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ACCORD

Austrian Centre for Country of Origin
& Asylum Research and Documentation

Myanmar

Update

COI Compilation

November 2012



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ACCORD - Austrian Centre for Country of
Origin & Asylum Research and Documentation

Myanmar - Update

COI Compilation
November 2012 (as of 31 October 2012)

This publication is an update to our previous Myanmar COI Compilation of 7 October 2011,
available online at:

http://www.ecoi.net/file_upload/90_1318232093_accord-coi-compilation-myanmar-october-2011.pdf

This report serves the specific purpose of collating legally relevant information on conditions in countries of origin pertinent to the assessment of claims for asylum. It is not intended to be a general report on human rights conditions. The report is prepared on the basis of publicly available information, studies and commentaries within a specified time frame. All sources are cited and fully referenced.

This report is not, and does not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should refer to the full text of documents cited and assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

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List of abbreviations

ABFSU - All Burma Federations of Students Union
ABMA - All Burma Monks Alliance
ABSDF - All Burma Student Democratic Front
ABSU - All Burma Student Union
ALA - Arakan Liberation Army
BGF - Border Guard Forces
CNA - Chin National Army
CNF - Chin National Front
CRPP - Committee Representing People's Parliament
CSC - Citizenship Scrutiny Card
DKBA - Democratic Karen Buddhist Army
KA - Karenni Army
KIO/KIA - Kachin Independence Organization/Kachin Independence Army
KNO - Kachin National Organisation
KNPP - Karenni National Progressive Party
KNU/KNLA - Karen National Union/Karen National Liberation Army
LIB - Light Infantry Battalion
MAS - Military Affairs Security
MNDAA - Myanmar National Democratic Alliance Army
MNLA - Mon National Liberation Army
NCUB - National Council of the Union of Burma
NDAA - National Democratic Alliance Army
NDA-K - New Democratic Army-Kachin
NDSC - National Defence and Security Council
NLD - National League for Democracy
NLD-LA - National League for Democracy-Liberated Area
NMSP - New Mon State Party
NRC - National Registration Card
NSCN-K - Nationalist Socialist Council of Nagaland-K
PNLO - PaO National Liberation Organisation
PSLA - Palaung State Liberation Army
SLORC - State Law and Order Restoration Council
SPDC - State Peace and Development Council
SSA-N - Shan State Army-North
SSA-S - Shan State Army-South
SSPP/SSA - Shan State Progress Party/Shan State Army
TRC - Temporary Registration Card
UEC - Union Electoral Commission
UNFC - United Nationalities Federal Council
USDA - Union Solidarity and Development Association
USDP - Union Solidarity and Development Party
UWSA - United Wa State Army

1 General information

The following websites provide general information on Myanmar and are regularly updated by the sources:

- BBC: Burma profile
<http://www.bbc.co.uk/news/world-asia-pacific-12990563>
- CIA - Central Intelligence Agency: The World Factbook – Burma
<https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html>
- EIU - Economist Intelligence Unit: Myanmar Country Profile
<http://country.eiu.com/Myanmar> (Login required)
- FCO - UK Foreign and Commonwealth Office: Country profile: Burma
<http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/asia-oceania/burma/>

1.1 Maps

The Yangon-based Myanmar Information Management Unit (MIMU), an Inter-Agency Standing Committee (IASC) common resource, provides maps of townships (sorted by State/Region) showing village-tract boundaries and names as well as names of villages and towns:

- Ayeyarwady (Irrawaddy) Region
<http://www.themimu.info/State-Region/Ayeyarwady/index.php?id=1>
- Bago Region
<http://www.themimu.info/State-Region/Bago/index.php?id=7>
- Chin State
<http://www.themimu.info/State-Region/Chin/index.php?id=11>
- Kachin State
<http://www.themimu.info/State-Region/Kachin/index.php?id=8>
- Kayah (Karenni) State
<http://www.themimu.info/State-Region/Kayah/index.php?id=9>
- Kayin (Karen) State
<http://www.themimu.info/State-Region/Kayin/index.php?id=10>
- Magway Region
<http://www.themimu.info/State-Region/Magway/index.php?id=3>
- Mandalay Region
<http://www.themimu.info/State-Region/Mandalay/index.php?id=5>
- Mon State
<http://www.themimu.info/State-Region/Mon/index.php?id=12>
- Rakhine (Arakan) State
<http://www.themimu.info/State-Region/Rakhine/index.php?id=26>
- Sagaing Region
<http://www.themimu.info/State-Region/Sagaing/index.php?id=4>
- Shan State
<http://www.themimu.info/State-Region/Shan/index.php?id=15>
- Tanintharyi (Tenasserim) Region
<http://www.themimu.info/State-Region/Tanintharyi/index.php?id=6>
- Yangon (Rangoon) Region
<http://www.themimu.info/State-Region/Yangon/index.php?id=2>

1.2 Practices and capacity of the Myanmar authorities in keeping records of individuals who have committed criminal offences

In an August 2012 e-mail response to ACCORD, a researcher for the Hong Kong-based NGO Asian Human Rights Commission (AHRC) states with regard to court records:

“Briefly, those cases that reach the Supreme Court are reviewed annually for inclusion in the law reports, which are published and serve as precedents. The files of these cases and other cases that are classed as of special importance are retained at the Supreme Court records department. Since the court was relocated to Naypyitaw, the lawyers with whom we work do not know where these records are being held. At lower levels, all courts also have record keeping departments. We are informed that the current regulation is that for felony cases, after 10 years, courts may apply to the Supreme Court (which administers the courts at all levels in the absence of a justice ministry) to destroy records, and can do so if permission is granted. However, we have not been able to obtain a reference to what regulation or section stipulates this period [...].

Additionally, [...] one senior lawyer informed us that in any event, whatever the regulations stipulate, because court buildings are often moved, or storage sites are moved because of pressures on space in buildings, it is uncommon to find records in lower courts going back more than four years. Indeed, I know from my own experience that it is common to find so many published books with court seals available for sale on the streets in Rangoon, in second hand dealers' stalls and shops, and also I have purchased sets of confidential records from superior courts from as recently as the late 1990s through private vendors: so it would be correct to say that across the system there is a high level of leakage and that record keeping is unreliable at best.” (AHRC, 31 August 2012)

In a report on a group workshop session during the 133rd International Training Course of the UN Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), held from 15 May to 22 June 2006, Khin Maung Maung, then Deputy Director of the Prosecution Department in the Office of Myanmar's Attorney-General, is quoted as saying that “the criminal record system in Myanmar, even though it is not computerized, is working very well for the time being” (UNAFEI, 2007, p. 140).

Among the sources consulted by ACCORD within time constraints no further information could be found regarding this issue.

1.3 The role of the media in the society in militarised areas

In its report Freedom of the Press 2012, published May 2012 and covering events of 2011, Freedom House (FH) provides the following information with regard to the media landscape of Myanmar and people's ability to access information:

“Media concentration remains high, even though a number of formerly exiled media organizations have begun opening outlets in the country. The government owns or controls all domestic broadcast media and daily newspapers, and exercises tight control over a growing number of privately owned weekly and monthly publications. [...]

Authorities restrict the importation of foreign news periodicals. Due to high levels of poverty and illiteracy, as well as poor infrastructure and distribution networks, print media are accessible mainly in urban areas and broadcast outlets are the main source of news for most citizens. Although some people have access to international shortwave radio or satellite television, those caught accessing foreign broadcasts can be arrested. Nevertheless, as the only source of uncensored information, foreign radio programs produced by the Voice of America (VOA), Radio Free Asia, and Democratic Voice of Burma (DVB) are very popular. The monthly subscription fees to access satellite channels are high, so most Burmese viewers install the receivers illegally.

Access to the internet is expensive, tightly regulated, and censored, with the government controlling all of the several dozen domestic internet service providers. In addition to the poor infrastructure in the country, these factors mean that only 1 percent of the population accessed the internet in 2011. While there are no existing laws on monitoring internet communication, the government tracks internet activity and blocks certain websites, including some foreign news sources and foreign-hosted email services. However, in September, Reporters Without Borders confirmed that access to a number of previously banned foreign news websites – including the British Broadcasting Corporation, Reuters, the Bangkok Post, the Straits Times, Radio Free Asia, Irrawaddy, DVB, and the VOA Burmese service – had been unblocked, although internet connections continued to be very slow. In addition, a range of e-mail, blog, and social-media sites, including Gmail, Facebook, and YouTube, were unblocked.” (FH, May 2012)

A more recent report by Freedom House (FH), released September 2012, notes the following as regards media diversity:

“A proliferation of journals and magazines that began in 2008 has led to greater diversity in the local media market. Foreign journalists who previously had to work discreetly or faced blacklisting and surveillance now enjoy regular access to the country, and can generally report without undue interference even if they are traveling on tourist visas. Naturally, freedom of expression is still a new concept, and the government is uncomfortable with coverage that deals too explicitly with the most sensitive political and economic topics. The government also continues to use a wide range of media outlets to promote its own views and interests. News coverage on local television, which is only broadcast for a limited number of hours each day, presents the government’s perspective exclusively. However, restrictions on access to satellite television are beginning to fall away.

While government-controlled newspapers – such as the New Light of Myanmar and its Burmese-language sister publication, Myanmar Alin – continue to provide official news and commentaries, there are now many other widely available sources of printed news. [...] There are also a significant number of Burmese-language outlets such as Weekly Eleven and the Voice, which provide a new level of professional reporting. On occasions they have been able to scrutinize government programs.” (FH, 20 September 2012)

As reported by Agence France-Presse (AFP) news agency, the government expects privately owned newspapers will be published on a daily basis from early 2013. Currently only state-owned newspapers such as the English language New Light of Myanmar are allowed to be printed daily (AFP, 2 September 2012). As for the number of print media publications, Mizzima, a news organisation focussing on Myanmar with its Head Office in New Delhi (India), notes in a September 2012 article that according to figures of the Information Ministry, the country has about 200 privately run journals, over 200 magazines and five state-run newspapers (Myanma Alin, the Mirror, New Light of Myanmar, Myawaddy and Yadanapon) (Mizzima, 20 September 2012).

In a Q&A (presumably published in the first half of 2012), Kyaw Thu, a former journalist with the weekly Myanmar Times newspaper and fellow at the Oxford-based Reuters Institute for the Study of Journalism, states:

“All the private newspapers are weekly. Only state-owned newspapers publish daily. The government so far has not granted daily licences to the private press. Major TV channels are MRTV, Myawaddy, MRTV4, TV5, Skynet TV and Myanmar International. Among them MRTV, Myawaddy and MRTV4 are state-owned TV channels, while the rest are private or joint ventures between state and private. TV channels are highly controlled by the government. Apart from a state-owned radio station, there are about 8 FMs private radio broadcasters in the country. Private radio programmes mostly focus on entertainment, foreign news and sports. BBC Burmese Service, Voice of America and Radio Free Asia are highly popular in Myanmar. Since the government controls media inside the country, these programmes are alternative sources for information for Myanmar’s people. The number of Internet users in Myanmar is quite low compared with her neighbours. Just two percent of the population of 58 million are connected. Facebook is a popular social media among Myanmar’s netizens. Exiled media also play an important role in disseminating information to the Myanmar population. Democratic Voice of Burma TV channel, Mizzima Website and Irrawaddy Website are widely viewed and read in Myanmar.” (RISJ, undated)

Turning to the limits on free press, Kyaw Thu states that “censorship is the main barrier [...]. Restrictions on reporting also undermine the work of journalists. Journalists are not allowed to travel to sensitive areas and authorities closely watch their activities.” (RISJ, undated)

In a recent development, reported by the Committee to Protect Journalists (CPJ), the government has announced that as of 20 August 2012, reporters would no longer have to submit advance copies of their publications for government review. The CPJ further indicates that “[t]he time-consuming requirement forced all news publications in Burma to publish on a weekly rather than daily basis and resulted in the censorship of a wide range of topics deemed as sensitive by the previous military and current quasi-civilian governments, according to CPJ research. News journals will now be required to submit copies of their publications to the PSRD [Press Scrutiny and Registration Division] after publication.” (CPJ, 20 August 2012)

For further information pertaining to the abolishment of pre-publication censorship, please refer to section 7.1.1 of this publication.

Reporters Sans Frontières (RSF) notes that on 10 June 2012, Yangon (Rangoon) chief minister Myint Swe threatened to prosecute news media covering sectarian violence in Rakhine (Arakan) State in an “irresponsible manner” (RSF, 12 June 2012).

According to the above-cited CPJ press release, in June 2012, authorities temporarily banned and filed a lawsuit against the local Snapshot news journal for publishing photos of a victim of communal rioting between Muslims and Buddhist groups in Rakhine State (CPJ, 20 August 2012).

Also with regard to the sectarian rioting in Rakhine State, Human Rights Watch (HRW) notes in a report dated August 2012 that the violence was sparked on 28 May 2012 by the alleged rape and murder of a Rakhine Buddhist woman by three Muslim men. Details of the incident were circulated locally in an “incendiary pamphlet”, and on 3 June 2012, a Buddhist crowd attacked a bus in Toungop, killing 10 Muslims who were on board (HRW, August 2012, p. 1). As regards media coverage of the violence, HRW states:

“The killing of the 10 Muslim travelers in Toungop on June 3 and the Muslim riots in Maungdaw were accompanied by an unprecedented increase in biased Burmese media coverage that was in some instances openly hostile towards the Rohingya and non-Rohingya Muslims. For example, in its coverage of the killings, The New Light of Myanmar referred to the killed Muslims using the derogatory term ‘Kalar.’ This enraged many Burmese Muslims, several of whom told Human Rights Watch they interpreted the statement as a clear indication that Muslims are regarded as ‘second-class citizens.’ The New Light of Myanmar later ceased use of the word but did not apologize for its use.” (HRW, August 2012, p. 20)

“Various state-controlled and domestic media outlets in Burma claimed the violence in Arakan State was perpetrated solely by Rohingya against Arakan, while international media focused on violence against the Rohingya.” (HRW, August 2012, p. 22)

Among the sources consulted by ACCORD within time constraints no further information could be found regarding the role of media in the society in militarised areas.

Please see section 7.5 of this publication for information on the treatment of journalists, media workers and artists.

1.4 Public services

1.4.1 Hospitals

In an article dated September 2011, the Arakan Human Rights and Development Organisation (AHRDO), a Thailand-based non-profit organisation working for the Rakhine (Arakanese) people, provides the following overview of the healthcare system in Myanmar:

“Generally, Burma’s healthcare system is funded through the Government, private bodies, and external aid. Several government and international organisations have implemented health programs within the country, focusing on the eradication of Tuberculosis, HIV/AIDS, and malaria. Access to primary health care within rural areas remains a serious problem

in Burma, and has lead [sic] to a higher prevalence of disease burden among the rural population group.

The healthcare system in Burma is very poor, largely due to the fact that successive military regime have only spent from 0.5% to 3% of the country's GDP on healthcare, consistently ranking among the lowest proportion in the world. Although healthcare is nominally free, in reality, patients have to pay for medicine and treatment, even in public clinics and hospitals. Public hospitals lack many of the basic facilities and equipment. In general, the healthcare infrastructure outside of Yangon and Mandalay is extremely poor but is especially bad in remote areas of entire Burma. There are some private hospitals in Yangon and Mandalay which offer better-quality medical care. But the majority of the Burmese population cannot afford to go to these private hospitals and clinics." (AHRDO, 13 September 2011)

A report published by the Thailand-based Human Rights Education Institute of Burma (HREIB) in September 2008 states the following with regard to the healthcare system:

"Health expenditures in Burma are considerably low, hovering around 0.5% of the total GDP; the Burma Campaign UK estimated in 2007 that the Burmese government spends an equivalent of 37 cents per person per year on healthcare. The World Health Organization's World Health Report ranked Burma 190th out of 191 countries in 2000, and this position has not improved much since. Hospitals are few and far between, especially in remote regions.

The country also suffers from a paucity of healthcare professionals available to attend to the urgent needs of its widely malnourished and ailing population. In 2007, the World Health Organization reported that for every 10,000 people in Burma there are only three doctors, four nurses, 0.3 dentists, and 0.4 lab technicians. Only 68% of newborn babies are delivered by qualified medical personnel. One in ten children in Burma don't live to see their fifth birthday." (HREIB, September 2008, p. 28)

The Irrawaddy, an exile-run news magazine reporting on Myanmar, states in an article dated September 2010:

"Burma is ranked among the countries that provide the least health care service to its citizen, who regularly complain about the treatment available in public hospitals but who have little recourse other than private clinics which are beyond their means." (Irrawaddy, 30 September 2010)

In the same article, a relative who had been looking after his father for 24 days at the public Yangon (Rangoon) General Hospital while he received treatment for kidney disease is quoted as saying:

"Once a patient is taken into the emergence room, said Myo Mind, the doctors and nurses question them about their identity and family registration before any treatment is given. Many people don't bring such documents with them, he said, because many illnesses arrive unexpected and demand immediate attention. 'When I first took my father to hospital, I had to deal with such questions. Later I took others' advice to use a broker's service for

admission and things went more smoothly,' said Myo Min. He said many patients pay 3,000 kyat (\$3.2) to brokers who take care of all the procedures for hospital admission. 'No matter how serious the condition the patient is in, he or she will receive no attention unless his or her relative can provide the required medicines,' said Myo Min. 'Once you see the doctors, you're asked to buy medicine at a drug store in the emergency ward. You have to provide everything such as needles, syringes, gauze and plaster. They don't have any medicine. They start giving treatment only when they have everything they need,' he said. Once they enter the hospital, patients are charged for all equipment such as a wheelchair or handcart as well, he said." (Irrawaddy, 30 September 2010)

In an article dated August 2012, the Integrated Regional Information Network (IRIN) states with regard to problems surrounding access to healthcare:

"Most of Myanmar's population live in rural areas, while health services are concentrated in larger towns and cities. This means the health needs of most of the population of more than 50 million are unmet, especially in areas where conflict between the government and various rebel groups or inter-communal violence still occurs.

In the last two decades, the number of maternal and child health centres has stayed the same, while rural health centres have increased by only 95 over five years, far short of the need. Most centres lack supplies, equipment, drugs and professional support, according to the World Health Organization (WHO). [...] In 2011, the country had 26,435 doctors nationwide, but most (15,508) are in the private sector, where services are unaffordable to most the population. [...]

Nilar Tin, director of the planning division in the Ministry of Health, told IRIN the government has prioritized healthcare, but lacks human resources. This means that most villages lack basic healthcare and patients often travel for hours - in some hilly regions for nearly an entire day - to reach hospitals or clinics located only in towns, and which are often dilapidated and poorly stocked." (IRIN, 9 August 2012)

In its report Health in Myanmar 2012, the Myanmar Ministry of Health (MOH) provides a table showing the numbers of health facilities from 1988-89 to 2011-12 (see under the heading "Health Statistics", p. 138). The report can be accessed via the following link:

- MOH - Ministry of Health, Myanmar: Health in Myanmar 2012, 2012 (available at WHO website)
<http://www.whomyanmar.org/en/Section6/Section53.htm>

An older report by the Ministry of Health (MHO), published March 2010 and covering the year 2008, displays a table containing the number of public hospitals by State/Division (see p. 3). The report is available via the following link:

- MOH - Ministry of Health, Myanmar: Annual Hospital Statistics Report 2008, March 2010
<http://www.moh.gov.mm/file/hsr.pdf>

1.4.2 Schools and universities

The US Department of State (USDOS) notes in its Country Report on Human Rights Practices for 2011, published May 2012:

"By law education is compulsory, free, and universal through the fourth standard (approximately age 10). However, the government continued to allocate minimal resources to public education, and schools routinely charged informal fees. Rates of school attendance were low, largely due to economic hardship." (USDOS, 24 May 2012, section 6)

"[...] throughout all parts of the country controlled by the government, including ethnic minority areas, Burmese remained the mandatory language of instruction in state schools, and teaching in local languages was not offered. In ethnic minority areas most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages. The government tightly controlled the limited number of Buddhist monastery-based schools, Christian seminaries, and Muslim madrassahs." (USDOS, 24 May 2012, section 6)

However, as stated in a March 2012 progress report by the UN Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, there has been some progress in the country's education sector, including improvements in the initial enrolment rate in primary schools and gender parity with regard to enrolment of girls and boys in primary and secondary schools. According to the report,

"[t]he Special Rapporteur also notes that the Government is proposing to increase spending in education from the current two to four per cent of the overall budget. He was informed by the Deputy Minister for Education that the Government is making efforts to upgrade the quality of education, increase access (including in border areas) and improve the social status of teachers (including through increased salaries). Human rights education was introduced to secondary education in 2004. The teaching of ethnic minority languages would be encouraged, in particular as part of extra-curricular activities." (HRC, 7 March 2012, p. 12)

In the "Children in Myanmar" section of its country website for Myanmar, the United Nations Children's Fund (UNICEF) states the following:

"Today, primary school enrollment rates are high, and more schools are being constructed. However, less than half of all children in Myanmar currently complete primary school. Many school expenses must be borne by students' families, presenting an insurmountable financial obstacle for many impoverished [sic] households. Classroom facilities are often poor and under-equipped, and attrition rates among teachers are high due to low pay, poor working conditions and long separations from their families." (UNICEF, undated)

The above-quoted AHRDO article reports as follows on access to schooling in Myanmar:

"According to official statistics, Burma's school enrollment rates for children stand at 90 % for primary school and 37 % for secondary school in 2005 with near gender parity. However, organizations working on education in Burma estimate enrollment rates to be

significantly lower than these official statistics indicate. Furthermore, many children who enroll in primary school never complete their studies. Many are forced to drop out as their parents cannot afford to pay for their education and also due to poor learning conditions, according to UNICEF. Less than half of children are able to complete their primary education, according to the UN Special Rapporteur on Burma.

Children in ethnic nationality conflict areas are even less likely to have access to school, particularly as physical survival and the struggle for food security often take priority over education. In 2004, in all conflict or ceasefire areas of Karen, Karenni, Shan and Arakan States, only one out of 10 children were able to attend primary school, according to the All Burma Federation of Student Unions, Year 2004 Education Report, February 2005. State schools are likely to be run by SPDC government-sanctioned teachers who seek to instill 'Burman' values in their students, and which do not offer education in the students' own language.

In all parts of Burma, the decline of state education has resulted in private individuals and organisations filling the education gap. In many areas, boys from poor families attend monastic schools. Muslim and Christian schools play a similar role in some parts of Burma. In ethnic nationality areas, privately-funded community schools may provide education in the students' own language but often such schools are shut down by the authorities. In urban centres, particularly Yangon, a large number of unofficial schools in the private sector have sprung up teaching principally English and often other subjects as well. This is offered in addition to the state system, and state school teachers often supplement their salary by offering private classes." (AHRDO, 13 September 2011)

Regarding private schools in Myanmar, Mizzima notes in an article dated September 2012:

"Twenty Burmese private schools have been approved since the Private School Law was passed late last year, local media reported on Sunday. The 20 schools were among 67, which applied to open, The Flower News Journal reported, adding that most of the private schools are in Rangoon Region. Six private schools were allowed a pilot run for one year. The ministry has said that curriculum in private schools should follow state standards, but the schools will also allow other subjects to be taught as a way to eliminate extra private tuition." (Mizzima, 11 September 2012)

According to the same article by Mizzima, official statistics show that the number of state-run basic education schools in Myanmar has increased to 41,000 and a total of over 8.1 million students are educated by 270,000 teachers (Mizzima, 11 September 2012).

A February 2012 report by the Myanmar Ministry of Education (MOE), available via the link below, provides a table indicating the number of basic education schools in 2011-2012 academic year (see p. 5):

- MOE - Ministry of Education, Myanmar: Education for All: Access to and Quality of Education in Myanmar, February 2012 (available at website of UN Information Centre Yangon)
<http://unic.un.org/imucms/userfiles/yangon/file/Education%20for%20All%20in%20Myanmar%20%28Final%202012%20FEB%202%29.pdf>

The Arakan Human Rights and Development Organisation (AHRDO) provides the following information concerning higher-education institutions:

"Higher-education institutions were closed for years at a time during the State Law and Order Restoration Council (SLORC) period. After the 1988 uprising, all universities were closed for two years. Another series of student strikes in 1996 and 1998 resulted in a further three years of closure. In Yangon, between 1988 and 2000, universities were closed for 10 out of 12 years.

After the reopening of universities and colleges in 2000, the government relocated many universities to different sites and undergraduate programs were moved to campuses far away from any urban centre. In 1999-2000 legislation came into force which disallowed students from ethnic areas from attending higher education institutions outside their home State, and transfer between programmes in different areas was also made more difficult. Keeping students separated from each other, reducing the concentration of students in large cities and isolating ethnic nationality students are some of the ways in which the regime hopes to weaken the student movement." (AHRDO, 13 September 2011)

In its May 2012 report, the US Department of State (USDOS) notes with regard to academic freedom in Myanmar:

"University teachers and professors, most of them state employees, were subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. Teachers could not discuss politics at work, join or support political parties, or engage in political activity, and they had to obtain advance approval for meetings with foreigners. The government closely monitored curricula and censored course content. Foreigners were not permitted to visit university campuses without prior approval or attend any meetings involving students, including graduation ceremonies." (USDOS, 24 May 2012, section 2a)

As noted in the September 2012 article by Mizzima (quoted above), there are 161 universities and colleges in Myanmar (Mizzima, 11 September 2012).

A list of higher-education institutions by State/Division, which reflects the situation as at January 2002, can be found at Modins.net (Myanmar Online Data Information Network Solutions), a website providing information on various aspects of Myanmar, via the following link:

- Modins.net: Myanmar Info: Universities and College of Myanmar: Instituted of Higher Education in Myanmar [January 2002], undated (a)
http://www.modins.net/myanmarinfo/health_edu/uniandcol.htm

For a comprehensive overview of Myanmar's education system, please refer to the following report prepared by the International Bureau of Education of the United Nations Educational, Scientific and Cultural Organization (UNESCO-IBE) and published April 2011:

UNESCO-IBE – United Nations Educational, Scientific and Cultural Organization – International Bureau of Education: World Data on Education, 7th edition, 2010/2011 – Myanmar, April 2011

<http://unesdoc.unesco.org/images/0019/001931/193185e.pdf>

1.4.3 Markets

The 2009 Lonely Planet guide to Myanmar notes that “[i]n larger towns and cities, bargains are usually found in the public markets, called *zei* or *zay* in Burmese. The main market is often called *zeigyo* (also spelt *zei-gyo* or *zay-cho*).” (Lonely Planet, 2009, p. 348)

In its Exporter Guide Report 2012 – Burma, published June 2012, the Foreign Agricultural Service of the US Department of Agriculture (USDA-FAS) notes with regard to Myanmar's market sector:

“The country's retail market is made up of traditional market and modern retail market, which a ratio of 90:10. The rise and growth of supermarkets in Burma, especially in Rangoon, is mainly attributed to a growing middle and expatriate class as a result from investments in the mineral and natural gas sectors, and from expatriates returning home as the political situation improves.” (USDA-FAS, 19 June 2012)

An article entitled “Myanmar: Food and Drink” (authored by Karen Romano-Young) in the geographic encyclopedia *World and Its Peoples* states:

“Myanmar is economically less developed than its neighbors and many shoppers buy their food from traditional markets rather than stores. Among the more unusual markets in Myanmar is the floating market of Inle Lake in Shan State, which is an increasingly popular tourist attraction.” (Romano-Young, 2008, p. 641)

1.5 Law enforcement agencies

1.5.1 Police and military

Please see sections 4.2 of this publication for information on police and armed forces.

1.5.2 Courts and tribunals

As stipulated in Chapter VI, Article 293 of the country's 2008 Constitution, Myanmar's judiciary is to consist of the following courts:

“(a) Supreme Court of the Union, High Courts of the Region, High Courts of the State, Courts of the Self-Administered Division, Courts of the Self-Administered Zone, District Courts, Township Courts and the other Courts constituted by law;

(b) Courts-Martial;

(c) Constitutional Tribunal of the Union” (Constitution, September 2008, Chapter VI, Article 293)

The composition, jurisdiction, powers and duties of the courts are specified in Chapter VI, Articles 294-336 of the 2008 Constitution, which is available in full via the following link:

- Constitution of the Republic of the Union of Myanmar (2008), published by the Ministry of Information, September 2008 (available at Burma Library)
http://www.burmalibrary.org/docs5/Myanmar_Constitution-2008-en.pdf

In an undated overview of Myanmar’s government structure (presumably published after the November 2010 elections), the Alternative ASEAN Network on Burma (ALTSEAN) provides the following information on the judicial branch of government:

“Supreme Court

The Supreme Court is comprised of seven to 11 members, including the Chief Justice. The President has the authority to appoint the Chief Justice of the Supreme Court and, in coordination with the Chief Justice, appoint the remaining Justices. While the National Parliament must ratify the President’s selections, they have ‘no right to refuse’ unless it can clearly prove that the President’s choice does not meet the constitutional requirements prescribed. On the Supreme Court, judges must be 50 or older and must retire at age 70.

State and Division High Courts

State and Regional High Courts are comprised of three to seven members. The President, in co-ordination with the Chief Justice of the Supreme Court and the Chief Minister of the Division or State concerned, nominates the Chief Justice of the High Court of the Division or State. The Chief Minister of the Division or State concerned, in co-ordination with the Chief Justice of the Supreme Court nominates Judges of the High Court of the Division or State.

In both cases, the Division or State Parliaments must ratify the President’s selections, they have ‘no right to refuse’ unless it can clearly prove that the President’s nominee does not meet the constitutional requirements prescribed. The Division and State High Courts have the authority over courts at the District; Self-Administered Division and Zone; and Township level. Judges serving on the State/Division high courts must be older than 45 and must retire at age 65.

Constitutional Tribunal

The Constitutional Tribunal rules on constitutional questions and is comprised of nine members: three chosen by the President and three chosen by the Speakers of the People’s Assembly and National Assembly respectively.” (ALTSEAN, undated)

Commenting on the constitutional provisions establishing the new judiciary, the Burma Partnership (BP), a regional advocacy network for human rights, states:

"The Burmese judiciary consists of ordinary courts, the courts martial and the Constitutional Tribunal. Overall, the procedure for the appointment of judges is highly politicized. The constitution does not stipulate rules about the independence of the judiciary. There is also no independent commission with the powers to organize and manage the courts. In addition, the Supreme Court lacks jurisdiction over the military forces." (BP, 2009, p. 4)

In a report published May 2012, the Thailand-based multi-ethnic Network for Human Rights Documentation Burma (ND-Burma) states the following with regard to the procedure for appointment of judges and the jurisdiction of civilian courts:

"According to the 2008 Constitution, the President selects the justices of Burma's Supreme Court, with parliament restricted to the role of confirming that nominees are constitutionally eligible for such positions. Because the President is chosen by a military dominated parliament, this structure of appointments ensures that members of the judiciary are reliant on the military for their appointments. This process creates a civilian court that is closely linked to the military and likely with little desire to hold military and former military personnel accountable. [...]

Furthermore, according to the 2008 Constitution, the civilian courts that these judges preside over do not have jurisdiction for crimes committed by the military. Instead, these crimes fall under the jurisdiction of a military court system, whose final authority is the Commander-in-Chief of the Defense Services, an unelected general appointed by the President, with 'the proposal and approval of the National Defense and Security Council.' Consequently, any incidents of torture or ill treatment committed by the military are unlikely to receive impartial judgment from this military court system." (ND-Burma, 28 May 2012, pp. 17-18)

For further information about the independence of the judiciary, please see section 11.3.2 of this publication.

1.5.3 Intelligence agencies

Jane's Information Group, a US publishing company with a focus on military issues, notes in its Sentinel Security Assessment: Myanmar, updated January 2012, that "[s]ince May 2005, the military's powerful intelligence apparatus is solely under the auspices of the Office of the Chief of Military Affairs Security (OCMAS). Its predecessors were the Directorate of Defence Services Intelligence (DDSI, until late 2001) and the Defence Services Intelligence Bureau (DSIB, until May 2005)." (Jane's, 5 January 2012, as cited in UKBA, 2 February 2012, p. 31)

An October 2010 article by the Democratic Voice of Burma (DVB), a Norway-based non-governmental media source, states that the then new chief of the Military Affairs Security (MAS), major general Kyaw Swe, announced a major shake-up of the unit to boost its intelligence gathering abilities:

"The new chief of Burma's intelligence department has said that a major shake-up will see the unit tightening security and clamping down on flows of information. The department will use the tactics of Burma's former intelligence chief Khin Nyunt, who headed the now-

disbanded Directorate of Defence Services Intelligence (DDSI) before he was purged in 2004. It then became Military Affairs Security (MAS), but, say analysts, lost much of its strategic cunning.

A source close to the unit told DVB that the new chief, Maj Gen Kyaw Swe, 'wants to restore the practices of the former intelligence services because less information is being received now'. This will involve foregoing the practice of moving MAS agents from post to post every few months [sic], and will instead have to remain at their station for three to five years." (DVB, 18 October 2010)

The Irrawaddy, an exile-run news magazine reporting on Myanmar, notes in August 2011 that according to intelligence sources, Major General Soe Shein, a personal assistant to former junta chief Than Shwe, has taken over as the new head of the country's military intelligence unit, known as the Military Affairs Security (MAS). As reported by the Irrawaddy, "[t]he MAS was created following the dismantling of the former Military Intelligent Service (MIS), led by once powerful general and former prime minister, Khin Nyunt, who was purged in 2004 and later sentenced to 44 years imprisonment on charges of corruption and insubordination; he is now under house arrest." (Irrawaddy, 24 August 2011)

In an article dated May 2011, the Irrawaddy notes that according to sources, the military's commander-in-chief General Min Aung Hlaing has formed a national intelligence unit and begun to function as its head. The article further states with regard to the unit's composition, responsibilities and duties:

"Over 200 officers from different parts of the country have reportedly been appointed by Min Aung Hlaing to work for the new intelligence unit, which is tasked with investigating domestic political and security affairs. [...] Apart from military officers, the new intelligence unit reportedly involves officials from the Myanmar Police Force, which is under the Ministry of Home Affairs (MoHA), Bureau of Special Investigation and the Ministry of Border Affairs.

Unlike the military intelligence unit that was operated by Gen Khin Nyunt, the former prime minister and intelligence chief who was ousted in 2004, the current unit will not function separately. It will be based on understanding and cooperation and has to report back to both military and civilian authorities as well as administrative officials. [...]

The new intelligence unit will reportedly investigate the movements of political parties, ethnic armed forces and cease-fire groups, violent domestic actions such as bomb explosions and any matter that affects the state's security and stability, including non-disintegration of the military, and take necessary measures." (Irrawaddy, 3 May 2011)

A June 2011 article by the Irrawaddy notes with reference to a Myanmar intelligence report:

"A Burmese intelligence report suggests that a new collaboration called the 'National Defense and Security Force' will oversee military intelligence bodies such as the Military Affairs Security and other secret agencies including Special Branch (SB) and the Bureau of

Special Investigation (BSI) under the Ministry of Home Affairs, even though there has been no official confirmation." (Irrawaddy, 29 June 2011)

1.5.4 Immigration offices

Modins.net notes with regard to the Ministry of Immigration and Population:

"The State Law and Order Restoration Council issued Notification No. 31/95 on 15 June 1995 and established the Ministry of Immigration and Population. [...] Though there was only Immigration and Manpower Department under the supervision of the Ministry of Immigration and Population, in order to effectively and properly execute immigration services, it was constituted with the Head Office, 14 State/Division Offices, 64 District Offices 324 Township Offices, 22 Teams for Preventing illegal immigrants and the Border Immigration Headquarters (Maungtau) with a strength of 641 officers and 8,623 of other ranks totaling 9,264." (Modins.net, undated (b))

Among the sources consulted by ACCORD within time constraints no further relevant information could be found on this issue.

1.5.5 Border security force (Nasaka)

In an article dated March 2011, Narinjara, an exile-run news organisation covering events in Rakhine (Arakan) State, notes that Nasaka, Myanmar's border security force, was set up as a combined force of the army, police, immigration and customs officials in 1992 to safeguard the country's international borders. The regime withdrew Nasaka forces from the Thai and Chinese borders after the sacking of former Prime Minister General Khin Nyunt in 2004, and since then, Nasaka has remained only in western Myanmar on the Bangladesh border. (Narinjara, 29 March 2011)

In the same article, Narinjara quotes a Nasaka sergeant as saying:

"The Burmese border security force, Nasaka, deployed on the western Burmese border in Arakan State, will be transformed this coming April, said a sergeant from Nasaka. 'For the first time last February, the authority announced that all personnel who are age 40 and above must retire from the force and those who do not wish to retire will be allowed to serve in the commissary forces in the Army. During this month, we have heard that the whole force of Nasaka will be transformed in name, uniform, and modern arms in the next month,' said the sergeant on condition of anonymity." (Narinjara, 29 March 2011)

Also in the March 2011 article, Narinjara states that "[a]ccording to local residents, Nasaka is notorious for committing arbitrary arrests, extortion, bribery, and human rights violations with impunity against civilians in western Burma's Arakan State" (Narinjara, 29 March 2011).

A February 2012 report by the Humanitarian Aid Relief Trust (HART), a UK-based aid group, states with regard to Nasaka (NaSaKa) in northern Rakhine (Arakan) State:

"NaSaKa, created in 1992, controls life in northern Arakan State and comprises five government departments: the police, the military intelligence, the riot police, customs and the Immigration and Manpower Department (IMDP). It is run from the capital of Arakan

State, Sittwe. Its rules are enforced by local Burmese soldiers. Administrative controls have made daily life almost impossible. For example, NaSaKa requires permissions and exorbitant taxes for a Rohingya to travel between adjacent villages, stunting employment and causing paralysing poverty. To marry, a young Rohingya must go to the local NaSaKa office for permission, the entire family will be questioned and photographed, they are repeatedly, heavily taxed and may have to wait several years for the required permission. Some couples marry secretly through religious services, but face a jail sentence of up to 7 years. This has caused high abortion rates. Many young Rohingya couples have fled Burma. Around twice a year, and without warning, NaSaKa arrive to photograph and document every household. Taxes must be paid for any member of the household who has been born or died." (HART, February 2012, p. 6)

A March 2010 progress report by the UN Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, states that unlike other people of Myanmar, the Rohingya are required to apply for papers from Nasaka, which checks for citizenship and age of majority, in order to get married (HRC, 10 March 2010, p. 16).

In a more recent report, published March 2012, the Special Rapporteur states that "[h]e received information that the border security force, the Nasaka, has not issued marriage permissions since August 2011; 412 applications are reportedly pending" (HRC, 7 March 2012, p. 16).

Human Rights Watch (HRW), in a report dated August 2012, notes the following with regard to the conduct of Nasaka vis-à-vis the Rohingya:

"Nasaka has law enforcement, military, and administrative authority in the predominantly Muslim townships of northern Arakan State, making it an entity unique to all of Burma. Nasaka routinely conscripts Rohingya for forced labor, and last year alone Nasaka arbitrarily detained between 2,000 and 2,500 Rohingya for 'offenses' such as repairing homes without permission. Those in custody are often beaten and mistreated, and they secure their release through payments to Nasaka commanders, usually through brokers or middlemen." (HRW, August 2012, p. 16)

The HRW report further states with regard to the authorities' responses to Buddhist-Muslim sectarian violence in Rakhine (Arakan) State in June 2012:

"On June 10, fearing the unrest would spread beyond the borders of Arakan State, Burmese President Thein Sein announced a state of emergency, transferring civilian power to the Burmese army in affected areas of the state. At this point, a wave of concerted violence by various state security forces against Rohingya communities began. [...] In northern Arakan State, the Nasaka border guard force, the army, police, and Lon Thein [paramilitary forces] committed killings, mass arrests, and looting against Rohingya." (HRW, August 2012, p. 2)

1.6 Local administration and structure

This section does not include information already covered in section 1.6 (pp. 26-28) of the previous Myanmar COI Compilation of October 2011 and section 2.6.2 of this publication.

The 2008 Constitution of the Republic of the Union of Myanmar, which entered into force on 31 January 2011, states that the “[a]dministration of district and township level shall be assigned to the Civil Services personnel” (Constitution, September 2008, Chapter V, Article 288). At the same time, the “[a]dministration of ward or village-tract shall be assigned in accord with the law to a person whose integrity is respected by the community” (Constitution, September 2008, Chapter V, Article 289).

For information on recent changes to the method for selecting local officials, please refer to section 2.6.1 of this publication.

Among the sources consulted by ACCORD within time constraints no further information could be found regarding local administration and structure.

