne Win, 9 Oct 1982.

29 Working People’s Daily, meeting held in the Central Meeting Hall, President House, Ahlone Road, 8 October 1982, translation of the speech by General Ne Win, 9 Oct 1982.

30 ‘Citizenship only for Myanmar’s ‘legal’ Rohingyas’ Radio Free Asia, 12 July 2013, available at <http://www.rfa.org/english/news/myanmar/citizenship-07122013182036.html/>, accessed on 14 August 2015.

The law denies Rohingya full citizenship as they do not belong to one of the eight ethnic groups who settled in Myanmar prior to 1823. Rohingya only qualify for ‘associate’ or ‘naturalized’ citizenship, although the law has a provision allowing a central body of members from the Home Affairs, Defence, and Foreign Ministries to decide if an individual qualifies for full citizenship.³¹ However, most members of this community do not have the documentation needed to prove their presence in Myanmar prior to 1948, as officials seized many Rohingya families’ existing identification documents when the 1982 Citizenship Law was enacted.³² Others lost their documents during outbreaks of sectarian violence in 2012.³³

E. More Discriminatory Legislation in the Pipeline

In 2014 and 2015, the government of Myanmar fast-tracked discriminatory legislation first proposed in June 2013 by extremist Buddhist monk, U Wirathu, and the Organization for the Protection of National Race and Religion (OPNRR), also known as ‘Ma Ba Tha.’³⁴ The proposed set of four bills, known as the ‘National Race and Religion Protection’ package, consists of: the Religious Conversion Bill, the Interfaith Marriage Bill, the Monogamy Bill, and the Population Control Bill.³⁵ Together, the proposed laws violate international human rights standards, including freedoms relating to religion, marriage, and reproduction. Despite domestic and international criticism, all four bills were passed by the final parliamentary session before the 2015 general election, and signed into law by the President.

31 Burma Citizenship Law, Chapter IV – Central Body, 15 October 1982.

32 Zarni, M, and Cowley, A, ‘The slow-burning genocide of Myanmar’s Rohingya’ *Pacific Rim Law and Policy Journal*, 2014, Vol 23(3), p 683.

33 ‘Arakanese leaders to propose detention camps for undocumented Rohingya’ *The Irrawaddy*, 22 August 2014, available at <http://www.irrawaddy.org/arakanese-leaders-propose-detention-camps-undocumented-rohingya.html>, accessed on 14 August 2015.

34 ‘Monks’ convention in Burma calls for restricting Buddhist-Muslim marriage’ *The Irrawaddy*, 13 June 2013, available at <http://www.irrawaddy.org/conflict/monks-convention-in-burma-calls-for-restricting-buddhist-muslim-marriage.html>, accessed on 14 August 2015; ‘U Wirathu to propose interfaith marriage law again at Monks’ Conference’ *The Irrawaddy*, 9 January 2014, available at <http://www.irrawaddy.org/wirathu-discuss-interfaith-marriage-restrictions-monks-conference.html>, accessed on 14 August 2015.

35 ‘Protection laws’ submitted to Burma’s parliament’ *The Irrawaddy*, 2 December 2014, available at <http://www.irrawaddy.org/protection-laws-submitted-burmas-parliament.html>, accessed on 14 August 2015.

The 'National Race and Religion Protection' Package

The **Religious Conversion Bill** would require anyone wishing to convert to another religion to submit an application giving reasons for the conversion and submit to an interview by a township registration board. Anyone found guilty of violating the law would be subject to a maximum of two years' imprisonment and a 200,000 kyat (US\$200) fine.³⁶

Status: On 26 August 2015, President Thein Sein signed the Religious Conversion Bill into law.³⁷

The **Interfaith Marriage Bill**, also known as the 'Special Marriage Law', would require Buddhist women and men of other faiths to apply for permission to marry from local authorities, and for existing interfaith couples to register their marriages. Failure to do so could result in up to three years' imprisonment and a 50,000 kyat (US\$50) fine.³⁸

Status: On 26 August 2015, President Thein Sein signed the Interfaith Marriage Bill into law.³⁹