2 Political developments

2.1 The 1988 Uprising

2.1.1 The course of the 1988 Uprising, including information on the authorities' reaction towards protesters

The socio-economic developments initiated by the country's military leadership since 1962, which eventually gave rise to the 1988 Uprising, are summarised by Dr. Renaud Egreteau, Research Assistant Professor at the University of Hong Kong, as follows:

"Since the military coup of March 2, 1962, the Burmese armed forces (Tatmadaw) had been holding power in Burma. Under the leadership of General Ne Win (1910-2002) who established a socialist and autarchic military regime, Burma isolated itself from the outside world for almost three decades (1962-1988). But after 25 years of a Burmese way to socialism, the country was classified as one of the world's Least Developed Countries by the United Nations and was on the verge of a socio-economic collapse. When the military government announced a complete demonetization of small bank notes in September 1987, spotted protests broke out in Rangoon." (Egreteau, 25 February 2009, p. 9)

The trigger that set off the initial protests, the then ruler General Ne Win's decision in September 1987 to cancel certain currency notes, is described in more detail by BBC:

"In September 1987, Burma's then ruler General Ne Win compounded years of general economic mismanagement by suddenly cancelling certain currency notes. As a superstitious man, he wanted only 45 and 90 kyat notes in circulation. This was because they were divisible by nine, which he considered a lucky number. But by cancelling the other notes which people held, much of their savings were wiped out overnight. Protests about the mounting economic crisis were started by Burma's students, especially in Rangoon." (BBC, 25 September 2007)

Further protests broke out when a student protesting outside the Rangoon Institute of Technology was shot dead by the military on 13 March 1988, and subsequently gathered pace as the protesting students were joined by ordinary citizens and monks (BBC, 25 September 2007).

The US Department of State (USDOS) mentions that the demonstrations escalated into anti-government protests in June 1988 when authorities decided to close the campuses and police drove trucks into a group of protesting high school students, killing several of them (USDOS, February 1989, p. 740).

Human Rights Watch (HRW), in a May 1990 report on human rights in Myanmar, describes the ensuing events, including the authorities' crackdown on protesters and medical personnel trying to help the demonstrators:

"On July 23, 1988, Ne Win abruptly [sic] resigned as head of state, naming as his successor the head of the hated riot police, Sein Lwin. The appointment ignited new protests throughout the country. Martial law was declared on August 3, but the

demonstrations continued to build. A nationwide strike called for August 8 brought some 100,000 people out in the streets of Rangoon and thousands more in cities across the country. At 11:00 that night the army moved in, opening fire on the unarmed crowds and killing at least 1000. Journalists and other eyewitnesses reported that the soldiers fired indiscriminately into the center of the crowds, and aimed to kill. Many of the dead were shot in the back as they tried to run away. Eyewitnesses also described the bayonetting of demonstrators, including children, by army troops. Soldiers were said to have removed bodies and cremated them in secret. Doctors, nurses and other staff at Rangoon General Hospital were shot when they refused to hand over fleeing demonstrators, and when hospital staff pleaded with the troops to stop shooting." (HRW, May 1990, p. 4)

The HRW report continues as follows:

"On August 12, Sein Lwin resigned, and one week later was replaced as president and BSPP chairman by the only civilian in Ne Win's inner circle, Dr. Maung Maung. Protesters rejected the appointment, however, and again took to the streets. On August 24 martial law was lifted, and for the next three weeks, the army and police were withdrawn from the cities as civil administration throughout the country all but collapsed. On September 18, as some 300,000 people demonstrated in Rangoon, the army again assumed power under General Saw Maung, another close associate of Ne Win, who was proclaimed Chairman of the State Law and Order Restoration Council, or SLORC. During the next several days, crack troops swept back into the cities, shooting indiscriminately into crowds of demonstrators and into occupied houses. Although the final death toll may never be known, eyewitnesses estimate that 1000-3000 people were killed between September 18-21. An unknown number of people arrested then have 'disappeared' and are believed to have been summarily executed. Some ten thousand students fled to the Thai border following the crackdown." (HRW, May 1990, pp. 4-5)

A report published by the International Crisis Group (ICG) in December 2001 looks deeper into the social composition of the protesters and their activities:

"The initial protesters in August 1988 were primarily students, but after the military retreated to its barracks, the demonstrations grew to include doctors, lawyers, housewives, civil servants, wage labourers, and even some military personnel. Members of many of the state-controlled organisations reformed themselves as independent organisations and made statements in favour of ending one-party rule. Many BSPP [Burma Socialist Programme Party] members publicly burned their party cards. Civil servants in the Foreign Ministry and in embassies world-wide wrote and distributed statements advocating the restoration of democracy.

Meanwhile, high school and university students established unions, some of which were expanded into city-wide and regional networks. Monks, who had previously been organised by the state, also formed independent unions and allowed citizens' strike committees to operate at monasteries. Monks further organised security patrols and took over administration of some localities, particularly around Mandalay.

While the demonstrators did not take over the state TV and radio stations, there was an explosion of small independent newspapers, journals, and magazines. Over 50 different news sheets were produced in Rangoon alone, and 40 in Mandalay. Still, with a large percentage of the population having known nothing but authoritarian rule, few understood what democracy meant in practice." (ICG, 6 December 2001, p. 5)

The December 2001 report by ICG further states that the State Law and Order Restoration Council (SLORC) seized power on 18 September 1988, and opened fire on protesters unwilling to disperse. By the end of 1988, an estimated 10,000 people had been killed by this and subsequent crackdowns. As many as 10,000 students fled to areas under the control of armed ethnic nationalist groups to engage in the fight against the regime, with the majority of the fugitives joining the All Burma Students' Democratic Front. Most civil servants went back to work, while independent associations were disbanded. (ICG, 6 December 2001, p. 5)

A May 2008 report by HRW notes that the SLORC, "through military brutality and a shoot-to-kill policy against protesters", managed to prevent further street protests after regaining control over the country's cities and towns on 18 September 1988. As to the number of persons killed, estimates run from 1,000 to 10,000, with 3,000 a widely accepted figure. The HRW report continues by saying that "[a]lthough the army was responsible for the vast majority of the deaths, mobs murdered some suspected military intelligence agents, soldiers, and government bureaucrats". (HRW, May 2008, pp. 13-14)

2.1.2 Political/religious leaders involved and political/social organisations active in major towns

In a February 1989 article in the journal *Asian Survey*, published by the University of California Press, a diplomat familiar with developments in Myanmar, who goes by the pseudonym *Burma Watcher*, mentions that three personalities, retired Brigadier General Aung Gyi, retired Major General Tin Oo and Aung San Suu Kyi, daughter of the country's independence leader General Aung San, emerged as leaders of the protest movement:

"Political opposition has been prohibited in Burma for more than 26 years. Because of this, demonstrators were slow to organize and produce effective leaders. Three personalities gradually assumed importance as leaders of the opposition movement. Retired Brigadier General Aung Gyi was well known for writing a series of critical letters to BSPP [Burma Socialist Programme Party] Chairman U Ne Win between April and July. His letters recounted the history of the BSPP takeover of the country in 1962, criticized the government's handling of economic disintegration, and detailed human rights abuses by riot police during the March demonstrations. Aung Gyi, imprisoned in the past for his disagreement with Ne Win's policy of nationalization of industries and property, was arrested by Sein Lwin and imprisoned for several weeks before being released by Dr. Maung Maung. Retired Major General Tin Oo retained considerable influence within the armed forces. He was forced from service and jailed in 1976, allegedly for failure to take action against coup plotting by junior officers. The third and most unlikely leader to emerge was Aung San Suu Kyi, daughter of Burma's revered independence leader, General Aung San. Married to a British scholar and a longtime resident of England, she

was fortuitously in Burma to attend to her seriously ill mother when the demonstrations broke out." (Burma Watcher, February 1989, p. 178-179)

BBC, in an article dealing with the pro-democracy 88 Generation Students group, which was formed in 2005 (Mizzima, 11 November 2008), remarks that the group's name derives from the 1988 protests and that "the group's key members were at the forefront of the [1988] protests". Furthermore, the article states that one of the group's high-profile members, Min Ko Naing, "was the unofficial leader of the underground student union at the time of the 1988 uprising". (BBC, 22 August 2007)

In an article dated 30 August 2011, Mizzima, an exiled news organization covering Myanmar, states that the All Burma Federation of Student Unions (ABFSU), a group of pro-democracy student activists, re-emerged during the 1988 Uprising under the leadership of student leaders including Min Ko Naing and Ko Ko Gyi. When the army launched a coup in 1988, many student leaders were arrested and many ABFSU members fled to foreign countries. (Mizzima, 30 August 2011)

In a section dealing with the 1988 Uprising, a report published by HRW in September 2009, after mentioning the first public appearance of Aung San Suu Kyi at a mass rally in Yangon on 26 August 1988, notes that in the absence of any functioning administration, strike committees were set up throughout the country to take over local governments. In addition, citizen committees were established in almost every neighbourhood in major towns, most of the time comprising monks, community elders and students (HRW, September 2009, pp. 44-45). The HRW report further stresses the important role held by the Yahanpyu (Young Monks) movement in organising day-to-day affairs and maintaining law and order in Mandalay (HRW, September 2009, p. 45). An American anthropologist, who was in Mandalay at the time of the uprising, is quoted as follows:

"It's the monks' role in all this that's truly remarkable. They have taken it upon themselves to fill the void created by the removal of all other forms of authority in the city. The government simply doesn't exist anymore here: every township office in the city is shut tight, and a fair number of big wigs of the Party-cum-government (the BSPP) are probably in hiding. What one sees instead is sometimes quite hilarious. I would love to take a picture of one of the traffic police gazebos full of monks standing there with long sticks in their hands and whistles in their mouths. The cross road at the clock tower [a Mandalay landmark, located in front of the central market, Zeigyo] is now controlled by monks who brook far fewer infractions of traffic laws than the traffic police used to: no right turn on red in Mandalay's traffic theocracy. More improbably still are the monk commandos careening around town. Jeeps, trucks, private cars all are filled with monks traveling about town looking important, and usually with a couple of monks hanging on the side or sitting on the roof blowing their whistles furiously so that everyone will get out of their way. Demonstrations are usually policed in part by monks, who stride alongside the demonstrators maintaining the lines. Public security has also been taken up as the monks' charge. That means that the equivalent of police stations have been set up in different parts of the city." (HRW, September 2009, pp. 45-46)

2.1.3 Celebration of the uprising's anniversary

Radio Free Asia (RFA) reports as follows on officially backed rallies that were held in Yangon and Mandalay on 8 August 2012 to commemorate the 24th anniversary of the 1988 democracy protests:

"Activists in Burma held officially backed rallies in two cities Wednesday to publicly commemorate for the first time the sensitive anniversary of massive democracy protests that were ultimately crushed by the former military regime 24 years ago.

The Rangoon and Mandalay gatherings, attended by 2,000 members of political parties, former political prisoners, and prominent artists and musicians, would not have been permitted before President Thein Sein's nominally civilian government took power in March last year and started the country down the path of democratic reform.

But members of the 88 Generation students group, which led the Aug. 8, 1988 democracy protests, said that while in the past they ran the risk of arrest for marking the anniversary, two of Thein Sein's cabinet ministers met with them on Tuesday to express both ideological and financial support for the planned rallies.

The ministers handed the activists one million kyat (U.S. \$1,200) in cash to aid in preparations." (RFA, 8 August 2012)

Voice of America (VOA) likewise reports on the event in Yangon marking the 24th anniversary of the 1988 Uprising, which for the first time was "acknowledged" and "to some degree supported" by the Myanmar authorities:

"Authorities in Burma have for the first time acknowledged, and to some degree supported, the anniversary of the country's 1988 pro-democracy uprising. The opposition National League for Democracy has welcomed the move as a sign of national reconciliation, while activists say there is still much reform needed.

In Rangoon, hundreds of activists and monks held prayers Wednesday to mark the 24th anniversary of a failed pro-democracy uprising.

Burma's Ministers for Railways and Industry donated about \$230 to a monastery hosting the event. They also gave over \$1,000 to the group that led the movement, known as the 88 Generation." (VOA, 8 August 2012)

The Democratic Voice of Burma (DVB), a Norway-based non-governmental media source, in an article published 8 August 2011, reports as follows on the events that took place across the country to mark the 23th anniversary of the uprising:

"Crowds of Burmese today gathered across the country to mark 23 years since the infamous 1988 uprising, which heralded the emergence of Aung San Suu Kyi but was brutally put down by the army.

Suu Kyi led tributes in Rangoon, where around 1000 people held a minute's silence. [...]

Government authorities are said to have kept a close eye on events in Rangoon, although unlike past years no harassment has been reported." (DVB, 8 August 2011)

2.2 The 2007 Saffron Revolution

2.2.1 The course of the 2007 Saffron Revolution, including information on the authorities' reaction towards protest participants

As noted by Freedom House (FH) in its report *Freedom in the World 2011*, published May 2011, "[t]he largest demonstrations in nearly 20 years broke out in cities across the country in August and September 2007, triggered by a 500 percent fuel-price increase" (FH, 12 May 2011).

A report published by the United States Institute for Peace (USIP) in November 2007 contains more details with regard to the hike in fuel prices and its impact on Myanmar's population:

"On August 15, 2007, Burma's military government announced that all government subsidies would be removed from imported diesel and natural gas, which power the country's modes of transportation and electricity generation. The cost of diesel fuel immediately doubled, and the cost of natural gas rose as much as 500 percent, creating a wave of inflation in other essential commodities, such as rice, cooking oil, and other foodstuffs. Transportation became so costly that many people, unable to afford the commute to work, started bunking on city streets." (USIP, November 2007, p. 2)

The USIP report continues by stating that "[i]n fact, there was a striking similarity between the origins of the '8888' uprising and the Saffron Revolution of 2007. Both were precipitated by far-reaching but ill-considered fiscal decisions by a whimsical dictator demonstrably unaware of the desperate poverty the majority of the population was experiencing" (USIP, November 2007, p. 3).

A December 2007 report based on a joint mission conducted by the International Federation for Human Rights (FIDH) and the International Trade Union Confederation (ITUC) along the Thai-Myanmar border between 13 and 21 October 2007 provides the following information concerning the protesters' motives:

"Raises in fuel prices led to the first protests launched in August 2007. However, the real spark that started the wide marches in mid-September was the repression of a peaceful street walk by monks in Pakokku (Northern Burma). People then saw that the SPDC [State Peace and Development Council] was willing to brutalize even Buddhist monks, normally highly respected in Burma – and respected indeed, hitherto, even by the military themselves.

The protests were not only about fuel prices. They also concerned basic rights and freedoms. Peaceful demands to the authorities to respond with 'loving kindness' ('metta', in Burmese), were met with armed violence. In mid-September, the initial street walks calling for an apology for the treatment of monks in Pakokku grew into demands for the SPDC to address the issues of severe poverty and the economic crisis facing many families,

following the rise in fuel prices, and subsequently to demands for respect for fundamental human rights and freedoms." (FIDH/ITUC, December 2007, p. 9)

HRW in its World report 2008 (covering events in 2007) provides the following summary of the protests, including information on the authorities' crackdown on demonstrators:

"Small-scale protest marches were conducted in Rangoon by members of the '88 Generation Students' and members and supporters of the National League for Democracy (NLD), calling for improved living standards and dialogue with the government on political reforms. Demonstrations were broken up by police and members of the Union Solidarity and Development Association (USDA), a pro-government 'social welfare' organization with a nominal national membership of 23 million, and Swan Ar Shin, a civilian paramilitary group. Over 150 political dissidents were arrested and dozens went into hiding in August.

Demonstrations by Buddhist monks and civilians spread to other towns such as Mandalay, Sittwe, and Pakkoku in September. Following the beating of monks in Pakkoku, public demonstrations increased. In late September marches by monks in Rangoon became larger, and political activists, artists, and other civilians gradually joined in the daily processions. On September 22 over 1,000 monks and supporters were permitted to march to the home of Nobel Peace Prize laureate Daw Aung San Suu Kyi.

On September 26, demonstrations in Rangoon were violently dispersed by riot police, supported by regular army soldiers, who used teargas, rubber bullets, and automatic weapons against unarmed civilians. Following brutal nighttime raids on monasteries and homes, demonstrations continued the next day in Rangoon, Mandalay, Mytikina, Pegu, Sittwe, and Pakkoku, and were met with more violence by security forces. Small demonstrations continued for the next several days, as the police and army arrested and detained an estimated 3,000 monks in Rangoon. Reports from inside Burma suggested that an estimated 100 civilians were killed in the demonstrations in Rangoon; there were unverified reports of protester deaths in other locations throughout Burma. In its December report on the crackdown, Human Rights Watch was able to confirm 20 deaths, though the figure is likely higher. Official SPDC figures claim that 15 people were killed and over 3,000 arrested. The SPDC claims to have released over 2,000 detainees; there are fears several hundred remain incarcerated." (HRW, January 2008, pp. 1-2)

The above-mentioned May 2011 report by FH briefly summarises the protests and their suppression as follows:

"The 88 Generation Students, a group composed of dissidents active in the 1988 protests, were at the forefront of many of the demonstrations. The protest movement expanded to include thousands of Buddhist monks and nuns, who were encouraged by the general populace. Soldiers, riot police, and members of the paramilitary Union Solidarity and Development Association (USDA) and the Swan Arr Shin militia group responded brutally, killing at least 31 people. The crackdown targeted important religious sites and included the public beating, shooting, and arrest of monks, further delegitimizing the regime in the eyes of many Burmese." (FH, 12 May 2011)

A HRW report, published December 2007, indicates that the government crackdown on protesters included baton-charges and beatings of unarmed demonstrators, mass arbitrary arrests, and repeated instances where weapons were fired shoot-to-kill. To remove the monks and nuns from the protests, the security forces conducted night raids on Buddhist monasteries, and tried to enforce the defrocking of thousands of monks. In addition, protest leaders, opposition party members and activists from the '88 Generation students were traced and subsequently arrested. (HRW, December 2007, p. 4)

2.2.2 Political/religious leaders involved and political/social organisations active in major towns

The London-based weekly news magazine *The Economist*, in a September 2007 article, cites a political analyst and veteran of the 1988 student movement commenting on the leadership of the protesting monks:

"It is unclear who is leading the monks' protest movement, says Aung Naing Oo, a political analyst and veteran of the 1988 student movement. But, he says, they seem well organised. Some of the clergy's top leaders on the State Sangha Council have been bought off by the regime. Others, though, seem sympathetic to their young disciples. At the very least, says Mr Oo, it can be assumed that the protesting monks have the blessing of the abbots in charge of the monasteries. The raids on the monasteries seem designed to smash this source of resistance." (*Economist*, 27 September 2007)

A February 2012 article by Voice of America (VOA) refers to U Gambira as "one of the monks who organized the 2007 protests against the Southeast Asian nation's former military rulers". According to VOA, U Gambira had been among long-time political prisoners freed under an amnesty announced by the Myanmar government on 13 January 2012. (VOA, 18 February 2012)

The Economist Intelligence Unit (EIU) remarks in a country profile of October 2008 that monks played a key role in the 1988 Uprising. In September 2007, they again took to the streets, initially to protest against economic woes before leading mass protests calling for the toppling of the military regime. Some of the monks involved belonged to an activist group calling itself the Alliance of All Burmese Buddhist Monks. (EIU, 9 October 2008)

In its October 2008 country profile, the EIU further reports on the role the 88 Generation group, founded by former student activists involved in the 1988 Uprising, played in the 2007 protests:

"In 2006 the so-called 88 Generation group – founded by former student activists involved in the failed 1988 pro-democracy uprising – emerged as a strong informal source of opposition to the military regime. The group organised a number of civil disobedience actions in 2007, such as prayer vigils calling for the release of political prisoners. In August 2007 the group led peaceful protests against the junta's decision to increase fuel prices, a move that caused severe economic hardship. These protests quickly escalated into mass demonstrations against the regime; the SPDC detained most of the group's top leaders, including Min Ko Naing, in the ensuing crackdown." (EIU, 9 October 2008)

The All Burma Federation of Student Unions (ABFSU) is mentioned in an article published by Irrawaddy on 28 August 2007 as resuming its struggle against the country's military regime, almost 20 years after the failed pro-democracy uprising in 1988 (Irrawaddy, 28 August 2007). A more recent article by Irrawaddy states that prominent members of the ABFSU including Min Ko Naing were arrested in August 2007 for organising protests during the monk-led Saffron Revolution (Irrawaddy, 6 June 2012).

In a March 2008 report, the Human Rights Documentation Unit (HRDU), which describes itself as the research and documentation division of Myanmar's government in exile, remarks that the demonstrations became more openly political on 24 September 2007, with elected members of parliament, NLD members and students for the first time overtly participating in their role as politically motivated and affiliated persons (HRDU, March 2008, p. 47). More than 280 NLD members were arrested in connection with the protests (HRDU, March 2008, p. 109).

2.2.3 Celebration of the anniversary of the Saffron Revolution

Agence France-Presse (AFP) news agency states that on 18 September 2012, "the first ever rally to mark the 'Saffron Revolution'" took place in Yangon:

"More than 100 people, including dozens of monks, gathered at a Yangon monastery Tuesday in the first ever rally to mark the 'Saffron Revolution' which was brutally crushed by Myanmar's junta five years ago. [...]"

Members of several pro-democracy groups, including Aung San Suu Kyi's National League for Democracy and the 88 Generation student movement which led major protests in 1988 that were also brutally stamped out by the military, joined the rally. [...]"

Last September police prevented a planned rally by some 200 pro-democracy activists on the fourth anniversary of the bloody crackdown." (AFP, 18 September 2012)

In an article dated 27 September 2012, Irrawaddy reports as follows on commemoration ceremonies held in Yangon (Rangoon) and Mandalay to mark the anniversary of the 2007 Saffron Revolution:

"At ceremonies in Rangoon and Mandalay to mark the anniversary of the crushing of the 2007 Saffron Revolution, monks and their supporters called on Burma's new military-backed government to redress injustices committed by the former junta against members of the Buddhist clergy.

'Most of us will continue our boycott until we get their apology,' said Ashin Thawbita, the spokesperson for the organizing committee behind a ceremony at Mandalay's Myawaddy Mingyi Monastery. The boycott - a form of excommunication that involves refusing offerings of alms from those who have committed offenses against the Sangha, or community of monks - was part of the September 2007 uprising, which came after earlier protests over dramatic fuel price hikes in August were brutally suppressed. However, Ashin Thawbita emphasized that the gathering in Mandalay, which was attended by more than 1,000 monks, was aimed at creating a network to work together for peace, religious affairs and children's education, not reviving the 2007 uprising.

More than 300 monks and activists held a similar event at Magwe Monastery in Rangoon's East Dagon Township on the same day." (Irrawaddy, 27 September 2012)

An article by Irrawaddy, published 26 September 2011, notes the following with regard to events that took place in Yangon (Rangoon) to mark the fourth anniversary of the Saffron Revolution:

"Dozens of Rangoon residents marched peacefully through the city on Monday to mark the fourth anniversary of the Saffron Revolution only to be stopped by security forces, according to local sources. Onlookers watched around 200 marchers, some of them were wearing yellow shirts, set off peacefully from Sule Pagoda in downtown Rangoon at around 1 pm local time towards Kabar Aye Pagoda in North Okkalapa Township. Some of the participants' T-shirts bore the slogan 'release political prisoners.' [...] Security guards closely followed and monitored Monday's protest with many officers also deployed near Sule Pagoda. But there is no violent crackdown against the protesters and the event took place peacefully. [...]

Dozens of people also launched a separate demonstration in North Okkalapa on Monday. They were blocked by Burmese authorities before ending the march peacefully. They repeated the 'Metta Sutta' (Buddhist chant for compassion) after being blocked by security forces but then decided to end the march, said a protester.

Meanwhile, separate ceremonies to mark the fourth anniversary of the Saffron Revolution were also held in Rangoon today. Burma opposition party the National League for Democracy held a ceremony at a monastery in southern Okkalapa Township with around 1,000 attendees including monks, party members, representatives of the 88 Generation Student Group, individual MPs and other politicians." (Irrawaddy, 26 September 2011)

Radio Free Asia (RFA) reports on 26 September 2011 that, according to one of the passengers, three buses carrying some 150 people to downtown Yangon to gather in commemoration of the 2007 Saffron Revolution were stopped by police. The passengers were subsequently barred from staging a march. A participant in a gathering at Sule Pagoda reported heavy police presence throughout the day. Furthermore, RFA notes that prayer services were held at monasteries in Southern Oakkalapa and Northern Dagon townships to remember the victims of the Saffron Revolution. (RFA, 26 September 2011)

2.3 Political developments since October 2011

2.3.1 The National League for Democracy's (NLD) re-registration as a political party

ICG notes in a report published April 2012 that certain provisions of electoral legislation, including the prohibition on prison inmates from being political party members, have been removed to facilitate opposition leader Aung San Suu Kyi's return to politics, along with her National League for Democracy (NLD). As stressed by ICG, this was an important step as, prior to a major release of political prisoners announced on 13 January 2012, a number of NLD members were serving jail sentences. (ICG, 11 April 2012, p. 2)

In an article dated 4 November 2011, Mizzima provides more detailed information on the amendments to the Political Party Registration Law which political observers said were designed to pave the way for the opposition NLD:

“Burma’s state-run TV announced on Friday that President Thein Sein has signed a law that amends three key areas of the Political Party Registration Law.

Both houses of the Burmese Parliament had previously approved the amendments.

There was a change in the wording that all political parties must ‘protect’ the country’s Constitution. It was amended to ‘respect’ the Constitution.

The new law does not restrict serving prisoners from being a member of a political party and requires all political parties to contest in at least three parliamentary seats in an election whether it registered before the 2010 election or after.

Last week, Mizzima reported that political observers said the amendments were designed to pave the way for the main opposition party, the National League for Democracy (NLD), to re-register as a political party. The NLD decided not to re-register to run in the 2010 election, saying there were elements in the 2008 Constitution that were not democratic.” (Mizzima, 4 November 2011a)

An unofficial English translation of the law amending the Political Party Registration Law (2011 Union Assembly Law No. 11) is made available by Mizzima via the following link:

- Law amending the Political Party Registration Law (2011 Union Assembly Law No. 11), 4 November 2011 (available at Mizzima)
<http://www.mizzima.com/research/6165-unofficial-translation-of-law-amending-the-political-party-registration-law.html>

As a result of the amendments, the NLD expressed its intention to re-register as an official political party in order to contest the then forthcoming parliamentary by-elections (ICG, 30 November 2011, p. 1). In December 2011, the Election Commission accepted the NLD’s application for re-registration and announced that by-elections would be held on 1 April 2012 (IPU, undated).

2.3.2 The April 2012 parliamentary by-elections

The Election Monitoring Network, which has been formed by the 88 Generation Students Group to observe the April 2012 parliamentary by-elections, provides the following background information:

“The historic by-elections in Myanmar were held on April 1, 2012. 45 seats were available, 37 in the Lower House (Pyithu Hluttaw), 6 in the Upper House (Amyotha Hluttaw) and 2 in Regional Assemblies in Bago and Ayeyawadi Regions. A total of 17 political parties ran candidates, plus 7 independent candidates. On March 23rd, a week before the elections took place, the Union Election Commission (UEC) announced that the by-elections would be postponed in three constituencies in Kachin State due to security concerns. All of the 45

seats had been vacated by elected USDP [Union Solidarity and Development Party] representatives." (Election Monitoring Network, 7 April 2012, p. 1)

In a report published 11 April 2012, ICG describes the pre-election period as follows:

"In general, the campaign was freer than in 2010, in part because the major reforms over the last year have created an environment in which people feel they have the freedom to engage in politics and speak their minds. Also, there are far less constraints on the ability of the media to cover news. Nevertheless, in the lead-up to the vote, a number of parties complained of irregularities. The NLD was on several occasions denied the use of its preferred public venues, such as football stadiums, for holding rallies; some USDP candidates were alleged to have made improper promises that they would build roads or schools if elected; and many errors were found in voter rolls, such as the inclusion of people who had died, failure to include some voters and inclusion of some people more than once. None of these appeared to indicate widespread foul play." (ICG, 11 April 2012, p. 9)

Likewise, the International Foundation for Electoral Systems (IFES), a US-based international, non-profit organisation, concludes that although instances of intimidation, bribery, fraud and other unfair practices by the USDP were reported by opposition parties and other independent observers in the weeks leading up to the by-elections, these cases did not appear to be sufficiently widespread to affect the credibility of election results (IFES, 18 July 2012).

Reporting on the pre-election period, the Election Monitoring Network notes that the parties' pre-election activities were "somewhat free". However, the following key shortcomings could be identified:

- The Election Commission, especially officers at lower levels, did not seem educated enough before and during the electoral process. Already deceased people, as well as under-aged children, often appeared on voters lists. Generally, the voters' lists were based on those used in the 2010 general elections, without taking household changes in the constituencies into consideration. Hundreds of eligible voters were excluded in the lists in many constituencies.
- Political parties had just emphasized their campaigning while considerably ignoring voters' education; as a result of which, the parties lost its own votes even though their supporters showed up on the Election Day.
- International observers and media representatives should have arrived in the country a certain time ahead of the Election Day to cover the event adequately; however, last minute visa issuance made it difficult to conduct observations sufficiently.
- The Election Commission's cancellation of the by-election in three constituencies in Kachin state is controversial, even though the EC cites for security reasons.

- The Election Commissions at various levels are well connected to the ruling party even though the laws states that 'respected persons' who are not of any party should be assigned as the Commission officials.
- Though some state-own media such as MRTV, newspapers and local media (such as FM radio stations) aired election awareness programs throughout the country, the general public, especially in rural areas, were not interested in this since it is more about technical matters rather than realistic ones the people easily understand.
- According to the 2008 Constitution, any representative appointed by the Government should cut off any relation with its own party's political activities; however, high-level government officials campaigned for the USDP.
- There was a controversial exclusion of two candidates by the District-level Election Commissions. Daw Khin Sandar Myint, a candidate of National Unity Party for the Lower House in the Mingalar Taung Nyunt Township, Yangon, was surprisingly disqualified. The Election Commission decided because her parents were not nationals yet when she was born, although she was qualified as a candidate for the regional constituency in the 2010 election. U Saw Hlaing, a candidate of National League for Democracy competing for Amyotha Hluttaw (Upper House) seat in the Constituency Number Seven, Sagaing Region, who won a seat in the 1990 election, was also disqualified by the UEC for the same reason as Daw Khin Sandar Myint." (Election Monitoring Network, 7 April 2012, pp. 2-4)

ICG in its above-mentioned April 2012 report addresses the issue of election observation, stating that international observers were invited too late to be able to ensure fully effective independent election monitoring:

"Shortly before the vote, the government invited electoral teams and media representatives to observe the by-elections – including from ASEAN and its member states, the EU, the U.S., Australia, India and the UN. While this was an unprecedented move, the invitation came too late in the process to ensure fully effective independent monitoring. These teams noted many minor irregularities but nothing that would have had a major bearing on the results." (ICG, 11 April 2012, p. 9)

The Konrad Adenauer Foundation (Konrad-Adenauer-Stiftung, KAS), a political party foundation associated with Germany's Christian Democratic Union (CDU), in a June 2012 report finds that "[on] election day, people were able to cast their votes freely and in a general climate of hopeful expectation" (KAS, 8 June 2012, p. 99).

In a report based on the findings of an observation group composed of human rights researchers, journalists and social workers, the Friedrich Naumann Foundation (FNF), a political foundation related to Germany's Free Democratic Party (FDP), provides the following account of election-day events:

"As soon as the polling stations were opened on the morning of April 1, some were ready to vote. The stations were most crowded between 8 a.m. and 11 a.m. with voters and observers. Most polling stations were in schools. There were white lines for observers and

journalists, stopping them from entering inside the ballot stations. Authorities sat on benches inside the station while security persons guarded outside. Voters seemed to be very active. Even old women and disable persons were motivated and came to vote. Many were courageous enough to say they voted for NLD. In all the random interviews, voters said they were not threatened to vote for specific persons and could vote freely. They unanimously said the voting system was secret voting. We also met some people wailing in sorrow because they were not on the voters' list. Journalists interviewed voters near polling stations while observers run from one polling station after another to see the conditions. The authorities at some stations asked independent observers for personal information and some official observers complained they could not to [sic] watch the voting process since they could not enter the stations.

At the NLD headquarters, there were complaints about voters' list and waxed ballots. Many voters were not on the list while some dead persons were. When vote counting began and results started coming in, the NLD announced them at its headquarters using an LED board. Some authorities denied the candidates' attempts to observe the polling station." (FNF, 18 April 2012)

Network Myanmar, a UK-based networking group to promote democracy in Myanmar, indicates that the turnout of voters was 68.19 per cent, citing a report on voting statistics that appeared in a supplement to the state-run Burmese language daily newspaper Myanmar Ahlin of 9 April 2012 (Network Myanmar, undated).

In an article dated 4 April 2012, Irrawaddy provides the following overview regarding election results:

"Pro-democracy icon Aung San Suu Kyi's National League for Democracy (NLD) party won 43 out of the 44 parliamentary seats it contested in Sunday's by-elections, state television announced late on Tuesday. The NLD now becomes the made main opposition group in Burma's Union Parliament despite having only around five percent of the total seats, according to an official statement by the nation's Election Commission. Suu Kyi herself won the deprived constituency of Khawmu Township, south of Rangoon. The Nobel laureate will be able to take her rightful place in the legislative body 22 years after she recorded a landmark victory in the 1990 general elections – a result the military junta refused to honor.

The NLD have claimed 37 seats in the 440-member Lower House, four in the Upper House and two in regional chambers. The NLD's sole loss was in eastern Shan State where the Shan Nationalities Democratic Party claimed victory largely due to its huge support among the area's ethnic minorities. This comes despite Suu Kyi herself receiving a large proportion of ethnic Karen votes in her own constituency.

The USDP managed to claim a sole victory out of the 45 constituencies being contested – a seat in northwest Sagaing Division where the NLD candidate had been disqualified. President Thein Sein hailed the weekend ballot as positive." (Irrawaddy, 4 April 2012)

A List of winners' names, constituency, seat, and party is made available by Mizzima via the following Link:

- Mizzima: List of winners' names, constituency, seat, and party, 3 April 2012
<http://mizzima.com/images/NewsPhotos/APR12/MPs%20List.pdf>

In a statement on the April 2012 by-elections, the Asian Network for Free Elections (ANFE), a regional network of civil society organisations in Asia, draws the following conclusion as to the overall conduct of the elections:

"Notwithstanding the results of the elections and the generally peaceful polling process, a lot remains to be done to make elections completely free and fair or at least credible. A number of concerns came to the fore during the electoral process, which were described as 'irregularities' by a number of groups including Anfrel-Foundation, which was not allowed to observe the elections as an independent body.

Large discrepancies in the voters' list, attempt to misuse official machineries at the village and district levels by some ruling party candidates, lack of voter education all added to the list of apprehensions, which puts a question mark on the efficiency and management of the electoral process.

Moreover, despite the presence of international observers irregularities still occurred. This indicates the importance of a full-fledged and well-prepared 'independent' international observation mission in 2015 general elections. This time, the government's last minute decision to invite external election observers is 'too little, too late' to ensure adequate, effective, and independent monitoring of the electoral process. Presence of independent international observation groups would only help to provide legitimacy to any electoral process that is well intended and managed efficiently.

However, what also cannot be denied is that the election authorities have attempted to respond to the challenges that they were faced with during the entire process. They were found wanting on a number of occasion, but given the fact that the election system is still new and taking shape, such inconsistencies are bound to happen, especially in a country that is in a transitory phase." (ANFREL, 3 April 2012, p. 1)

As regards the political impact of the by-election results, the Christian Science Monitor (CSM), an international news organisation, states that the formal balance of power in parliament will remain unchanged, with the military's proxy USDP holding the majority of the 664 seats. The opposition NLD will not have the votes to change the 2008 Constitution which, in Chapter 1, guarantees the Army's "national political leadership role" and, in addition, reserves 25 percent of seats in parliament for military personnel. This represents a share large enough to prevent the majority needed for major constitutional change. (CSM, 30 April 2012, p. 2)

The initial reluctance by Aung San Suu Kyi and other newly elected NLD lawmakers to take up their seats in parliament is reported by the Konrad Adenauer Foundation (Konrad-Adenauer-Stiftung, KAS) as follows:

"Before Aung San Suu Kyi took up her seat there was public controversy. Initially, she refused to take the oath, which parliamentarians are obliged to do when they take up their seats. Aung San Suu Kyi sought to avoid repeating the wording of the oath, according to which she would have 'to protect the constitution', which amongst other things cements the dominance of the military. Instead, she demanded changes to the constitution, a central objective of the opposition and of the NLD. But because the government was not prepared to yield on this issue, Aung San Suu Kyi and the other NLD parliamentarians initially avoided the Parliament in April. After a meeting with UN Secretary General Ban Ki-moon on 1 May at her house, Aung San Suu Kyi finally announced that she would speak the oath because the people expected her to participate in the parliamentary sessions. She took the oath on 2 May, inducting her as a Member of the Lower House of Parliament." (KAS, 8 June 2012, p. 100)

Further information regarding political developments since October 2011 is contained in the following sections of this chapter.

2.4 Current situation in terms of democratization process, political reforms and tolerance of political dissent

In a Q&A published April 2012, Thomas Carothers, vice president for studies at the Carnegie Endowment for International Peace, a foreign-policy think tank, comments as follows on political developments in Myanmar:

"Burma is experiencing a striking and largely unpredicted political opening, marked by the return to political life of Aung San Suu Kyi and the National League for Democracy, the release of many political prisoners, and the opening up of considerable space for political discussion and activity. President Thein Sein, although in power thanks to the military establishment and illegitimate elections in 2010, appears to have taken reform to heart. [...]

Encouraging as they are, however, these developments represent only a doorway to a possible democratic transition. The country's power holders - a long-entrenched, antidemocratic military and the ruling Union Solidarity and Development Party (USDP) - have not yet given up any significant structural levers of power. Constitutional reform, essential to undoing the longstanding lock on power of the military and the USDP, is only just starting to be discussed seriously. The weight of the reformers in the government relative to those in the government and the military who oppose reforms is still highly uncertain." (Carnegie Endowment for International Peace, 2 April 2012)

In a June 2012 report, the Center for Security Studies (CSS) at ETH Zurich provides the following assessment of the political reform process:

"Of late, the military regime has begun to implement reforms that suggest at least a notional commitment to democratisation. The international response, although cautious at first, has now gathered momentum with some countries lifting sanctions while others have partially or wholly suspended them. There are grounds to believe, however, that the extent of political change in Myanmar may well remain limited. It appears as though the Tatmadaw [the armed forces] is seeking to gradually relinquish responsibility for

governance while retaining full veto rights and the privileges of power.” (CSS, June 2012, p. 1)

The Hindu, an English-language Indian daily newspaper, in an editorial article dated 27 August 2012, notes that the Thein Sein government “has crossed an important milestone in its gradual and calibrated moves towards democracy” by announcing the abolition of pre-publication censorship. The article further elaborates as follows:

“This means that for the first time in the half century since the military seized power, editors are exempt from submitting material to the Press Scrutiny and Registrations Department for approval before printing. After the decision to release democracy leader Aung San Suu Kyi from house arrest in 2010, this is the most far-reaching reform that the Thein Sein government has undertaken in a system that still remains heavily dominated by the military and its interests. Myanmar is way down the list in press freedom rankings. It has had the reputation for jailing journalists on the charge of threatening national peace whenever it sensed the slightest challenge to its authority. But in the past two years, alongside other reforms, the government had begun visibly to relax its iron grip on the media, allowing coverage of previously taboo topics such as Ms Suu Kyi and her National League for Democracy.” (The Hindu, 27 August 2012)

In an article published 28 August 2012, the Irrawaddy comments as follows on a cabinet reshuffle announced by President Thein Sein:

“Many critics think that reform in Burma has been unnecessarily slow in recent months with little progress as implementation at ministry levels has not been coming forward. Several ministers were known to have resisted the reform process and it seems Thein Sein made up his mind to remove them and instead promote several figures who were closer to him.” (Irrawaddy, 28 August 2012)

Agence France-Presse (AFP), reporting on the cabinet reshuffle, states:

“President Thein Sein is striving to put his flagging reform agenda back on track by promoting loyal allies in the first major cabinet reshuffle of the post-junta era, analysts say.

The long-awaited shake-up, announced late on Monday, follows signs of tensions between reformist members of the quasi-civilian government and conservatives opposed to rapid political change in the former pariah state.

Thein Sein brought four of his key ministers into the president’s office in what his aides said was a bid to speed up the decision-making process, particularly on key issues such as the economy and resolving ethnic conflicts.” (AFP, 29 August 2012)

The online US news company Global Post (GP) notes in an article published May 2012 that “people in Myanmar are able to take to the streets with relative abandon and speak their minds about it. The new government recently said that public demonstrations are allowed, so long as authorities are given five days notice” (GP, 22 May 2012). Also in May 2012, the Associated Press (AP) reports that while a bill allowing people to stage peaceful protests has

been passed, “still-existing security laws continue to put protesters at legal risk” (AP, 26 May 2012).

2.5 Peace process with armed ethnic minority groups and progress towards agreements reached with exile groups

2.5.1 Peace process with armed ethnic minority groups

The Economist Intelligence Unit (EIU) in a report published April 2012 provides the following overview of developments regarding the politico-military situation between the government and armed ethnic minority groups:

“Conflict continued to rumble on in several border regions in 2011, including parts of Kachin state. Fighting erupted in Kachin in June last year, ending a 17-year ceasefire between the armed forces and the Kachin Independence Army (KIA), the military wing of the Kachin Independence Organisation (KIO), which controls a large part of the state. Tensions escalated as a result of the government’s plans to force armed ethnic minority groups to transform their armies into Border Guard Forces under the control of the military, a plan opposed by the KIA and other armed ethnic groups. Clashes through July and August 2011 displaced thousands of people in Kachin, despite a series of meetings between KIO leaders and government representatives.