The **Monogamy Bill** would impose a ten-year prison sentence and a fine for any act of polygamy or infidelity under Art 494 of the Criminal Code. Any spouse found guilty of polygamy or infidelity would also forfeit all property rights.⁴⁰

Status: On 21 August 2015, President Thein Sein signed the Monogamy Bill into law.⁴¹

The **Population Control Law** allows authorities to designate areas or groups, based on socio-economic indicators, to force women to observe birth spacing of three years.⁴² Methods of enforcement and penalties for those violating the law have not yet been specified.⁴³

Status: On 19 May 2015, President Thein Sein signed the Population Control Bill into law.⁴⁴

36 'Myanmar mulls religious conversion curbs' Agence France-Presse, 27 May 2014, available at <http://reliefweb.int/report/myanmar/legislating-love-myanmar-mulls-religious-marriage-curbs>, accessed on 14 August 2015; 'Burma invites public to review faith conversion bill' Democratic Voice of Burma, 28 May 2014, available at <https://www.dvb.no/news/burma-invites-public-to-review-faith-conversion-bill-burma-myanmar/41069>, accessed on 14 August 2015.

37 'Myanmar's president signs off on law seen as targeting Muslims' Reuters, 26 August 2015, available at <http://www.reuters.com/article/2015/08/31/us-myanmar-politics-idUSKCN0R011W20150831>, accessed on 7 September 2015.

38 'Myanmar parliament to debate controversial religion laws' Agence France-Presse, 3 December 2014, available at <http://www.freemalaysiatoday.com/category/world/2014/12/03/myanmar-parliament-to-debate-controversial-religion-laws/>, accessed on 14 August 2015; 'President signs off on religious bills' Myanmar Times, 5 December 2014, available at <http://www.mmmtimes.com/index.php/national-news/14648-president-signs-off-on-population-control-law.html>, accessed on 14 August 2015.

39 'Myanmar's president signs off on law seen as targeting Muslims' Reuters, 26 August 2015, available at <http://www.reuters.com/article/2015/08/31/us-myanmar-politics-idUSKCN0R011W20150831>, accessed on 7 September 2015.

40 'Parliament considers bill to criminalize polygamy, infidelity' The Irrawaddy, 5 December 2014, available at <http://www.irrawaddy.org/parliament-considers-bill-criminalize-polygamy-infidelity.html>, accessed on 14 August 2015.

41 'Myanmar's president signs off on law seen as targeting Muslims' Reuters, 26 August 2015, available at <http://www.reuters.com/article/2015/08/31/us-myanmar-politics-idUSKCN0R011W20150831>, accessed on 7 September 2015.

42 Population Control Bill, 1 December 2014.

43 'Rights groups slam Myanmar birth law as anti-Muslim' Reuters, 25 May 2015, available at <http://www.reuters.com/article/2015/05/25/us-myanmar-birth-law-idUSKBN0OA0U420150525>, accessed on 14 August 2015.

44 'Myanmar president signs off on contested population law' Associated Press, 24 May 2015, available at http://www.nytimes.com/aponline/2015/05/23/world/asia/ap-as-myanmar-population-law.html?_r=0, accessed on 14 August 2015.

F. Important Court Cases in the Past Year Relating to Human Rights

Writer sentenced to two years with hard labour for “insulting religion” On 2 June 2015, Chaung U Township Court, Sagaing Division, sentenced writer and former NLD information officer, Htin Lin Oo, to two years in prison with hard labour under Art 295(a) of the Criminal Code, for “insulting religion.”⁴⁵ The court acquitted him on a separate charge under Art 298 for “hurting religious feelings.”⁴⁶ Both charges related to a speech he made in Chaung U Township on 23 October 2014, criticizing the ‘Ma Ba Tha’ and stating that Buddhism was not compatible with extreme nationalism.⁴⁷

The Letpadan student trial

In March 2015, police in Letpadan, Bago Division, violently cracked down on and detained students protesting against the National Education Law, while supporters around the country also faced arrests and violence.⁴⁸ On 25 March, Letpadan Township Court charged sixty-nine of the arrested under Arts 143, 145, 147, 332, and 505(b) of the Criminal Code, and eleven under Arts 143, 145, and 332, but released the latter on bail.⁴⁹ Police and hired thugs also attacked and intimidated journalists covering protests around Myanmar. In June 2015, Tharawaddy District Court, Bago Division, continued the trial of sixty-eight students as well as eleven activists arrested for donating food to the student protesters.⁵⁰ Many of the students suffered injuries at the time of arrest and