However, in early 2012 the government agreed a truce with another key opponent, the Karen National Union (KNU), whose armed wing, the Karen National Liberation Army, was one of the largest forces not to have negotiated a ceasefire with the previous military regime. In April 2012 the government announced a 13-point code of conduct to monitor the ceasefire that was reached in January, as further clashes had occurred in the meantime. The code of conduct includes plans to maintain a ceasefire that guarantees the security of the people, to resettle internally displaced citizens and ensure work and food security.

The government’s truce with the KNU, which involves both a ceasefire and the establishment of liaison offices, is a potentially ground-breaking development. The ceasefire also sets a precedent for relations between the government and the several other ethnic minorities with which it has periodically been at war for decades.” (EIU, April 2012, p. 3)

“Many ethnic-minority leaders remain very wary of the government and its motives. They point to the heavy presence in the government of former generals who held senior positions in the junta, which oversaw intense fighting in ethnic-minority areas, driving tens of thousands into hiding or over the borders as refugees. Many incumbent government figures, including Thein Sein, led troops that fought ethnic militias during their years as regional military commanders. This is likely to prove to be a difficult obstacle for the government to overcome in signing and upholding peace agreements.” (EIU, April 2012, p. 4)

In an April 2012 report, ICG states the following with regard to progress being made in reaching preliminary ceasefire agreements with the ethnic armed groups:

"Over the course of the past year, rapid progress has been made in reaching preliminary ceasefire agreements with nearly all the ethnic armed groups in the country. This has been spearheaded by two peace groups: one from the legislature (headed by USDP members Aung Thaung and Thein Zaw) and one appointed by the president (headed by the rail transportation minister, Aung Min). Ceasefire agreements have been signed with eleven armed groups [...]. The only major group with which a ceasefire has not yet been agreed is the Kachin Independence Organisation (KIO). Progress was made at a meeting on 8-10 March at the Chinese border town of Ruili, with one of the KIO's top leaders saying, 'we are very pleased with this weekend's meeting. Unlike past negotiations, this time we had a more open discussion'. However, armed clashes between the two sides continue, and there remain serious obstacles to achieving sustainable peace – including vested economic interests on both sides and bitterness resulting from the fairly intense, and sometimes bloody, conflict." (ICG, 11 April 2012, p. 1)

The ICG report further provides a list including the armed groups with whom an initial ceasefire agreement has been reached as well as the dates on which the agreements were signed:

"List of Ceasefire Agreements

Armed Group, Date initial agreement signed

1. United Wa State Army (UWSA) 6 September 2011
2. National Democratic Alliance Army (NDAA, "Mongla Group") 7 September 2011
3. Kloh Htoo Baw ("Golden Drum" Group; ex-Democratic Kayin Buddhist Army Brigade 5) 3 November 2011
4. Shan State Army-South (SSA-South) 2 December 2011
5. Chin National Front (CNF) 6 January 2012
6. Karen National Union (KNU) 12 January 2012
7. Shan State Army-North (SSA-North) 28 January 2012
8. New Mon State Party (NMSP) 1 February 2012
9. Karen National Liberation Army Peace Council 7 February 2012
10. Karenni National Progressive Party (KNPP) 7 March 2012
11. Arakan Liberation Party (ALP) 6 April 2012" (ICG, 11 April 2012, p. 18)

As noted by Reuters news agency in an article dated 6 April 2012, President Thein Sein has outlined a three-phase plan for talks with the 16 ethnic minority rebel groups that responded to a call for dialogue in August 2011: ceasefire, political talks and resettlement of refugees, followed by a special session of parliament to work out long-term agreements (Reuters, 6 April 2012). The above-mentioned April 2012 ICG report further elaborates on the three-stage peace plan:

"The first step is to agree a ceasefire between each armed group and the respective state or region government, which is seen as essential for building trust and confidence. Next, broader discussions between each group and the national government can begin to address other issues of concern, including socio-economic, cultural and political issues.

These second-stage discussions have already started with most groups. Of particular importance are the recent discussions in Naypyitaw between the Karen National Union

(KNU) and the national government. Agreement was reached on a code of conduct for the implementation of the ceasefire. On 7 April, the KNU delegation met with President Thein Sein, the first ever meeting between the KNU and a Myanmar head of state. The president stated his intention to have the KNU removed from the list of illegal organisations. The KNU delegation also met with Aung San Suu Kyi in Yangon.

The third stage, which has not yet commenced, is intended to bring together representatives of all armed groups and other stakeholders to discuss the shape of a lasting political agreement on ethnic issues. This would include issues such as constitutional change to give greater autonomy, provisions for greater resource sharing with ethnic communities, and the future integration/demobilisation of members of armed groups. The government has expressed openness to constitutional change and to allowing armed groups to establish political parties without the requirement that they first disarm. It has indicated that any agreement for a lasting political solution will be signed 'at the legislature', since this is the only route for constitutional change – but this does not imply that other stakeholders would not be able to participate in the discussions." (ICG, 11 April 2012, p. 5)

In an article published 8 May 2012, Irrawaddy reports as follows on the reform of the Union-level peace team which deals with ethnic armed groups in ceasefire negotiations:

"Burmese President Thein Sein is set to lead the reformed Union-level peace team which deals with ethnic armed groups in ceasefire negotiations. The reorganized peace team will be divided into two parts – a central and a working committee – with government ministers, heads of divisions, MPs and the chief of Burma's armed forces, Gen Min Aung Hlaing, also included.

The 12-member central committee will be chaired by Thein Sein, while Vice-President Sai Mauk Kham has been appointed chairman for the working committee of 52 members. Several top Burmese officials including Railway Minister Aung Min will serve as vice-chairmen on the working committee. The two committees will attempt to seek permanent peace deals with various ethnic armed groups before the current administration of Thein Sein's government comes to an end in 2015, according to a source close to the President's Office in Naypyidaw who asked to remain anonymous.

Several current negotiators, including former minister Aung Thaung who is believed to be a hardliner, will not be included in the new-look peace team. Aung Thaung, a secretariat member of the ruling Union Solidarity and Development Party and former Industry-1 minister, was unable to secure a ceasefire with the Kachin Independence Organization despite numerous talks." (Irrawaddy, 8 May 2012)

In May 2012, the Thailand-based multi-ethnic Network for Human Rights Documentation Burma (ND-Burma) remarks that the Myanmar armed forces continue to launch offensives against the Shan State Army- South (SSA-South) and the Shan State Army-North (SSA-North), although ceasefire agreements were signed a few months earlier (ND-Burma, 8 May 2012, p. 2).

Likewise, the Democratic Voice of Burma (DVB) notes in an article dated 22 August 2012 that the SSA-North has clashed with government troops more than 20 times since the signing of a ceasefire agreement in January 2012. The article further states that the army continues to ramp up the number of troops positioned within the SSA-N territories. (DVB, 22 August 2012)

In another article published August 2012, the DVB reports that the government and the Karenni National Progressive Party (KNPP) signed a 14-point agreement on 9 June 2012 that allowed for the opening of liaison offices in several Karenni State towns. At the time of the article's writing in August 2012, the KNPP had opened offices in Loikaw, Hpasauung and Shataw townships (DVB, 17 August 2012). However, as observed by Irrawaddy in an article dated 2 July 2012, conflict has broken out again between the KNPP and the military (Irrawaddy, 2 July 2012a).

The Democratic Voice of Burma (DVB) states that, despite the signing of ceasefire agreements, government troops continue to engage in brief skirmishes with the rebel armies, which observers say suggests that the military is not always willing to abide by the agreements brokered by union politicians (DVB, 22 August 2012). The Asian Correspondent, an English-language online newspaper covering the Asia-Pacific region, notes that "[a]s the military-backed regime has hastily attempted to escape from sanctions, it tries to obtain more foreign recognition through peace-talks with the ethnic rebels. But the government seems unable to control its armed forces" (Asian Correspondent, 2 July 2012).

As for the Kachin Independence Organisation (KIO), Irrawaddy notes in an article dating from August 2012 that, according to KIO sources, government peace negotiator Aung Min has informally accepted to hold a political dialogue with the group's leaders, but that the two sides have so far failed to agree on a suitable meeting place. The article continues by stating that peace talks have been held repeatedly since early 2012, though without reaching any tangible agreement. (Irrawaddy, 16 August 2012)

2.5.2 Progress in reaching agreements with exile groups

In an article dated 28 October 2011, Irrawaddy reports on the invitation by President Thein Sein for exiles to return and the subsequent reactions by exile groups and observers:

"In August, Burmese President Thein Sein publicly invited exiles to return home, but his government has yet to put in place any formal policy or procedure that would allow them to feel secure in doing so. As a result, most Burmese exiles still have doubts about their ability to safely go back home and very few have actually accepted the invitation and returned.

'We have been forced to be in exile. One thing we have to be careful of is that the president's talk is not a declaration of general amnesty like in 1980, during Ne Win's government. It is just the talk of the president,' said Aung Moe Zaw, the chairman of the Democratic Party for a New Society, an organization operating in exile. [...]

Bo Kyi, the joint-secretary of the Thailand-based Assistance Association of Political Prisoners (AAPP-Burma), also sees Thein Sein's invitation as weak without the backing of specific policies and laws that would protect the returning exiles.

'The president said the non-criminal exiles can return home. It is just talk and there's no law or policy on this issue. It is not a part of reforming of country. The Burmese government has done this with the intention of making the exiles weaker,' he said. [...]

In addition, observers note that Thein Sein did not define what he means by 'non-criminal,' and point out that many political prisoners currently held in Burmese jails were placed there on spurious 'criminal' charges under draconian state security laws." (Irrawaddy, 28 October 2011)

As observed by ICG in an April 2012 report, President Thein Sein has extended his invitation for exiles to return home. In the preceding months, a number of high-profile activists living abroad have returned, although mostly for visits rather than permanent stay. (ICG, 11 April 2012, p. 2)

As reported in an article by the Democratic Voice of Burma (DVB), the government's Peace Making Work Committee led by Railway Minister Aung Min met with representatives from opposition groups based in Thailand, including from the Democratic Party for a New Society (DPNS), a political party founded in 1988 by university students, on 25 June 2012. The DPNS is currently listed as an unlawful association in Myanmar. However, according to the DPNS' chairman Aung Moe Zaw, Minister Aung Min promised to work to get the party's name removed from the unlawful association list and would help facilitate a safe return for all the DPNS members to Myanmar. (DVB, 26 June 2012)

The DVB article continues by stating that "[t]he government delegation in Thailand is also scheduled to meet with representatives from the Karen National Union, the National League for Democracy-Liberated Area (NLD-LA), the Forum for Democracy in Burma and the All-Burma Students Democratic Front". (DVB, 26 June 2012)

In a September 2012 email, Mark Farmaner, director of Burma Campaign UK, responded to ACCORD's information request regarding progress made towards agreements with the Burma Lawyers' Council (BLC), the National Council of the Union of Burma (NCUB), the Members of Parliament Union – Burma (MPU) and the Assistance Association for Political Prisoners (AAPP):

"To my knowledge no agreement has been made with these groups, and they all remain banned organisations.

The NCUB has many constituent parts. Some of these member organisations have been in dialogue with the government, but no NCUB level dialogue has taken place. Even where dialogue has taken place with NCUB members, to date none of the dialogue has covered any substantive political issues which would be necessary for any political agreement and/or permanent ceasefire." (Farmaner, 18 September 2012)

2.6 Changes in administrative structures at township and village level since October 2011 and administration of designated self-administered zones

2.6.1 Changes in administrative structures at township and village level since October 2011

As noted by the UN Human Rights Council (HRC) in a report dated 20 March 2012, the Village Act and the Towns Act have been repealed and replaced with the Ward and Village Tract Administration Act (HRC, 20 March 2012, p. 4).

Among the sources consulted by ACCORD within time constraints no English translation of the Ward and Village Tract Administration Act could be found. A Burmese-language version of the law is available via the following link:

- Ward and Village Tract Administration Act [in Burmese language], February 2012 (available at Burma Library)
http://www.burmalibrary.org/KN/1_2012_Ward_and_Village_Administration_Act_Mirror2012-02-25.pdf

The Yangon-based weekly newspaper The Myanmar Times in its issue of 5 March 2012 states the following with regard to the law's passage through Parliament and its provisions as to the method of selecting local officials:

"Ward and village tract officials will in future be elected through secret ballot, after the Pyidaungsu Hluttaw last week narrowly voted down a proposal from President U Thein Sein's office that local officials be selected partly through negotiation.

The Ward and Village Tract Administration Bill had already been approved but was resubmitted to parliament by the president's office with the recommendation that 'secret ballot system' be changed to 'negotiated selection system'. However, lawmakers voted down the proposal 278 to 236, with 12 representatives abstaining from the February 22 vote.

Section 7(c) of chapter 4 of the bill states that each group of 10 households is required to submit the name and personal details of a person living in their ward or village tract who meets the criteria to be an administrator. The proposed amendment would have resulted in these nominees being selected through negotiation rather than a vote – a provision contained in the original draft submitted to the hluttaw by the government but later amended by lawmakers." (Myanmar Times, 5 March 2012)

Among the sources consulted by ACCORD within time constraints no information could be found regarding the implementation of the Ward and Village Tract Administration Act. No further information could be found with regard to changes in administrative structures at township and village level since October 2011.

2.6.2 Administration of self-administered zones

This section does not include information already covered in section 1.6 (pp. 26-28) of the previous Myanmar COI Compilation of October 2011.

The Transnational Institute and the Burma Centre Netherlands (TNI/BCN) reports that five new Self-Administrated Zones (Naga in Sagaing Region, and Palaung, Kokang, Pao and Danu in Shan State) and one new Self-Administrated Division (Wa in Shan State) have been established (TNI/BCN, February 2011, p. 2).

The administrative seats of the self-administered division and the self-administered zones were designated as follows: Hopang for Wa Self-Administered Division, Lahe for Naga Self-Administered Zone, Pindaya for Danu Self-Administered Zone, HoPong for Pa-O Self-Administered Zone, Namhsan for Pa Laung Self-Administered Zone, and Laukkai for Kokang Self-Administered Zone (SPDC, 20 August 2010).

The Myanmar Times in its issue of 16 August 2010 reports as follows on the six self-administered zones and divisions provided for in the 2008 constitution:

“Under the constitution, there are five Self-Administered Zones – for the Pa-O, Danu, Naga, Palaung and Kokang – and the Wa Self-Administered Division.

The six Self-Administered Zones and Divisions are to be run by a Leading Body, made up of at least 10 people. Politicians elected to a State or Regional Hluttaw from a constituency in a self-administered zone or division are automatically members of its Leading Body, and they appoint extra members as necessary. At least 25 percent of the Leading Body are to be military personnel. Ethnic groups with a population of more than 10,000 in a single self-administered zone or division are also guaranteed a representative on the leading body.” (Myanmar Times, 16 August 2010)

As observed by the Thailand-based Shan Herald Agency for News (SHAN), the 2008 constitution further stipulates that the members of the leading bodies shall select a “suitable person” as the chairperson of the self-administered division or the self-administered zone from the region or state legislature (SHAN, 1 February 2011).

By Notification No. 7/2011, released 30 March 2011, the State Peace and Development Council (SPDC) announced that legislative and executive powers of the self-administered division and the self-administered zones have been transferred to the members of the leading bodies (SPDC, 30 March 2011).

2.7 Developments with regard to legislative reforms

For information pertaining to the November 2011 law amending the Political Party Registration Law, see section 2.3.1 of this publication.

2.7.1 Unlawful Associations Act

The Unlawful Associations Act is made available by the Burma Lawyers’ Council via the following link:

- Unlawful Associations Act (India Act 14), 1908 (available at Burma Lawyers’ Council)
http://www.blc-burma.org/html/burma%20code/lr_e_bc02_23.html

Among the sources consulted by ACCORD within time constraints no information could be found on legal developments relating to the Unlawful Associations Act of 1908.

2.7.2 Public assembly laws

As observed by Human Rights Watch (HRW), a new law on the right to peaceful assembly and procession was signed by President Thein Sein on 2 December 2011 (HRW, 15 March 2012).

Among the sources consulted by ACCORD within time constraints no English translation of the Law on Peaceful Assembly and Procession could be found. A Burmese-language version of the law is available via the following link:

- Law on Peaceful Assembly and Procession [in Burmese language], 3 December 2011 (available at Burma Library)
http://www.burmalibrary.org/docs13/Public_Assembly_law%28bu%29.pdf

In an article published November 2011, the Associated Press (AP) news agency quotes an opposition politician as saying that the law would be important because the right to protest had not previously existed in Myanmar. The article briefly summarises the content of the law as follows:

“The protest law says would-be participants must seek permission five days before the event and provide details about slogans and speakers. Protests are prohibited at factories, hospitals and government offices. Staging a protest without permission carries a penalty of one year in prison.” (AP, 24 November 2011)

HRW provides the following more detailed summary of the main provisions as contained in the Law on Peaceful Assembly and Procession:

“The new assembly law requires anyone planning a demonstration to seek permission from the township police chief five days in advance. Permission is required for any gathering of ‘more than one person in a public area ... in order to express their opinions.’ The authorities are required to respond 48 hours before the planned gathering. If permission is denied, the authorities must offer reasons. The law states that the police chief may only refuse a permit if the application is ‘contrary to Union security, prevalence of law and order, community peace and tranquility or public order and morality.’ Organizers may appeal the decision to the state or regional level police authorities. The administrative appeals process is final, with no appeal to the courts allowed. Holding an assembly without permission can result in a one-year prison sentence. Even if permission is granted, the assembly law provides criminal penalties of up to six months in prison for various types of conduct, such as giving speeches that contain false information, saying anything that could hurt the state and union, or ‘doing anything that causes fear, a disturbance or blocks roads, vehicles or the public.’ These offenses are articulated in vague and uncertain terms, Human Rights Watch said.” (HRW, 15 March 2012)

2.7.3 Union laws

BBC notes that on 11 October 2011 a new law was signed by the president which allows workers to form unions and go on strike (BBC, 14 October 2011). According to ICG, this law,

called the Labour Organisation Law, was brought into force on 9 March 2012 (ICG, 11 April 2012, p. 3).

The Labour Organisation Law is made available by the Alternative ASEAN Network on Burma (ALTSEAN) via the following link:

- Labour Organisation Law (The Pyidaungsu Hluttaw Law No. 7/2011), 11 October 2011 (available at website of Alternative ASEAN Network on Burma)
<http://www.altsean.org/Docs/Laws/Labor%20Organization%20Law.pdf>

HRW briefly summarises key provisions of the law:

"[...], on its face the Labor Organization Law allows for the formation of trade unions and grants unions the right to strike. Workers in the private sector must provide three-days notice to strike, while in the public sector 14 days notice is required. Employers who dismiss workers for organizing or participating in strike action are subject to criminal penalties. However, the law limits the independence of trade unions because unions will have to register with a national registrar appointed by the president." (HRW, 3 November 2011)

Another labour law, called the Settlement of Labour Dispute Law, was enacted on 28 March 2012, according to Myanmar-based news provider Eleven Media (Eleven Media, 27 July 2012). As noted by AI, this law "promotes and protects the rights of workers, and was drafted with the help of international experts" (AI, 18 June 2012).

The Settlement of Labour Dispute Law is available via the following link:

- Settlement of Labour Dispute Law (The Pyidaungsu Hluttaw Law No. 5/2012), 28 March 2012 (available at Burma Library)
http://www.burmalibrary.org/docs13/Labour_Disputes_Settlement_Act-2012-en.pdf

Among the sources consulted by ACCORD within time constraints no further information pertaining to the Settlement of Labour Dispute Law could be found.

2.7.4 Land reforms

In an article dated 23 August 2012, Mizzima notes that in August 2011 the then Minister for Agriculture and Irrigation, Htay Oo, submitted a new Farmland Law to Parliament, quickly followed by the Vacant, Fallow and Virgin Lands Management Law. Amended versions of both laws were approved during the third session in early 2012. As stated by Mizzima, the laws "represent the most substantial change to the legal framework for land since the early 1960s when everything was nationalized". (Mizzima, 23 August 2012)

Among the sources consulted by ACCORD within time constraints no English translation of the Farmland Law could be found. A Burmese-language version of the law is available at Burma Library via the following link:

- Farmland Law [in Burmese language], 30 March 2012 (available at Burma Library)
http://www.burmalibrary.org/KN/30.3.12_Farmland_law-red.pdf

An unofficial English translation of the Vacant, Fallow and Virgin Lands Management Law is made available by the Alternative ASEAN Network on Burma (ALTSEAN) via the following link:

- Vacant, Fallow and Virgin Lands Management Law (Pyidaungsu Hluttaw Law No. 10 of 2012), 30 March 2012 (available at website of Alternative ASEAN Network on Burma)
<http://www.altsean.org/Docs/Laws/Vacant%20Lands%20Fallow%20Lands%20and%20Virgin%20Lands%20Management%20Law.pdf>

In an August 2012 article, the Diplomat, a Tokyo-based online magazine covering politics, society and culture in the Asia-Pacific, briefly summarises the content of both laws, before looking briefly at their potential impact on farmers:

“The new laws officially reintroduce the concept of private ownership, which means land tenure rights – all land remains the property of the state and can be nationalized by the government if necessary – can be sold, traded, or mortgaged. In one sense this is a positive step, as land was already being traded illegally but openly on a black market with little transparency. But the new laws also remove some protections for farmers; for example, allowing land to be repossessed if they fall into debt.

Activist U Win Myo Thu of the Burma non-government organization EcoDev warned recently that many farmers could also potentially lose their land under the two laws because they lacked proper ownership documents, citing a survey his organization conducted in 2010 of 1040 farmers in three states that found almost three-quarters had only a land tax receipt as proof of ownership.” (Diplomat, 25 August 2012)

In a written statement submitted to the UN Human Rights Council (HRC) in June 2012, the Hong Kong-based NGO Asian Legal Resource Centre (ALRC) provides the following analysis of the Farmland Law:

“The Farmland Law 2012, while supposedly being forward-looking in fact resembles the authoritarian socialist-era laws of old. The basic rationale of the law is found in article 37(a) of the 2008 Constitution of Myanmar, that the state is the ultimate owner of all land and all natural resources above and below the ground: today, as it was in the past. Accordingly, the law in its section 29 enables the state to take over any land on the pretext of embarking upon a project in ‘the national interest’. Under the law, authorization for the takeover of land, and resolution of any disputes over land usage, lies not with the judiciary but with a new central council, comprising of the agriculture and irrigation minister and deputy minister, the director general of the land revenue and registration department, and unspecified officials from other ‘relevant government departments’ (section 15). Similar councils of unspecified composition will operate at all other levels of government (section 16). Although the law gives no details of who will sit on these bodies, presumably no independent experts, no representatives of farmers’ interests or other outside voices will be invited to participate. The law envisages a system of decision-making that from top to bottom is monopolized by government officials. Furthermore, under the law’s section 4, once the new councils are operational all persons with usage rights to farmland will be obligated to apply for authorization to continue to work it. In other words, even people with tenure over land today may lose it tomorrow

through a process of review and scrutiny of existing holdings that will enable the state not only to identify those areas of land over which it has uncontested possession, but also those areas of land over which farmers' claims are tenuous, or might be contested through the fabrication of alternative documentary claims and the use of various illegal coercive methods.

In short, far from reducing the prospects of land grabbing, the Farmland Law opens the door to confiscation of agricultural land on any pretext associated with a state project or the 'national interest'. Far from guaranteeing the rights of farmland users to cultivate and sell their products for fair prices, it guarantees only that whatever state agencies want, they can get. It also precludes any role for the already weak and ineffectual judiciary, ensuring that administrators and government ministers have final say on all matters of importance concerning the occupation and usage of agricultural land: as indeed they did in the 1970s and 1980s under a one-party regime." (HRC, 11 June 2012, p. 3)

Article 37(a) of the 2008 Constitution of Myanmar, referred to in the above-cited written statement by the ALRC, reads as follows:

"37. The Union:

(a) is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union" (Constitution, September 2008, Chapter I)

For further information on the legal framework regarding land rights and its implementation, please refer to section 9.1 of this publication.

2.8 Release of political prisoners; treatment of former political prisoners

As observed by Amnesty International (AI) in its annual report 2012 (covering 2011 events), the government, in May 2011, freed at least 72 political prisoners under a one-year reduction of all prison sentences. In October of the same year, it released a further 241 political prisoners. However, as remarked by AI, only a few of those released belonged to ethnic minorities. More than 1,000 political prisoners, including prisoners of conscience, remained incarcerated, with AI noting that exact numbers were uncertain due to a lack of transparency in Myanmar's prison system, ongoing arrests as well as differences in the way the term political prisoner is being used.¹ (AI, 24 May 2012)

¹ The Assistance Association for Political Prisoners (Burma) (AAPPB), a Thailand-based human rights organisation, defines a political prisoner as "anyone who is arrested because of his or her perceived or real involvement in or supporting role in opposition movements with peaceful or resistance means" (AAPPB, 9 November 2011). Other groups, such as Amnesty International (AI) and the International Crisis Group (ICG), apparently prefer a narrower definition that only includes "prisoners of conscience", people who are incarcerated for peaceful political opposition (CRS, 5 July 2012, p. 5). Myanmar's government, for its part, denies there are any political prisoners. As observed by the Integrated Regional Information Network (IRIN) in an article published March 2012, President Thein Sein stated the country did not have any political prisoners but only those imprisoned on criminal charges. (IRIN, 29 March 2012b)

In an April 2012 report, ICG notes the following:

"In a series of amnesties over the course of the year, the majority of political prisoners have been released. The largest release, of some 300 including all remaining high-profile dissidents, took place on 13 January 2012. The timing of this release was intended in part to allow imprisoned dissidents to be involved in the political process leading up to the by-elections. Some competed for seats on 1 April under an NLD banner." (ICG, 11 April 2012, p. 2)

Human Rights Watch (HRW) notes that "[o]n September 17, 2012, the Burmese government announced the release of 514 prisoners, of which an estimated 88 were political prisoners. This was the fourth amnesty declared by President Thein Sein in the past year, altogether resulting in the release of nearly 500 political prisoners." (HRW, 19 September 2012)

The Assistance Association for Political Prisoners (Burma) (AAPP), a Thailand-based human rights organisation, provides on its website a list of released political prisoners (including, among other things, their name, prison sentence, organisation, and dates of arrest and release), updated on 25 September 2012:

- AAPP - Assistance Association for Political Prisoners (Burma): Released Political Prisoners List from 2007 up to 2012 (Update On 25 Sep, 2012), 25 September 2012
http://www.aappb.org/Total_Released_1731_PP_List_from_2007_up_to_Sep_2012.pdf

The US Congressional Research Service (CRS) provides a list of prisoner releases as of 5 July 2012, with figures sourced from the AAPP and the Alternative ASEAN Network on Burma (ALTSEAN). The list contains the release date, the total number of prisoners freed as well as the number of political prisoners included in the release:

- CRS - Congressional Research Service: Burma's Political Prisoners and U.S. Sanctions, 5 July 2012, p. 8
<http://fpc.state.gov/documents/organization/195386.pdf>

Reporting on the release of prisoners on 13 January 2012, the Geneva Centre for Security Policy (GCSP), an international training centre for security policy based in Geneva, states:

"This well-calculated move not only served to attract positive attention from the international media, it also took a lot of pressure off the Government. In addition, those prisoners released on 13 January 2012 were only given conditional release meaning that they can be sent back to prison to serve the end of their sentence if they are perceived to break the law." (GCSP, August 2012, p. 24)

Likewise, AI reports the following based on statements made by former political prisoners freed between May 2011 and January 2012:

"A number of former political prisoners noted that they had only been conditionally released under provisions set out in Section 401 of the Criminal Procedure Code. However many told Amnesty International that they have been relatively free to resume their political activity without harassment or intimidation." (AI, 25 May 2012)

The relevant provisions of Section 401 of the Criminal Procedure Code, mentioned in the above-quoted AI report, read as follows:

"(1) When any person has been sentenced to punishment for an offence, the President of the Union may at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced

(2) Whenever an application is made to the President of the Union for the suspension or remission of a sentence, the President of the Union may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion, and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted in the opinion of the President of Union, not fulfilled, the President of the Union may cancel the suspension or remission, and there upon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by police-officer without warrant remanded to undergo the unexpired portion of sentence." (Code of Criminal Procedure, 1898, Section 401)

The US Congressional Research Service (CRS) comments as follows on President Thein Sein's use of Section 401 of the Criminal Procedure Code:

"The use of Section 401 authority raised the issue of possible conditions on the prisoners' sentence suspension. Burma's Code of Criminal Procedure grants the president authority to suspend or remit sentences, with or without conditions, as well as cancel the suspension or remission if the person in question fails to fulfill the conditions for her or his release. Following their release on January 13, several former political prisoners indicated that they had been provided unconditional pardons, but a few had said that they were instructed to limit their political activities. None of the prisoners released were placed under house arrest. However, Sithu Zeya said to reporters that he was told that if he committed any crime, he would have to serve the remainder of his 18-year sentence. 'It is like we are being freed with leashes still attached to our necks,' he said. Because President Thein Sein based the January 13 sentence suspension on Section 401, he did not need to obtain the approval of Burma's National Defence and Security Council (NDSC), a constitutional body with significant power, consisting of Burma's president; its two vice presidents; the speakers for each chamber of its parliament; the commander-in-chief and deputy commander-in-chief of defense services; and the ministers of border affairs, defence, foreign affairs, and home affairs. President Thein Sein may have decided to use Section 401 authority to avoid NDSC review [...]" (CRS, 5 July 2012, p. 7)

With regard to the treatment of freed political prisoners, ICG in its above-cited April 2012 report notes the following:

"Unlike in the past when released political prisoners were subjected to intense scrutiny of their activities and faced social ostracism, those released over the last year have been able to resume political activities, travel abroad, and lead relatively normal lives. The most prominent dissidents released in this period, the '88-generation student leaders, were struck by the contrast with their last release eight years ago: this time, unlike then, they were mobbed by domestic journalists on arrival in Yangon after their release, and they have been able to open an office and conduct political activities, including speaking tours and public speeches, without harassment. One of the student leaders recounted how, within a few weeks of being released from prison, he was among five prominent individuals invited by a leading Myanmar news journal to present prizes at an award ceremony; one of his fellow presenters was the son of one of the most powerful retired generals in the country." (ICG, 11 April 2012, p. 2)

However, the Oxford Burma Alliance (OBA), a UK-based student-run organisation working to raise awareness on Myanmar issues at University of Oxford, states on its website (presumably updated in 2012):

"Concerns about treatment of former political prisoners after their release remain. Such treatment may include: extensive monitoring by intelligence services; the threat of re-arrest; harassment of former political prisoners and their families; social exclusion; denial of access to key documents such as passports; denial of access to education and employment due to the possession of a criminal record; and the denial of political rights, including exclusion from voting in or standing as candidates in elections, joining political parties, and from forming political parties or civil society groups." (OBA, undated (a))

In a June 2012 article, AlertNet, a humanitarian news service run by Thomson Reuters Foundation, reports that many former political prisoners are denied passports and barred from travelling abroad. Hundreds of ex-political prisoners are also in poor health due to harsh detention conditions, but, as mentioned by a former political prisoner, receive only little, if any, systematic assistance. (AlertNet, 30 June 2012)

In a press release dated September 2012, HRW likewise states:

"The Ministry of Home Affairs has refused to issue passports to many released political prisoners, including democracy and human rights activists, public interest lawyers, and journalists. Freed dissidents have also been denied the ability to resume their university studies, and released prisoners continue to lack adequate psychosocial support for the torture, mistreatment, and trauma associated with years – and in some cases decades – of imprisonment." (HRW, 19 September 2012)

In a monthly report on political prisoners for May 2012, the AAPP addresses difficulties encountered by former political prisoners when trying to get passports:

"Reports of former political prisoners who are being harassed or ill-treated by authorities continue to surface. Some former political prisoners are not able to exit Burma since they are facing difficulties in getting passports. While other Burmese citizens usually get their passports three weeks from the moment of application, many former political prisoners

have been waiting for months. Applicants who submitted a request months ago and are still waiting for a reply believe the delay is due to their political activity. Like many other former political prisoners, blogger Nay Phone Latt had applied for a passport in February 2012 and is still waiting to hear from the passport office. On one occasion, it was indicated to him that his name was on a confidential list of people who are banned from getting a passport for a year. Similarly, U Hkun Tun Oo, the leader of the Shan Nationalities League for Democracy (SNLD), has been named the recipient of a US congressional award but will not be able to receive the award until he is issued a passport so he can travel to the US [...]. One group of former political prisoners who have been seriously affected by this trend consists of students who were released in the January 2012 amnesty. Apart from the fact that many of them are not permitted to continue their studies in Burma, they cannot apply to universities outside of Burma or participate in international seminars, as their passports are being delayed. 'Now that we have been released, we do not get the same rights as other citizens', says Ko Ko Gyi, one of the 88 generation leaders. 'I feel that we are being treated as second class citizens.'" (AAPP, June 2012)

For information on the treatment of former political prisoners, please also see:

- HRW - Human Rights Watch: Burma: Former Political Prisoners Persecuted, 17 September 2012 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/local_link/227629/335531_en.html

2.9 The National Human Rights Commission's role and responsibilities

As noted by Human Rights Watch (HRW) in its annual report on the human rights situation in 2011, the government has created a new National Human Rights Commission on 5 September 2011, comprising 15 former ambassadors, academics, and civil servants (HRW, 22 January 2012).

Regarding the establishment of the National Human Rights Commission and its mandate, the UN Special Rapporteur on the situation of human rights, Tomás Ojea Quintana, states the following:

"On 5 September 2011, the national human rights commission was established by Presidential Decree (Government notification No. 34/2011) with a mandate to promote and safeguard the fundamental rights of citizens described in the Constitution. On 7 October, the commission issued a notification that it could receive complaints from citizens, although matters that had been brought before or were under court proceedings or had been decided by a court would not fall within its competence." (HRC, 7 March 2012, p. 5)

The US Department of State (USDOS) in its country report on human rights practices for 2011 notes:

"The government created the Myanmar National Human Rights Commission on September 5 following Quintana's August 21-25 visit. Commission members reported the commission intended to conform to UN guidelines for an independent national human rights commission and eventually bring the country into compliance with the Paris

Principles on Human Rights. On October 7, the government announced procedures for citizens to file complaints of human rights violations with the commission, and at year's end the commission had accepted hundreds of complaints, reportedly focused on issues related to tenure rights and land confiscation. At year's end, however, the commission's ability to operate as a credible, independent mechanism remained untested." (USDOS, 24 May 2012, section 5)

The announcement of the Commission's formation (Notification No. 34/2011) was published in the state-run newspaper The New Light of Myanmar in its issue of 6 September 2011, available via the following link:

- Government of Myanmar: Formation of Myanmar National Human Rights Commission; Notification No. 34/2011, 5 September 2011 (available at New Light of Myanmar: Volume XIX, Number 138, 6 September 2011, pp. 1 and 5)
<http://www.myanmars.net/myanmar/2011/myanmar20110906.html>

The Commission's notification regarding the receipt and review of complaints from citizens, published in The New Light of Myanmar on 7 October 2011, is available via the following link:

- National Human Rights Commission: Accepting of complaint, 6 October 2011 (available at New Light of Myanmar: Volume XIX, Number 169, 7 October 2011, p. 7)
<http://www.myanmars.net/myanmar/2011/myanmar20111007.html>

In a jointly prepared Power Point presentation on the Myanmar National Human Rights Commission, the Burma Partnership (BP), a regional advocacy network for human rights, and the Thailand-based Human Rights Education Institute of Burma (HREIB) list the following responsibilities and entitlements of the National Human Rights Commission, citing a letter sent by the Commission:

- To accept complaint letters on violation of citizens' fundamental rights stipulated in the Constitution of the Republic of the Union of Myanmar, to investigate the complaints and to forward the findings of investigation to relevant government departments and organs so as to take necessary action
- To investigate information acquired on violation of citizens' fundamental rights and to forward the findings of investigation to relevant government departments and organs so as to take necessary action
- To assess whether rights defined in international human rights conventions to which Myanmar is a party are fully enjoyed, and to advise on Myanmar's reports to be submitted to international human rights organizations
- To assess whether Myanmar should join the international human rights conventions to which Myanmar is not yet a party, and to present recommendation on it
- To contact and work with UN agencies and partner organizations both inside the country and abroad which are working for promotion and protection of human rights
- To assist on subject matter regarding human rights capacity building programs and research programs
- To initiate and assist in raising public awareness on human rights promotion and protection

- To carry out tasks entrusted occasionally by the state President with regard to human rights promotion and protection
- The Myanmar National Human Rights Commission shall report directly to the President on its conducts and human rights developments in annual reports
- When carrying out its functions, the Myanmar National Human Rights Commission can call upon relevant persons for questioning. It can call for viewing of relevant documents with the exception of those particularly prohibited under state requirements
- No one can sue the Myanmar National Human Rights Commission, Commission members or those assigned tasks by the Commission, whether in criminal proceedings or in civil proceedings, for executing in sincerity responsibilities and entitlements ascribed in this notification
- The tenure of the Commission Chairperson and members shall be the same as that of the state President, and they can serve for two terms” (BP/HREIB, undated)

In a January 2012 report, the Burma Partnership (BP) notes that the Paris Principles², approved by the UN General Assembly in 1993, are widely accepted as the international minimum standards used to determine a national human rights institution’s independence and effectiveness. According to the report, the following elements of the Myanmar National Human Rights Commission constitute “clear violations” of these standards:

“The mandate of Burma’s NHRC is not clearly defined and is based on the 2008 Constitution, a document which violates human rights standards and ensures impunity for human rights violations committed by regime officials. The NHRC was established by Government Notification 34/2011 and its mandate articulated by a notification from the NHRC itself. The NHRC members were appointed by President Thein Sein in another government notification. All members are ‘retired’ civil servants and have a past history of defending the military regime’s record of human rights violations. None of the information about the NHRC is reasonably accessible to the public and victims of human rights violations.” (BP, 10 January 2012, p. 2)

Likewise, the Hong Kong-based NGO Asian Human Rights Commission (AHRC) comments as follows on the National Human Rights Commission:

“The commission is comprised mostly of former diplomats, men who have spent years flatly denying the existence of human rights abuses in Burma, in the face of mountains of evidence to the contrary. It is not comprised in accordance with the internationally agreed upon Paris Principles for national human rights institutions. It does not operate under any legislation and has very vague terms of reference. From interviews of the body’s chairman with media outlets, it would appear that the body upon receiving complaints will do no more than look into them itself – the extent to which it can do this is extremely doubtful, given that it does not have any significant budget or personnel with which to conduct inquiries, let alone a mandate to do so independent of other agencies – and then submit

² For the full text of the Paris Principles, see: OHCHR - Office of the United Nations High Commissioner for Human Rights: Principles relating to the Status of National Institutions (The Paris Principles), as adopted by UN General Assembly resolution 48/134 of 20 December 1993, <http://www2.ohchr.org/english/law/parisprinciples.htm>

its findings to the government departments concerned. Given that government officials in Burma have, along with the members of the commission itself, a track record of denial of wrongdoing but also the capacity to respond vigorously to any such complaints with counter-complaints as well as with extra-legal measures to silence complaint, the new commission gives little cause for enthusiasm." (AHRC, 9 December 2011, p. 11)

A joint briefing paper by the International Federation for Human Rights (FIDH), the Alternative ASEAN Network on Burma (ALTSEAN), the Asian Forum for Human Rights and Development (FORUM-ASIA) and the Forum for Democracy in Burma (FDB), dating from February 2012, notes the following with regard to the National Human Rights Commission:

"It [The National Human Rights Commission] is created by the government through a 'notification', rather than a legislative instrument to ensure its permanency and accountability to the public through elected leaders. The NHRC has an unclear mandate that is based on the 2008 Constitution, which enshrines impunity and allows for restrictions on fundamental freedoms beyond what is permissible under international law. The President appointed all members of the commission without any consultation with the public; all commissioners are former civil servants or ambassadors who for many years have defended the Burmese government's human rights records in various international fora. In mid-February, NHRC Chair Win Mra publicly expressed reluctance to investigate allegations of human rights abuses in ethnic minority areas." (FIDH/ALTSEAN/FORUM-ASIA/FDB, February 2012, p. 6)

2.10 Parliamentary debate on human rights, including on sensitive issues

In a November 2011 briefing paper assessing the human rights situation in Myanmar one year after the 2010 general election, Human Rights Watch (HRW) indicates the following regarding the country's new parliamentary structure and debates in Parliament:

"The new parliamentary structure in Burma has created more space for discussion on previously off-limits issues in the bicameral national assemblies and 14 state and regional assemblies. Previously sensitive issues have been discussed, such as nationality for the ethnic Rohingya Muslim minority, prisoner amnesties, teaching of ethnic languages in the official curriculum in ethnic minority areas, and cross-border trade issues. Yet, questions have to be approved two weeks in advance and the formalistic speeches found in the transcripts show little signs of robust democratic debate. This is certainly a change, but it remains a long way from being a genuinely democratic legislative forum and representative people's house." (HRW, 3 November 2011)

The International Institute for Strategic Studies (IISS), a UK-based research institute in the field of international affairs, likewise notes in an article dated November 2011 that among the matters debated in parliament have been the peace process with ethnic-minority insurgent groups, education in local languages in ethnic-minority states, and the legality of private education. The article continues by stating that "[t]he range and freedom of open political discussion is new in Myanmar. Under the guidance of Thura Shwe Mann, speaker of the lower house, debates are becoming more vocal – and the wider population is becoming more interested in what is happening in the capital". (IISS, November 2011)

As observed by Freedom House (FH) in its report Freedom in the World 2012 (covering 2011 events), the government allowed parliamentarians to address issues of democratic rights. The lawmakers were “severely limited” in the time allotted for speaking, but they were not harassed for their remarks (FH, March 2012). In an April 2012 report, ICG refers to Myanmar’s legislatures as “key drivers of change” and adds:

“Debates in the legislatures on draft laws and motions have in general been remarkably open and dynamic. Although the opposition parties have only a small proportion of the seats in both houses, their motions have often been supported by members of the military bloc and the dominant Union Solidarity and Development Party (USDP). Motions introduced by the USDP have often also been supported by opposition legislators. Under strong leadership of the speakers, legislators have been encouraged to vote on the issues as they deem appropriate, rather than along party lines. On some issues the votes of the military bloc and the USDP have been split, with no party discipline imposed.” (ICG, 11 April 2012, p. 3)

The Konrad Adenauer Foundation (Konrad-Adenauer-Stiftung, KAS), in a report dating from June 2012, mentions that there are no adversarial debates taking place in Parliament, but only a kind of “question time” for the parliamentarians. The report further states:

“When parliaments were convened in spring 2011, new opportunities for political debate and for voicing emerging societal demands did indeed emerge. Political developments have far exceeded expectations expressed in the context of the 2010 elections.