45 ‘Htin Lin Oo sentenced to two years with labour’ Democratic Voice of Burma, 2 June 2015, available at <https://www.dvb.no/news/htin-lin-oo-sentenced-to-two-years-with-labour-burma-myanmar/51679>, accessed on 18 August 2015; ‘2 years hard labor for Htin Lin Oo in religious offense case’ *The Irrawaddy*, 2 June 2015, available at <http://www.irrawaddy.org/burma/2-years-hard-labor-for-htin-lin-oo-in-religious-offense-case.html>, accessed on 18 August 2015.

46 ‘Htin Lin Oo sentenced to two years with labour’ Democratic Voice of Burma, 2 June 2015, available at <https://www.dvb.no/news/htin-lin-oo-sentenced-to-two-years-with-labour-burma-myanmar/51679>, accessed on 18 August 2015; ‘2 years hard labor for Htin Lin Oo in religious offense case’ *The Irrawaddy*, 2 June 2015, available at <http://www.irrawaddy.org/burma/2-years-hard-labor-for-htin-lin-oo-in-religious-offense-case.html>, accessed on 18 August 2015.

47 ‘NLD member prosecuted for ‘wounding religious feelings’ *The Irrawaddy*, 8 December 2014, available at <http://www.irrawaddy.org/burma/nld-member-prosecuted-wounding-religious-feelings.html>, accessed on 18 August 2014; ‘Former NLD official sued for ‘insulting religion’ Democratic Voice of Burma, 25 December 2014, available at <http://www.dvb.no/news/fundamentalist-buddhist-group-sue-former-nld-official-burma-myanmar/46905>, accessed on 18 August 2015.

48 Press briefing notes on ‘Myanmar and the abolition of the death penalty in Suriname and Côte d’Ivoire’ Office of the High Commissioner for Human Rights, 13 March 2015, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15694&LangID=E>, accessed on 18 August 2015; Daily press briefing, US Department of State, 6 March 2015, 10 March 2015; ‘Myanmar/Burma: brutal crackdown against a student protest’ France Diplomatie, 5 March 2015.

49 ‘Myanmar court charges nearly 70 students under penal law for Letpadan protest’ Radio Free Asia, 25 March 2015, available at <http://www.rfa.org/english/news/myanmar/court-charges-nearly-70-students-03252015154957.html>; ‘Myanmar charges 69 protesters with rioting after police crackdown’ Reuters, 25 March 2015, available at <http://www.reuters.com/article/2015/03/25/us-myanmar-students-idUSKBN0ML18420150325>; ‘80 Letpadan detainees appear in court’ *The Irrawaddy*, 25 March 2015, available at <http://www.irrawaddy.org/burma/80-letpadan-detainees-appear-in-court.html>, all accessed on 18 August 2015.

50 ‘Education activists make fifth court appearance’ Eleven Media Group, 11 June 2015.

were denied treatment in prison.⁵¹ At least two students lost consciousness at hearings and had to be hospitalized.⁵² At the time of writing, the trials continue.

Rohingya community leaders re-sentenced for 2013 protest

In a presidential amnesty on 30 July, four Rohingya men were released for the second time. They had been re-sentenced by Rakhine State Divisional Court in March 2015 to between five and eight years in prison, after they were released in October 2014 by presidential amnesty. The men were involved in an April 2013 protest against attempts by immigration officials to register Rohingya IDPs as ‘Bengali.’⁵³

Part 2: Outstanding Human Rights Issues

A. Continued Persecution of Human Rights Defenders and Journalists

Since President Thein Sein took office in 2011, the government has used both colonial and more recent laws to target human rights defenders and journalists. Despite a public commitment by the President to release all political prisoners by the end of 2013, authorities continue to detain a number of activists, farmers, and media workers. Some activists, such as Htin Kyaw and Sein Than, are periodically imprisoned and released in the now regular presidential amnesties, which release thousands of prisoners at a time. Activists report being subjected to routine surveillance by the Special Branch. Significantly, the government continues to treat civil society and human rights defenders as enemies and does not engage constructively with either. In contrast, the OPNRR remains influential enough to push for legislative changes, not just for the package of discriminatory laws mentioned in Part I, but also for the recent ban of high-rise construction in proximity to the Shwedagon Pagoda.

To date, hundreds of farmers have been detained for demonstrating against land confiscation by the military and its crony companies.⁵⁴ In February 2014, it was reported that the Parliamentary Commission on Land Confiscation found the military responsible for 688 out of 745 cases investigated, involving over 500,000 acres of land confiscated in the last five decades.⁵⁵

51 ‘AAPP calls for adequate healthcare for political prisoners in Burma’ Assistance Association for Political Prisoners, 11 June 2015, available at <http://aappb.org/2015/06/aapp-calls-for-adequate-healthcare-for-political-prisoners-in-burma/>, accessed on 18 August 2015.

52 ‘AAPP calls for adequate healthcare for political prisoners in Burma’ Assistance Association for Political Prisoners, 11 June 2015, available at <http://aappb.org/2015/06/aapp-calls-for-adequate-healthcare-for-political-prisoners-in-burma/>, accessed 18 August 2015; ‘2 jailed activists hospitalized for Letpadan injuries’ *The Irrawaddy*, 11 June 2015, available at <http://www.irrawaddy.org/burma/2-jailed-activists-hospitalized-for-letpadan-injuries.html>, accessed on 18 August 2015.

53 ‘Rohingya community leaders imprisoned’ Amnesty International, 27 March 2015.

54 Asian Human Rights Commission, Urgent Appeals Programme: Urgent Appeal Case AHRC-UAU-001-2015, ‘Myanmar: villagers still without remedy for police attack on protestors’ 13 February 2015.

55 ‘745 land grabbing cases happened in 5 decades as successive governments implemented projects in interests of country and people in accordance with rules, regulations’ *New Light of Myanmar*, 21 February 2014.

B. Ethnic Conflict Continues, Ceasefire Negotiations Hit Snag

Myanmar has been in a state of conflict with one or more ethnic groups since its independence, making it home to one of the longest running civil wars in the world. The government has at different times signed bilateral ceasefire agreements with individual ethnic armed groups, which have not been respected by the State army. In June 2011, the conflict in Kachin State, originally begun in 1961, resumed with the Kachin Independence Army (KIA), after a 17-year ceasefire. Ongoing fighting has displaced more than 100,000 civilians.

In November 2013, the government and sixteen ethnic armed groups began negotiating a nationwide ceasefire agreement via mediation teams.⁵⁶ The negotiations faced several hurdles as they took place against a backdrop of active offensives in northern Myanmar. The military also stalled dialogue by presenting six prerequisites (see Table 2 below). After protracted negotiations, the two sides completed the draft in March 2015, choosing to drop key clauses neither could compromise upon.⁵⁷

Table 2: Government and Ethnic Armed Groups' Demands for Ceasefire Accord

Ethnic Armed Groups' Demands for Ceasefire Accord ⁵⁸	Military Demands Prior to Ceasefire Accord ⁵⁹
<ul style="list-style-type: none"> • The formation of a genuine federal union • All ethnic armed groups must sign the accord, i.e. including the Ta'ang National Liberation Army, Arakan Army, and Myanmar National Democratic Alliance Army, all of whom are still currently fighting the State military • Equal rights and autonomy for all states • The resolution of political issues politically • The formation of a political dialogue framework with the government within 30 days of signing the ceasefire agreement • The continuation of political dialogue outside parliament in accordance with the agreed framework • The formation of a federal army 	<ul style="list-style-type: none"> • That ethnic armed groups: • Possess a 'true will' to seek peace • Abide by the agreements reached • Do not exploit the peace agreements • Do not burden civilians* • Follow the law and regulations issued by government** • Follow the 2008 Constitution <p><i>*This effectively blames ethnic groups for any clashes with the Myanmar army</i> <i>**This effectively requires all ethnic armed groups to disarm</i></p>

56 Republic of the Union of Myanmar, Press Release Team, press release no 17/2013, 3rd waxing of Tazaungmon, 1375 ME (5 November 2013), New Light of Myanmar, 6 November 2013.