Virtually immediately after the parliaments had been convened, the opposition politicians used their positions as Members of Parliament to put critical questions to the government. While there are no adversarial debates taking place in Parliament, rather only a type of ‘question time’ for the parliamentarians, the opposition representatives used this opportunity, as well as the public arena outside Parliament, with great efficiency to put forward critical questions and comments. What was surprising – even to the opposition representatives – was the fact that the media reported fairly freely on these inquiries.

Parliament found its role within a few months. The parliamentarians are actively involved in legislative processes and have mainly sought to further reforms in certain areas. They have advocated increased spending on education and health. There is a debate taking place over a new labour law, which even envisages the setting up of independent trade unions. A new land and agriculture law is under discussion, and in this context the parliamentarians have repeatedly rejected the responses to parliamentary questions provided by the Minister for Agricultural Affairs as inadequate. Parliament passed a new party law, which provided the necessary conditions for the re-registration of the NLD amongst other things. In January 2012, the government finally brought the draft of the national budget before Parliament for the first time, which was then discussed. One of the facts that emerged was that nearly a quarter of the national budget goes to the military budget (a fact that was not questioned or criticised publicly – there are still certain boundaries the parliamentarians must respect), as well as the fact that 94 per cent of the budget is controlled and disbursed by the central government so that the governments

and parliaments of the regions and of the ethnic states have virtually no funds at their disposal to use at their discretion.

The initiatives and critical comments at parliamentary level in connection with these events have not come solely from members of the opposition or ethnic parties by any means. USDP representatives and even members of the 'Army Representatives' do not vote with the government as a monolithic block, but participate in critical debates and have on occasion voted against government proposals. Particularly USDP representatives who are well-respected citizens in their constituencies and not former military personnel are no longer happy to blindly support government proposals. All in all, a remarkable parliamentary culture has therefore developed within the course of a year, a turnout which no opposition politician and no domestic or foreign observer had expected. However, neither are parliamentary procedures clearly structured, nor are the relationship and the operating practices between the two chambers of parliament clearly determined." (KAS, 8 June 2012, pp. 95-96)

The Central Intelligence Agency (CIA) in its World Factbook on Burma (as updated on 4 October 2012) notes that debate in Parliament is becoming increasingly open (CIA, 4 October 2012, Introduction). As for the political climate in general, the UN Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, after returning from a six-day mission to Myanmar in August 2012, states:

"During my mission, there was greater openness in discussing human rights issues and more critical debate and analysis on the direction, pace and scope of reforms, in particular on the challenges and risks. State and national institutions that have important roles in furthering democratic transition and ensuring respect for human rights, such as Parliament and the National Human Rights Commission, have continued to develop." (OHCHR, 4 August 2012a)

In a report covering events in July 2012, the Alternative ASEAN Network on Burma (ALTSEAN) notes under the heading "NLD makes impact in Parliament" that despite voicing disappointment over the lack of genuine debate in Parliament, NLD parliamentary members raised important issues, such as the protection of rights for ethnic nationalities and good governance (ALTSEAN, August 2012, p. 4).

Agence France-Presse (AFP) reports in an article published 17 July 2012 that the Parliament agreed to discuss amendments to the Emergency Provision Act and the Unlawful Association Act, a pair of laws widely used to detain dissidents and ethnic rebels during the former junta's rule. As stated by the article, debating their future is a sign of the mood for reform in Myanmar's "fledgling democracy", even though "it is unclear how much support there is in parliament for changing the laws". (AFP, 17 July 2012)

3 Security and human rights situation

3.1 Background

This section does not include information already covered in section 2.1 (pp. 29-32) of the previous Myanmar COI Compilation of October 2011.

A July 2012 report by the Transnational Institute and the Burma Centre Nederland (TNI/BCN) notes:

“Since President Thein Sein assumed office, events in the conflict-zones have moved quickly and ethnic parties remain doubtful about the government’s real objectives. The prospect of peace has been welcomed by all sides. However, over the past year, different government officials and army commanders have been involved in ethnic affairs; different tactics have been employed against different ethnic groups; agreements have not always been kept; and there has been an underlying perception by ethnic groups of a strategy of ‘divide and rule’ on the part of government to prevent them from working together.

Of particular concern are Tatmadaw offensives begun under the Thein Sein government against the Kachin Independence Organisation and the Shan State Army-North, both of which had ceasefires in the State Peace and Development Council (SPDC) era, and Nay Pyi Taw officials appear unable to halt military operations on the front-lines. The consequences have been profound. Hundreds of lives have been lost; over 60,000 civilians internally displaced; and many villages destroyed. The recent outbreak of communal violence in the Rakhine State further highlights the complexity of ethnic challenges in the country.” (TNI/BCN, July 2012, pp. 2-3)

The International Crisis Group (ICG) in a report published July 2012 comments as follows on prospects for peace between the government and armed ethnic groups and on the role of natural resources in the country’s internal conflicts:

“In addition to the political and economic reforms, the third major transition taking place is that from a country at war to a country at peace. The peace processes are still in their fragile initial phases, but there is a clear momentum towards ending long-running conflicts with armed ethnic groups. For the first time, the government has shown a willingness to consider solutions to the underlying political grievances. On the key issue of more equitable resource sharing between the centre and the ethnic states, it has been suggested that it will soon propose an amendment to the constitution.

One conflict – with the Kachin Independence Organisation (KIO) – has yet to be resolved, although three informal meetings in May and June with the new government peace committee have given rise to some optimism that an end to the fighting is possible in the coming weeks. A deal would be an historic achievement – the first time in 60 years that the guns were silent across Myanmar. [...]

Myanmar’s borderlands are rich in resources. This includes gem and mineral wealth, forest products (especially teak) and enormous hydropower potential. The decades-long conflicts have become intimately entwined with resource extraction. In part, it has been the need of

armed organisations to support standing forces and fund their operations that has driven resource exploitation. But at the same time, the lucrative profits from these activities have also been a driver of the conflicts. This has always been the case but has been exacerbated over the last twenty years by a combination of army offensives, the ceasefire deals in the 1990s and the splitting or splintering of armed groups. This created complex overlapping areas of control and influence, and for some groups the conflicts became as much about access to resources as about pursuing ideological goals. [...]

This current peace process offers the opportunity to move beyond the exploitative economic practices of the past and to bring broad-based development to the borderlands. The willingness of the government to move beyond security agreements to address longstanding political grievances is unprecedented and could open the way to demilitarisation. However, the path ahead is not easy; political grievances and mistrust run deep, and powerful economic actors are deeply entrenched.

The huge potential for profits in the border areas, combined with a highly militarised situation, also creates a risk of warlordism. The key ethnic leaders generally have both political and business interests, and it is often difficult to separate ideological from economic motivations." (ICG, 27 July 2012, pp. 15-16)

In its travel advice for Myanmar, last updated August 2012, the German Foreign Office notes that armed clashes pitting government forces against rebel armies continue to occur in parts of Kachin State and northern Shan State. In some border areas where armed rebel groups operate (parts of Chin, Shan, Mon, Kayin and Kayah States as well as of Sagaing Region), the situation remains tense. Unmarked minefields pose an additional threat. As observed by the German Foreign Office, a state of emergency was declared across Rakhine State in response to ethnic clashes that erupted in June 2012. The German Foreign Office further states that incidents of politically motivated violence cannot be ruled out. Time and again, Myanmar has witnessed bomb attacks resulting in deaths and injuries. (German Foreign Office, 2 August 2012)

In an article of August 2012, the Myanmar Times cites ethnic party leaders commenting on the "danger of further outbreaks of communal unrest in the country's border areas":

"Ethnic party leaders have warned of the danger of further outbreaks of communal unrest in the country's border areas if the government does not seriously tackle the issue of illegal migration. They said there was a risk, particularly in Chin, Kachin and Shan states, of a repeat of the conflict that has afflicted Rakhine State since late May because citizens of foreign countries have settled inside Myanmar's border and are resented by locals." (Myanmar Times, 20 August 2012)

3.2 Human rights issues

This section does not include information already covered in section 2.2 (pp. 32-34) of the previous Myanmar COI Compilation of October 2011.

In a report documenting the human rights situation in Myanmar from March 2011 to March 2012, the Thailand-based Network for Human Rights Documentation – Burma (ND-Burma) states:

“There is still a serious concern for the human rights situation in Burma. The ongoing civil war in ethnic areas has directly resulted in killings, land confiscation, forced labour, child soldiers, forced relocation, torture and ill treatment. Fighting in Karen State intensified after the 2010 election, until a ceasefire agreement was reached between the KNU and the government’s peace negotiation team in January 2012. The Burmese armed forces continue to launch offensives against the Shan State Army (south) and the Shan State Army (North) even though a ceasefire agreement was signed more than four months ago. Finally, a seventeen year ceasefire agreement between the Kachin Independence Army (KIA) and the Burmese armed forces fell apart when the military attacked a strategic KIA post on June 9 2011, despite President Thein Sein ordering the army to halt offensives in Kachin State.” (ND-Burma, 8 May 2012, p. 2)

In a news release of August 2012, the Office of the United Nations High Commissioner for Human Rights (OHCHR) renders statements by Tomás Ojea Quintana, UN Special Rapporteur on the human rights situation in Myanmar:

“Despite wide-ranging positive developments, Myanmar continues to grapple with serious human rights challenges which, as recent events in Rakhine state demonstrated, need to be addressed for democratic transition and national reconciliation to succeed, the United Nations Special Rapporteur on the human rights situation in Myanmar said on Saturday evening at the end of a six-day official visit to the country.

Tomás Ojea Quintana, who visited Myanmar from 30 July to 4 August, said he was encouraged to see increasing engagement of civil society, political parties and other stakeholders in the reform process, greater openness in discussing human rights issues, and efforts towards building a society based on the rule of law. National institutions with important roles in furthering democratic transition and ensuring respect for human rights, such as Parliament and the National Human Rights Commission, have continued to develop. But he highlighted a number of key human rights concerns, including the situation in Rakhine state and the related detention of United Nations staff members, the continued detention of prisoners of conscience, and the situation in Kachin state.” (OHCHR, 4 August 2012b)

3.2.1 Physical violence

This section does not include information already covered in section 2.2.1 (pp. 34-35) of the previous Myanmar COI Compilation of October 2011.

In its Country Report on Human Rights Practices published May 2012 (covering events of 2011), the US Department of State (USDOS) mentions reports on arbitrary or unlawful killings unrelated to internal conflict that were perpetrated by government or its agents (USDOS, 24 May 2012, section 1a). The USDOS further notes that “[u]nlike in previous years, there were few reports of the ‘disappearance’ of private citizens outside of prison and the border region

for prolonged periods for interrogation by authorities without notification of family members” (USDOS, 24 May 2012, Section 1b). While laws prohibit torture, the report states that “members of the security forces reportedly tortured, beat and otherwise abused prisoners, detainees, and other citizens”. Like in previous years, little if any action was taken by the authorities to investigate such incidents or punish perpetrators. (USDOS, 24 May 2012, section 1c)

In a section detailing abuses committed in the course of the country’s internal conflicts, the USDOS refers to reports of killings, torture and other ill-treatment, abductions, forced labour and rape as a war tactic in Shan, Kachin, Mon and Kayin (Karen) States. As noted by the USDOS, “[t]here were no reports of government efforts to protect the population from conflict-related abuses”. (USDOS, 24 May 2012, section 1g)

The Summary of a May 2012 report by ND-Burma provides the following information regarding incidents of torture and ill-treatment since the 2010 general election:

“From January to December 2011 alone, ND-Burma’s member organizations documented 371 cases of human rights violation across the country of which 83 cases, or 22 percent constitute torture and ill treatment. Torture and ill treatment in Burma takes place in two distinct places: (1) in detention centers where political prisoners are interrogated and held, and (2) in ethnic nationality areas where the Burmese military is present.

Torture of political prisoners generally takes place shortly after an individual is arrested during interrogations. It can, along with ill treatment, continue for years – even decades – while political prisoners serve inordinately long sentences.

In ethnic nationality areas torture seldom takes place in formal detention centers but is meted out in military bases or remote rural villages. Shan State and Kachin State are particularly hard hit. Evidence gathered by ND-Burma shows that torture and ill-treatment in ethnic areas often takes place within the context of other human rights violations, including arbitrary arrest, forced labor, forced portering, confiscation of property, restriction of movement, and sexual violence.” (ND-Burma, 28 May 2012, p. 7)

In July 2012, Mizzima, with reference to other sources, reports as follows on the use of landmines by government troops, the Kachin Independence Army (KIA) and the army’s Border Guard Forces (BGF):

“The Landmine Monitor, a research group dedicated to monitoring land mine and cluster bomb use, has issued a statement saying it believes that the Burmese Army and ethnic groups are using antipersonnel mines in armed conflicts with ethnic groups within the country. [...] Since late 2011 to early 2012, Burmese army units have been accused of laying mines in their armed conflict with the Kachin Independence Army (KIA), the Landmine Monitor statement said. [...] Human Rights Watch reported that the KIA encountered Burmese army mines in Momauk Township in October 2011 and that mines had been widely laid by both the KIA and Burmese Army. In July 2011, the KIA claimed to have seized landmines from captured soldiers, and Burma’s National Human Rights Commission has requested groups in the area to avoid mine use, the statement said. In

March 2012, UNOCHA called for Mine Risk Education for people in refugee camps due to reports of landmines laid in their villages in Kachin State. Also insurgents brought into the Burmese Army's Border Guard Forces (BGF) have been accused of mine use. In Oct 2011, the BGF laid mines near fields in Myawaddy Township, said reports, in order to interdict armed groups of the Karen National Union, and the BGF stated they were under orders to lay 500 mines in the area. In January 2012, the Free Burma Rangers reported that BGF forces had told villagers of Pra Day Mu Village in Hpapun Township not to return to their village because of landmines they had laid in the village." (Mizzima, 16 July 2012)

In May 2012, the Karen Human Rights Group (KHRG), a grassroots Karen-led human rights organisation, released a detailed report documenting landmine-related events and issues in seven geographic research areas in eastern Myanmar, which include all or part of Kayin and Mon States and Bago and Tanintharyi Regions. The report is available via the following link:

- KHRG - Karen Human Rights Group: Uncertain Grounds: Landmines in eastern Burma, May 2012

<http://www.khrg.org/khrg2012/khrg1201.pdf>

3.2.2 Forced labour and portering

Please see section 4.5 of this publication for information on this issue.

3.2.3 Extortion, exploitation, land confiscations, arbitrary taxation, forced relocation

This section does not include information already covered in section 2.2.3 (pp. 36-38) of the previous Myanmar COI Compilation of October 2011.

In an article dated May 2012, the Irrawaddy states the following with regard to land confiscation and forced relocation of farmers and their families:

"Land confiscation is being reported near the south coast, in the Rangoon region, around Mandalay and in northern areas close to the border with China. Farmers and their families are being forcibly moved for major projects, such as the oil and gas pipelines being built through the country from the Bay of Bengal to the Chinese border, and for smaller industrial projects by firms with long crony links to the military. Even where the local authorities have sided with expelled farmers, big businesses feel confident enough to ignore them." (Irrawaddy, 15 May 2012)

For further information on land confiscation, please see section 9.2 of this publication.

3.2.4 Human trafficking

Please see section 8.4 of this publication for information on this issue.

3.2.5 Discrimination

The US Department of State's (USDOS) Country Report on Human Rights Practices for 2011 provides the following overview of governmental and societal discrimination against minorities:

"Wide-ranging governmental and societal discrimination against minorities persisted. [...]"

Rohingya Muslims in Rakhine State were discriminated against because of their ethnicity. Most faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages [...].

Ethnic minority groups generally used their own languages at home. However, throughout all parts of the country controlled by the government, including ethnic minority areas, Burmese remained the mandatory language of instruction in state schools, and teaching in local languages was not offered. In ethnic minority areas most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages. The government tightly controlled the limited number of Buddhist monastery-based schools, Christian seminaries, and Muslim madrassahs." (USDOS, 24 May 2012, section 6)

In its International Religious Freedom Report for 2011, the USDOS notes:

"There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice. During the year, social tensions continued between the Buddhist majority and the Christian and Muslim minorities. Widespread prejudice existed against citizens of South Asian origin, many of whom are Muslims. The government continued to refuse to recognize the Muslim Rohingya ethnic minority as citizens and imposed restrictions on their movement and marriage." (USDOS, 30 July 2012, Executive Summary)

In a report published July 2012, the İnsan Hak ve Hürriyetleri ve İnsani Yardım Vakfı (IHH) (English: The Foundation for Human Rights and Freedoms and Humanitarian Relief), an Istanbul-based Islamic humanitarian NGO, notes the following with regard to official discrimination against minority groups, in particular the Rohingya:

"The military regime has subjected ethnic minorities of Burma, where 64 native peoples and more than 200 languages and dialects are spoken, to systematic pressure and discrimination. The ethnic composition of Burma is 68% Bamar, 9% Shan, 7% Karen, 4% Buddhist Rakhine, 3% Chinese, 2% Mon, 2% Indian, and 5% other ethnic groups, including Arakanese Muslims (Rohingyas). The fact that Arakanese Muslims, Shan and Karen people are systematically persecuted by the Burmese state has been confirmed by international institutions.

Ethnic groups face official discrimination at schools and governmental institutions, cultures, languages, history and identities of ethnic peoples are restricted or completely banned. Members of ethnic communities are used as forced labor by the military and face insulting treatment at work. These civilians are treated really badly and they sometimes pay the price of their ethnicity with their lives. Arakanese Muslims are worst affected by discriminative and restrictive policies.

The 1982 Citizenship Law left Rohingya out of the list of ethnic groups, labeling them as foreigners in their own native land. Today Rohingyas are still not recognized as citizen of Burma. By stripping them off their citizenship, Rohingyas were denied one of their most basic human rights. In those years the government openly supported anti-Muslim riots.

Rohingyas were prevented from travelling outside their towns; those living in northern Arakan were forcefully removed from their homes, coerced into forced labor, and subjected to torture.” (IHH, July 2012, pp. 6-7)

3.3 Chin State

This section does not include information already covered in section 2.3 (pp. 38-39) of the previous Myanmar COI Compilation of October 2011.

In March 2012, the Democratic Voice of Burma (DVB) notes that “[f]ifty-four Burmese army camps remain stationed in all nine main township areas of Chin state” (DVB, 21 March 2012).

The Free Burma Rangers (FBR), a multi-ethnic humanitarian service movement, reports in May 2012 that despite “years of relative peace”, demands for supplies, forced labour and other abuses by army personnel are still present in Chin State:

“There has been no widespread conflict in Chin State for several years. The Chin National Front (CNF) fought against the Burma Army for 23 years, though the conflict was localized to a small area in southwestern Chin State. The CNF signed a ceasefire with the government on 6 January 2012. In spite of years of relative peace, Burma Army demands for supplies, forced labor and other abuses are still present.” (FBR, 2 May 2012)

In an August 2012 report on forced labour incidents in Chin State and Sagaing Region, the Chin Human Rights Organization (CHRO), a Canada-based advocacy group working to promote the rights of Chin people, notes:

“From January 2011 to date, CHRO has documented 20 separate incidents of forced labour, some involving orders to multiple villages. 50 percent of the incidents involved orders from the Burma Army (typically portering), and the other half were orders from the local authorities (typically road construction, planting jatropha, and other forms of manual labour).

In May 2011, the International Labour Organization (ILO) held an official awareness-raising workshop in Hakha, the capital of Chin State, involving more than 160 officials, including administrators, judges, police and Burma Army personnel. This was the first official workshop of its kind held in Chin State and an important step towards tackling the issue of forced labour in the area. At the time of writing CHRO has documented 12 separate incidents of forced labour since the workshop took place, 50 percent portering exacted by Burma Army soldiers and the other half by civilian authorities, including the Chief Minister of Chin State.

At the time of writing, CHRO has not documented any incidents of portering or other forms of forced labour exacted by the military in Chin State in 2012. However, as noted above, the poor infrastructure in Chin State makes it very challenging to collect timely information and much of rural Chin State is very remote and difficult to access; it is therefore very possible that portering or other forms of forced labour exacted by the military has taken place which CHRO has been unable to document. The lack of documentation of forced labour exacted by the military in 2012 should not be interpreted

as evidence of systemic change in the behaviour of the military in Chin State. However, CHRO recognizes that it may be an early indication of efforts on the part of the military - under significant pressure from the ILO - to eradicate the practice of portering and other forms of forced labour. As yet, such efforts are not irreversible and pressure must be sustained to ensure systemic changes in the behaviour of the military." (CHRO, 27 August 2012, pp. 1-2)

A September 2012 report by CHRO which draws on more than 100 interviews conducted among members of the Chin ethnic group, exposes religious freedom violations and human rights abuses perpetrated by state actors. The report summary outlines the main findings as follows:

"For decades, the Chin have suffered deep-rooted, institutionalized discrimination on the dual basis of their ethnicity and religion. Since the SLORC / SPDC era, this has manifested as a pattern of widespread and systematic violations of their fundamental human rights, particularly religious freedom, perpetrated by State actors. CHRO's documentation shows that over a period of many years, religious freedom violations have often intersected with other serious human rights violations, such as forced labour, torture, and other cruel, inhuman, or degrading treatment. For example, worship services and religious gatherings have often been disrupted by Burma Army soldiers, who have taken worshippers for portering and subjected them to torture and other ill-treatment.

Ongoing violations of religious freedom include: widespread restrictions on constructing and renovating Christian infrastructure; destruction of Christian crosses; violations of freedom of religious assembly; and threats, intimidation, and harassment of pastors and missionaries.

A distorted version of Buddhism continues to be imposed by the authorities on the predominantly Christian Chin as a tool of oppression, and arguably as part of an unwritten policy of forced assimilation. This has included forced relocation and land confiscation to build Buddhist infrastructure; forced labour exacted from Chin Christians to build pagodas and monasteries; and most recently, extortion to pay for Buddhist religious festivals.

In preparing this report, CHRO documented:

- The destruction of 13 Christian crosses, many of them large structures over 20 feet tall.
- 15 Buddhist pagodas or monasteries built with forced labour exacted from Chin Christians.
- More than 40 separate incidents of torture or ill-treatment, targeted at Chin on the dual basis of their ethnicity and religion.
- 24 official complaints of violations of religious freedom and other human rights abuses (including rape and extra-judicial killing) lodged by Chin Christians at various levels of government, where no action was taken against the alleged perpetrators.

As well as violations of the right to manifest their religion, proselytize, and assemble for religious gatherings, the Chin have also been subjected to induced and coerced conversion by State actors.

With more than 70 percent of Chin people living below the poverty line, abject poverty and the ongoing food security crisis in southern Chin State have left the Chin particularly vulnerable to induced and coerced conversion.

Of paramount concern to the Chin people today are the government's Border Areas National Races Youth Development Training Schools (known locally as Na Ta La schools, as Na Ta La is the Burmese acronym for Progress of the Border Areas and National Races Development Affairs Programme), run under the Education and Training Department within the Ministry for Border Affairs, dominated by the military. Little research has been conducted into the Na Ta La schools until now.

The schools first opened in around 1994, mandated by a 1993 SLORC decree which provided for the promotion and propagation of Buddhism, and 'vocational training'. They function as a separate education system, primarily targeted at ethnic and religious minorities like the Chin. Chronic underfunding of the mainstream State education system means that families must typically pay costs such as annual fees, school materials, and supplementary income for teachers. These constitute significant economic barriers to accessing education for the Chin. Entry to the Na Ta La schools is free or much cheaper within this alternative system, but CHRO's documentation shows that the Chin are prevented from practising Christianity and face coercion to convert to Buddhism at the schools, despite claims by the government that trainees are free to follow their chosen religion.

CHRO's research reveals that the Ministries for Border Affairs and Religious Affairs work in close cooperation in the implementation of the schools programme. One-third of Na Ta La trainees in 29 such schools across Burma are Chin, indicating that the Chin are specifically targeted for recruitment to the schools. CHRO's documentation illustrates that monks and Buddhist laymen from the Hill Regions Buddhist Mission under the Ministry of Religious Affairs are involved in recruitment to the Na Ta La schools. Chin Christian attendees told CHRO that they faced forced coercion to Buddhism at the Na Ta La schools via the threat of military conscription and other coercive methods. Their testimony shows that monks, Buddhist laymen and Burma Army soldiers have worked together to track down Na Ta La attendees who fled from the schools. Today, the Na Ta La schools arguably function as a cornerstone of the unwritten policy of forced assimilation." (CHRO, September 2012, xiii and xiv)

3.4 Kachin State

This section does not include information already covered in section 2.4 (pp. 39-41) of the previous Myanmar COI Compilation of October 2011.

The following reports by the Kachin Women's Association Thailand (KWAT) and Physicians for Human Rights (PHR) elaborate on abuses committed by government forces against Kachin people between June and September 2011:

- KWAT - Kachin Women's Association Thailand (KWAT): Burma's Covered Up War: Atrocities Against the Kachin People, October 2011
http://www.kachinwomen.com/images/stories/publication/repor_%20book.pdf
- PHR - Physicians for Human Rights: Under Siege in Kachin State, Burma, 30 November 2011
https://s3.amazonaws.com/PHR_Reports/Burma-KachinRpt-full-11-30-2011.pdf

The following HRW report dating from March 2012 details abuses carried out by the Myanmar armed forces as well as the Kachin Independence Army (KIA) since a ceasefire between the two sides broke down in June 2011:

- HRW - Human Rights Watch: "Untold Miseries"; Wartime Abuses and Forced Displacement in Kachin State, March 2012 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/file_upload/1788_1332265298_burma0312forupload-1.pdf

Following a two-week mission to Myanmar in May 2012, Amnesty International (AI) mentions reports of large-scale troop movement to Kachin State as well as of incidents of human rights abuses perpetrated by government forces and the Kachin Independence Army (KIA):

"While there was broad acknowledgement among those we met in Myanmar that civilians are currently bearing the brunt of ongoing fighting in northern Shan and Kachin States, there was almost categorical denial by officials that the Myanmar army is responsible for systematic violations against civilians.

This is starkly inconsistent with credible information our delegation received from Kachins who live and work in areas where a 17-year ceasefire broke down last June. Despite two Presidential directives for the Myanmar army to cease attacks and engage in only defensive actions, we received reports not only of large-scale troop movement to the area, but recent incidents of torture, extrajudicial executions, and sexual violence against civilians. Reports of abuses by the Kachin Independence Army were also received." (AI, 25 May 2012, p. 4)

The Summary of a June 2012 report by the Kachin Women's Association Thailand (KWAT) provides the following information regarding human rights violations committed by the Myanmar army against civilians since a ceasefire agreement with the KIA collapsed in June 2011:

"Since the start of the conflict, there has been a huge deployment of Burmese troops into Kachin State and northern Shan State. Currently about 150 battalions are being used to crush the KIA, tripling the number of Burmese troops in the area. These troops have deliberately targeted civilians for abuse, causing villagers to flee in terror, leaving large swathes of countryside depopulated. There is strong evidence that Burmese troops have used rape systematically as a weapon of war. In the past year, KWAT has documented the rape or sexual assault of at least 43 women and girls, of whom 21 were killed. The rapes have been widespread, occurred in thirteen townships, by ten different battalions.

Women have been openly kept as sex slaves by military officers, and gang-raped in church. There has been complete impunity for these crimes. When the husband of a Kachin woman abducted by the Burmese military tried to press charges, the Naypyidaw Supreme Court dismissed the case without even hearing his evidence. The continued abuse against civilians has swelled the numbers of internally displaced persons in Kachin State to over 75,000, most of whom are sheltering in makeshift camps along the China border, where little international aid has reached them." (KWAT, June 2012, p. 3)

The Irrawaddy reports on 18 July 2012:

"Hundreds of people have lost their lives, thousands have been maimed or injured, and some 70,000 have been displaced from their homes. But after 1,640 battles, the conflict between Kachin rebels and the Burmese army – now into its 13th month – shows no sign of abating. [...]

Farmers and villagers are now being targeted for attacks and interrogation by the government troops who naturally suspect them of being sympathizers or members of the Kachin Independence Organization (KIO).

One Kachin source in Laiza, the headquarters of the KIO on the Sino-Burmese border, told The Irrawaddy recently that the Burmese army plans to overrun the KIO headquarters very soon. Government reinforcements, artillery and mortars have been called into the area. Men and munitions have also been increased around Bhamo in southern Kachin State and in Muse, northern Shan State, both close to KIO strongholds.

The Kachin rebels have an estimated strength of just over 15,000 fighters, many of whom had never seen action until last year because the ethnic army had signed a ceasefire with the government in 1994 – a truce that stood until June 19, 2011, when something approaching a civil war erupted between government forces and the KIO's military wing, the Kachin Independence Army (KIA)." (Irrawaddy, 18 July 2012)

In September 2012, Mizzima notes an increased presence of army forces and KIA fighters in Hpakant Township in Kachin State:

"The Burmese government has increased its military presence in Hpakant Township in Kachin State, and residents are worried that serious fighting will soon break out again. Since August 1, the Burmese government has deployed soldiers in civilian clothes via the Myitkyina-Hpakant route, and 50 to 200 soldiers have been stationed in every Burmese base in the area, a Kachin Independence Army (KIA) military source said. In addition, at least 200 soldiers armed with heavy weapons were deployed by helicopters on August 2. In response, KIA soldiers have been stationed along the Hpakant-Lauhkaung Road in upper Mogaung Township and are on alert, said a KIA source.

On August 29, dozens of Burmese soldiers were killed when a fuel warehouse of the Wai Aung Gabar Company exploded when hit by a mortar shell during fighting, the KIA said. The figure could not be confirmed. Meanwhile, many residents from Hpakant have fled to

Myitkyina and Mogaung because they are worried that fighting will intensify." (Mizzima, 4 September 2012)

An Irrawaddy article dated 11 September 2012 reports with reference to rebel sources that government troops are using Howitzer artillery to shell civilian territory surrounding the Kachin Independence Army (KIA) headquarters of Laiza Town (Kachin State). As noted by Irrawaddy, fighting between the two sides has intensified since July 2012, when, according to the main spokesperson for the KIA's political wing, the Kachin Independence Organisation (KIO), peace talks were put on hold. Turning to the situation of Kachin refugees, the Irrawaddy notes the following:

"Meanwhile, it was also reported that the government now bans all international aid to Kachin refugees in KIO-controlled areas. Vivian Tan, the spokesperson for the United Nations Refugee Agency (UNHCR) in Asia, told The Irrawaddy on Tuesday that around 5,000 Kachin refugees have been forced back to war-torn Kachin State by the Chinese authorities since the middle of August.

Due to hostilities between the KIA and government army that erupted in June last year, around 90,000 civilians have been displaced by fighting in Kachin and northern Shan states, report humanitarian agencies." (Irrawaddy, 11 September 2012)

3.5 Kayin (Karen) State

This section does not include information already covered in section 2.5 (pp. 41-44) of the previous Myanmar COI Compilation of October 2011.

The Summary of an August 2012 report by Physicians for Human Rights (PHR), which is based on a survey of 665 households in eight townships in Kayin (Karen) State and two townships in Tanintharyi (Tenasserim) Region, provides the following information regarding human rights abuses that occurred between January 2011 and January 2012:

"PHR documented abuses that occurred between January 2011 and January 2012 in eight townships in Karen State and in two townships in Tenasserim Division that were populated mostly by Karen people. PHR's research shows that during 2011, as citizens in Rangoon experienced new freedoms, nearly one third of the families we surveyed in Karen State reported human rights violations. Notably, some violations were up to eight times higher in areas occupied by the Burmese army than in areas contested by the Burmese army and insurgent groups. [...]

Though the Burmese army fought skirmishes through 2011 and 2012, they did not engage in major offensives in that state. They did, however, maintain a heavy troop presence in Karen State — an estimated 38 infantry battalions stationed at 200 outposts across the state. Civilians also suffer in these occupied and militarized areas; though there is no fighting, the Burmese army restricts their movements and forces them to provide troops with food and labor." (PHR, August 2012, p. 1)

"Out of all 665 households surveyed, 30% reported a human rights violation. Forced labor was the most common human rights violation reported; 25% of households reported

experiencing some form of forced labor in the past year, including being porters for the military, growing crops, and sweeping for landmines. Physical attacks were less common; about 1.3% of households reported kidnapping, torture, or sexual assault." (PHR, August 2012, p. 2)

In a May 2012 report on the human rights situation in Kawkaeik Township, the Karen Human Rights Group (KHRG) states:

"In the six months since DKBA Brigade #5 troops under the command of Brigadier-General Saw Lah Pwe ('Na Kha Mwe') agreed to a ceasefire with government forces, and in the four months since a ceasefire was agreed between KNLA and government troops, villagers in Kawkaeik Township have continued to raise concerns regarding ongoing human rights abuses, including the arbitrary detention and violent abuse of civilians, and forced labour demands occurring as recently as February 24th 2012. One of the villagers who provided information contained in this report also raised concerns about ongoing landmine contamination in two areas of Kawkaeik Township, despite the placing of warning signs in one area in January 2012 and the incomplete removal of some landmines by bulldozer from another area in March 2012. The same villager noted that the remaining landmines, some of which are in a village school compound and in agricultural areas, continue to present serious physical security risks to local villagers, as well as disrupt livelihood activities and children's education." (KHRG, 7 May 2012, p. 1)

In March 2012, the Democratic Voice of Burma (DVB) reports with reference to information provided by the Karen Women Organization (KWO) that a woman claims she was beaten, drugged and sexually assaulted by two men wearing army fatigues in Kayin (Karen) State close to the Thai border. As noted by the DVB, this was the first reported case of sexual violence since an initial ceasefire between Karen rebels and the government was reached in January 2012. The article further states that

"[t]he incident follows other reports of human rights abuses in Karen state, including attacks on displacement camps, forced labour and looting of supplies by the Burmese army. As part of the ceasefire agreement, the Karen National Union (KNU) agreed to let Burmese soldiers restock their supplies inside rebel territory, which they are alleged to have exploited by sending more troops to the area." (DVB, 6 March 2012)

The KHRG in a report published June 2012 provides the following account of forced labour and extortion in Pa'an (Hpa-An) District during March, April and May 2012:

"During March, April and May 2012, residents of five village tracts in Pa'an District were ordered to perform forced labour without payment and pay arbitrary fees in lieu of forced labour and for damage to crops by animals. Villagers from Htee Hpoh Kyaw, Mya P'Deh and Noh Ta Pweh village tracts T'Nay Hsah Township were ordered to cultivate land for Tatmadaw and Border Guard troops, while T'Kaw Bee village tract residents were ordered to transport building materials from Kawkaeik town and perform forced labour building a water well for the DKBA. Most recently, in May 2012, residents of Htee Wah Blaw village tract were ordered to pay a total of 600,000 kyat (US \$733.50) in lieu of sending six villagers to serve as porters for Border Guard troops." (KHRG, 19 June 2012, p. 1)

Karen News, a news website dedicated to reporting on Karen issues, mentions in August 2012 that villagers in the Three Pagoda and Kyain Seikgyi Township region (Kayin/Karen State) claim to be taxed at checkpoints operated by different armed groups, including the New Mon State Party, the Karen National Union, the Democratic Karen Buddhist Army and the Myanmar army, when travelling by boat along Zami River (Karen News, 12 August 2012).

3.6 Kayah (Karenni) State

This section does not include information already covered in section 2.6 (p. 44) of the previous Myanmar COI Compilation of October 2011.

In February 2012, the Free Burma Rangers (FBR) report as follows on military presence in Kayah (Karenni) State, clashes between government troops and the Karenni Army as well as on human rights abuses against civilians:

“On 15 January 2012 in Hpruso Township, after a battle between the Burma Army and the Karenni Army, Burma Army IB 54 killed a 35-year-old villager named Lu Reh in Htay Byar Nyae. In December 2011, a Light Infantry Battalion (LIB) 57 soldier raped Buu Leh (name changed to protect victim), a villager from Dah Weh Village in Sha Daw Township. On 25 November 2011, six soldiers from IB 428 and IB 531 who were stationed at a training base in Hpruso Township raped three women from Law Jar Village. On 14 January 2012, Infantry Battalion (IB) 295, commanded by Aung Zey Ya, killed a village man in Karenni State.

There are currently 23 Burma Army battalions operating in Karenni State with two to three battalions located within each township. Last month, seven battalions rotated in and out of the area. From 1 January 2012 to 28 January 2012, nine battles took place between the Burma Army and the Karenni Army (KA). Three of the battles took place in Sha Daw Township, two in Maw Chi Township with one battle each occurring in Loi Kaw Township, Baw La Ke Township, Hpruso Township and Demawso Township. The KA did not suffer any casualties in these battles, but the BA suffered a total of ten casualties and ten wounded. The Burma Army units involved were IB 250, IB 135, IB 248, IB 54, LIB 72 and Military Operations Command (MOC) 55. Burma Army soldiers are also stopping civilian vehicles on Shadaw Road, Bawlake Road, and a main hwy running into Thailand and forcing them to transport food, weapons and supplies.” (FBR, 19 February 2012)

In July 2012, the Burma Centre for Ethnic Studies (BCES), a Thailand-based independent think tank and study centre, indicates that “[a]t the moment, there are 15 Burma Army Battalions stationed in Karenni State, ten are based out of Loikaw and the other five out of Pekhon” (BCES, July 2012, p. 4).

The Irrawaddy reports that on 21 March 2012 two children were killed in Kayah (Karenni) State when a bomb exploded near the Lawpita-Taungoo power line. However, it was not clear when the device was planted and by whom. (Irrawaddy, 28 March 2012)

3.7 Mon State

This section does not include information already covered in section 2.7 (pp. 44-45) of the previous Myanmar COI Compilation of October 2011.

In a July 2012 news release, the Human Rights Foundation of Monland (HURFOM), an ethnic Mon human rights group, states that the military in two small villages of Ye Township (Mon State) ordered local people to serve as sentries:

“In two small villages of lower Ye Township, Mon state, resident military battalions are forcing local people to serve as sentries to protect the community perimeters from attack. Despite village security falling under the troops’ authority, the area’s ongoing violence and extortion committed by Mon armed splinter groups has resulted in the soldiers renewing an 8-year-old custom of substituting local civilians for military guards. The villages, unable to afford the exorbitant demands of the Mon splinter groups, remain vulnerable to attack in retaliation for nonpayment, and the military is unwilling to fulfill its role as village protector for fear of assault. Villagers are saddled with the triple threat of roving armed groups, violations committed by the military and depleted income from work hours lost while serving sentry duty.” (HURFOM, 25 July 2012)

Another news release by HURFOM notes that despite a series of ceasefire agreements signed in 2012 between the Myanmar government and ethnic groups, “many civilians continue to experience violations caused by military presence in their villages”. As reported by HURFOM, “[s]ince March, residents of two small villages in Karen and Mon States have been forced to work as porters, carrying heavy loads for the troops, or forced to labor on military plantations”. (HURFOM, 31 July 2012)

In June 2012, HURFOM provides the following information regarding the security and human rights situation in southern Mon State and northern Tanintharyi (Tenasserim) Region:

“HURFOM reports that despite the transitions Burma is now pursuing, local residents in Southern Mon State and Northern Tenasserim still face instability including kidnapping, extortion, violations of rights, and torture. In response to the threat of violence and intimidation, villagers fear for their security, livelihoods, employment, and even their ability to travel outside their homes and communities. The presence of many different insurgent groups and security forces in the region, all seeking to exploit local people, compounds the risks. [...]