57 'National ceasefire talks end with agreement on draft accord' Global New Light of Myanmar, 31 March 2015, available at <http://globalnewlightofmyanmar.com/national-ceasefire-talks-end-with-agreement-on-draft-accord/>, accessed on 18 August 2015.

58 'Government and ethnic armed groups disagree over the timeframe to start political dialogue' Eleven Media Group, 2 November 2013.

59 'Stakeholders: NCCT' Burma News International, available at <http://www.mmpeacemonitor.org/stakeholders/ncct>.

The government pushed for an immediate signing. However, some of the groups hesitated, wary over renewed assaults on KIA posts and the new conflict against the Myanmar National Democratic Alliance Army (MNDAA) in Kokang Self-Administered Zone, which began in February 2015, displacing at least 40,000 civilians. After discussion amongst themselves, the ethnic armed groups requested the government reopen dialogue, asking for additional amendments, more international observers, and the inclusion of three groups: the Ta'ang National Liberation Army, the Arakan Army, and the MNDAA. To date, the government continues to refuse to include these three groups even though all have indicated a wish to sign the agreement.

The conflict with ethnic armed groups has had a devastating impact on civilians. The UN High Commissioner for Refugees 2014 report found that the total number of refugees, asylum seekers, and internally displaced persons originating from Myanmar in 2014 (not counting stateless persons in Rakhine State) comprised 907,249, making it the thirteenth largest source country in the world. Exacerbating the situation, landmine use and threats of violence stand in the way of safe and voluntary return. Further, the Women's League of Burma (WLB) has documented the military's consistent use of sexual violence against women in conflict zones, stating that the Myanmar army uses rape as "a weapon of war."⁶⁰

C. Persecution of Rohingya and ASEAN Collusion With Traffickers Leads to Migrant Crisis

In November 2014, the Associated Press and Fortify Rights revealed that Myanmar security forces were profiting from the Rohingya exodus from Rakhine State by colluding with human traffickers.⁶¹ Rohingya would pay approximately US\$15 each to government officials or security personnel in exchange for transfer to human smuggling or trafficking ships, some with Navy escorts. (A December 2014 UNHCR report said individuals paid between US\$50 to US\$300 to board the boats.)⁶² Despite allegations against security forces and the scale of the exodus in the 2014 sailing season, on 20 November 2014, President Thein Sein said concern over Rohingya boat people was

60 'Same impunity, same patterns' Women's League of Burma, 14 January 2014; 'If they had hope, they would speak' Women's League of Burma, 25 November 2014.

61 'AP exclusive: Myanmar profits off Rohingya exodus' Associated Press, 6 November 2014, available at <http://news.yahoo.com/ap-exclusive-myanmar-aiding-rohingya-trafficking-110832613.html>, accessed on 18 August 15; 'Myanmar: authorities complicit in Rohingya trafficking, smuggling' Fortify Rights, 7 November 2014, available at <http://www.fortifyrights.org/publication-20141107.html>, accessed on 18 August 2015.

62 'Irregular maritime movements' UN High Commissioner for Refugees, 5 December 2014, available at <http://www.unhcr.org/53f1c5fc9.html>, accessed on 18 August 2015; 'AP exclusive: Myanmar profits off Rohingya exodus' Associated Press, 6 November 2014, available at <http://news.yahoo.com/ap-exclusive-myanmar-aiding-rohingya-trafficking-110832613.html>, accessed on 18 August 15; 'Myanmar: authorities complicit in Rohingya trafficking, smuggling' Fortify Rights, 7 November 2014, available at <http://www.fortifyrights.org/publication-20141107.html>, accessed on 18 August 2015.

exaggerated, and that the reports were a “media fabrication” designed to undermine the government of Myanmar.⁶³

Thai authorities also supplied trafficking networks with Rohingya. Since October 2013, Thai immigration officials have sold hundreds of Rohingya to human traffickers operating secret jungle camps in Southern Thailand.⁶⁴ Armed guards in the camps beat and killed many Rohingya, and traffickers demanded ransoms of US\$1,500 to US\$2,200 from friends or relatives in exchange for victims’ release over the border to Malaysia.⁶⁵ In 2013, a record 40,000 Rohingya passed through Thai jungle camps, according to the Arakan Project.⁶⁶

In the first week of May 2015, Thai authorities discovered the remains of 32 bodies at two abandoned human trafficking camps and a series of mass graves in other camps close to the Malaysian border in Songkhla Province.⁶⁷ The discovery of the camps, used as transit stations until victims could be transferred to Malaysia, led to a crackdown by Thai authorities on traffickers.⁶⁸ Later that month, Malaysian authorities also discovered

63 ‘VOA exclusive: interview with Myanmar president, Thein Sein’ Voice of America, 20 November 2014, available at <http://www.voanews.com/content/voa-exclusive-interview-myanmar-president-thein-sein/2527766.html>, accessed on 18 August 2015; ‘Myanmar says plight of Rohingya minority a media fabrication’ Reuters, 21 November 2014, available at <http://www.reuters.com/article/2014/11/21/us-myanmar-rohingya-idUSKCN0J516T20141121>, accessed on 18 August 2015.

64 ‘Special report: Thailand secretly dumps Myanmar refugees into trafficking rings’ Reuters, 4 December 2013, available at <http://uk.reuters.com/article/2013/12/05/uk-thailand-rohingya-special-report-idUKBRE9B400920131205>, accessed on 18 August 2015; ‘Special report: traffickers use abductions, prison ships to feed Asian slave trade’ Reuters, 22 October 2014, available at <http://www.reuters.com/article/2014/10/22/us-thailand-trafficking-specialreport-idUSKCN0IB0A320141022>, accessed on 18 August 2015.

65 ‘Special report: Thailand secretly dumps Myanmar refugees into trafficking rings’ Reuters, 4 December 2013, available at <http://uk.reuters.com/article/2013/12/05/uk-thailand-rohingya-special-report-idUKBRE9B400920131205>, accessed on 18 August 2015; ‘More than 20,000 people risk all on Indian Ocean to reach safety: UNHCR report’ UN High Commissioner for Refugees, 22 August 2014, available at <http://www.unhcr.org/53f741fc9.html>, accessed on 18 August 2015.

66 ‘Special report: traffickers use abductions, prison ships to feed Asian slave trade’ Reuters, 22 October 2014, available at <http://www.reuters.com/article/2014/10/22/us-thailand-trafficking-specialreport-idUSKCN0IB0A320141022>, accessed on 17 August 2015.

67 ‘Second grave site uncovered in southern Thailand’ Democratic Voice of Burma, 5 May 2015, available at <https://youtu.be/aSSOZQnF4Sk>, accessed on 17 August 2015; ‘Six more bodies found as smuggling investigation continues’ Agence France-Presse, 6 May 2015, available at <http://www.msn.com/en-sg/news/other/thai-authorities-find-six-more-bodies-in-people-smuggling-probe/ar-BBjhcOd>, accessed on 17 August 2015; ‘Thai army finds six more bodies near suspected human trafficking camp’ Reuters, 6 May 2015, available at <http://www.reuters.com/article/2015/05/06/us-thailand-rohingya-trafficking-idUSKBN0NR0OZ20150506>, accessed on 17 August 2015; ‘Thirty more graves unearthed in Thailand’ *Bangkok Post*, 7 May 2015, available at <http://www.bangkokpost.com/news/general/554323/30-more-migrant-graves-discovered-in-south>, accessed on 17 August 2015.