Residents report many human rights abuses committed against them in southern Ye Township and northern Yebyu township in Tenasserim Region, including Burmese troops burning homes and demanding arbitrary fees, and similar activities by the various armed insurgent groups.” (HURFOM, 28 June 2012)

3.8 Rakhine (Arakan) State

This section does not include information already covered in section 2.8 (p. 45) of the previous Myanmar COI Compilation of October 2011.

The Summary of an August 2012 HRW report provides the following overview of sectarian violence that erupted in June 2012 between ethnic Rakhine (Arakan) Buddhists and Muslims in Rakhine (Arakan) State (both so-called “Rohingya” and non-“Rohingya” Muslims):

“In June 2012, deadly sectarian violence erupted in western Burma’s Arakan State between ethnic Arakan Buddhists and Rohingya Muslims (as well as non-Rohingya Muslims). The violence broke out after reports circulated that on May 28 an Arakan woman was raped and killed in the town of Ramri allegedly by three Muslim men. Details of the crime were circulated locally in an incendiary pamphlet, and on June 3, a large group of Arakan villagers in Toungop stopped a bus and brutally killed 10 Muslims on board. Human Rights Watch confirmed that local police and soldiers stood by and watched the killings without intervening.

On June 8, thousands of Rohingya rioted in Maungdaw town after Friday prayers, destroying Arakan property and killing an unknown number of Arakan residents. Sectarian violence then quickly swept through the Arakan State capital, Sittwe, and surrounding areas.

Mobs from both communities soon stormed unsuspecting villages and neighborhoods, killing residents and destroying homes, shops, and houses of worship. With little to no government security present to stop the violence, people armed themselves with swords, spears, sticks, iron rods, knives, and other basic weapons, taking the law into their own hands. Vast stretches of property from both communities were razed. The government claimed that 78 people were killed – an undoubtedly conservative figure – while more than 100,000 people were displaced from their homes. The hostilities were fanned by inflammatory anti-Muslim media accounts and local propaganda.

During the period after the rape and killing was reported and before the violence broke out, tensions had risen dramatically in Arakan State. However, local residents from each community told Human Rights Watch that the Burmese authorities provided no protection and did not appear to have taken any special measures to preempt the violence.

On June 10, fearing the unrest would spread beyond the borders of Arakan State, Burmese President Thein Sein announced a state of emergency, transferring civilian power to the Burmese army in affected areas of the state. At this point, a wave of concerted violence by various state security forces against Rohingya communities began. For example, Rohingya in Narzi quarter – the largest Muslim area in Sittwe, home to 10,000 Muslims – described how Arakan mobs burned down their homes on June 12 while the police and paramilitary Lon Thein forces opened fire on them with live ammunition. In northern Arakan State, the Nasaka border guard force, the army, police, and Lon Thein committed killings, mass arrests, and looting against Rohingya.

In the aftermath, local Arakan leaders and members of the Arakan community in Sittwe have called for the forced displacement of the Muslim community from the city, while local Buddhist monks have initiated a campaign of exclusion, calling on the local Buddhist population to neither befriend nor do business with Muslims.” (HRW, August 2012, pp. 1-2)

A report by Amnesty International (AI) dated July 2012 states the following with regard to the communal violence in Rakhine State and the response of the authorities:

"The Myanmar government declared a state of emergency in Rakhine State on 10 June, following an outbreak of communal violence the previous week among the Buddhist Rakhine, Muslim Rakhine, and Muslim Rohingya communities. It remains in effect in several areas. Since then, Myanmar's Border Security Force (nasaka), army, and police have conducted massive sweeps in areas that are heavily populated by Rohingyas. Hundreds of mostly men and boys have been detained, with nearly all held incommunicado, and some subjected to ill-treatment.

While the restoration of order, security, and the protection of human rights is necessary, most arrests appear to have been arbitrary and discriminatory, violating the rights to liberty and to freedom from discrimination on grounds of religion. [...] Amnesty International has also received credible reports of other human rights abuses against Rohingyas and other Rakhine Muslims – including physical abuse, rape, destruction of property, and unlawful killings – carried out by both Rakhine Buddhists and security forces. [...] Myanmar's National Human Rights Commission said on 11 July that at least 78 people have been killed since the violence began, but unofficial estimates exceed 100. Between 50,000 and 90,000 people – with lower figures coming from the government and higher ones from UN agencies – are estimated to have been displaced." (AI, 19 July 2012)

In a July 2012 report, the International Crisis Group (ICG) notes:

"Deadly clashes erupted recently between Buddhists and Rohingya Muslims in Rakhine State. Communal violence is a concern in many parts of the country where there is a history of tensions – suppressed under authoritarian rule – with both Indian and Chinese communities. This particular episode of violence began when three Muslims allegedly raped and murdered a Buddhist woman in late May. In revenge, on 3 June a mob stopped a bus carrying Muslim pilgrims, and ten passengers were beaten to death. Rival Buddhist and Muslim gangs then set fire to houses and attacked and killed people from the other community, in the three northern townships near the border with Bangladesh (a Muslim-majority area) and in Sittwe (capital of the Buddhist-majority state).

A government investigation was formed to look into the bus killings and prosecute those responsible for committing or instigating the violence. When clashes continued to escalate, curfews were imposed, then a state of emergency was declared in Rakhine State, giving the army wide powers to restore law and order. The situation is now under control, but tensions are still high and the underlying grievances are yet to be addressed." (ICG, 27 July 2012, p. 18)

Further information on sectarian violence that erupted in Rakhine (Arakan) State in June 2012 is provided in a July 2012 report by the İnsan Hak ve Hürriyetleri ve İnsani Yardım Vakfı (IHH), available via the following link:

- IHH - İnsan Hak ve Hürriyetleri ve İnsani Yardım Vakfı: Arakan Report, July 2012
<http://www.ihh.org.tr/uploads/2012/arakanraporu-en.pdf>

In August 2012, the Irrawaddy indicates that the authorities imposed three new curfews in Kyauktaw, Minbya and Mrauk-Oo Townships (northern Rakhine/Arakan State) following fresh clashes between Buddhists and Muslims:

“Three more townships in northern Arakan State imposed curfews on Wednesday following fresh clashes earlier this week between Buddhists and Muslims in the strife-torn region, where a total of nine townships are now under lockdown. The curfews – in Kyauktaw, Minbya and Mrauk-Oo townships – are in response to a series of incidents in Kyauktaw on Aug. 5-6 that left property destroyed and an unspecified number of people dead. [...]

According to Thar Kyaw, a member of the state legislature, at least 300 homes owned by both ethnic Arakanese Buddhists and Rohingya Muslims were destroyed by fire after riots broke out on Aug. 5 in five villages – Apauk Wa, Shwe Hlaing, Gut Pi Taung, Ywar Nyar and Taung Pauk. The situation in the area is now ‘stable,’ he told The Irrawaddy on Thursday. [...]

Residents of the three townships said that schools and shops are open as usual, but there is a heavy security presence in the streets. Around five or six policemen or soldiers have been assigned to guard each school and Rohingya village in the area, said residents.” (Irrawaddy, 9 August 2012)

As noted by BBC in an article dated 18 August 2012, a team from the UK’s Channel 4 News revealed that the largest Muslim area in the city of Sittwe, known as Narzi and once home to an estimated 10,000 people, was “razed to the ground” in communal violence that had spread across Rakhine State. The television crew gained entrance to the city despite the authorities barring foreign media from visiting the region. (BBC, 14 August 2012)

In a situation report on displacement in Rakhine State (covering the period from 16 August to 4 September 2012), the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) notes:

“Although the security situation has overall been calm over recent weeks, inter-communal tension remains very high. On 11 August, the Government reviewed the security situation across the state and changed the curfew hours from 6pm until 6am to 7pm until 5am in seven townships, including in Kyauktaw due to recent violence. The Government released nine out of 14 UN/INGO staff that had been held in detention following the recent unrest in Rakhine State.

On 17 August, the Government formed a 27-member investigation commission, which comprises former Government officials, religious leaders, representatives from political parties and entrepreneurs, to identify the causes of the recent violence as well as to give recommendations. The commission is also tasked to submit proposals for ending the conflict as well as to make suggestions for peaceful coexistence between communities.” (UNOCHA, 4 September 2012, p. 1)

A more recent situation report by UNOCHA (covering the period from 6 to 28 October 2012) mentions a new outbreak of sectarian violence in several townships of Rakhine State:

"Since 21 October, violence has again resurfaced in the Rakhine State townships of Kyaukpyu, Kyauktaw, Minbya, Mrauk-U, Myebon, Pauktaw, Ramree and Rathedaung. Tensions increased after monks, women groups and youth groups organized anti-Rohingya and anti-OIC demonstrations in Sittwe, Mandalay and Yangon. The situation continues to be fluid and tense. The local authorities announced that the curfew (07h00 to 17h00) had been extended to new locations, including Minbya and Mrauk-U. Additional troops have been dispatched to the area.

Although the figures will certainly increase, as of the evening of 28 October the Government's partial estimate indicates that over 28,000 people have been displaced from their homes and more than 4,600 houses and religious buildings have been destroyed in the unrest. These figures do not include several thousand people who have fled their houses by sea, nor those who have arrived in Sittwe since 21 October. Government sources indicated that at least 76 people lost their lives in the recent violence.

The recent outbreak of violence followed a relatively quiet period after the communal conflict in Rakhine State, in early June 2012, left at least a dozen people dead and hundreds of homes destroyed, and 75,000 displaced as of late September." (UNOCHA, 28 October 2012, p. 1)

Among the sources consulted by ACCORD within time constraints no information could be found regarding any spillover of sectarian violence from Rakhine State into other parts of the country.

In a report dated August 2012, the Arakan Project, an NGO that advocates for the Rohingya, provides the following overview regarding patterns and prevalence of forced labour in North Rakhine (Arakan) State since June 2012:

"- In areas directly affected by violence – Central and South Maungdaw Township: Forced labour almost ceased for 2 months - from 8 June to 10 August, except for sentry duty in a few villages. Since 10 August, it has restarted, albeit only for the reconstruction of two model villages in Ba Gone Nah and Nyaung Chaung, partially burnt down during the unrest.

- In areas not directly affected by violence – North Maungdaw and Buthidaung Township: Forced labour remains much the same as in previous years and even intensified in some areas. Sentry duty, forced portering and guiding increased in North Maungdaw and North Buthidaung with the deployment of additional troops on high security alert patrolling the Bangladesh border. Large groups of forced labourers, including children, have also been summoned for road clearing and emergency camp repair damaged by the monsoon rains.

The substantial reduction of forced labour in Central and South Maungdaw is a positive development but it is premature to consider this as sustainable progress toward

eradication of the practice. Interestingly, a decline in forced labour exactions was already observed in the same area before the monsoon, mainly attributed to the Garrison Engineers (GE) taking over the construction of strategic infrastructure projects such as the border fence, certain roads and bridges and remunerating labourers adequately (see our submission of 30 May 2012). However, during those recent weeks of turmoil, the NaSaKa and the Army may have had special security reasons for not recruiting forced labourers. Rohingya villagers are unable to move and assemble due to curfew and restrictions under the State of Emergency and many able-bodied men went into hiding or fled to Bangladesh when mass arrests took place.” (Arakan Project, 31 August 2012, p. 2)

For information pertaining to forced labour practices in North Rakhine (Arakan) State between November 2011 and May 2012, see:

- The Arakan Project: Forced labour still prevails: An overview of forced labour practices in North Arakan, Burma (November 2011 to May 2012), 30 May 2012 (available at Burma Library)

http://www.burmalibrary.org/docs13/AP-Forced_Labour_prevails.pdf

3.9 Shan State

This section does not include information already covered in section 2.9 (p. 46) of the previous Myanmar COI Compilation of October 2011.

As observed by the Democratic Voice of Burma (DVB) in an article published June 2012, the Shan State Army-South (SSA-S) and the Shan State Army-North (SSA-N) have engaged in brief clashes with the Myanmar army despite reaching union-level ceasefire agreements with the government. According to an SSA-S spokesperson, the group has had two skirmishes with the military since meeting with the government on 19 May 2012. (DVB, 19 June 2012)

In an August 2012 article, the Democratic Voice of Burma (DVB) states:

“After signing a ceasefire agreement with the Burmese government in January this year, the SSA-N has clashed with the Burmese troops more than 20 times, which includes several skirmishes that broke out between 17 June and 4 July near central Shan state’s Monghsu township.

The group’s spokesperson major Sai La said the Burmese army has been increasing their troop levels, which number in the hundreds, in the Mongook area where fighting erupted this summer as well as along the route to the group’s headquarters in Wanhai in southern Shan state.

‘Previously, there were about 10 troops stationed at the outpost in Nampok and now the number has increased to about 100. Also, there are around 300 troops stretched out in Mongook [and] at Taunghyo and Lwehpapeng hills as well as a battalion positioned along the route south of our headquarters,’ said Sai La.

The Burmese army already had about 10 battalions positioned within SSA-N territories prior to signing the ceasefire agreement. The SSA-N had asked the Burmese government

to withdraw these units following the agreement, but the army continues to reinforce its existing personnel within these areas." (DVB, 22 August 2012)

In an article dated September 2011, the Democratic Voice of Burma (DVB) notes that according to reports, monks in Shan State were among a group of civilians used as human shields by the Myanmar army:

"Monks were reportedly among a group of civilians used as human shields by the Burmese army during an operation to deliver supplies to frontline troops in Shan state on Sunday last week.

The monks were forced to accompany soldiers in the volatile Kehsi Mensi district of Shan state in eastern Burma, which has seen heavy fighting in recent months as government forces battle the opposition Shan State Army (SSA). They were among a large group of men and women taken from Wanhpein village, according to a local there. [...]

The use of human shields by Burmese troops is regularly reportedly in the country's border regions, where the army is fighting a number of wars against ethnic armies who depend to an extent on cooperation and support from locals." (DVB, 21 September 2011)

The Shan Herald Agency for News (SHAN) notes in a September 2012 article that according to aid workers on the Thai border, rural people from southern Shan State continue to cross into Thailand, with migrants ranging "from those in Mongkeung, Laikha, Namzang, Kunhing, Langkher and Mongpan townships where the Shan State Army (SSA) South is active" to "those from Kehsi and Monghsu townships where its sister organization the SSA North is active". The article subsequently refers to an August 2012 report by the Thailand-based Shan Human Rights Foundation (SHRF), which exposes reasons behind this continued outflow of Shan people:

"One reason is that the agreement has not stopped the two sides from fighting. Both factions have reported that each have so far been forced to fight no less than 30 engagements.

'Although the Burmese troops said they had stopped fighting the Shan resistance troops, they were still roaming the rural areas and even reinforcing their troops at some places so that people dared not yet go back to work their farms and fields,' wrote border based Shan Human Rights Foundation (SHRF) in its August report. 'They (the displaced Shans coming to the border) said they came to find their relatives who were already working in Thailand in hope of getting some means of survival. They simply had no choice because they could no longer earn enough to survive by remaining in their villages.'

Reasons cited by them mostly were not different (getting worse in some cases) from earlier reports:

- Kehsi, Mongkeung, Laikha and Namzang townships (Forcible conscription of guides and porters, forced labor, extortion, conscription of villagers' vehicles for transportation, forcing villagers to provide different kinds of foodstuff, killing villagers' buffaloes for food)

- Monghsu and Mongnai townships (land confiscation, destruction of the environment such as water sources by companies)
- Laikha and Kunhing townships (Forced recruitment for government-supported People's Militia Forces)" (SHAN, 5 September 2012)

The August 2012 report by the SHRF, cited in the SHAN article above, is available in full via the following link:

- SHRF - Shan Human Rights Foundation: August – 2012 Monthly Newsletter, August 2012
http://www.shanhumanrights.org/index.php?option=com_content&view=article&id=346:aug-ust-2012&catid=76:2012&Itemid=77

3.10 Irrawaddy Region (formerly Division)

Among the sources consulted by ACCORD within time constraints no relevant information could be found with regard to the security and human rights situation in the Irrawaddy Region.

3.11 Bago (Pegu) Region (formerly Division)

This section does not include information already covered in section 2.11 (pp. 46-47) of the previous Myanmar COI Compilation of October 2011.

The USDOS report of May 2012 (covering events of 2011) contains the following references with regard to Bago (Pegu) Region:

"In July in Pyay town in Bago Region, the army reportedly paid 200,000 kyat (\$440) to purchase five child soldiers from a female trafficker." (USDOS, 24 May 2012, section 1g)

"In August in a military supply and logistics battalion in Taungoo, Bago Region, fellow soldiers reportedly beat a number of child soldiers to death. The government did not hold the alleged perpetrators responsible." (USDOS, 24 May 2012, section 1a)

The above-cited February 2012 joint briefing paper by the International Federation for Human Rights (FIDH), the Alternative ASEAN Network on Burma (ALTSEAN), the Asian Forum for Human Rights and Development (FORUM-ASIA) and the Forum for Democracy in Burma (FDB), states:

"On 24 January, less than two weeks after the KNU signed an 'initial peace agreement' with the government, two Tatmadaw battalions fired mortars into the Ler Doh IDP camp in Eastern Pegu [Bago] Division." (FIDH/ALTSEAN/FORUM-ASIA/FDB, February 2012 p. 3)

3.12 Magway (Magwe) Region (formerly Division)

Among the sources consulted by ACCORD within time constraints no relevant information could be found beyond what has already been covered in section 2.12 (p. 47) of the previous Myanmar COI Compilation of October 2011.

3.13 Mandalay Region (formerly Division)

Among the sources consulted by ACCORD within time constraints no relevant information could be found beyond what has already been covered in section 2.13 (p. 47) of the previous Myanmar COI Compilation of October 2011.

3.14 Yangon Region (formerly Division)

This section does not include information already covered in section 2.14 (pp. 47-48) of the previous Myanmar COI Compilation of October 2011.

In its travel advice for Myanmar, last updated 7 September 2012, the UK Foreign and Commonwealth Office mentions the following 2011 incidents:

"On 21 December 2011 a bomb exploded in a public toilet at Hledan junction, north of downtown Rangoon. Two people were killed, and several injured. [...]"

On 30 October 2011 a grenade, found beneath a car parked at Rangoon's municipal headquarters (YCDC [Yangon City Development Committee]), was destroyed in a controlled explosion." (FCO, 7 September 2012)

In May 2012, the Democratic Voice of Burma (DVB) reports that some 600 tenants in North Okkalapa Township (Yangon/Rangoon Region) received a 10-day notice to move off the property they rented from the Myanmar army:

"About 600 tenants who work in Rangoon's North Okkalapa township on land they rented from the Burmese Army's 435th, 436th and 391st Light Infantry Battalions have been told to move off the property by the end of May after receiving a 10-day notice. 'We rented the land for about 15 years and [the army] is now kicking out tenants from most of the land that belongs to its battalions in Rangoon division. They provided no reason for the eviction apart from stating in the notification that it was due to a 'decision made in a meeting,' said a tenant who runs a shop on the land. [...] According to the shop owner, the tenants were told their property would be demolished if they haven't moved out by the 31st." (DVB, 31 May 2012)

3.15 Sagaing Region (formerly Division)

In a newsletter for March and April 2012, the Chin Human Rights Organization (CHRO) indicates that Chin residents in Kalaymyo (Sagaing Region) were forced by authorities to contribute money for road construction:

"01 April 2012: Chin residents in Kalaymyo of Sagaing Division were ordered to make financial contribution for paving the road with tar under the new government. Each household in Tahan, Sanmyo, Taungzalat and Taungphila blocks where the majority are of Chin ethnicity gave 100,000 Kyats to the municipal department for fund to make a tar surface on the road in front of their houses, according to the Chin Human Rights Organization's source. 'The local authorities verbally threatened those families who were not able to finish the roads. Of course, some didn't have enough money but there hasn't been any further actions taken against them,' said a Chin local from Tahan, who asks not to be named." (CHRO, undated, p. 7)

The newsletter also outlines an incident whereby 25 Chin locals in Kale Township (Sagaing Region) were ordered by an official to contribute labour for construction of a government middle school in the last week of February 2012 (CHRO, undated, p. 7).

3.16 Tanintharyi (Tenasserim) Region (formerly Division)

This section does not include information already covered in section 2.16 (p. 48) of the previous Myanmar COI Compilation of October 2011.

The Free Burma Rangers (FBR) report that on 3 December 2011, the Myanmar army “demanded six porters each from Ta Ket and Nyaung Pin villages, which are both located in Tenasserim Division. If the villagers were unable to work, they had to pay 40,000 Kyat each.” (FBR, 5 March 2012)

In April 2012, Karen News reports that villagers in Myitta Sub Township (Tanintharyi/Tenasserim Region) accuse both government troops and soldiers from the Karen National Liberation Army (KNLA) of engaging in extortion activities:

“Villagers have accuse both the Burma Army and soldiers from the Karen National Liberation Army, Brigade 4, of extorting ‘taxes’ from them in Myitta Sub Township, Tavoy, in the Tenasserim Division Sin Phyu Tai village tract since the beginning of April.

The villagers say the Burma Army Light Infantry Battalion 410, led by Colonel Kyi Soe, head of Tactical Operations Command 1 of operating checkpoints at Wartaw village and demanding 200 Thai baht of each traveler passing through the checkpoint.” (Karen News, 24 April 2012)

The Summary of the above-cited August 2012 report by Physicians for Human Rights (PHR) provides the following information regarding the human rights situation in Dawei (Tavoy) area, Tanintharyi (Tenasserim) Region:

“Human rights violations were significantly worse in the area surveyed in Tavoy, Tenasserim Division, which is completely controlled by the Burmese government and is also the site of the Dawei port and economic development project. Our research shows that more people who lived in Tavoy experienced human rights violations than people who lived elsewhere in our sampling area. Specifically, the odds of having a family member forced to be a porter were 4.4 times higher than for families living elsewhere. The same odds for having to do other forms of forced labor, including building roads and bridges, were 7.9 times higher; for being blocked from accessing land, 6.2 times higher; and for restricted movement, 7.4 times higher for families in Tavoy than for families living elsewhere.” (PHR, August 2012, p. 3)

3.17 Self-Administered Zones

As observed by Mizzima in an article dated April 2012, the separatist Nationalist Socialist Council of Nagaland-K (NSCN-K) has about 500 soldiers and operates in the Naga mountain range in northern Lahe and Nanyun Townships (Naga Self-Administered Zone). The article

further states that “[s]ince 2010, the NSCN-K and the Burmese government have not engaged in armed clashes”. (Mizzima, 19 April 2012)

In March 2012, the Democratic Voice of Burma (DVB) mentions reports on forced conscription of local residents by rebel militias in Palaung Self-Administered Zone:

“Hundreds of Palaung locals in northern Shan state have been conscripted by rebel militias after fighting broke out between armed ethnic groups and government forces, reports from the region claim. According to Mai Kae Dang, general secretary of the Ta’ang Students and Youth Organisation (TSYO), the Shan State Army South (SSA-S) has since mid February conscripted about 300 locals from villages near Namhsan.

The skirmishes in northern Shan state’s Namsang township, the capital of the Palaung Self-Administered Zone, are said to be keeping the Palaung (Ta’ang) people out of their tea fields during harvest, due to conscription. [...]

Major Sai Lao Hseng, spokesperson of the SSA-S and its political wing, the Shan State Restoration Council, said the group is looking into the matter and will punish personnel who were responsible for recruiting locals without official permission. ‘We have some guerrilla units in the region, but there are also troops from the Shan State Army-North. So we need time to distinguish which group is actually [conscripting],’ said the major.” (DVB, 16 March 2012)

Another article by the DVB, dated September 2012, states that more than 1,000 Palaung ethnic residents in northern Shan State and Palaung Self-Administered Zone have been displaced by fighting between government forces and armed groups:

“More than 1,000 Palaung ethnic residents in northern Shan state have fled their homes as fighting between government forces and several ethnic armed groups continues to erupt in the region. Lwe Poe Rein of the Taaung (Palaung) Students and Youth Association said fighting between the Burmese Army and armed groups, including the Kachin Independence Army, Taaung National Liberation Army and the Shan State Army-North, near Kutkhai, Mongtong, Namhsang and Namtu townships has forced residents to abandon their homes. [...]

According to Lwe Poe Rein, the Burmese Army has five battalions active in the region and most of the displaced people are from Pankhagyi, Pankhalay, Naok, Sankaw and Konpaung villages in Mongtong township and Mawaw village in Namtu township.” (DVB, 4 September 2012)

Among the sources consulted by ACCORD within time constraints no further relevant information could be found pertaining to the security and human rights situation self-administered zones.

4 Security forces, military service, armed ethnic minority groups

4.1 Domestic legal framework

This section does not include information already covered in section 3.1 (pp. 49-51) of the previous Myanmar COI Compilation of October 2011.

A country profile published by the German Foreign Office last updated March 2012 includes an overview of Myanmar's foreign policy, indicating that a law concerning the introduction of compulsory military service was drawn up at the end of 2010 but has yet to be implemented (German Foreign Office, March 2012).

An unofficial English translation of this law (called the Public Military Service Law) is made available by Mizzima via the following link:

- Public Military Service Law (State Peace and Development Council Law No. 27/2010), 4 November 2010 (available at Mizzima)
<http://www.mizzima.com/research/4744-the-peoples-military-service-law-of-the-spdc.html>

Among the sources consulted by ACCORD within time constraints no further relevant information could be found regarding this issue.

4.2 Myanmar security forces

4.2.1 Police

This section does not include information already covered in section 3.2.1 (p. 52) of the previous Myanmar COI Compilation of October 2011.

In a 2011 paper, Andrew Selth, Adjunct Research Fellow at Griffith University's Griffith Asia Institute (GAI), points out:

"Even if the latest changes do not meet everyone's high hopes, it still seems to be envisaged that, under Burma's new 'multi-party disciplined democracy', the police force will take a larger and more prominent role in law and order issues.

Possibly in anticipation of such a development, an effort is being made to expand the MPF's [Myanmar Police Force] capabilities, improve its performance and reform its culture. It appears that a serious attempt is being made to try and grapple with some of its longstanding problems, with a view to creating a more professional and civilianised force. The MPF's organisational structure has already become more like those of Western police forces. There is a greater emphasis in training courses on a professional approach to community policing. More specialised instruction is being provided, at all levels. Cadets at the junior commissioned rank must now hold university degrees. Also, some steps have been taken to deal with abuses, and more reforms are promised." (GAI, 2011, p. 16)

Among the sources consulted by ACCORD within time constraints no further relevant information could be found regarding this issue.

4.2.2 Armed forces (Tatmadaw)

Among the sources consulted by ACCORD within time constraints no updated information could be found beyond what has already been covered in section 3.2.2 (pp. 52-53) of the previous Myanmar COI Compilation of October 2011.

4.2.3 Other armed forces

This section does not include information already covered in section 3.2.3 (pp. 53-55) of the previous Myanmar COI Compilation of October 2011.

People's militia

A 2012 briefing paper published by the Burma Centre for Ethnic Studies (BCES), a Thailand-based independent think tank and study centre, gives background information on People's Militia Forces (PMFs) and provides the text of article 340 of the 2008 constitution which enshrines the concept of state militias:

"Since the 1950s, various Burmese Governments have officially created and sanctioned the operations of militia forces in the county's ethnic states. These groups have been used primarily as a military force to fight against ceasefire and non-ceasefire ethnic groups, to control the lives of ethnic populations, and to further secure the country's border areas.

These militias have become notorious for taxing the local population, drug trafficking, illegal gambling, and a wide variety of human rights abuses. They have been allowed to do this with the express permission of local military commanders who have themselves earned money from the variety of illegal activities that the groups operate. In fact, article 340 of the 2008 constitution states that:

With the approval of the National Defence and Security Council the Defence Services has the authority to administer the participation of the entire people in the Security and Defence of the Union. The strategy of the people's militia shall be carried out under the leadership of the Defence Services.

[...] Known as People's Militia Forces (PMFs) or Border Guard Forces (BGFs) they continue to exploit the local population and their existence is detrimental to any future progress being made in ethnic areas. In addition, it is possible that these forces, with the collusion of local army commanders, may seek to derail the current peace process to further maintain their control over the population and the lucrative drugs trade." (BCES, March 2012, p. 1)

In an article of July 2012, Mizzima cites Shan Drug Watch 2012 newsletter, a publication of the Shan Herald Agency for News (SHAN), as stating that "[n]umerous People's Militia Forces, set up by the Burmese army to assist in their operations against rebel ethnic forces, have become key players in the drug trade, both heroin and amphetamines" (Mizzima, 10 July 2012).

Among the sources consulted by ACCORD within time constraints no further updated information could be found regarding this issue.

Swan Arr Shin

Narinjara, an exile-run news organisation covering events in Rakhine (Arakan) State, reports on the following incident involving a “paramilitary group known as Swan-Arr-Shun”:

“A newly-wed woman was gang-raped by three personnel of the Burmese army and the paramilitary group known as Swan-Arr-Shin in Ponnagyun in western Burma’s Arakan State on the 8th of March, after she was taken by them on the pretense of guest inspections.” (Narinjara, 20 March 2012)

Among the sources consulted by ACCORD within time constraints no further updated information could be found regarding this issue.

Union Solidarity and Development Association (USDA)

Among the sources consulted by ACCORD within time constraints no updated information could be found on this issue.

4.2.4 Independence of police vis à vis the military

This section does not include information already covered in section 3.2.4 (p. 55) of the previous Myanmar COI Compilation of October 2011.

In its Sentinel Security Assessment on Myanmar, last updated 10 July 2012, Jane’s Information Group, a US publishing company with a focus on military issues, points out:

“Many senior police officers have either been seconded from the army or have completed military service. According to one source from the Special Branch, the practice of bringing in lieutenants from the army to become police captains, without having completed the standard 10 years in the force, is commonplace. This is believed to be done to ensure that the military controls the police and that it cannot become an independent power base.” (Jane’s, 10 July 2012)

Andrew Selth, in his above-cited 2011 paper, states:

“A number of executive and senior positions in the MPF are now held by serving or former military officers. Over the years, this practice contributed to close operational links between the police and armed forces, and to a police culture that in some ways mirrored that of the Tatmadaw.

This situation is now changing, as the police force itself is changing, but the official MPF website still describes the force as the ‘younger brother’ to the Myanmar Army, and an integral part of Burma’s wider ‘Defence Services.’” (GAI, 2011, pp. 12-13)

Among the sources consulted by ACCORD within time constraints no further relevant information could be found regarding this issue.

4.3 Armed opposition groups, including whether there are any amnesty provisions in the context of ceasefire agreements

4.3.1 *Chin National Front/Army (CNF/CNA)*

GlobalSecurity.org, a US-based website covering military and security issues, describes the formation of the Chin National Front/Army (CNF/CNA) as follows:

"The Chin National Front (CNF) was created in March 1988. In 1987, Chin nationalists took the decision to join an armed coalition against Burma's central government and fight for more autonomy for the various ethnic minority groups represented by the coalition. In 1988, many young Chin fled to the Burma-India border due to pro-democracy unrest in Burma, and some joined the CNF. At first the CNF had no army, but in November 1988 the CNF created the Chin National Army (CNA)." (GlobalSecurity.org, undated)

Human Rights Watch (HRW), in a report dating from January 2009, gives the following overview of the Chin National Front (CNF) and its armed branch, the Chin National Army (CNA):

"Armed insurgency groups have been operating in the ethnic Chin areas since Burma's independence in 1948. These groups became a focal point of the opposition movement following the 8-8-88 uprising as the military heightened its presence throughout the country. It was at this time that the Chin resistance movement gained momentum.

The Chin National Front (CNF) and its armed branch, the Chin National Army (CNA), is the largest organization with a sustained presence in the Chin resistance movement. Ethnic leaders opposed to military rule in Burma established the CNF in Mizoram on March 20, 1988, just months before the 8-8-88 uprising. As many Chin student leaders fled across the border into Mizoram to escape arrest by the army, they filled the ranks of the CNF and joined the armed struggle against the military government.

Over the years, the operations of the CNA have been considerably reduced by the military might of the occupying Tatmadaw in Chin State. In practical terms, the CNA no longer presents any significant military threat to the government. Actual conflict between the Tatmadaw and the CNA is limited to small-scale firefights between Tatmadaw soldiers and heavily outnumbered CNA soldiers.

Events in the CNF/CNA's long and complicated history have exacerbated ethnic divisions between Chin of the Laimi sub-tribe, particularly between Laimi Chin from Falam township who speak a Falam-dialect and are commonly referred to as Falam Chin and Laimi Chin from Hakha and Thantlang townships who speak a Lai-dialect and are commonly referred to as Lai Chin. Although Tial Khar, a Falam Chin, founded the CNF/CNA in 1988, shortly after its formation Lai Chin began to dominate the membership and positions of power in the CNF/CNA. Many Falam Chin left CNF/CNA after Falam leaders broke away from the CNF/CNA in the early 1990s. Over the years, Falam leaders formed several Falam-based resistance groups, including the Chin Integrated Army (CIA), the Chin Liberation Council (CLC), and the Chin National Confederation (CNC). These groups have been relatively

short lived and today are mostly inactive in Chin State. Lai Chin continue to comprise the majority of CNF/CNA's membership.

Although increased dialogue and collaboration has drastically improved relations between the various Chin sub-tribes, many Chin remain skeptical of the political agenda and motives of the CNF/CNA. This, combined with the SPDC's harsh treatment of anyone suspected to be affiliated with the CNF/CNA and the CNF/CNA's own alleged role in abuses, has resulted in a lack of popular support for the CNF/CNA in some parts of Chin State, particularly among the Falam Chin." (HRW, January 2009, pp. 13-14)

In a briefing paper dated January 2012, the Burma Centre for Ethnic Studies (BCES) notes that the CNF has some 200 to 300 fighters (BCES, January 2012, p. 1).

In an article dated 6 January 2012, the Chinland Guardian (CG), an exile-run news organisation providing information on Chin issues, states that the CNF and the Myanmar government reached a ceasefire agreement following two days of peace negotiations in Chin State capital Hakha. The deal includes the opening up of three CNF liaison offices in Matupi, Thantlang and Tedim Towns, the recognition of Chin State's townships of Tedim and Paletwa as the CNF operational base areas, and the agreement to set a date for further peace talks with the Union government. (Chinland Guardian, 6 January 2012)

A more recent article by CG notes that a new agreement between the CNF and the Myanmar government was signed on 7 May 2012, bringing more clarity to the preliminary ceasefire deal of January 2012 (CG, 9 May 2012).

The 7 May agreement, an unofficial English translation of which is made available by CG, includes the following amnesty provisions:

"The parties agreed that the Union-level Peace Team submit to the President the need to declare amnesty to anyone who have been arrested and imprisoned on account of CNF and CNA since the establishment of the organization, effective the date of the signing of this agreement.

The parties agreed to provide the immigration department of Chin State each copies of CNF identity card. All individuals who have been issued identity cards by the CNF shall have the right to obtain the National Identity Card from the Immigration Department.

The parties agreed that the Union-level Peace Team shall carry forward with removing such names in accordance with the law that have been blacklisted as members of the CNF. The parties agreed that there shall be complete immunity for any members of Chin National Front and Chin National Army after the signing of this CNF-Union-level agreement from retrospective criminal prosecution." (CG, 17 May 2012)

4.3.2 Kachin Independence Army (KIA) and New Democratic Army-Kachin (NDA-K)

This section does not include information already covered in section 3.3.1 (pp. 56-58) of the previous Myanmar COI Compilation of October 2011.

The Democratic Voice of Burma (DVB), in an article dated 25 July 2012, reports on continuous fighting between the Myanmar army and the Kachin Independence Army (KIA), stating that the two sides have yet to agree on a location to hold peace talks:

“Clashes between the Kachin Independence Army and Burmese military continue to erupt, while the armed ethnic group and government’s Peace Making Committee have yet to agree on a location to hold peace talks.

Following three unofficial meetings between KIA representatives and the Peace Making Work Committee vice-chairman Railway minister Aung Min, the government’s team proposed to hold a meeting with deputy commander-in-chief of the military lieutenant general Soe Win in Bhamo, Kachin state. [...]

According to the KIA, there have been 83 clashes with government forces this month as of 24 July.” (DVB, 25 July 2012a)

Radio Free Asia (RFA) notes in an August 2012 article that clashes between government troops and rebels of the Kachin Independence Army (KIA) have taken place since a 17-year peace agreement between the two sides broke down in June 2011. According to a joint statement issued by eleven Kachin organisations in August 2012, 90,000 people have been displaced in the fighting since the ceasefire ended. RFA further states that “the three rounds of peace talks held with the KIA since November have yielded little outcome”. (RFA, 31 August 2012)

In a May 2012 article, Burma News International (BNI), a coalition of exiled Myanmar news groups, reports:

“The Kachin Independence Army created a new battalion near Pangwa last week, the former headquarters of the New Democratic Army-Kachin (NDA-K). The bulk of the troops in the KIA’s newest unit, Battalion No. 32, were previously members of an NDA-K faction led by Lauwa Zawng Hkawng who in 2005 was part of failed coup attempt against NDA-K leader Zahkung Ting Ying.

In 2009 the NDA-K was officially dissolved and its 1,000 troops transferred to Border Guard Force units 1001, 1002 and 1003. Many of the NDA-K rank and file resented being transferred to the border guard force. When fighting broke out last month near Pangwa between government troops and the KIO there were widespread defections among the border guard troops who were ex NDA-K.” (BNI, 15 May 2012)

4.3.3 United Wa State Army (UWSA)

This section does not include information already covered in section 3.3.2 (pp. 58-59) of the previous Myanmar COI Compilation of October 2011.

As reported by Reuters news agency, the government reached peace deals with two groups linked to the United Wa State Army (UWSA) in September 2011 at regional level and four months later at national level:

"The government made peace with two groups linked to the powerful United Wa State Army (UWSA) in September 2011 at regional level and four months later at national level. The two wings were the Wa National Army 2 and the Mongla group. The UWSA, which once received support and arms from China, is considered Myanmar's most powerful rebel group, with an estimated 30,000 troops protecting an ethnic Chinese-dominated enclave it has controlled for decades. Much of its income is believed to derive from opium and in 2003 the United States classified the UWSA as a narcotics cartel." (Reuters, 6 April 2012)

Likewise, the Shan Herald Agency for News (SHAN) notes:

"The United Wa State Army (UWSA) and National Democratic Alliance Army (NDAA) had signed 6-point agreements with Naypyitaw's delegation led by U Aung Thaung and U Thein Zaw on 26 and 27 December, according to Sino-Burma border sources.

Wa and Mongla, as the NDAA is commonly known, have met the Burmese delegation 3 times since September. Each meeting resulted in a new set of agreement." (SHAN, 2 January 2012)

In September 2011, SHAN reports as follows on the release of 16 opium traffickers of Wa ethnicity, with reference to information provided by Narinjara and a border watcher:

"According to Narinjara report on 21 September, the government on 16 September released 16 opium traffickers who are the Wa ethnic nationalities from Buthidaung prison with the special relaxation on their lengthy jail terms. 'Their release can likely be related to the recent ceasefire agreement signed between the two sides [The UWSA and Government],' according to a border watcher. The release came after the government and its group met on 6 September to sign a new ceasefire pact." (SHAN, 26 September 2011)

4.3.4 Myanmar National Democratic Alliance Army (Kokang Army)

This section does not include information already covered in section 3.3.3 (pp. 59-60) of the previous Myanmar COI Compilation of October 2011.

The Shan Herald Agency for News (SHAN) mentions in an article of February 2012 that the Kokang force, officially known as the Myanmar National Democratic Alliance Army (MNDAA), expressed its willingness to hold peace talks with the government:

"The Kokang force, officially known as the Myanmar National Democratic Alliance Army (MNDAA), that went into exile in 2009 following the occupation of Kokang on the Sino-Burmese border, told SHAN it is ready to open 'reconciliation talks' with Naypyitaw.

One of the obstacles toward this end may be the lawsuit filed by the police force against 4 of its top leaders: Peng Jiasheng, Peng Jiafu, Peng Daxun (Peng Deren) and Peng Dali. It had charged that the 4 had been operating a factory which was producing and selling arms and ammunition illegally.

The result was the Burma Army offensive on 8 August 2009 against the MNDAA, that had since 1989 concluded a ceasefire agreement. The group claimed that it was merely an

excuse to attack Kokang that had refused to become part of the Tatmadaw (National defense forces) without the guarantee of political autonomy.” (SHAN, 29 February 2012)

Among the sources consulted by ACCORD within time constraints no further relevant information could be found regarding this issue.

4.3.5 Shan State Army-North (SSA-N)

This section does not include information already covered in section 3.3.4 (pp. 60-61) of the previous Myanmar COI Compilation of October 2011.

The Myanmar Times, in an article of February 2012, notes that the Shan State Progressive Party (SSPP), the political wing of the Shan State Army-North (SSA-N), signed an initial peace agreement with the government in Shan State’s capital Taunggyi on 28 January 2012. Besides an immediate ceasefire, the agreement includes the opening of liaison offices in Taunggyi, Lashio and Kho Lan, the commitment to uphold the “three national causes”³ and cooperation to eliminate drug production and trade. (Myanmar Times, 6 February 2012)

In an article dated 22 August 2012, the Democratic Voice of Burma (DVB) remarks that since the signing of a ceasefire agreement in January 2012, the SSA-N has clashed with government troops more than 20 times, including several skirmishes that erupted between 17 June and 4 July 2012 near Monghsu township (DVB, 22 August 2012).

4.3.6 Karen National Union (KNU) / Karen National Liberation Army (KNLA) and other KNU splinter groups since 2007

This section does not include information already covered in section 3.3.7 (pp. 61-62) of the previous Myanmar COI Compilation of October 2011.

In an article dated 12 January 2012, BBC cites official sources as saying that the government has signed a ceasefire deal with the Karen National Union (KNU) in Hpa-an, the capital city of Karen State. In addition to the ceasefire, it was agreed to open liaison offices and to allow passage through territories. (BBC, 12 January 2012)

The Democratic Voice of Burma (DVB) states the following with regard to peace talks held between the two sides:

“After fighting with government forces for more than 60 years, the KNU held its first round of talks with union officials in early January and agreed to a four-point deal, including a ceasefire, opening liaison offices, establishing freedom of movement without weapons, and agreeing to hold further talks at the union-level.

On 4 March, the group sent a delegation into interior Burma for union-level peace talks and reached an agreement to set up liaison offices in Pegu division’s Kyaukgyi and Tenasserim division’s Myeik (Mergui).” (DVB, 7 August 2012)

³ The “three national causes” are: the non-disintegration of the Union, the non-disintegration of national solidarity and the perpetuation of sovereignty (DVB, 9 June 2011).

A May 2012 article by the Integrated Regional Information Network (IRIN) states:

"The Karen National Liberation Army and its political wing, the Karen National Union, have engaged in ceasefire talks with the Burmese government in recent months. On 7 April, Myanmar's President Thein Sein met with Karen leaders and agreed to a ceasefire, which both sides, despite flare-ups, have respected." (IRIN, 4 May 2012)

The Irrawaddy reports as follows on a proposed ceasefire "Code of Conduct" that, once authorised, both sides are expected to follow:

"The Karen National Union (KNU) held its third official round of peace talks on Monday with Burmese government representatives in the Karen State capital Pa-an where they focused attention on a proposed 'Code of Conduct' to be implemented following the signing of a ceasefire in January.

Nyo Ohn Myint, a source close to Naypyidaw's delegation, told The Irrawaddy on Monday evening that the two sides agreed in principle to the Code of Conduct, which was initially proposed by the KNU. He said the framework must now be authorized by President Thein Sein and the commander-in-chief of Burma's armed forces, Vice-Senior-Gen Min Aung Hlaing.

The proposed Code of Conduct lays out regulations that both Burmese army and KNU troops must respect. According to Saw David Takapaw, the vice-president of the KNU, the proposed framework could 'help build the foundations of a concrete ceasefire.'

Among the points agreed in the Code of Conduct are that both government and Karen troops can travel or transport rations on routes that are agreed by both parties. Another crucial point is that the Burmese army can no longer order the construction of roads in KNU-controlled areas, according to David Takapaw. Naypyidaw will also be obliged to ensure that the Burmese armed forces withdraw from areas close to IDP shelters." (Irrawaddy, 3 September 2012)

Karen News, a news website dedicated to reporting on Karen issues, notes that following a ceasefire with the KNU in March, the government on 19 March 2012 released KNU leader Padoh Mahn Nyein Maung who was serving a life sentence (Karen News, 30 April 2012).

In a February 2012 article, Karen News reports as follows on the KNU/KNLA Peace Council, which split from the KNU in February 2007:

"A government newspaper, *Kyaymon*, reported that a breakaway group known as the KNU/KNLA Peace Council signed an initial seven-point agreement on 6th February in the country's capital Naypyidaw. The agreement included the setup of various leisure businesses in the Karen towns of Pa-an, Myawaddy, Three Pagoda Pass, Kawkareik, Maw Taung, and Kawthaung. [...] The KNU/KNLA Peace Council and the Burma government agreed to continue and maintain the agreed peace deal and that the KNU/KNLA Peace Council can keep their arms. [...] The KNU/KNLA Peace Council is led by Brigadier General Htein Maung and split from the KNU in February 2007 and immediately reached a ceasefire agreement with Burma's military regime at the time, forming its headquarters in

Hto Kaw Koo in Karen State. [...] In 2010 the KNU/KNLA Peace Council refused to become a Border Guard Force under the control of the Burma Army." (Karen News, 20 February 2012)

4.3.7 Karenni National Progressive Party (KNPP)/Karenni Army

This section does not include information already covered in section 3.3.8 (p. 62) of the previous Myanmar COI Compilation of October 2011.

The Irrawaddy reports in June 2012 that the Karenni National Progressive Party (KNPP), established in 1955, has about 1,000 fighters (Irrawaddy, 11 June 2012).

In a July 2012 briefing paper, the Burma Centre for Ethnic Studies (BCES) states that the KNPP on 7 March 2012 met with the Government in Loikaw, the capital city of Karenni State, and agreed to a ceasefire, to open liaison offices in appropriate locations and to hold union-level peace talks at a later date. A union-level peace deal was reached on 9 June 2012, when the KNPP once again met with the Peace negotiating team. The BCES notes with reference to a KNPP source that under the terms of the peace deal, "[t]he Government agreed to gain release of detained political prisoners associated with the KNPP", though "[t]his does not include prisoners incarcerated for crimes". (BCES, July 2012, pp. 1-3)

In a July 2012 article, the Irrawaddy reports on clashes that took place between the Karenni National Progressive Party (KNPP) and government forces on 29 June 2012:

"Deadly clashes also took place on June 29 with another ethnic armed group, the Karenni National Progressive Party (KNPP), which signed a peace agreement with the Union government last month. Five soldiers from the government army's Infantry Battalion (IB) 530 were killed in the fighting, according to KNPP Secretary Khu Oo Reh. The fighting broke out when troops from IB 530 entered KNPP territory in Mawchi Township, Karenni State, without advance notice. There is no concrete agreement between the government and the KNPP regarding territorial borders." (Irrawaddy, 2 July 2012b)

4.3.8 Shan State Army-South (SSA-S)

This section does not include information already covered in section 3.3.5 (p. 61) of the previous Myanmar COI Compilation of October 2011.

In December 2011, Mizzima states that the Shan State Army (SSA) is estimated to have 10,000 troops and, in the past, was able to secure large quantities of weapons from both China and the US. Furthermore, Mizzima notes that the government concluded a ceasefire agreement with the Shan State Army-South (SSA-S) in Taunggyi on 2 December 2011. (Mizzima, 2 December 2011)

The Burma Centre for Ethnic Studies (BCES) reports that the Restoration Council of Shan State/Shan State Army (RCSS/SSA), as the SSA-S is also known (SHAN, 20 May 2012), signed a new twelve-point agreement with the Government's Union Peace Working Committee (UPWC) on 19 May 2012. One of the points agreed upon is that "[m]embers and supporters of

RCSS/SSA who are in prison will be released except for those who have been imprisoned on criminal charges". (BCES, June 2012, p. 1)

As noted by independent Myanmar expert Ashley South in a September 2012 article for the Myanmar Times, clashes between government troops and the Shan State Army-South have continued to occur, even after three rounds of peace talks between the two sides (Myanmar Times, 3 September 2012a).

4.3.9 Shan State National Army (SSNA)

Among the sources consulted by ACCORD within time constraints no relevant information could be found on this issue.

4.3.10 All Burma Student Democratic Front (ABSDF)

This section does not include information already covered in section 3.3.9 (pp. 62-63) of the previous Myanmar COI Compilation of October 2011.

In an August 2012 article, the Democratic Voice of Burma (DVB) quotes La Hseng, chairman of the All Burma Students' Democratic Front (ABSDF) Northern Command as saying that the group clashed with government forces in Kachin State on 18 August 2012. However, as he added, the skirmish was only brief and not as intense as the clashes that occurred between the two sides in June 2012. The DVB further notes that "[i]n February, ABSDF representatives met with Burmese officials in Thailand to discuss a potential ceasefire; however, an agreement failed to materialise". (DVB, 21 August 2012)

In September 2012, the Myanmar Times states that Dr Naing Aung, the former leader of ABSDF, returned to Myanmar following 24 years in exile. This was preceded by the government's decision to remove him from its travel blacklist. However, as noted by the Myanmar Times, "Dr Naing Aung's return was not without controversy because of accusations that he indirectly oversaw a massacre of ABSDF members accused of spying in northern Myanmar in the early 1990s". (Myanmar Times, 3 September 2012b)

4.3.11 Mon National Liberation Army (MNLA)

This section does not include information already covered in section 3.3.10 (pp. 63-64) of the previous Myanmar COI Compilation of October 2011.

In an August 2012 article, the Kaowao Newsgroup, one of the members of Burma News International (BNI), notes that the New Mon State Party (NMSP) (of which the Mon National Liberation Army (MNLA) is the armed wing) counts "between 3,000 and 3,500 members and more than 800 armed personnel on the ground". (Kaowao, 6 August 2012)

Reuters news agency reports with reference to information provided by a peace mediator that on 1 February 2012, a ceasefire agreement was concluded between the government and the NMSP:

"Myanmar agreed to a cease-fire with ethnic Mon separatists Wednesday, a peace mediator said, the latest in a series of tentative peace deals sought by a nominally civilian government trying to escape economic sanctions.

The cease-fire between the army and the New Mon State Party (NMSP) was the seventh such agreement between the government and ethnic rebel groups since former military junta leader and now President Thein Sein made a public call for peace talks with separatists late last year. [...]

The NMSP, the political wing of the Mon National Liberation Army (MNLA), which has fought for autonomy in eastern Mon State under various guises since 1948, agreed to set up liaison offices and restrict movement of weapons, a mediator told Reuters." (Reuters, 1 February 2012)

Karen News reports on the release of two imprisoned NMSP members which "came on the back of a ceasefire" the NMSP signed on 1 February 2012:

"Nai Yekkha and Nai Myo Twe from New Mon State Party who were serving life sentences in Burma's notorious jails were released on April 30. [...] The Mon prisoners, Nai Yekkha and Nai Myo Twe, were charged with treason and were given death sentences on November 28, 2003, that were later commuted to life. [...] The release of the political prisoners came on the back of a ceasefire the NMSP recently signed with the Burma government. A seven member delegation from the NMSP, led by its Vice-Chairman, Nai Rot Sa, met with representatives of the Burma government, led by Railways Minister Aung Min, at Moulmein, Mon State and signed a ceasefire agreement paper on February 1." (Karen News, 30 April 2012)

As noted by the Irrawaddy in June 2012 citing a NMSP source, "[t]he New Mon State Party (NMSP) has threatened to break its four-month-old ceasefire agreement with the Burmese government if Naypyidaw fails to hold political talks with all the ethnic armed groups by the end of this year". (Irrawaddy, 19 June 2012)

4.3.12 Border Guard Forces (BGF)

This section does not include information already covered in section 3.3.11 (pp. 64-65) of the previous Myanmar COI Compilation of October 2011.

In a July 2012 article, the Irrawaddy states:

"Reports from the front-line between Burma's military and the Kachin Independence Organization (KIO) suggest that many ethnic Kachin soldiers from the government-backed Border Guard Force (BGF) who were previously with the New Democratic Army-Kachin (NDAK), a now defunct ceasefire group, have been forced into considerably riskier positions than their Burmese army counterparts.

Although fighting between the KIO and government forces in the Pangwa area has lessened in recent weeks, clashes continue to occur on a regular basis. The former NDAK soldiers who are predominately from the Lachik ethnic Kachin subgroup are often put in

the firing line ahead of Burmese military forces and have suffered accordingly, said a KIO official familiar with the fighting near Pangwa.

The situation is so precarious that several ex-NDAK troops have deserted and fled to KIO territory, while many more are said to want to escape, but are constantly under the scrutiny of Burmese military superiors. [...]

The NDAK officially disbanded in November 2009 following an agreement reached earlier that year by its founder and chief Zakhung Ting Ying (also spelled in state media as Za Khun Ting Ring) and the central government that the NDAK and its force of approximately 1,000 troops be transformed into a BGF. The former NDAK troops were distributed among three BGF battalions listed as 1001, 1002 and 1003." (Irrawaddy, 27 July 2012)

Among the sources consulted by ACCORD within time constraints no further updated information could be found regarding this issue.

4.3.13 United Nationalities Federal Council (UNFC)

This section does not include information already covered in section 3.3.12 (pp. 65-66) of the previous Myanmar COI Compilation of October 2011.

In May 2012, the Burma Centre for Ethnic Studies (BCES) states that following the absorption of the Kachin National Organisation (KNO) into the Kachin Independence Organisation (KIO), the United Nationalities Federal Council (UNFC) is comprised of the following 11 ethnic organisations: Chin National Front, Kachin Independence Organisation, Karen National Union, Karenni National Progressive Party, Lahu Democratic Union, National Unity Party of Arakan, New Mon State Party, Palaung State Liberation Front, Pa-O National Liberation Organisation, Shan State Progress Party/Shan State Army, Wa National Organisation.

The BCES further provides the following information regarding changes in the UNFC's political leadership and the formation in December 2011 of the Federal Union Army:

"The political leadership of the alliance originally fell on the KNU with KNLA Commander-in-Chief General Mutu announced as Chairman and KIA commander, Lt. Gen. Gauri Zau Seng as Vice Chairman No.1. The KNPP's Khun Abel Tweed took the position of Vice Chairman No.2 and the NMSP's Nai Hongsa, General Secretary. The creation of the UNFC occurred while a number of other ethnic alliances still remained. The National Democratic Front, formed in 1976, still contained members of armed ethnic groups, the NCUB [National Council of the Union of Burma] was still active, as was a five-party military alliance, the existence of the latter was the reason given by the SSA-South for not joining the UNFC.

Despite the fact that Gen. Mutu was ostensibly Chairman, the UNFC's policies were mainly driven by the KIO and the NMSP. The Central Executive Committee was reformed in May and it was announced that Lt. Gen. N'Ban La of the KIA would take over as Chairman and Gen. Mutu would be Commander of the Federal Union Army (FUA). Leadership changes were made once more at a meeting in November 2011, Gen. Mutu was replaced by Maj.

Gen. Bee Htoo of the KNPP as Commander-in-Chief and Brig Gen Gun Maw of the KIO was appointed as Deputy#1. It was announced that the Federal Union Army had been formed at a meeting held on the 16-17 December 2011. According to its Circular #1 / 2011, the Federal Union Army's aims and objectives are:

- To defend the Union
- To achieve peace
- To restore democratic rights and fundamental rights of the people
- To struggle for Equality and Right of self Determination
- To oppose human rights violations and war crimes committed by some elements of the Burma Army
- To serve as a rally point for Burma Army members who wish to stand by the people
- To become a part of the armed forces of the future federal union

The circular also designates the following as allies: the Arakan Liberation Army (ALA), the All Burma Students' Democratic Front (ABSDF), the United Wa State Army (UWSA), the National Democratic Alliance Army (NDAA) and the Shan State Army (SSA) 'South'." (BCES, May 2012a, p. 2)

In an article dated 13 June 2012, Kachinland News (KLN), a news organisation covering Kachin issues, reports that a UNFC ultimatum to government forces, urging them to stop military offensives in Kachin State by 10 June 2012, has passed:

"United Nationalities Federal Council (UNFC)'s deadline to stop military offensives in Kachin State has passed as riots in Rakhine State overwhelm public attention. Burmese army's movements in Kachin State suggest that prospects for an end to the fighting has faded as more Burmese troops are being deployed and fighting has been continuing in almost daily basis in Kachin and Shan State.

United Nationalities Federal Council (UNFC) issued an ultimatum to Burmese military (Bamah Tatmadaw) to stop military offensives in Kachin State by June 10, 2012 during its last meeting attended by the UNFC central executive committee members and key leaders of the member organizations on May 9, 2012 at Thai-Burma border. The statement said, 'if the Bamah Tatmadaw does not stop its transgression and military offensives in Kachin State by June 10, 2012, UNFC members, who have agreed ceasefire with U Thein Sein government, have decided to review the peace process and future programs, including the preliminary ceasefire agreements reached,'." (KLN, 13 June 2012)

4.3.14 Democratic Karen Buddhist Army (DKBA) and splinter groups since 2009

This section does not include information already covered in section 3.3.13 (pp. 66-67) of the previous Myanmar COI Compilation of October 2011.

In a November 2011 article, Mizzima reports about a ceasefire agreement reached between the government and a battalion of the Democratic Karen Buddhist Army (DKBA) led by Major General Saw La Bwe (also known as Bo Moustache):

"One battalion of the Democratic Karen Buddhist Army (DKBA) and the Burmese government agreed to a cease-fire on Thursday, the leader of the battalion said. Major General Saw La Bwe, aka Bo Moustache, said the cease-fire would go into effect on Sunday. According to the agreement, the headquarters of the battalion will be in the Soneseemyaing area in Myawaddy District, on the east side of Dawna Mountain in Karen State. The battalion's troops in Karen State will remain in place. The cease-fire agreement was achieved at the second meeting between the battalion and government representatives. The battalion has an estimated 1,000 soldiers, and it had refused to transform itself into a Border Guard Force (BGF), leading it to break away from its brother units in the DKBA. [...] In the negotiations, the government did not urge the unit to transform itself into a BGF, said the DKBA. Under the agreement, the DKBA will have the right to collect taxes in its control area. [...] The DKBA battalion fought government troops starting on November 8, 2010, with assistance from the Karen National Union [KNU] and the All Burma Students' Democratic Front. Meanwhile, a small DKBA group led by Major Saw Bi, which earlier had transformed itself into a BGF, went underground again and has now established an alliance with the KNU." (Mizzima, 4 November 2011b)

The Myanmar Times, in an article dated May 2012, notes that the Kloh Htoo Bar faction of the DKBA signed a ceasefire agreement in November 2011 and a second, more detailed agreement the following month. However, despite reaching a ceasefire deal, "Kloh Htoo Bar leaders said they had seen little in the way of development in their region since the deal was signed". (Myanmar Times, 21 May 2012)

4.3.15 Pa-O National Liberation Army/Organisation (PNLA/PNLO)

This section does not include information already covered in section 3.3.14 (p. 68) of the previous Myanmar COI Compilation of October 2011.

In an article dated 29 August 2012, Mizzima reports with reference to official media that the PaO National Liberation Organization (PNLO) held peace talks in Taunggyi, the Shan State capital, and agreed on nine points. The agreement included the setting up of liaison offices, coordination on location of PNLO troops, cooperation in the fight against illegal drugs, media issues, food supplies, public security and basic agriculture. (Mizzima, 29 August 2012)

Among the sources consulted by ACCORD within time constraints no further updated information could be found regarding this issue.

4.3.16 Palaung State Liberation Army (PSLA)

Among the sources consulted by ACCORD within time constraints no relevant information could be found beyond what has already been covered in section 3.3.15 (p. 68) of the previous Myanmar COI Compilation of October 2011.

4.3.17 Arakan Liberation Army (ALA)

In a March 2012 article, the Integrated Regional Information Network (IRIN) states that "[t]he Arakan Liberation Army (ALA) was first set up with the help of the KNU in the 1950s". Following the arrest of most of its leaders, the ALA dissolved, but was re-established in the

1970s. The article further notes that the ALA “is still one of the smallest ethnic armies”. (IRIN, 29 March 2012a)

The Burma Centre for Ethnic Studies (BCES) expands as follows on the Arakan Liberation Party (ALP) and its armed wing, the Arakan Liberation Army (ALA):

“The Arakan Liberation Party, supported by the Karen National Union, was originally formed in 1968 by Khaing Pray Thein. However the Burmese regime moved quickly to quash the movement and arrested many of its leaders jailing them for two to three years. After being granted an amnesty in the early 1970s, ALP President Khaing Moe Linn and Vice Chairman Khaing Ba Kyaw, re-formed the ALP with support from the Karen National Union (KNU). The KNLA trained and armed as many as 300 ALA soldiers and it soon became a leading member of the National Democratic Front (NDF) after it was created in 1976. The ALP/ALA was reorganised in 1981 under the leadership of Khai Ray Khai, with the goal of establishing a sovereign state in Rakhine State.

The armed wing of the ALP, the Arakan Liberation Army (ALA) operates as a mobile force in the southern Chin Hills or northern Arakan Hills and has been known to be active in the interior of Arakan State including Kyauktaw and Mrauk-U townships. In addition, the ALP still has cadres along the Thai-Burma border and was most recently reported to have been involved in a joint ambush with Klo Htoo Baw Battalion and All Burma Student Democratic Front troops in Karen State on 15 October 2011. Currently, the Arakan Liberation Army has between 60-100 troops and is equipped with light weapons.” (BCES, May 2012b, p. 1)

The Democratic Voice of Burma (DVB) notes in February 2012 that “[s]ince its founding in 1967, the ALP and its armed-wing the Arakan Liberation Army (founded in 1974) have fought against successive Burmese governments. The ALP operates on both the India-Burma and Thai-Burma border areas with the stated intention of replacing Burma’s current regime with a democratic federal union of Burma”. (DVB, 8 February 2012)

In an article dated April 2012, the DVB notes that on 5 April 2012, the ALP agreed on a five-point deal with the government in Sittwe, the capital city of Rakhine State (DVB, 10 April 2012). Narinjara lists the following points as being included in the agreement: to stop fighting each other, to set up liaison offices in Kyauktaw and Paletwa, not to cross each others’ areas carrying weapons without prior information or negotiation, to allow ALP members to travel freely across the country, and to hold further peace negotiations (Narinjara, 4 September 2012).

4.4 Forced recruitment

4.4.1 Forced conscription procedures in armed forces for both adults and children

This section does not include information already covered in section 3.4.1 (pp. 68-69) of the previous Myanmar COI Compilation of October 2011.

The USDOS Country Report on Human Rights Practices 2011, published May 2012 (covering 2011 events), reports as follows on the recruitment and use of child soldiers in the army and armed ethnic groups:

"Human rights activists, international NGOs, and representatives from various ethnic regions described continuing recruitment of child soldiers despite military rules prohibiting enlistments of persons under 18 years of age. One of a number of tactics used by the military involved military recruiters reportedly approaching street children or children found alone at railway stations and asking for identification. If the children could not provide identification, recruiters threatened to imprison them unless they agreed to join the army. Alternatively, recruiters offered incentives, promising a good salary, continuing education, and housing if the child joined. Other children were simply abducted. Poverty led a large number to volunteer. In July in Pyay town in Bago Region, the army reportedly paid 200,000 kyat (\$440) to purchase five child soldiers from a female trafficker. Because recruiters were rewarded for the number of recruits regardless of age or suitability, they typically did not screen for underage recruits. Child soldiers were reported to be as young as 11 years of age. The government investigated and acted to release children from military service if the children or their families were aware of the law prohibiting child labor and exercised their right to file a complaint with the International Labor Organization (ILO). Armed ethnic groups also reportedly used land mines, forced recruitment, and child soldiers.

The government took steps toward improvement of these practices. Since 2008 military officials in cooperation with UNICEF have trained 14 groups of approximately 1,000 military officers, including recruitment officers and officers up to the rank of captain, on international humanitarian law. UNICEF trained the country's four recruitment hubs and reported increased numbers of child soldiers rejected at this stage. During the year and in response to ILO complaints, the military dismissed three officers from the military and imprisoned them in civilian jails for the use of child soldiers. The military demoted other military personnel, docked their salaries, and took away 12 months' seniority for pension and promotion rights. Government officials also participated in ILO workshops on forced labor." (USDOS, 24 May 2012, section 1g)

In an April 2012 report to the UN General Assembly (UNGA), which covers events of 2011, the UN Secretary-General provides the following information regarding underage recruitment perpetrated by the army and non-state actors:

"68. Children continued to be recruited by the Tatmadaw. The majority of underage recruits interviewed after release stated that their recruiter had not asked their age, or had falsified age documentation for presentation at the recruitment centre. [...]

69. Reports of recruitment and use of children by non-State actors in Myanmar also continued to be received. In 2010, the Democratic Karen Buddhist Army (DKBA) split into two factions, with the majority joining the Tatmadaw as a border guard force, and the remainder allying itself with the Karen National Union/Karen National Liberation Army (KNU/KNLA). In 2011, with respect to both the DKBA border guard force and the separatist DKBA troops, reports were received of forced recruitment of children, unless

payment in lieu of recruitment was received. The country task forces on monitoring and reporting was able to verify this practice in Kayin State, Ta Nay Cha and Thandaunggyi townships, in April and August 2011. Reports of increased recruitment by the Kachin Independence Army (KIA) were also received in the second half of 2011, as tensions mounted in Kachin and northern Shan State. The country task force also received allegations of children joining KIA purportedly to avoid being used by the Tatmadaw as porters on the front line. The country task force also confirmed one report of a 15-year-old boy recruited by the Kachin Defense Army (KDA) in northern Shan State.

70. As conflict escalated in Shan State in 2011, reports of Shan State Army South (SSA-S) perpetrating underage recruitment increased. Children are also reportedly present in the ranks of the KNU/KNLA, Karen National Union/Karen National Liberation Army Peace Council, Karen Peace Front (KPF), Karenni National Progressive Party/Karenni Army (KNPP/KA), and the United Wa State Army (UWSA). However, the country task force was unable to verify information about these armed groups owing to travel restrictions imposed on it by the Government." (UNGA, 26 April 2012, p. 14)

In a September 2012 article, the Irrawaddy describes forced recruitment procedures for underage soldiers as follows:

"Many child soldiers in Burma are kidnapped on their way home from school. They are then brutalized and physically abused during their induction and basic training before being shipped off to fight in the country's border areas. Human Right Watch has also accused some ethnic rebel groups of using underage troops." (Irrawaddy, 4 September 2012)

In the same article, the Irrawaddy reports with reference to the International Labour Organization (ILO) that the army released 42 child soldiers from its ranks following an agreement that was reached between the government and UN in June 2012 to tackle the issue of underage soldiers. The article further quotes ILO's liaison officer in Myanmar as saying that "the number of complaints recently received has been less than previous year, although fresh accusations do continue to arrive". (Irrawaddy, 4 September 2012)

The Integrated Regional Information Network (IRIN) notes in an article dated August 2012 that two ethnic groups, the Karenni National Progressive Party/Karenni Army (KNPP/KA) and the New Mon State Party/Mon National Liberation Army (NMSP/MNLA), became the first signatories of Swiss-based rights group Geneva Call's deed of commitment for the elimination of underage soldiers and the protection of children in armed conflict:

"Two ethnic groups in Myanmar recently became the first rebel fighters to sign a 'deed commitment' with Swiss-based rights group Geneva Call, pledging to eliminate underage soldiers and protect children in armed conflict.

As signatories the Karenni National Progressive Party/Karenni Army (KNPP/KA) and the New Mon State Party/Mon National Liberation Army (NMSP/MNLA) must ensure that children aged under 18 are not recruited into or used by their armed forces. They are also

required to meet obligations related to the well-being and rights of children affected by armed conflict, such as education and assistance for children in areas under their control.

Signatories must ensure that children aged under 18 are not recruited into or used by their armed forces, and are also required to meet obligations related to the well-being and rights of children affected by armed conflict, such as education and assistance for children in areas under their control." (IRIN, 20 August 2012)

The Democratic Voice of Burma (DVB) states in a January 2012 article that according to reports, government-backed militias in Shan State engaged in forced recruitment among local villagers:

"Government-backed militias in Shan state have reportedly demanded that village headmen in several townships appoint up to 25 locals to join their ranks, with those who refuse threatened with a hefty fine. Locals in Manparng village, close to Shan state's Tangyan township, said a militia based there had summoned headmen to select would-be fighters. Small villages were required to hand over 15 men, and larger villages 25. The group warned that should the village headmen fail to do so, it would send their own recruitment teams and demand a fee of 3.8 million kyat (\$US4,470).

'These militias get funding from the government so there's no reason to extort money from us,' said one aggrieved inhabitant of Manparng. 'We are afraid of armed groups close to our areas and we are unable to file a complaint about this – we don't know where to complain.' He said that locals were forced to give into the demands of 'different militia groups', many of whom have close links to Burmese government officials and who are rapidly becoming key players in Shan state's lucrative narcotics market. The Manparng militia is thought to have around 1,000 troops and also operates in Lashio and Mongyai townships.

Residents of southern Shan state's Lai-Hka township have also spoken of an apparent forced recruitment drive by members of the former Wan Pang militia, which was overrun by the Shan State Army last year. The number of personnel in the militia dropped from around 800 to 30 following the defeat, and it has regrouped in Nam Hu Pra Htam village. Locals in nearby Kone Mai Hike village say each household was told to pay 60,000 kyat so the militia could recruit more soldiers, likely to compensate for the loss of manpower." (DVB, 17 January 2012)

Among the sources consulted by ACCORD within time constraints no further relevant information could be found on forced conscription procedures regarding adults.

4.4.2 Treatment of draft evaders/military deserters

This section does not include information already covered in section 3.4.2 (pp. 69-70) of the previous Myanmar COI Compilation of October 2011.

The DVB states in a July 2012 article that although the government signed an agreement with the UN to prevent the use of child soldiers in the Myanmar army, "[u]nderage recruits remain

in the military posts and deserters are being chased down and recaptured by their units". The article illustrates two such cases:

"Maung Maung Lay, a human rights activist, told DVB that the Burmese Army recruited private Myo Min, serial number P-454362, when he was 16 in 2011. The teenager later deserted his unit and now is back home with his family. 'Myo Min was recruited as a child soldier when he was 16 years 5 months and around 13 days old. He was tricked to join the army by lance corporal San Oo who told him he would get paid a lot of money without having to do anything in the army unit,' said Maung Maung Lay.

According to the activist, another child soldier, 16 year-old private Yay Chan – serial number P-414636, who tried to desert Light Infantry Battalion 312 based in northern Shan state's Kunlon township on several occasions, was recaptured four times. The child soldier's current whereabouts are unknown." (DVB, 25 July 2012b)

In an article of May 2012, the DVB notes that the family of a teenager, who was forcibly recruited by the military four years ago, is asking the ILO to issue their son a document that would prevent him from receiving a court-martial by the army. As observed by the DVB, "[a]ccording to Burmese Law, soldiers who commit criminal offences can be court martialed but are not able to stand trial in a civil court". (DVB, 7 May 2012)

In a June 2012 article dealing with the recruitment and use of child soldiers in the army, AAJ News, a Pakistani news television channel, provides the following information with regard to possible consequences faced by underage soldiers trying to desert:

"Those who are caught escaping may be arrested as deserters and sentenced to imprisonment for up to five years, or in lieu of imprisonment, they are forced to rejoin the army, even if they are still under age 18. Others caught running away are shot, stabbed or beaten to death. [...]

Those who are clever and brave enough to run away to neighbouring countries often face further danger due to 'gentlemen's agreements' between armies, to hand back deserters who run across the borderline, no matter what age. Some are victims of unofficial deportations, often given straight back into the hands of the Burma Army, where they face beatings, interrogations and imprisonment, some disappear and some are killed or die due to the severity of their punishments." (AAJ News, 28 June 2012)

4.4.3 2010 New Military Conscription Law and its current application

Please see section 4.1 of this publication and section 3.1.1 (pp. 49-51) of the previous Myanmar COI Compilation of October 2011 for information on this issue.

4.4.4 Forced conscription of women and girls in the armed forces in non-combat roles

Among the sources consulted by ACCORD within time constraints no information could be found regarding this issue.

4.5 Forced labour/portering in conflict and non-conflict areas

This section does not include information already covered in section 3.5 (pp. 70-72) of the previous Myanmar COI Compilation of October 2011.

The US Department of State (USDOS) in its May 2012 report (covering 2011 events), provides the following overview with regard to forced labour and portering:

"The government reportedly continued its practice of conscripting members of ethnic minorities for service as military porters in Bago Region and in Chin, Karen, Kachin, Kayah, Rakhine, and Shan states [...]." (USDOS, 24 May 2012, section 1f)

"Human rights organizations detailed an extensive system of forced labor involving the transfer of at least 800 prisoners to the border regions for use by the military as porters in border conflicts. Military officials reportedly killed, tortured, and otherwise seriously abused porters." (USDOS, 24 May 2012, section 1g)

"Laws prohibit forced or compulsory labor (except as a criminal punishment) and provide for the punishment of persons who impose forced labor on others.

The Ministry of Home Affairs is broadly responsible for enforcing laws and regulations against forced labor; however, the Ministry of Labor is the chair of the governmental Committee for the Elimination of Forced Labor. The Ministry of Labor oversees the conditions of labor in the private sector.

In practice government and military use of forced or compulsory labor remained a widespread and serious problem. Throughout the country international observers verified that the government continued to force citizens to work on roads, construction, and other maintenance projects, particularly at the village level; however, the ILO noted that incidents decreased. Citizens also were forced to undertake work in association with military-owned industrial enterprises and as porters in conflict zones. In ethnic or religious minority regions, the military's use of forced labor in support of military garrisons or military operations remained an especially serious concern.

On February 23, the ILO and the Ministry of Labor signed an extension to the 2007 Supplementary Understanding, which allowed the ILO to continue to receive and investigate forced labor complaints. The ILO received 328 cases of forced labor during the year, including cases of forced child labor/soldiering [...]." (USDOS, 24 May 2012, section 7b)

The USDOS 2012 Trafficking in Persons Report (covering March 2011 to February 2012) notes:

"Military and civilian officials have for years systematically forced men, women, and children into working for the development of infrastructure, in state-run agricultural and commercial ventures, and as porters for the military. Government authorities use various forms of coercion, including threats of financial and physical harm, to compel households to provide forced labor. Those living in areas with the highest military presence, including remote border areas populated by minority ethnic groups, are most at risk for forced

labor. The Kachin ethnic minority are particularly vulnerable to trafficking due to an ongoing conflict between the Burma Army and the Kachin Independence Army. Military and civilian officials subject men, women, and children to forced labor, and men and boys as young as 11 years old are forced through intimidation, coercion, threats, and violence to serve in the Burma Army as well as the armed wings of ethnic minority groups." (USDOS, 19 June 2012)

The Society for Threatened Peoples (STP), an international NGO and human rights organisation based in Germany, in a press release dated June 2012 notes:

"While forced labor has disappeared from Burma's cities years ago, people from the Rohingya and Shan villages are regularly forced to work as carriers or construction workers for infrastructure facilities by the army or by the NaSaKa border troops. They have to build roads and bridges or repair damaged roads – especially in the north of the state of Arakan (officially: Rakhaine)." (STP, 13 June 2012)

The Free Burma Rangers (FBR), a multi-ethnic humanitarian service movement, reports as follows on forced labour exacted by the army in Rakhine (Arakan) State, Chin State, Naga areas of Sagaing Division and other areas of Myanmar:

"In Arakan State, Chin State, Naga areas of Sagaing Division and other areas of Burma, the frequent demands of Burma Army forced labor often are so great that people cannot take care of their own livelihoods. According to one Arakan man from Mariwa Village, Paletwa Township who is now an Internally Displaced Person (IDP) on the border, 'The government is not good. All the time forced labor and more forced labor. We cannot take care of our farms and we do not have time to work at our farm. Then the animals were destroyed at our farm. So we have many problems to live in Burma.' (Interview: 22 February 2012.) Burma Army abuses remain prevalent even though most of these areas have little or no armed resistance. While the Burma Army is more likely to commit violent abuses such as burning homes and killing villagers in conflict areas, daily oppression such as forced labor and extortion continue in areas without active fighting." (FBR, 2 May 2012)

In a June 2012 article, the Democratic Voice of Burma (DVB) notes that following a Memorandum of Understanding it concluded with the government to eradicate forced labour, the ILO is believed to soften its stance towards Myanmar. However, as observed in a June 2012 report by the Thailand-based research and advocacy NGO Arakan Project, the military continues to inflict systematic abuses upon the Rohingya population in northern Rakhine (Arakan) State:

"The International Labour Organization (ILO) is likely to ease its criticisms against Burma on forced labour, despite fresh reports that the military continues to target the stateless Rohingya population in Northern Arakan state with impunity. A spokesperson from the ILO confirmed to DVB that a special committee meeting scheduled for Saturday as part of the International Labour Conference in Geneva is likely to draw positive conclusions. 'In general terms for all parts of the country, we have heard consistent reports that there

has been a general reduction in the use of forced labour,' said Steve Marshall, head of the ILO office in Rangoon. 'The committee will probably come to a similar conclusion.'

However, a report by the Arakan Project released yesterday documents systematic abuses carried out by the Burmese military towards the Rohingya minority group in Northern Arakan State between November 2011 and May 2012. The group warns that there has been 'little progress' since the Burmese government signed a Memorandum of Understanding with the ILO in March this year. While a reduction in the use of forced labour has been seen in certain townships of Northern Arakan state, it is has been coupled with a rise in arbitrary taxes and increased exploitation in other areas. [...]

The Rohingya minority in Burma are seen as particularly vulnerable to exploitation because of their stateless status. Considered 'illegal Bengali migrants' by the government, they cannot travel freely within Arakan state and are excluded from basic social rights, including health and education. [...]

In March, the Burmese military committed to prosecuting military personnel guilty of using forced labour under the state penal code. According to the ILO, 166 military personnel are currently being prosecuted and five convictions have already been handed down. [...]

Rights campaigners have been quick to observe that the elimination of forced labour could take decades, especially in conflict affected territories such as Kachin state, where abuses by the Burmese army are reported as widespread." (DVB, 1 June 2012)

With reference to an August 2012 report by the Arakan Project, AlertNet states with regard to the forced labour situation in Rakhine State:

"Forced labour has started again for stateless Rohingya people affected by communal violence in western Myanmar's northern Rakhine State after a short pause, according to the Arakan Project, a local rights group.

Longstanding tensions between ethnic Rakhine Buddhists and Muslim Rohingyas boiled over in early June, leading to arson and machete attacks in which authorities say 77 people were killed and more than 100 wounded - some of the worst violence in recent history.

Forced labour, imposed by government soldiers, ceased for two months in areas where the clashes erupted, including Central and South Maungdaw Township. But it restarted in August with the reconstruction of two model villages that were partially burnt down during the unrest, said a recent report by the Arakan Project, made public on Thursday.

Labourers, who include many children, receive little more than half a kilo of rice for their work at the end of the day. [...] In areas unaffected by the violence, forced labour has continued as usual or is getting worse, the report said, with the army and the NaSaKa (the border security forces) the main perpetrators.

'Sentry duty, forced portering and guiding increased in North Maungdaw and North Buthidaung with the deployment of additional troops on high security alert patrolling the Bangladesh border,' the report said." (AlertNet, 13 September 2012)

The above-mentioned August 2012 report by the Arakan Project is available via the following link:

- The Arakan Project: Forced labour during the Arakan crisis: An overview of forced labour practices in North Arakan, Burma (June to August 2012), 31 August 2012 (available at Burma Library)
http://www.burmalibrary.org/docs14/Arakan_Project-FL-Arakan_crisis.pdf

4.5.1 Treatment of persons who refuse to undertake or who evade and/or escape forced labour/portering

This section does not include information already covered in section 3.5.1 (p.73) of the previous Myanmar COI Compilation of October 2011.

In an October 2011 report, the Karen Human Rights Group (KHRG), a grassroots Karen-led human rights organisation, expands on order documents issued by military and civilian officials as well as government-controlled Border Guard battalions to villagers in Eastern Burma between March 2008 and July 2011. Nearly all of the demands articulated in the orders presented in the KHRG report involved some element of forced labour in their implementation (KHRG, October 2011, p. 1). KHRG further observes that the orders were often backed by threats of violence or other punishments against non-compliance:

"Written orders are often backed by implicit, and occasionally explicit, threats against noncompliance. Village heads have been warned strongly to avoid angering the author of the letter (Order #158, 168), and threatened that soldiers would 'have to come to the village' (Order #192) or would recognise villagers as 'enemies' and 'punish [them] as a result' (Order #123) if they failed to comply with an order. Several orders included in this report state that the consequences for non-compliance would be the 'responsibility' of the village leaders or the entire community (Order #96 and #119) or result in 'serious punishment' (Order #201, 202). Village heads explained to KHRG that, when they attended meetings as specified in written orders contained in this report, they were threatened that their land would be confiscated if they failed to comply with orders to pay for travel permission documents (Order #148); that they would be killed if residents of their village assisted Tatamdaw Border Guard soldiers to desert from their units (see Order #188); or that soldiers would be sent to forcibly recruit villagers if villages failed to provide recruits as ordered (Order #175). One village head told KHRG that, as a result of non-compliance with an order to repair a bridge, residents of his village had to travel covertly and avoid using that bridge to access their agricultural land (Order #123); approximately six weeks later the village head was told by a Tatmadaw commander that villagers seen walking on the road would be shot on sight (Order #140)." (KHRG, October 2011, p. 9)

In a March 2012 report detailing human rights abuses committed by the Myanmar army against the ethnic minority Kachin population in Kachin State, HRW cites two cases where civilians were shot at when trying to escape forced portering for the army:

"Maru Maw, 70, was forced by the Burmese army to porter in November 2011 with his son and daughter-in-law. The army opened fire on him and his son as they escaped [...]" (HRW, March 2012, p. 15)

"M. Seng told Human Rights Watch that after 19 days he escaped with four other Kachin men who were also porters, and that during their escape, Burmese soldiers pursued them through landmine-infested jungle and shot at them from behind [...]" (HRW, March 2012, p. 49)

4.6 Human rights violations by the armed forces and armed opposition groups as well as militia groups

This section does not include information already covered in section 3.6 (pp.73-74) of the previous Myanmar COI Compilation of October 2011.