68 ‘Thai police seek local help in people smuggling crackdown’ Agence France-Presse, 28 May 2015, available at <http://www.bangkokpost.com/news/asia/574767/thai-police-seek-local-help-in-people-smuggling-crackdown>, accessed on 17 August 2015; ‘Thirty more graves unearthed in Thailand’ *Bangkok Post*, 7 May 2015, available at <http://www.bangkokpost.com/news/general/554323/30-more-migrant-graves-discovered-in-south>, accessed on 17 August 2015.

at least 139 mass graves in 28 similar camps, where they found several partial remains and at least 35 heavily decomposed bodies in Perlis State, bordering Thailand.⁶⁹

As a result of the crackdown, human traffickers fled the camps, leaving at least 276 Rohingya and Bangladeshi survivors stranded in the forest.⁷⁰ Traffickers also abandoned boats in the Andaman Sea, the Malacca Strait, and nearby international waters, leaving a further estimated 7,000-8,000 Rohingya and Bangladeshi boat people stranded at sea.⁷¹ The International Organization for Migration (IOM) found that the boat people were stranded without adequate food, water, or sanitation. They had also faced significant abuse: traffickers starved, constrained, and beat the victims, while women and girls were particularly at risk of sexual violence.⁷² After an initial influx of over a thousand boat people on their shores, Indonesia, Malaysia, and Thailand pushed back several boats, citing an inability to accommodate so many people.⁷³ International condemnation and domestic pressure compelled both Malaysia and Indonesia to announce on 20 May 2015 that they would no longer turn away boats, and ordered search and rescue operations.⁷⁴ A few days later, on 27 May 2015, Thailand began air missions looking for boats in the Andaman Sea.⁷⁵

Part 3: Conclusion

Myanmar is still suffering from the effects of generations of autocratic rule, and while it has seen remarkable changes since the shift to a quasi-civilian government, it has a long way to go to alter its human rights record. Its military has initiated broadly superficial reforms in order to take its place in the international community and participate in the global free market. The upcoming general election scheduled for 8 November 2015 is widely seen as the starting point for a second phase of reform,

69 Another 22 skeletons exhumed, post-mortem begins June 7' Bernama, 29 May 2015, available at <http://www.msn.com/en-my/news/other/another-22-skeletons-exhumed-post-mortem-begins-june-7/ar-BBkohS0>, accessed on 17 August; 'Malaysian police exhume bodies from mass grave' Al Jazeera, 26 May 2015, available at <http://www.aljazeera.com/news/2015/05/malaysian-police-exhume-bodies-mass-grave-150526173800672.html>, accessed on 17 August 2015.

70 'Thailand announces summit to tackle migrant crisis' Radio Free Asia, 13 May 2015, available at <http://www.rfa.org/english/news/myanmar/thailand-boat-05132015105337.html>, accessed on 17 August 2015.

71 '1,600 Rohingyas, others land in Indonesia and Malaysia' Associated Press, 11 May 2015, available at http://www.nytimes.com/aponline/2015/05/11/world/asia/ap-as-malaysia-rohingya.html?_r=0, accessed on 17 August 2015.

72 'IOM regional appeal: Bay of Bengal and Andaman Sea crisis' International Organization for Migration, 25 May 2015, available at <https://www.iom.int/iom-regional-appeal-bay-bengal-and-andaman-sea-crisis>, accessed on 17 August 2015.

73 'Asia boat migrants: UN despair over lack of rescues' BBC, 18 May 2015, available at <http://www.bbc.com/news/world-asia-32776647>, accessed on 7 September 2015.

74 'Malaysia orders rescue of migrants, Myanmar to attend conference' Reuters, 21 May 2015, available at <http://www.reuters.com/article/2015/05/21/us-asia-migrants-idUSKBN0O60UF20150521>, accessed on 7 September 2015.

75 'Malaysians clear graves as Thais comb seas for more boat people' Agence France-Presse, 27 May 2015, available at <https://www.dvb.no/?p=51389>, accessed on 7 September 2015.

despite the disenfranchisement of the Rohingya, serious flaws in voter registration, and the military-dominated ousting of Shwe Mann from his post as chairman of the Union Solidarity and Development Party (USDP), the ruling party. To conclude, the military has shown an unwillingness to compromise or reduce its political presence and power in government, and the authorities still treat civil society and human rights defenders as threats. Instead of engaging with them or taking concrete action to address concerns, in the past year, it has actually increased surveillance and threats, and detained more human rights defenders. Since leadership of the current government is largely made up of former generals focused on commercial partnerships with local and international entrepreneurs keen to exploit Myanmar's natural resources, it is unsurprising that public trust in its reform agenda remains extremely low.