The US Department of State (USDOS) reports that military personnel and insurgent militia engage in unlawful child soldier recruitment and continue to be the main perpetrators of forced labour inside the country, particularly in conflict-prone ethnic areas (USDOS, 19 June 2012).

The HRW World Report published January 2012 (covering events of 2011) states with regard to abuses against civilians committed by the military and ethnic armed groups:

"The Burmese military continues to be responsible for abuses against civilians in conflict areas, including forced labor, extrajudicial killings, sexual violence, the use of 'human shields,' and indiscriminate attacks on civilians. [...]"

The Burmese military continues to violate international humanitarian law through the use of anti-personnel landmines, forced labor, torture, beatings, and pillaging of property. Sexual violence against women and girls remains a serious problem and perpetrators are rarely brought to justice. The army continues to actively recruit and use child soldiers, even as the government cooperates with the International Labour Organization on demobilizing child soldiers. [...]"

Ethnic armed groups have also been implicated in serious abuses, such as recruiting child soldiers, extrajudicial executions, and using antipersonnel landmines around civilian areas.

[...] CORRECTION: The English version of the Burma chapter of the 2012 World Report states that ethnic armed groups have been implicated in serious abuses, such as recruiting child soldiers, extrajudicial executions, and using antipersonnel landmines around civilian areas. "Extrajudicial executions" has been removed. Although there have been some reports of armed groups involved in extrajudicial killings, Human Rights Watch has not been able to confirm these allegations." (HRW, 22 January 2012)

In a March 2012 report, the US Congressional Research Service (CRS) notes:

"In the conflict areas, reports of grievous human rights abuses conducted by the Burmese military continue to appear in the international press. The Tatmadaw allegedly have engaged in the following activities since the Union Government took power:

- Summary execution of militia members and civilians;
- Rape and sexual assault of women and girls in conflict areas;
- Forced labor of civilians as porters, human shields, or as human 'minesweepers';
- Impressments of under-aged children as 'child soldiers'; and
- Destruction and expropriation of property.

Similar allegations have been made against some of the ethnic militias." (CRS, 28 March 2012, p. 10)

A March 2012 progress report by the UN Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, states:

"The Special Rapporteur continues to receive reports alleging violations of land and housing rights, particularly with regard to the impact of infrastructure projects; natural resource exploitation; land confiscation and land grabbing, including by the military; and the granting of economic concessions for development, energy or infrastructure projects, often without meaningful consultation of affected communities, any or adequate compensation and adequate environmental assessments. Violations of land and housing rights result in not only poverty, displacement and ruined livelihoods, but also the destruction of cultures and traditional knowledge." (HRC, 7 March 2012, p. 13)

Physicians for Human Rights (PHR) in a report published August 2012 states the following with regard to human rights abuses surrounding economic development projects in Myanmar:

"Economic development projects, such as hydroelectric dams, mines, pipelines and industrial areas, are also linked to human rights abuses. Ethnic minority people tend to live in mountainous regions at the periphery of the country that are also rich in natural resources. Scores of development projects have begun in these areas in the last decade. Development projects are implemented by Burmese and foreign companies in partnership with the military, which provides security. Rights groups accuse the Burmese army of subjecting civilians to forced relocations, forced labor, and intimidation as a result of these projects." (PHR, August 2012, p. 1)

5 Ethnicity, citizenship and nationality

5.1 National legal framework and policies on citizenship, nationality and protection of ethnic minorities

Please see section 4.1.1 (p. 75) of the previous Myanmar COI Compilation of October 2011 for information regarding citizenship as defined in articles 345 and 346 (Chapter VIII) of the Constitution of the Republic of the Union of Myanmar of 2008.

Chapter VIII of the 2008 Constitution further contains provisions concerning the rights and duties of citizens:

“347. The Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection.

348. The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth.

349. Citizens shall enjoy equal opportunity in carrying out the following functions:

- (a) public employment;
- (b) occupation;
- (c) trade;
- (d) business;
- (e) technical know-how and vocation;
- (f) exploration of art, science and technology.

[..]

352. The Union shall, upon specified qualifications being fulfilled, in appointing or assigning duties to civil service personnel, not discriminate for or against any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, and sex. However, nothing in this Section shall prevent appointment of men to the positions that are suitable for men only.

[..]

354. Every citizen shall be at liberty in the exercise of the following rights, if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality:

- (a) to express and publish freely their convictions and opinions;
- (b) to assemble peacefully without arms and holding procession;
- (c) to form associations and organizations;

(d) to develop their language, literature, culture they cherish, religion they profess, and customs without prejudice to the relations between one national race and another or among national races and to other faiths.

355. Every citizen shall have the right to settle and reside in any place within the Republic of the Union of Myanmar according to law.

[...]

365. Every citizen shall, in accord with the law, have the right to freely develop literature, culture, arts, customs and traditions they cherish. In the process, they shall avoid any act detrimental to national solidarity. Moreover, any particular action which might adversely affect the interests of one or several other national races shall be taken only after coordinating with and obtaining the settlement of those affected.

[...]

368. The Union shall honour and assist citizens who are outstanding in education irrespective of race, religion and sex according to their qualifications.

[...]

387. Every citizen, with the Union Spirit, has the duty to enhance unity among national races and to ensure public peace and stability." (Constitution, September 2008, Chapter VIII)

A report by Human Rights Watch (HRW) published in August 2012 mentions three categories of citizens designated by the 1982 Citizenship Act: full citizens, associate citizens and naturalized citizens. The report describes these categories of citizenship with regard to recognized and non-recognized minority groups:

"By law, full citizens are persons who belong to one of the eight recognized 'national races' (Arakan, Burman, Chin, Kachin, Karen, Karenni, Mon, Shan) or those whose ancestors settled in the country before 1823, the beginning of British occupation of what is now Arakan State. If individuals cannot provide evidence that their ancestors settled in Burma before 1823, they may still be eligible for naturalization. Those persons who qualified for citizenship under the 1948 law, but who would no longer qualify under the 1982 law, are considered associate citizens if they applied for citizenship before the 1982 law went into effect.

Following the implementation of the 1982 law, foreigners may become naturalized citizens if they can provide 'conclusive evidence' that they or their parents entered and resided in Burma prior to independence in 1948. Persons who have at least one parent who holds one of the three types of Burmese citizenship are also eligible to become naturalized citizens. Beyond these two qualifications, section 44 of the 1982 act stipulates that a person seeking to become a naturalized citizen must be at least 18 years old, able to speak one of the national languages well (the Rohingya language, a dialect related to Chittagonian, is not recognized as a national language), of good character, and of sound

mind. According to the terms of the law, only full and naturalized citizens are 'entitled to enjoy the rights of a citizen under the law, with the exception from time to time of the rights stipulated by the State.' All forms of citizenship, 'except a citizen by birth,' may be revoked by the state." (HRW, August 2012, p. 46)

The Burma Citizenship Law of 15 October 1982 contains provisions on access and criteria for citizenship (Chapter II), associate citizenship (Chapter III) and naturalised citizenship (Chapter IV), on the relevant decision-making and appeals authorities and on preceding acts repealed by this law (Chapters V-VIII). The full text of the law can be found under the following link:

- Burma Citizenship Law [Myanmar], 15 October 1982 (available at Refworld)
<http://www.unhcr.org/refworld/docid/3ae6b471b.html>

The Democratic Voice of Burma (DVB) states that the 1982 Burma Citizenship Law "replaced the 1948 citizenship act, which stipulates that any person who has resided in Burma for more than two generations is entitled to citizenship" (DVB, 10 July 2012).

The Arakan Project, an advocacy group monitoring the situation of the Rohingya, notes the following in a January 2012 report submitted to the UN Committee on the Rights of the Child (CRC):

"The 2008 Constitution does not alter the fact that Rohingyas' legal status relies entirely on the political will of the government: Article 345 (a) sets a double *jus sanguinis* requirement – both parents have to be citizens, whereas (b) refers to the existing 1982 Citizenship Law.

As a positive step, Myanmar allowed the Rohingya to vote, form political parties and stand as candidates during the elections of 7 November 2010. During the election campaign, the authorities pledged citizenship in an attempt to garner Rohingya votes for the government-backed Union Solidarity Development Party (USDP), but, in spite of a resounding USDP victory, these election promises have not been fulfilled. On the contrary, during parliamentary meetings in August and September 2011, the new government reiterated that existing policies and restrictions institutionalising racial discrimination would remain in place for national security reasons.

Rohingya children are deprived of the rights inherent to citizenship from birth. Despite UNHCR's advocacy efforts to address their lack of status with the government, little progress has been achieved to date." (Arakan Project, January 2012, p. 4)

A September 2012 article by Radio Free Asia (RFA) reports:

"Rohingyas born in Burma are eligible to apply for citizenship if at least two generations of their families have lived in the country, Immigration Minister Khin Ye said Wednesday, following criticism from international rights groups over the government's discrimination of the minority group. He said that those who met these requirements 'have the right' to apply for citizenship in Burma, where many of them have lived in Rakhine state along the Bangladesh border for generations.

The Rohingya are regarded in Burma as immigrants from Bangladesh and referred to as 'Bengalis' even though they have long lived in the country. The U.N. regards them as one of the world's most persecuted minorities. 'Foreigners, like the Bengalis, have the right to apply for citizenship if they want to,' Khin Ye told RFA's Burmese service, citing an amendment to the country's constitution in 1982 during the rule of the former military regime.

'The requirements are that their grandparents and parents must have lived here and died here, that the applicant was born here and can speak the Burmese language, and that he or she wants to live here, among other things,' he said. He maintained that the Rohingya, which he referred to as Bengalis from neighboring Bangladesh, were first brought to Burma as laborers during British occupation from 1824 until the nation gained its independence in 1948.

Khin Ye, speaking in an interview from the capital Naypyidaw, also explained why the government does not treat the Rohingya as an ethnic group in Burma. He said that during the colonial era, Burmese 'had no right to protect and manage our country,' meaning that the Rohingyas were never invited to stay by the country's citizens. 'So unless they are blood-related with our people, there is no way they [can be automatically considered] our citizens,' he said. [...]

Khin Ye said that some of the Rohingyas 'have become citizens according to the law,' but said that most Burmese frequently assume that they have obtained their documentation through corrupt immigration officials. [...] This was understandable as it was difficult for Rohingyas to become citizens based on the fact that the minority is not officially recognized as one of the more than 100 ethnic groups of Burma. The country's last two official censuses in 1973 and 1983 also did not list them amongst the population." (RFA, 12 September 2012)

The UN Committee on the Rights of the Child (CRC) notes in its February 2012 Concluding Observations on Myanmar that a large number of persons in Myanmar are without citizenship and that some people will be rendered stateless due to the "very restricted requirement of having both parents as nationals of the country for citizenship". The CRC adds that there is a "lack of legislation granting nationality to children born in the territory of the State party or to nationals of the State party living abroad". The body also notes that "three different categories of citizenship established by the Citizenship Law of 1982" may result "in some categories of children and their parents being discriminated against, stigmatized and/or denied certain rights (CRC, 3 February 2012, p. 8).

5.2 Citizenship and identity documentation

An April 2010 End of Mission report by ProCap, an emergency protection response project jointly managed by UN agencies and NGOs, provides the following information:

"The citizenship certificate (NRC or Citizenship Scrutiny Card) is an important primary identity document that is in principle available upon application to all nationals aged 10 and above. The citizenship certificate establishes the legal identity of nationals as citizens

and is used regularly to better access rights, opportunities and services that would not normally be available to non-citizens. This includes better employment opportunities, government employment including in the army and police force, access to banking facilities, registration of businesses, registration of marriages, births and deaths, property transaction, shares trading, enrollment in higher education, holding of passport. It is also fundamental to land use." (ProCap, 1 April 2010, p. 9)

The August 2012 report by Human Rights Watch (HRW) states:

"The law designates three categories of citizens: (1) full citizens, (2) associate citizens, and (3) naturalized citizens. Color-coded Citizenship Scrutiny Card's are issued according to citizenship status—pink, blue, and green, respectively." (HRW, August 2012, p. 46)

An older 2007 article published by an author named Tun Tun Aung in the Japanese academic journal *Gendai shakai bunka kenkyū* provides the following information on the appearance of citizenship cards:

"The Myanmar citizenship card is pink coloured paper card sized with 70mm, 100mm and 0.5 mm which includes all information of holder of one serial number with a abbreviation of specific issued Township of state or division and issued date, holder's photo with official seal, issuing officer's seal and signature, name, father's name, date of birth, nationality, religion, height, blood group, remarkable mark and holder's signature in the front side of ID card. [...]

There are also card holder's previous ID No., occupation, address, fingerprint of left thumb and remarks on back side [...] which expressly mentioned for regulations that-

- (a) it must be brought ID card when any person travels; and
- (b) there must be duty to report to police and immigration office when the card is lost or damaged.
- (c) for the of ID card of attaining 10 years, one more regulation is that it must be renewal new ID card of attaining 18 years after attaining 18 years of age." (Tun Tun Aung, 2007, p. 279)

The US Department of State (USDOS) notes in its 2011 International Religious Freedom Report, published July 2012 with regard to National Registration Cards (NRCs)/ Citizenship Scrutiny Cards (CSCs) and passports:

"Citizens and permanent residents are required to carry government-issued National Registration Cards (NRCs), also known as Citizenship Scrutiny Cards which permit holders to access services and prove citizenship. These identification cards often indicate religious affiliation and ethnicity. There appeared to be no consistent criteria governing whether a person's religion was indicated on the card. Citizens also are required to indicate their religion on certain official application forms for documents such as passports, although passports themselves do not indicate the bearer's religion." (USDOS, 30 July 2012, section 2)

The UN Committee on the Rights of the Child, in its Concluding Observations of February 2012, notes that the identity card mentions the religion and ethnic origin of the person concerned (CRC, 3 February 2012, p. 8).

5.2.1 Administrative procedures in obtaining CSCs and/or nationality

Procedures in obtaining CSCs

This section does not include information already covered in section 4.2.1 (pp. 78-79) of the previous Myanmar COI Compilation of October 2011.

The 2007 article published in the Japanese journal *Gendai shakai bunka kenkyū* (author: Tun Tun Aung) contains the following general information with respect to procedures in acquiring citizenship cards:

“According to the Myanmar Citizenship Law 1982, measures have been taken to issue the Citizenship Scrutiny cards to those who are eligible to be Myanmar citizens. Similarly, attention has been given to take measures not to issue Citizenship Scrutiny cards to those who are not eligible to be Myanmar citizens in order to safeguard the Race and Religion of Myanmar [...]

According to Myanmar Citizenship Law, any citizen must apply for national ID card at his or her residing Township Immigration Office with following procedures. At the same time, it is also registered for each household's registration in the residents' registration at Head office of National Registration and Union Citizenship Division and Township Immigration office which national ID card is applied. For the purpose of residents' registration, compilation of national residents' registration which puts on record name, male or female, age and date of birth, birth place, nationality, residence, marital status is of important [sic].

Any citizen who is attained age of 10 years old has to register for his or her citizenship card in accordance with all procedures prescribed in Myanmar Citizenship Law as follows-

1. It shall be informed to residing Township Immigration Office when any person has attained of 10 years old within a year.
2. It shall be shown for birth certificate or any document for such person's birth.
3. It must be brought 3 photos (1 and 1 inch)
4. It must also be brought household residence registration certificate.

Any citizen who is attained age of 18 years old has to register for his or her citizenship card in accordance with all procedures prescribed in Myanmar Citizenship Law as follows-

1. It shall be informed to residing Township Immigration Office from the day of any person who has attained of 18 years old within one year.
2. It shall be brought Citizenship Card which made up after attaining 10 years.
3. It must be brought 3 photos (1 and 1 inch).

4. It must also be brought household residence registration certificate." (Tun Tun Aung, 2007, pp. 278-281)

The Myanmar Times, a weekly newspaper, reports in its issue of 25 June 2012:

"The Ministry of Immigration and Population earlier this month launched the third stage of a national project to issue new and replacement National Registration Cards to Myanmar citizens. Under the project, which began on June 1 and ends July 31, the identity cards are issued free of charge within one day to full citizens. 'Children at least 10 years old can apply for an NRC. We are sending our teams around to each quarter and also to state schools,' said U Myint Soe, an immigration officer for Botahtaung township in Yangon Region.

Among those who received a new NRC in Botahtaung township last week was Daw Thandar, 40, who praised the expedited issuing process. On June 20 she swapped her underage NRC for an adult card. 'I am struggling to look after my family every day so I can't give a lot of time to visit many offices to get this card. I came here because under the project I can get a card in one day. I don't need to pay any money or give much time. This project is really good for someone in my situation,' she said.

The first phase of the project ran from July 1, 2011 to the end of October, while the second phase began on February 1 and ended March 30. U Myint Soe said about 39,000 people lived in the township and his office had issued 519 cards in phase one, 267 in phase two and another 111 so far in phase three. Officer for Botahtaung's No 10 quarter, U Lay Myint, said administrative officials were cooperating with the Immigration Department so that members of the public were aware of the program.

Applicants must present their household member list, the recommendation of the quarter officer, two passport-size photos and results of a blood test. However, those with one parent who is a non citizen will have to wait longer to get an NRC, officials said, as the ministry needs to check personal documents more closely." (Myanmar Times, 25 June 2012)

A Myanmar Times article of 13 February 2012 states:

"The government last week reiterated that all members and associates of ethnic armed groups that have reached peace agreements will be issued with official citizenship documents. U Khin Yi, Minister for Immigration and Population, said at a press conference at the Yangon Region government office on February 5 that members of those groups would be issued red-coloured National Registration Cards, which are issued to those considered full citizens under the 1982 Myanmar Citizenship Act. 'The members, their family members and relatives, and those who have been [in conflict areas] for other reasons ...we will check them against the original list provided by the concerned groups,' U Khin Yi said. 'A five-member committee will confirm the ethnicity of those guaranteed by the groups,' he said, after which they 'will be issued the national registration cards under the 1982 Myanmar Citizenship Act'. National Registration Cards grant full rights under the 2008 constitution, he added." (Myanmar Times, 13 February 2012)

In a November 2011 report, the International Crisis Group (ICG) reports on ethnic and religious minorities and their access to national registration documents and citizenship:

"Minority communities across Myanmar feel strongly that they are not treated as equals by the Burman majority or the government. This includes not only ethnic minorities, but also populations of Chinese and Indian origin and religious minorities – particularly several distinct Muslim populations across the country. Most of these groups have lived in Myanmar for generations, and many of these people have national registration documents. There are some notable exceptions, and the minority Muslim population concentrated in northern Rakhine State near the Bangladesh border, generally known as Rohingya, are particularly discriminated against. They are not accorded any official minority status, and the vast majority are also denied citizenship even though many families have lived in Myanmar for many generations." (ICG, 30 November 2011, pp. 11-12)

"In addition to the Myanmar people of Chinese origin who have lived in the country for a long time, there are many Chinese migrants, particularly in upper Myanmar, who have arrived more recently. Some of these have apparently purchased national registration documents without meeting the formal requirements under Myanmar laws and administrative rules." (ICG, 30 November 2011, p. 11, footnote 52)

A report by Human Rights Watch (HRW), published in May 2011, refers to the "statelessness of the Rohingya Muslim minority, hinterland hill-tribes, and other marginalized populations, and haphazard or incomplete citizenship registration". The same report further notes with regard to the Rohingya and Chinese migrants:

"The Rohingya Muslim minority. Burma's most persecuted ethno-religious minority, the estimated one million Rohingya, have been the target of both large scale brutal military expulsions into Bangladesh (in 1978 and 1991) and denied citizenship and basic rights for three decades. Many Rohingya were paradoxically granted voting rights in 2008 and 2010 through the issuance of temporary ID cards and Rohingya political parties were permitted to contest the election (they were trounced). [...]

Chinese migration to northern Myanmar. Chinese migration to Burma has demonstrably increased since the early 1990s, especially to Burma's second largest city, Mandalay. Many Chinese migrants purchase citizenship, using business contacts with officials to secure it, while others are temporary laborers, such as the tens of thousands of road builders and dam construction workers now in Kachin State." (HRW, 17 May 2011)

A May 2012 article by the Integrated Regional Information Network (IRIN) notes with reference to other sources:

"In Myanmar, the term 'Rohingya' is not recognized by the government and, therefore, it does not feature in the official list of 135 national races whose membership guarantees full citizenship,' said Chris Lewa, director of the Arakan Project, an advocacy group for Rohingya. [...]

Another challenge, said HRW's Mathieson, are the 'countless thousands of stateless hill-tribe people in Shan State and other border areas, plus thousands of civilians who have

never been registered as Burmese citizens. [They have] no birth certificates, ID cards, or passports because they grew up in insurgent-controlled areas or refugee camps or migrant worker communities.” (IRIN, 16 May 2012)

The UN High Commissioner for Refugees (UNHCR), in its Global Appeal 2012-2013 published in December 2011, notes with reference to Muslim residents in Northern Rakhine State (NRS):

“In NRS, UNHCR assists some 800,000 Muslim residents who do not have citizenship. Members of this group were allowed to vote in the November 2010 elections, using temporary registration cards issued for that purpose by the Government. Initial discussions on replacing the temporary documents with cards denoting full citizenship took place at different administrative levels, but did not yield any concrete results. Indeed, there has been no improvement in the legal status or living conditions of the Muslim residents of NRS. [...]

Lack of citizenship and the Government’s restrictive administrative policies and practices are the main protection and livelihood problems faced by the Muslims of NRS.” (UNHCR, 1 December 2011)

The above-mentioned Arakan Project notes the following in a January 2012 report submitted to the UN Committee on the Rights of the Child (CRC):

“The Rohingya were rendered stateless by the Citizenship Act of 1982. This law, essentially based on *jus sanguinis* criteria, identifies three categories of citizens: Full, Associate and Naturalized citizens, who are issued with corresponding colour-coded ID cards.

Membership of ethnic groups listed among the 135 ‘national races’ settled in Myanmar before 1823, the start of the British colonisation of Arakan, guarantees full citizenship. But the Rohingya do not appear in the official list published by the government, which also does not include any other terminology under which the Muslim population could be registered. Very few Rohingyas could apply for naturalized citizenship due to the difficulty of meeting necessary criteria (proof of residence prior to 1948, tracing bloodlines as stated, fluency in the Burmese or Rakhine language) and even those who did meet stipulated requirements did not receive any response. The wide powers assigned to a government-controlled ‘Central Body’ to decide on matters pertaining to citizenship mean that, in practice, their entitlement to citizenship is not recognised.” (Arakan Project, January 2012, pp. 3-4)

Procedures in obtaining nationality

The HRW report published in August 2012 notes with regard to citizenship and recognized and non-recognized minority groups:

“Provisions in the 1982 law perpetuate the citizenship crisis by denying citizenship to children born to non-citizens. According to reliable but confidential sources, there are an estimated 7,000 to 8,000 unregistered Rohingya children in northern Arakan State, referred to as ‘blacklisted children,’ who are born to individuals below 18, unregistered

couples, or to a parent in Bangladesh. In order for a child to attain Burmese citizenship, at least one parent must already hold one of the three types of Burmese citizenship. Most Rohingya lack formal documents, any means of obtaining documents, or any way of providing 'conclusive evidence' of their lineage in Burma. Rohingya who cannot provide the government 'conclusive evidence' of their lineage or history of residence find themselves ineligible for any class of citizenship, along with their children.

Apart from the question of citizenship is the question of ethnicity. Burmese law does not recognize the Rohingya as one of Burma's national races. While some Rohingya trace their lineage back centuries, many families migrated to and settled in Arakan during the British colonial period, which under the 1982 law directly excludes them from citizenship and does nothing to help establish them as an ethnic nationality of Burma. Even for those Rohingya whose families settled in the region before 1823, moreover, the onerous burden of proving it to the satisfaction of the Burmese authorities has made it nearly impossible for many to secure Burmese citizenship, let alone status as an ethnic race or nationality of Burma.

In June 2012, several Rohingya told Human Rights Watch that local authorities or Arakan confiscated their ID cards. A Rohingya woman, 38, who survived an attack by an Arakan mob, said, 'They [the attackers] brought a lot of cars and they were loading our belongings into the cars. They even took our IDs. They forcibly took our IDs. Tens of thousands of Rohingya lost their belongings to arson in June 2012, which plausibly would have destroyed important documentation and identity cards of thousands; this will be create additional problems for them under the current legal framework.' (HRW, August 2012, p. 47)

The US Department of State (USDOS) Country Report on Human Rights Practices 2011 on Myanmar, published in May 2012, notes:

"Citizenship is granted to anyone whose parents are both nationals of the country as prescribed by law. In practice the government did not implement laws and policies to provide stateless persons the opportunity to gain nationality on a nondiscriminatory basis.

There are 135 officially recognized 'national races' who qualify for citizenship. Some members of native-born but so-called nonindigenous ethnic populations, such as Chinese, Indians, Bengalis, some Eurasians, and the country's Rohingya population, are not included in the list and are denied the full benefits of citizenship based on what the government considered their nonindigenous ancestry. Of these, the Muslim Rohingya fared the worst, with nearly all Rohingya denied any benefits of citizenship." (USDOS, 24 May 2012, section 2d)

5.2.2 Issuing authorities

The Myanmar Times, in its issue of 13 February 2012, quotes the Minister for Immigration and Population, U Khin Yi, as saying that a "five-member committee will confirm the ethnicity of those guaranteed by the [ethnic armed] groups" which have reached peace agreements, after

which they would “be issued the national registration cards under the 1982 Myanmar Citizenship Act” (see above, section 5.2.1). The article further explains:

“The five-member committee was one of two bodies established in 2005 to process those who couldn’t show documentation to prove their citizenship status. The committee includes a village or quarter administration officer, and officials from the police force, Ministry of Health, Ministry of National Planning and Economic Development and Ministry of Immigration and Population.

A similar six-member committee for confirming permanent residency includes the same group plus one community elder or member of a religious body.” (Myanmar Times, 13 February 2012)

An article by Karen News, published May 2012, reports on ID card issuance and household registrations in the Three Pagodas Pass area:

“Villagers in the Three Pagoda Pass area say government immigration officials issuing identity cards to residents from villages from around the Karen State border town in record time.

Residents say township immigration officials are providing ID cards and household registrations to all civilians, both urban and rural, who apply for the documentation. Individuals and families are turning up in droves at immigration offices with a recommendation letter from their section administration chief to obtain the ID cards.

Naing Aung, a resident in Three Pagoda Pass Town, said that getting an ID card is now cheap, quick and easy. ‘It doesn’t cost much. If there are few people, we can get it within one day, but if there many people, we have to wait for a week. Many people, especially people from Mon and Karen villages south of the town have come to get their ID cards. Anyone who comes with the recommendation letter from their section administration chief is issued the ID card.’ Naing Aung explained that the cost for the ID card is 200 Thai Baht and many hundreds of local residents have been issued with the ID card.

Three Pagoda residents noted that many people, including merchants and traders from different parts of the country, and members of the All Mon Region Democracy Party, National League for Democracy and the Union Solidarity and Development Party have also received ID cards.” (Karen News, 7 May 2012)

The Kachin News Group (KNG), a Thailand-based multimedia news organisation founded by Kachin student leaders, reports in a July 2011 article:

“The Kachin Independence Organization (KIO), the self-proclaimed Kachin independent government issued the first National Registration Card (NRC) to people in its controlled territories, in northern Burma.

The KIO’s NRC has been issued since early May in the organizational capital, Laiza, and Maijayang, in eastern Kachin State, where there are about 50,000 residents in the two towns, excluding foreigners. Voting was banned in the areas during the November 7,

2010, election by the Burmese central government, according to a KIO officer. Voting was cancelled in 68 village-tracks and villages in 9 townships in Kachin State, which were under control of the KIO, by the military-controlled Union Election Commission (UEC).

'This National Registration Card (NRC) is for the people who could not participate in the election. It is an electronic card designed by computer. All data about the holder is recorded on the card, including income and DNA. The holders can open bank accounts when the KIO-run bank is opened,' said a KIO officer.

'In Laiza almost all of the people got the NRC. However, there is no pressure from the KIO to apply for the card. It depends on our own desire. For me I really want the ID and I made it,' said a Laiza resident.

The Department of General Administration (DGA), the civil administration of the KIO, has issued two types of cards to the people in the territories, the NRC to natives of Kachin State and a Foreign Registration Card (FRC) to foreigners not born in Kachin State, according to KIO officials in Laiza. The holder's name, birth date, parent's name and biographical information are on the card. The total cost for each card is Chinese Yuan 30, equivalent to 3,000 Burmese kyat.

Currently, the card holders can travel as far as Kunming, the Capital of China's southwest Yunnan province, which borders the KIO territories in Kachin State. However, it does not allow access to Burmese government controlled territories in Kachin State, Myitkyina the Capital of Kachin State, and Manmaw (Bhamo) Township, according to Hting Nan, Vice General Secretary of the KIO. [...] At the same time, the KIO is collecting census information on families in the territories while it is issuing the NRC." (KNG, 12 July 2011)

Among the sources consulted by ACCORD within time constraints no further information could be found with regard to issuing authorities.

5.2.3 Examples of obstacles in obtaining CSCs

Among the sources consulted by ACCORD within time constraints no information could be found on examples of obstacles in obtaining CSCs, other than those referred to above in section 5.2.1.

5.2.4 Issuance, usage, issuing authorities, and procedural requirements for issuance of other key documents including Family List, Travel Permit (Tau Khan Sah), Student ID card (Chaung Ta Kat), passport, birth certificate, and property ownership documents

Family list and household registration

The Arakan Project report of January 2012 provides the following information on the family list with reference to Rohingya children:

"Identity documentation issued to Rohingya includes the Temporary Registration Card (TRC) and the family list. Neither of these documents mentions a place of birth, and

therefore cannot serve as official evidence of birth in Myanmar, thereby perpetuating statelessness. TRCs bear a specific mention that the card cannot be used to claim citizenship." (Arakan Project, January 2012, p. 4)

"The right to citizenship is fundamental for the enjoyment of other rights. As a consequence of their statelessness, Rohingya children, including those registered in the family list, experience restrictions and face discrimination with regard to education, health care and access to food." (Arakan Project, January 2012, p. 7)

The same Arakan Project report states that "[a]n unregistered child does not exist administratively and is not included in his/her family list", indicating further that "[h]is/her parents have to hide him/her during population checks" and that "[h]is/her family could even be arrested for hosting an unregistered guest" (Arakan Project, January 2012, p. 5).

A March 2012 Mizzima article on the run-up to a by-election in Hpakant constituency in Kachin State notes with reference to a state Election Commission (EC) official that "people whose names were not on a registered family list in the area would not have the right to vote" and that "[i]n Burma, people must officially register as a member of a family in a township" (Mizzima, 16 March 2012).

A Refugees International (RI) report, published in April 2011, states:

"Family lists, the basic registration system in Burma, include the names of all residents of each household. For Rohingyas, the lists also include a tally of livestock, and are checked by the NaSaKa [the Burmese border military] on a regular basis. If a resident is not present during a family list check, their name is struck off and the resident is not allowed to return unless an exorbitant tax is paid. Rohingyas in Bangladesh told Refugees International (RI) that even if they could survive in their homeland, they could not sleep at night due to the deep-seated fear of arrest and abuse by the NaSaKa." (RI, 19 April 2011)

A March 2012 Mizzima article quotes an official of the Election Commission (EC) in Kachin state as saying that persons whose names were not on a registered family list in the area would not have the right to vote in an upcoming by-election in Hpakant constituency of the state. The article adds that in Myanmar, "people must officially register as a member of a family in a township." (Mizzima, 16 March 2012)

A Mizzima article of July 2011 provides information on house registration procedures and quotes comments from individuals residing in the Yangon Region (Thanlyin, Tamwe and Hlaing Townships) regarding this issue:

"One process that ought to be free is house registration. Burmese citizens must keep the authorities informed of their whereabouts and need to be registered. In theory, this process is free. During the new government's first parliamentary session, Minister of Immigration and Manpower Ministry Maung Oo briefed MPs saying application for household registration were being processed without delay if the papers were in order and it would not cost money.

According to Maung Oo's briefing, the head of household should come in person and he or she must bring an application letter, Immigration Form 10 issued by the township of his or her last address, residential proof of the old address, the original and copy of ownership certificate of the house of the last address, original and copy of the occupational certificate issued by the city development committee in case of a new flat and apartment, and the rent agreement signed by a landlord for the tenants.

But in practice, Mizzima found the real situation is not as straightforward as the minister described and money often has to change hands if the required documentation is to be obtained. [...]

Tun Kyaw (Thanlyin)

'I have lived in Thanlyin now for about six years, moved from Thaketa. First I lived with my parents when I got married. Now my parents have died and we sold our house and divided the proceeds of the sale among our siblings. Now I live in a rented dwelling. My name is on Immigration Form 10 and the household registration issued by the Thaketa Township Immigration Department. This is a Thaketa address. I have not yet got a new household registration with this new address in Thanlyin Township. As far as I remember, yes, we didn't need to pay any money to get this household registration as they were issued on our doorstep in the past. When I had my children, their names were inserted in our household registration free of charge too. We gathered at a house in our locality and made the insertion of additional family members in our household registration. We could obtain the death certificate and death registrations easily in the past as with birth registrations.

'Now this situation has changed. Making a household registration will cost you at least 50,000 kyat (US\$ 62). How can those who live hand to mouth afford such a large amount? Despite it being said that this essential document is issued free of charge, the situation has not yet changed. If they really want to issue this document easily and free of charge, they should visit door to door as they did in the past. We are still living with a temporary household registration certificate.'

Cho Lwin Khaing Oo (Tamwe)

'My first baby daughter was just born, and I made an insertion of an additional family member in my household registration. I found the news reported by the weekly journals saying the household registrations were being issued easily and free of charge. But I haven't yet got this document in this way. I sent my husband to the immigration office to register. He got the document on the same day, but my husband said that he had to give 15,000 kyat (US\$ 18.75) as a tip. The lady staff member asked him for tip money saying, 'I issue this document on the same day so please give me some tea (tip) money.' When my husband asked how much for the tea money, she replied 15,000 kyat was enough for her. Then my husband gave this money without making any complaint or bargaining. He also comforted me by saying this practice was rampant and normal everywhere and not to

make any complaint. We had to give this tea money despite the news in the journals that we do not need to pay any money.'

Than Htoo (Hlaing Township)

'I visited the Immigration Office last week to list my daughter-in-law as a new family member in our household registration. We didn't need to pay any money there because the officials at the township immigration office are my close friends.'" (Mizzima, 13 July 2011)

Travel permit (Tau Khan Sah)

The US Department of State (USDOS) Country Report on Human Rights Practices 2011, published May 2012, states:

"In-country Movement: In practice regional and local orders, directives, and instructions restricted freedom of movement. The law requires that persons who intend to spend the night at a place other than their registered domicile must inform local ward or village authorities in advance. Any household that hosts a person not domiciled there must maintain a guest list and submit it to authorities. Ward-level officials continued, albeit reportedly to a lesser degree than in previous years, unannounced nighttime checks of residences for unregistered visitors.

The government restricted the ability of internally displaced persons, refugees, and stateless persons to move. While freedom of movement was primarily related to a person's possession of identification documents, in practice ethnicity and place of origin were sometimes factors for the authorities in enforcing regulations. For example, NGOs reported that a Muslim family from Rangoon with full citizenship was arrested at the Sittwe airport and forced to pay a bribe to secure their release. Authorities require the Rohingya, a stateless population, to carry special documents and travel permits for internal movement in five areas in northern Rakhine State: Butheedaung, Mungdawe, Rathedaung, Kyauktaw and Sittwe, along the border with Bangladesh. Officials lifted travel restrictions for Rohingya in Thandwe and Kyaukphu districts in June.

Citizens of ethnic states report that the government restricted the travel of, involuntarily confined, and forcibly relocated IDPs, refugees, and stateless persons. In an effort to address the problem of trafficking in persons, officials continued to impede the travel of women under the age of 25." (USDOS, 24 May 2012, section 2d)

The January 2012 Arakan Project report on the situation of Muslim residents in northern Rakhine State notes that an unregistered child "cannot apply for a TRC [Temporary Registration Card] when he/she reaches 10 years of age, and consequently is barred from obtaining travel permission, attending school and, in the future, from getting marriage permission." (Arakan Project, January 2012, p. 4).

Among the sources consulted by ACCORD within time constraints no further information could be found on travel permits.

Student ID card (Chaung Ta Kat)

Among the sources consulted by ACCORD within time constraints no further information could be found on the subject of student ID cards.

Passport

A July 2012 article by the Myanmar Times states:

"Residents of upper Myanmar no longer have to travel to Yangon to renew their passports, following the opening of an issuing office in Mandalay last week. The passport office is located on 12th Street, between 65th and 66th streets, and opened on July 4.

'The process of applying for a passport is the same here as in Yangon. It takes 21 days to get the passport and costs K25,700 altogether. You can also renew a passport at this office,' a police officer at the office told The Myanmar Times on July 5, adding that about 160 applicants had visited the office on its first day of operation.

Applicants must have their photo taken at the security entrance, have their National Registration Card scanned, take a form and a photo, provide their original family list for scrutiny, pay the fee and then fill in the form. When collecting their passport they also need to provide a completed form from the Customs office in Mandalay's Aung Myae Thazan township.

The passport office's opening hours are 8:30am to 3pm on weekdays except gazetted holidays." (Myanmar Times, 9 July 2012a)

Mizzima reports in an article published April 2011:

"The Myanmar Passport Office on Pansodan Street in Rangoon is a busy place. As one applicant found recently, standing for ages in line, filling out forms, running up and down stairs, and paying various fees gets you only so far. The applicant, John Htay, a pseudonym, then faced the prospect of waiting for a month to have his passport issued. [...]

The passport process in Burma is said to have been improved. The office used to be notorious for red tape and complicated procedures. But as John Htay found, the process was still laboured and paying a relatively large sum of money could speed things up. [...] If you want the passport urgently, you must pay a tout at the passport office 200,000-300,000 kyat (US\$ 234-351) but you have to contact this tout daily', he said. [...]

Passport application in any country is seldom a simple process, although some countries have tried to improve their systems or outsourced the process to commercial firms. But in the Myanmar Passport Office, there are a number of hurdles to jump.

First, he had to get his photo taken, which cost him 3,500 kyat (\$4). Then he lined up in another queue, to verify the details of his household registration and his ID card. He

handed over 1,000 kyat, as people ahead of him in the queue did, because he had heard this would ease passage.

Then he walked upstairs to buy a set of passport application forms for 2,000 kyat. It was hard to find a space in the crowded room to fill them out. While he was standing in a queue of over 100 people to pay the passport application fee, he filled out a cash remittance form, following the example of a sample form pasted on the wall. He paid the \$22 passport fee and a \$1.20 service fee. [...]

On the next day, he returned to pick up his passport photos. He photocopied his cash remittance receipt and then had to pay another small fee, which was said to be for the cost of passport ink, paper and maintenance of office equipment. He was then to go upstairs to buy another form, paying \$2.34.

He said he felt exhausted and upset with all the forms to fill out that included spaces for the names of cousins, brothers and sisters, both maternal and paternal. Then he had to have the forms checked and verified. The woman behind the counter checked the forms thoroughly. John Htay said the clerk told him the process was much more user-friendly than it used to be, but then asked him if he wanted the process finished in one day. When he said yes, she said it would cost \$35. He bargained the price down to \$29. After some time, the process was finished and an appointment date was set to then submit another form.

At this point, it was made clear that if he wanted his passport issued within a few days, he would have to pay 150,000 kyat (\$174) to a tout, otherwise it would take a month. He paid the extra fee." (Mizzima, 28 April 2011)

The USDOS 2011 International Religious Freedom report notes with reference to passport issuance in the context of travel abroad for religious purposes:

"The government allowed members of all religious groups to establish and maintain links with coreligionists in other countries and to travel abroad for religious purposes. These links were subject to restrictive passport and visa issuance practices, foreign exchange controls, and government monitoring, which extended to all international activities by all citizens regardless of religion. The government sometimes expedited its burdensome passport issuance procedures during the year for Muslims making the Hajj or for Buddhists going on pilgrimage to Bodhgaya, India. Although approximately 500 Muslims from Burma participated in the Hajj during the year, there were allegations of corruption in the Ministry of Religious Affairs' expedited process." (USDOS, 30 July 2012, section 2)

The UK Border Agency (UKBA), in its February 2012 Country of Origin Information Report, states with reference to information provided by a British Embassy official in Myanmar in February 2011:

"A Foreign and Commonwealth Official [sic] (FCO) official at the British Embassy in Burma stated, with regards to a certificate of identity, in a letter dated 2 February 2011, that 'On the first, the Embassy's understanding is that a certificate of identity is a Burmese

passport issued by Embassies if a Myanmar/Burmese citizen loses their passport. It is a low quality coloured A4 sized paper with photo and is different from the normal ID card. ID cards are much smaller, laminated cards, and are required by every Myanmar citizen over the age of 12 if they want to travel even within Burma.” (UKBA, 2 February 2012, p. 134)

The UKBA Country of Origin Information Report of February 2012 further cites older information with regard to passport issuance:

- UKBA – UK Border Agency (Home Office): Country of Origin Information Report; Burma (Myanmar), 2 February 2012, pp. 135-139 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/file_upload/90_1328196850_coi-report-burma-ukba-20120202.pdf

Birth certificate

The US Department of State (USDOS) Country Report on Human Rights Practices 2011 provides the following information:

“In major cities (e.g., Rangoon and Mandalay), births were registered immediately. In these larger cities, births must be registered to qualify for basic public services and obtain national identification cards. In smaller towns and villages, birth registration was often informal or nonexistent. Access to public services in remote communities was sometimes complicated by lack of birth registration but more often by a lack of services. For the Rohingya community, birth registration was a significant problem (see section 2.d).” (USDOS, 24 May 2012, section 6)

A German-language overview of documents required for concluding marriages in Myanmar, published by the Municipal Office of the Canton of Zurich in March 2012, mentions that birth certificates are issued by the civil registry office at the place of birth. In Myanmar, birth certificates are normally issued only once, i.e. after birth. The text further mentions a document referred to as “Recommendation of Birth Certificate” which is issued by local authorities in exceptional cases if a person intending to marry is verifiably unable to provide a birth certificate. In the past, birth certificates could not be issued in various regions of Myanmar due to absence of competent bodies (hospitals, authorities). The text further mentions the household list which lists all persons registered at a given address. (Municipal Office of the Canton Zurich, March 2012)

The UN Committee on the Rights of the Child notes in its February 2012 Consideration of reports submitted by States parties:

“The Committee notes the establishment of a birth registration system called Modified Vital Registration System; the engagement of the State party to carry out advocacy and awareness for birth registration; the review of the status of a large number of children born of parents who were unable to obtain marriage authorization in the northern Rakhine State, with a view to regularization; and the plan to conduct a nationwide population census in 2014. However, the Committee is concerned that a large number of children, including Rohingya children, remains unregistered as a result of insufficient

awareness-raising on the importance of birth registration; a non-user-friendly system; a lengthy process to obtain birth certificates at the township level; unofficial fees associated with the birth registration system; the existence of the local order restricting marriages for Rohingya people; and the practice aimed at reducing the number of their children." (CRC, 3 February 2012, pp. 8-9)

The Arakan Project report to the Committee on the Rights of the Child of January 2012 states the following with regard to issuance of birth certificates, civil documentation and registration of Rohingya children:

"Birth certificate

In its Concluding Observations of June 2004, the Committee urged Myanmar 'to strengthen its efforts to reform its civil registration system to ensure that all children are registered at birth without discriminatory conditions'. In Northern Rakhine State, this obligation under the Convention is systematically and officially violated. The authorities have stopped issuing new-born Rohingya children with individual birth certificates since the mid-1990s. Parents are nevertheless obligated to register their children's birth with the local authorities and in their family list against the payment of a fee. In practice, this process is not straightforward as parents may not be able to register a child in their family list for endless arbitrary reasons such as a defect in the family list, a third child refused registration, etc. [...]

Unregistered children / black listed babies

Tens of thousands of Rohingya children also remain unregistered, born out of unauthorised as well as authorised marriages. An estimate of 40,000 unregistered children was provided in 2008, possibly more today. Even when granted official marriage permission, some parents are too poor to afford travel costs and bribes for birth registration, or missed the registration deadline. The father may be absent if he left the country during his wife's pregnancy or the newborn is above the permissible number of births. Implementation of the 'two-child policy' has so far not resulted in prosecution, but in higher birth registration fees and bribes. Babies born out of an unauthorised marriage or out of wedlock are not just refused birth registration but also constitute evidence of 'illicit' sexual relations that could serve to prosecute the parents. Subsequently, some couples without official marriage permission have registered their newborn child with another legally married couple, sometimes as the child of their own parents. Others have gone to deliver secretly in Bangladesh and abandoned their baby there.

An unregistered child does not exist administratively and is not included in his/her family list. His/her parents have to hide him/her during population checks. He/she cannot apply for a TRC when he/she reaches 10 years of age, and consequently is barred from obtaining travel permission, attending school and, in the future, from getting marriage permission. His/her family could even be arrested for hosting an unregistered guest.

However, at the village level, local authorities are mostly aware of the presence of unregistered children, and even keep separate records of their birth referred to as a

'black list'. Those families suffer unending extortion as they have to pay bribes to the village administration to remain in the village. Registration in the 'black list' also involves arbitrary fees. The government stated that there were 7,289 black-listed children in Northern Rakhine State in 2009. However, the majority of those black-listed babies are believed to be from authorised marriages and the number of 'illegitimate children' from unauthorised marriages is likely to be far greater. [...]

Since November 2011, the NaSaKa have taken some concrete steps to regularise 'black list children' and villagers have been encouraged by local authorities to come forward to register them and assured parents that they would not be arrested or face serious penalties. Villagers were told that the process would involve an application at and recommendation from the local NaSaKa Sectors or Stations to submit the file to the District Court in Maungdaw and that couples would have to appear before the court and only pay a nominal fine.

Implementation has just started but appears, however, to be opaque and unclear. Since early January 2012, The Arakan Project have talked to a variety of sources, including some Village Administrators as well as couples and women whose husbands live abroad -- all of whom were married with official permission. These couples and women had submitted relevant documents to the Court for their unregistered child and were awaiting a decision, but they complained that they had to pay up to 15,000 Kyat in bribes and fees, far more than a nominal fine. But couples without official marriage permission are apprehensive about coming forward.

They fear that they could be prosecuted later for unauthorised marriage. Even the Village Administrators contacted were unsure whether the NaSaKa or the Court would approve the regularisation of unregistered children from unauthorised marriages and were unconvinced that prosecution might not follow." (Arakan Project, January 2012, pp. 4-7)

Property ownership documents

The Diplomat, an international current affairs magazine covering the Asia-Pacific region, reports in an August 2012 article:

"Over the past 20 years, some 1.9 million acres have ended up in the hands of private Burmese firms through a variety of means, most of which had some pretext of legality. More than 70 percent of these private holdings have never been developed, however, and often the original owners were allowed to continue farming on an annual basis. But anticipating a flood of foreign investment, private firms are beginning to reassert ownership over these increasingly valuable plots and beginning development projects, as well as seeking new concessions. [...]

Much of the land handed to private firms has been designated by the Ministry of Agriculture and Irrigation as fallow, vacant, or virgin land, with no registered owners. While it is often occupied and being cultivated, the government has typically characterized those working this land as 'squatters.' [...]

In August of last year, the former Minister for Agriculture and Irrigation and now general secretary of the military-backed Union Solidarity and Development Party (USDP), U Htay Oo, submitted a new Farmland Law to parliament. This was quickly followed by the Vacant, Fallow and Virgin Lands Management Law, and amended versions of both laws were approved during the third session in early 2012. They represent the most substantial change to the legal framework for land since the early 1960s when everything was nationalized.

The new laws officially reintroduce the concept of private ownership, which means land tenure rights – all land remains the property of the state and can be nationalized by the government if necessary – can be sold, traded, or mortgaged. In one sense this is a positive step, as land was already being traded illegally but openly on a black market with little transparency. But the new laws also remove some protections for farmers; for example, allowing land to be repossessed if they fall into debt.

Activist U Win Myo Thu of the Burma non-government organization EcoDev warned recently that many farmers could also potentially lose their land under the two laws because they lacked proper ownership documents, citing a survey his organization conducted in 2010 of 1040 farmers in three states that found almost three-quarters had only a land tax receipt as proof of ownership." (The Diplomat, 25 August 2012)

The Myanmar Times states in a July 2012 report:

"The Myanmar Real Estate Services Association in Mandalay has warned brokers against engaging in illegal activities, particularly buying or selling property without proper ownership documentation. [...]

The association's notice also said that property owners whose land has been occupied or sold illegally, usually with fake ownership documents, should go to Mandalay City Development Committee's Settlement and Land Records Department with supporting documents to receive assistance in re-establishing ownership." (Myanmar Times, 23 July 2012)

The Irrawaddy reports in June 2012:

"A group of farmers in Kawthaung Township, Tenasserim Division, say they are worried they will be evicted from their land after a local army installation put up a signboard last week announcing that it was the owner of the property. [...]

Seeking help in asserting their claim to the land, 16 farmers have appealed to the Democratic Party (Myanmar) to petition President Thein Sein on their behalf. 'They feel hopeless after being told that the land does not belong to them. They didn't know what to do, so they came to our office to ask for help,' said party organizer Than Tun, adding that many of the farmers had produced government-issued documents to back up their claims of ownership. Most of the farmers said that they inherited the land from their parents, and that they have cultivated it for decades." (Irrawaddy, 28 June 2012)

The Myanmar Times reports in June 2012:

"The Kayin State Minister for Agriculture and Irrigation has urged farmers to prepare land ownership documentation in order to avoid land disputes with agribusinesses, a growing issue in Myanmar.

'The parliaments approved the farmland law and vacant land law so now you can sell or mortgage ... the lands you have been living on. So you should start preparing to secure legal ownership through the proper channels. We have already informed the head of the Survey Department. There needs to be a survey of properties in each township and village. If not, there could possibly be land disputes in the future,' the minister, U Christopher, said at a May 22-24 meeting in Thandaunggyi township, Kayin State, to explain the outcome of peace talks between the government and Karen National Union. [...]

The minister urged residents to solve ownership problems by submitting the cases to the relevant state minister and government. The KNU will work to resolve land disputes involving returning internally displaced people based on traditional customs, he said.

Pado Saw Hla Tun, secretary of the regional KNU campaigning department, encouraged the farmers of Thandaunggyi township to take up the offer to register their land. He said the government needed to respect the traditional land ownership system, not only in Kayin State but other areas of the country. 'Many lands are owned by ethnic minorities through traditional ownership structures, without legal ownership grants,' he said." (Myanmar Times, 4 June 2012)

5.2.5 Role of Village Council Persons in providing family registration

The Myanmar Times, in a 13-19 February 2012 article mentions "a six-member committee for confirming permanent residency", which, as the five-member committee (see above, section 5.2.1), was established in 2005. The six-member committee includes "a village or quarter administration officer, and officials from the police force, Ministry of Health, Ministry of National Planning and Economic Development and Ministry of Immigration and Population" and "one community elder or member of a religious body" (Myanmar Times, 13 February 2012).

An older report by the Kachin Development Networking Group (KDNG), published 2010, notes:

"Concerning the above-mentioned subject, Ban Kawk Village of Warazup Village Tract, in Hpakant Township, Mohnyin District, has been located on the Ledo highway since 1926. This village has been inhabited by ethnic minority farmers from a number of different tribes. The inhabitants wanted to start a school for the children and develop their community but the village council Chairman refused to issue national ID cards and house registration cards, so they have been living in the village as temporary residents only." (KDNG, 2010, p. 40)

Among the sources consulted by ACCORD within time constraints no further relevant information could be found on this issue.

5.2.6 Information on documents issued exclusively to ethnic minorities

In a July 2012 report on Muslims in Rakhine State, the İnsan Hak ve Hürriyetleri ve İnsani Yardım Vakfı (IHH) (English: The Foundation for Human Rights and Freedoms and Humanitarian Relief), an Islamic Turkish NGO, notes:

"Muslims have no right to citizenship. They carry white identification cards bearing the title 'foreigner.' These cards are only for identification purposes and do not entitle card holders to any rights. [...] Muslims are not issued passports. They are provided a document to cross into neighboring Bangladesh and sometimes they cannot return to their country because their documents are not accepted." (IHH, July 2012, p. 15)

The US Department of State (USDOS) 2011 International Religious Freedom Report of July 2012 states:

"Members of many ethnic and religious minorities, particularly Muslims, faced problems obtaining NRCs. [...]"

Essentially treated as illegal foreigners, Rohingyas were not issued Foreigner Registration Cards (FRCs). Since they also were not generally eligible for NRCs, Rohingyas have been commonly referred to as 'stateless.' In the run-up to national elections in November 2010, the government issued Temporary Registration Cards (TRCs) to residents in northern Rakhine State; the majority of them are Rohingyas. The issuance of TRCs was primarily done, it appears, to allow Rohingyas participation in the elections. The United Nations High Commissioner for Refugees (UNHCR) worked with approximately 750,000 residents of Rakhine State who did not hold citizenship in the country. At the end of the reporting period, the UNHCR (quoting government estimates) indicated that 85 percent of eligible residents (637,500 stateless persons) over the age of 10 possessed TRCs. The UNHCR noted that according to information from individuals in northern Rakhine State, many individuals issued TRCs were actually only given a TRC number and no document." (USDOS, 30 July 2012, section 2)

The Arakan Project report of January 2012 mentions the Temporary Registration Card (TRC) as one of the identity documents issued to Rohingya:

"Identity documentation issued to Rohingya includes the Temporary Registration Card (TRC) and the family list. Neither of these documents mentions a place of birth, and therefore cannot serve as official evidence of birth in Myanmar, thereby perpetuating statelessness. TRCs bear a specific mention that the card cannot be used to claim citizenship." (Arakan Project, January 2012, p. 4)

5.2.7 Issuance of passports/CSCs for women between 25 and 45 years of age

The US Department of State (USDOS) Country Report on Human Rights Practices states:

"In an effort to address the problem of trafficking in persons, officials continued to impede the travel of women under the age of 25." (USDOS, 24 May 2012, section 2d)

Among the sources consulted by ACCORD within time constraints no specific information could be found with regard to the issuance of passports/CSCs for women between 25 and 45 years of age.

5.3 Sub-groups among the different ethnicities, indicating tribes, sub-tribes and hierarchy and their languages, traditional and customary practices

The 2009 World Directory of Minorities and Indigenous Peoples, published by Minority Rights Group International (MRG), provides the following overview of ethnic groups in Myanmar:

“More than 100 languages are spoken in Burma, mainly from the Tibetan-Burmese language families, but also with a significant number of languages from the Tai-Kadai, Hmong-Mien and Austroasiatic groups. [...]

The main ethnic groups living in the seven ethnic minority states of Burma are the Karen, Shan, Mon, Chin, Kachin, Rakhine and Karenni. Other main groups include the Nagas, who live in north Burma and are estimated to number about 100,000, constituting another complex family of Tibetan-Burmese language subgroups. To these long-established minorities should be added more recent arrivals, who now constitute substantial numbers in the country, such as the Indians, Pa-O, Wa, Kokang, Palaung, Akha, Lahu, etc.” (MRG, September 2009, Overview)

The undated website of Oxford Burma Alliance (OBA), a student-run advocacy organisation, contains a list of “government-classified ethnic groups” in Myanmar that includes names of groups belonging to the Bamar (9 groups), Chin (53 groups), Kachin (12 groups), Karen (11 groups), Kayah (9 groups), Mon (1 group), Rakhine (7 groups), Shan (33 groups). The list also contains the names of unrecognised groups: Burmese Chinese, Panthay, Burmese Indians, Anglo-Burmese, Rohingya and Gurkha:

- OBA - Oxford Burma Alliance: Ethnic Nationalities in Burma, undated (b)

<http://oxford-burma-alliance.weebly.com/ethnic-groups.html>

An October 2011 article by an author named Thein Lwin indicates with reference to a work by Allot, Herbert and Okell published in 1989 that “[t]he members of the nation are represented by four large language families: Austro-Asiatic, Malay-Polynesian, Sino-Tibetan, and Tai (Allot, Herbert and Okell 1989) (Thein Lwin, 15 October 2011, p. 2).

Pages 2 and 3 of the article contain a table of these language families and their linguistic sub-groups:

- Thein Lwin: Languages, Identities, and Education - in Relation to Burma/Myanmar, 15 October 2011

<http://www.thinkingclassroom.org/Education%20Papers/2.%20Dr.%20Thein%20Lwin%20Language%20Article%20%28English%29%2015thOct11.pdf>

The web edition of Ethnologue: Languages of the World provides a list of languages spoken in Myanmar:

- Lewis, M. Paul (ed.), 2009. Ethnologue: Languages of the World - Languages of Myanmar, Sixteenth edition. Dallas, Tex.: SIL International

http://www.ethnologue.com/show_country.asp?name=MM

Minority Rights Group International (MRG) describes the Chin as being “composed of a number of ethnic groups such as the Asho, Cho, Khumi, Kuki, Laimi, Lushai and Zomi, each with their language belonging to the Tibeto-Burman language branch.” (MRG, September 2009).

A report published by the Chin Human Rights Organization (CHRO) in September 2012 states:

„The Chin are ethnically one of the most diverse groups in Burma. The six main Chin tribes of Asho, Cho (Sho), Khumi (M'ro), Laimi, Mizo (Lushai), and Zomi (Kuki) can be further distinguished by at least 60 different sub-tribal categories. [...] Today the Chin are approximately 90 percent Christian, in a country that is predominantly Buddhist, and Christianity is largely viewed as an integral part of the Chin identity.” (CHRO, September 2012, p. xii)

MRG states with regard to the Kachin:

“The Kachin encompass a number of ethnic groups speaking almost a dozen distinct languages belonging to the Tibeto-Burman linguistic family who inhabit the same region in the northern part of Burma on the border with China, mainly in Kachin State. Strictly speaking, these languages are not necessarily closely related, and the term Kachin at times is used to refer specifically to the largest of the groups (the Kachin or Jingpho/Jinghpaw) or to the whole grouping of Tibeto-Burman speaking minorities in the region, which include the Maru, Lisu, Lashu, etc.

The exact Kachin population is unknown due to the absence of reliable census in Burma for more than 60 years. Most estimates suggest there may be in the vicinity of 1 million Kachin in the country. The Kachin, as well as the Chin, are one of Burma's largest Christian minorities: though once again difficult to assess, it is generally thought that between two-thirds and 90 per cent of Kachin are Christians, with others following animist practices of Buddhists.” (MRG, September 2009, Kachin)

A November 2011 report by Physicians for Human Rights (PHR) states:

“Kachin State is the northernmost state in Burma, bordered by China (and formerly by Tibet) and India. The state is populated mostly by the Kachin people, a predominately Christian group with a Tibeto-Burman language and a culture and identity distinct from Burma's majority Buddhist and ethnic Burman population. Kachins also live in northern Shan state, where some of the heaviest fighting of this conflict has happened.” (PHR, November 2011, p. 5)

MRG provides the following information regarding the Kayin (Karen):

“The term ‘Karen’ actually refers to a number of ethnic groups with Tibetan-Central Asian origins who speak 12 related but mutually unintelligible languages (‘Karenic languages’) that are part of the Tibeto-Burman group of the Sino-Tibetan family. Around 85 per cent of Karen belong either to the S'ghaw language branch, and are mostly Christian and animist living in the hills, or the Pwo section and are mostly Buddhists. The vast majority of Karen are Buddhists (probably over two-thirds), although large numbers converted to Christianity during British rule and are thought to constitute about 30 per cent among the

Karen. The group encompasses a great variety of ethnic groups, such as the Karenni, Padaung (also known by some as 'long-necks' because of the brass coils worn by women that appear to result in the elongation of their necks), Bghai, Brek, etc." (MRG, September 2009, Karen)

An August 2012 report by Physicians for Human Rights (PHR) mentions that the Sgaw Karen constitute 91 per cent of the population of Kayin (Karen) State, while the Po Karen constitute 7.90 per cent. With reference to other sources, the report further states that "the overall Karen population is about 15-30% Christian" - (PHR, August 2012, p. 35)

MRG provides the following information on the Kayah (Karenni):

"Like many ethnic classifications in Burma, 'Karenni' is a collective term constructed during the colonial era that does not represent a single ethnic group. Karenni, sometimes also known as the Red Karen (so-called because it was a favoured colour in traditional clothing) or Kayah, actually refers to a Karen grouping which includes a number of ethnic groups that speak related Tibeto-Burman languages such as Kekhu, Bre, Kayah, Yangtalai, Geba, Zayein and Paku." (MRG, September 2009, Karenni)

MRG states with regard to the Mon:

"Mon is a Monic language from the Mon-Khmer group of Austro-Asiatic languages, though many also use the Burmese language and are literate only in Burmese. The vast majority of Mon are Theravada Buddhists, with some elements of animist practices." (MRG, September 2009, Mon)

MRG notes with regard to the Shan:

"Most ethnic Shan live in the Shan State, though there are also pockets in other parts of Burma such as in Kachin State. Most of them are Theravada Buddhists, with some elements of animist practices, and speak a language which is part of the Tai-Kadai language family, and closely related to Thai and Lao. [...]

The term Shan itself is however problematic, at least as it is used by Burma authorities, since they include under this term 33 ethnic groups that are in fact quite distinct and to a large degree unrelated except for close geographic proximity." (MRG, September 2009, Shan)

The Transnational Institute (TNI), in a February 2012 report (authors: Tom Kramer & Kevin Woods), notes with regard to the Shan:

"Shan State also has the most diverse ethnic population in Burma. The majority Shan population mainly inhabits the towns and villages in the lowlands and valleys, and practice wet-rice cultivation. The Shan, who call themselves 'Tai' but include many sub-groups, are ethnically related to the 'Dai' in China's Yunnan Province, and the ethnic 'Thai' and 'Tai' in Thailand and Laos, respectively. They also tend to dominate trade networks. Other ethnic groups, such as the Palaung, Wa, Kokang, Pao, Akha and Lahu, have predominately settled in the hills, and practice shifting cultivation to provide upland rice and vegetables

for home consumption and trade. The Burman population is mainly confined to cities and towns. As in Kachin State, there is a large and growing Chinese population, who settled in Burma at different times in history." (TNI, February 2012, p. 64)

The Joshua Project states in its undated profile on Rakhine/Arakanese:

"Meals consist of primarily rice with vegetables, meat when available, such as fish, chicken or pork. Chillies are used for seasoning. Meals are eaten late morning and before dark.

The Rakhine culture as well as calendar revolves around the planting and harvesting of rice. Fresh as well as saltwater fishing are major industries. However the working class is severely underpaid due to high unemployment.

The whole extended family lives together under one roof. The men and oldest members have the most respect, however women play an active role in family decision making. Women cook and serve food to the men, who eat first. It is very important to Rakhine people that their family and community approve of their choices and actions.

Structurally very similar to Burmese, with profound pronunciation and vocabulary differences, Rakhine shares the same alphabet with Burmese, however using this alphabet to communicate specifically in Rakhine is very very uncommon. Effectively, this causes Rakhine people to speak in their mother tongue, while they read and write in the language of the Burmese, their oppressors. There is within Rakhine quite a large disparity in regard to language. Due most likely to geography and governing forces, pockets of language exist where the pronunciation and vocabulary within Rakhine differs from itself almost as much as Rakhine differs from Burmese.

Arranged marriages are common, however 'love' marriages do also happen. Traditionally, when a couple marries, they move in with the wife's family. This is supposed to keep the culture from deteriorating by discouraging cross-cultural marriages. Rakhine people who marry those from the surrounding people groups are openly despised if not shunned from the community. Monogamy is normal practice for Rakhine culture.

Rakhine boys undergo a ceremony, enter the monastery and stay for a few months. Later, around 20 years of age many Rakhine men stay at the Monastery for a longer period (usually not more than a year.) Elderly men also spend time at the monastery. The monks who stay at a Monastery permanently are almost guaranteed a high position in the community. Monks are treated with the utmost respect in Rakhine culture." (Joshua Project, undated)

5.4 Practices regarding family census

Information on practices regarding family census was scarce among the sources consulted by ACCORD within time constraints.

David Scott Mathieson, Human Rights Watch (HRW) researcher on Myanmar, states in an article published in the Asia Times in May 2011:

"Burma has not had an effective nationwide census for decades: previous ones took place during British colonial rule in 1931, under the post-war social-democratic government in 1953, and by the self-described socialist government in 1983. [...]

The latest official figure in 2010, from the Burmese government's ministry of immigration and population, estimates that 59.12 million people live in Burma: 29.39 million men, and 29.73 million women. These numbers stem from a census of some kind conducted in 2007, in cooperation with the United Nations Population Fund (UNFPA). The survey estimates that the population growth rate is 2.02% annually. [...]

The very task of estimating Burma's population is predominantly part of the system of authoritarian control. To monitor society, the authorities have long employed a draconian system of household registration. Every house must have a list of inhabitants that are regularly reported to local authorities, at the suburb (or in Burma, the ward), or village level. Visitors are either denied permission to stay overnight or must be registered with the authorities. It is prohibited for foreigners to stay overnight in a private Burmese home, and all hotel-registration lists are reported daily to local police and immigration authorities.

This system is vertically integrated. Regular population numbers of small communities are relayed up to the next stage of monitoring control: from village to village tract, next to township, then to state or division/region level, and ultimately to national authorities. This is not unique to authoritarian systems, but in practice it grants latitude to local authorities to act in any way to ensure that good news flows up the system. In a country such as Burma where avoiding the attention of authorities is a basic survival strategy, compliance by officials and citizens to accord with expectations is often the norm, despite questions of veracity or efficiency of the information. [...]

What few analyses of the Burmese population include is the number of demographic factors that challenge any accurate assessment: displacement through conflict and development projects, work migration to neighbouring countries, transmigration to look for work inside Burma, statelessness (of the Rohingya Muslim minority, hinterland hill-tribes, and other marginalised populations), and haphazard or incomplete citizenship registration." (Asia Times, 17 May 2011)

A July 2011 article reports on the issuance of National Registration Cards (NRCs) by the Kachin Independence Organisation (KIO) in the towns of Laiza and Maijayang (Kachin State) (see above, section 5.2.2) and mentions that while issuing the NRC, the KIO is collecting census information on families in the territories concerned (KNG, 12 July 2011).

5.5 Differences between languages spoken by Muslim residents in Rakhine State and the Chittagongian dialect of Bangladesh

A May 2011 report by the Danish Immigration Service (DIS) contains extensive information on this issue, with reference made to various sources:

"According to UNHCR (Bangladesh), the Rohingya language is not a written language and the Rohingya people are in general not very literate. Their Rohingya language is very

similar to the Chittagonian dialect of Bangla spoken in the area. There are few words which may differ in the two languages depending on how close to the Bangladesh border the Rohingya were residing in. Given that many Rohingya have been residing in Bangladesh for many years, it becomes difficult to distinguish a Rohingya from a Bangladeshi at times. On occasion, a local person might be able to distinguish the Rohingya language from the language spoken by local Bangladeshis. [...]

IOM, Bangladesh informed that there are no distinctive physical features between Rohingya and Bangladeshis in the Cox's Bazar area. The Rohingya speak a Chittagonian dialect, but they have no difficulties in understanding the local language. Few words in the Rohingya language are different from the Chittagong dialect and IOM works with interpreters who speak Chittagonian Bangla. [...]

Mr. Andrew Barnard, First Secretary, EU-delegation to Bangladesh, informed the delegation that it is relatively difficult to distinguish between Rohingya and Bangladeshi citizens. The main distinctive factor is the language, which is similar but different. However, many Rohingya have been living in Bangladesh for 18 years and learned the Chittagonian Bangla dialect in order to assimilate and to avoid discrimination and the stigma of being a Rohingya.

According to Ms. Chris Lewa, it is very difficult to distinguish the language spoken on the Bangladeshi side of the border in Teknaf (Chittagong Bangla) and the language spoken on the Burmese side in Maungdaw. Ms. Chris Lewa found that the spoken Rohingya language would be used within the family also if you live in Bangladesh and it is a general feature for Rohingya that they will be in contact with other Rohingya when migrated abroad. Rohingya who lived in Bangladesh for many years will be able to switch into the Chittagong Bangla, if convenient.

A Bangladeshi researcher who studied the Rohingya explained that it is 'next to impossible' to distinguish between a Rohingya and a local Bangladeshi from the border area. The only distinctive feature is the differences in the spoken language and there are no other issues which distinguish the two groups. The Bangladeshi researcher further pointed at the fact that if you are a Rohingya living in Bangladesh, you would try to assimilate your language because it has an added value to appear Bangladeshi. People born in Bangladesh would have more Bangla words in their vocabulary, and the parents bringing them up would probably also try to make them feel accepted by the local society.

A diplomatic source who works with Rohingya across East Asia stated the Rohingya speak a Chittagonian Hill Tracts dialect similar to that used by Bangladeshis from the Teknaf Peninsula.

Professor Imtiaz Ahmed, Dhaka University, similarly explained that the Rohingya speak Bengali with a Chittagonian dialect. According to him the Rohingya language is not a separate language but there are separate words. The Rohingya language changed in the camps over the years in the sense that the refugees no longer speak exactly the way they

do in Rakhine State where they originally came from. Professor Ahmed stated that one cannot determine a Rohingya only by analyzing the language. [...]

An informed anonymous source told the delegation that according to local sources, there is no difference between the Rohingya language and Chittagong Bangla." (DIS, May 2011, pp. 10-12)

A review on the UNHCR's response to the situation of stateless Rohingya refugees in Bangladesh, published by the UNHCR in December 2011, notes that the Rohingya "speak a version of Chittagonian, a regional dialect of Bengali which is also used extensively throughout south-eastern Bangladesh". (UNHCR, December 2011, p. 7)

Human Rights Watch (HRW) states that "[w]hile the Rohingya and Bengalis from Bangladesh are in many ways physically indistinguishable from each other, the Rohingya in Burma speak a unique dialect of Bengali, distinct from the Bengali spoken across the border, and many Rohingya in Burma also speak Burmese." (HRW, August 2012, p. 13)

A January 2011 report by a person named Mohammed Ashraf Alam indicates with regard to Muslims in Rakhine State:

"In Arakan State, the majority-ethnic Rakhine reside mainly in the lowland valleys, including Lemro, Kaladan, and Mayu, as well as Ramree and Manaung (Cheduba) Islands. The Rohingya primarily live in the northern part of Arakan State. Other Muslim groups include Kaman Muslims (indigenous to Myanmar) and Rakhine Muslims (descendants of mixed marriages with Rakhine Buddhists)." (Mohammed Ashraf Alam, 30 January 2011, p. 2)

Minority Rights Group International (MRG), in its September 2009 World Directory of Minorities and Indigenous Peoples, provides the following information on Rohingya and non-Rohingya Muslims in Rakhine State:

"The majority of Muslims in Rakhine State refer to themselves as 'Rohingya': their language (Rohingya) is derived from the Bengali language and is similar to the Chittagonian dialect spoken in nearby Chittagong, in Bangladesh. There is some dispute as to whether the Rohingya are indigenous to the region or are more 'recent', being in the main the descendants of those who arrived in Rakhine State during the British colonial administration.

A second group of Muslims in the Rakhine State does not consider themselves as Rohingya, as they speak Rakhine which is closely related to the Burmese language, claim their ancestors have lived in the state for many centuries, and tend to share similar customs to the Rakhine Buddhists. They identify themselves 'Arakanese Muslims', 'Burmese Muslims' or simply 'Muslims'." (MRG, September 2009)

5.6 Current treatment/situation of:

5.6.1 *Individuals without citizenship, individuals belonging to non-recognized ethnic minorities*

The US Department of State (USDOS) Country Report on Human Rights Practices 2011, published in May 2012, notes:

"Citizens of ethnic states report that the government restricted the travel of, involuntarily confined, and forcibly relocated IDPs, refugees, and stateless persons." (USDOS, 24 May 2012, section 2d)

Rohingya Muslims in Rakhine State were discriminated against because of their ethnicity. Most faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages (see section 2.d.).

Ethnic minority groups generally used their own languages at home. However, throughout all parts of the country controlled by the government, including ethnic minority areas, Burmese remained the mandatory language of instruction in state schools, and teaching in local languages was not offered. In ethnic minority areas most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages. The government tightly controlled the limited number of Buddhist monastery-based schools, Christian seminaries, and Muslim madrassahs." (USDOS, 24 May 2012, section 6)

An August 2012 Human Rights Watch (HRW) report states:

"In 1983, in what appeared to be a response to the mass repatriation of Rohingya refugees from Bangladesh in 1978, the Burmese government completed a nationwide census in which the Rohingya were not counted, rendering them stateless through exclusion. The 1982 Citizenship Act legalized this exclusion by omitting Rohingya from the list of ethnic groups entitled to citizenship." (HRW, August 2012, pp. 45-46)

The US Department of State (USDOS) 2011 International Religious Freedom Report provides the following overview:

"Without citizenship status Rohingyas did not have access to secondary education in state-run schools. Those Muslim students from Rakhine State who completed high school were not permitted to travel outside the state to attend college or university. Authorities continued to bar Muslim university students who did not possess NRCs from graduating. These students were permitted to attend classes and sit for examinations, but they could not receive diplomas unless they claimed a 'foreign' ethnic minority affiliation. Rohingyas also were unable to obtain employment in any civil service positions. Rohingya couples needed also to obtain government permission to marry and faced restrictions on the number of children they could have. Muslim newcomers were not allowed to buy property or reside in Thandwe, Rakhine State, and authorities prevented Muslims from living in the state's Gwa or Taungup areas." (USDOS, 30 July 2012, section 2)

The Integrated Regional Information Network (IRIN), in a June 2012 article, states with regard to the Rohingya:

“Human rights groups note that they regularly experience discrimination. Permits are required for everything from renovating their homes to marriage and travel. Even within Rakhine, Rohingya must apply for permission when travelling from one city to another, while access to health and education is limited. Reports of forced labour are common.” (IRIN, 25 June 2012)

A Time magazine article published in June 2012 mentions that “[a]lthough some Rohingya have succeeded in business, others are among the poorest of Burma’s considerably impoverished populations” (Time, 11 June 2012).

The US Department of State (USDOS) Country Report on Human Rights Practices 2011, published May 2012, includes the following information:

“According to the UNHCR, there were approximately 800,000 legally stateless persons, mostly Rohingya, residing in northern Rakhine State near the border with Bangladesh. NGOs estimated the number of Rohingyas in Burma at around two million persons. The government did not recognize the existence of the Rohingya ethnicity; instead authorities usually referred to them as ‘Bengali,’ claiming that the Muslim residents of northern Rakhine State were the descendents of illegal immigrants from Bangladesh who moved into the country during British colonial rule. The government consistently denied citizenship to most Rohingya on the grounds their ancestors did not belong to a national race or indigenous group present in Burma before the beginning of British colonial rule in 1823, as required by the highly restrictive 1982 citizenship law. Only Rohingya who were able to prove long familial links to the country were eligible to apply for naturalization. In practice, however, NGOs reported that Rohingya in northern Rakhine State who submitted applications for naturalization with all required documents did not receive a reply. Lawyers and activists noted that some Rohingya could also secure naturalization or ‘associate’ citizenship through bribery or by registering themselves as a recognized ethnic group such as the Kaman. The legal status of associate citizenship was created by the 1982 law and is applied to South Asian and Chinese minorities whose ancestors immigrated to Burma after 1823.

Rohingya experienced severe legal, economic, and social discrimination. The government required them to receive prior approval for travel outside their village of residence, limited their access to higher education, and prohibited them from working as civil servants, including as doctors, nurses, or teachers. Authorities required Rohingya to obtain official permission for marriages. Rohingya were singled out by authorities in northern Rakhine State to perform forced labor and were arbitrarily arrested.” (USDOS, 24 May 2012, section 2d)

The Economist reports in June 2012:

"Discrimination against the Rohingyas has never been subtle. They are not allowed to travel within Myanmar, nor to serve in the police - technically, they do not even have citizenship (though this has been questioned in parliament)." (Economist, 13 June 2012)

The US Department of State (USDOS) 2011 International Religious Freedom Report of July 2012 states:

"Muslims across the country, as well as ethnic Chinese and Indians, often were required to obtain permission from township authorities to leave their home towns. Authorities often denied Rohingya and other Muslims living in Rakhine State permission to travel for any purpose; however, permission was sometimes obtained through bribery. Muslims in other regions were granted more freedom to travel, but still faced restrictions. For example, Rohingyas living in Rangoon needed permission from immigration authorities to travel into and out of Rakhine State.

Muslims in Rakhine State, particularly those of the Rohingya minority group, continued to experience the severest forms of legal, economic, educational, and social discrimination. There were reports that Buddhist physicians would not provide Muslims the endorsement required by the Ministry of Health that permits Muslims to travel outside Rakhine State to seek advanced medical treatment.

The government denied citizenship status to Rohingyas, claiming that their ancestors did not reside in the country at the start of British colonial rule, as the 1982 citizenship law required. The Rohingyas asserted that their presence in the area predates the British arrival by several centuries. In November 2008 the UN Committee on the Elimination of Discrimination Against Women urged the government to review its citizenship law. In February 2010 the UN Special Rapporteur on the situation of human rights in Myanmar visited the country and noted discrimination against Muslims. Many of the approximately 28,500 Rohingya Muslims registered in two refugee camps in Bangladesh and the estimated 200,000 Rohingya Muslims living outside those camps, also in Bangladesh, refused to return to the country because they feared human rights abuses, including religious persecution." (USDOS, 30 July 2012, section 2)

The Annual Report of the US Commission on International Religious Freedom (USCIRF), covering the year 2011, notes:

"Muslims in Rakhine (Arakan) state, and particularly those of the Rohingya minority group, continued to experience the most severe forms of legal, economic, religious, educational, and social discrimination. The government denies citizenship to Rohingyas because their ancestors allegedly did not reside in the country at the start of British colonial rule. Approximately 800,000 Rohingya live in Burma, concentrated mostly in the cities of Maungdaw, Buthidaung, Akyab, Rathedaung, and Kyauktaw.

Without citizenship, Rohingyas lack access to secondary education in state-run schools, cannot be issued government identification cards (essential to receive government benefits), and face restrictions on freedoms of religion, association, and movement. Refugees living in Bangladesh report that some Rohingya are prevented from owning

property, residing in certain townships, or serving as government officials. Since 1988, the government reportedly has severely restricted Muslim marriage ceremonies in certain villages of Rakhine (Arakan) state. Efforts to lift this restriction have failed. Muslims also report difficulties in obtaining birth certificates for newborns, particularly in the city of Sittwe." (USCIRF, March 2012, p. 34)

Human Rights Watch (HRW), in its August 2012 report, states:

"Throughout the period of military rule, up to the present – which is still marked by a military-dominated parliament – the Burmese army has committed numerous human rights violations against both the Arakan and Rohingya populations of Arakan State, including killings, widespread forced labor, rape, torture, land confiscation, and other abuses." (HRW, August 2012, p. 13)

Another report by HRW, published in July 2012, provides the following information in the context of preceding sectarian violence in Rakhine State:

"Burmese security forces have responded to sectarian violence in northern Arakan State with mass arrests and unlawful force against the Rohingya Muslim population, Human Rights Watch said today. Local police, the military, and a border security force known as Nasaka have committed numerous abuses in predominantly Muslim townships while combating the violence between the Rohingya and ethnic Arakan, who are predominantly Buddhist, that broke out in early June 2012. [...]

Burmese security forces have been implicated in killings and other abuses since the sectarian violence in northern Arakan State began, Human Rights Watch said. For instance, on June 23, in a village near the town of Maungdaw, security forces pursued and opened fire on two dozen Rohingya villagers who had been hiding from the violence in fields and forest areas. The total killed or wounded is unknown, but one survivor told Human Rights Watch that out of a group of eight young men who were fleeing, only two managed to escape unharmed after the security forces fired on them. [...]

The recent sectarian violence began after an ethnic Arakan woman was allegedly raped and killed by three Muslim men on Ramri island in southern Arakan State in late May, which was followed by the June 3 killing of 10 Muslims by an Arakan mob in Toungop. On June 8, thousands of Rohingya rioted in the town of Maungdaw, destroying Arakan property and causing an unknown number of deaths. Groups of Rohingya subsequently committed killings and other violence elsewhere in the state, burning down Arakan homes and villages. Arakan groups, in some cases with the collusion of local authorities and police, committed violence against Rohingya communities, including killings and beatings, and burning down Muslim homes and villages.

On June 10, President Thein Sein declared a state of emergency in northern Arakan State, which permits the armed forces to carry out arrests and detain people without fundamental due process protections. While the Burmese army has largely contained the sectarian violence, abuses by security forces against Rohingya communities appear to be on the upsurge in recent weeks, Human Rights Watch said.

Local police and the Nasaka, claiming to be searching for Rohingya criminal suspects involved in the sectarian strife, have conducted mass round-ups of Rohingya. On July 1, the state-run New Light of Myanmar reported that 30 Arakan suspects were arrested for the June 3 killings. Nevertheless, the mass arrests ongoing in northern Arakan State seem to be discriminatory, as the authorities in these townships do not appear to be investigating or apprehending Arakan suspected of criminal offenses, Human Rights Watch said. The total number of people arrested, their names, and any charges against them have not been reported.

Witnesses told Human Rights Watch that state security forces violently raided predominately Rohingya villages in Maungdaw township, firing on villagers and looting homes and businesses. In several villages, police and Nasaka dragged Rohingya from their homes and violently beat them. Witnesses in villages outside of Maungdaw said dozens of people, including women and children, were taken away in mid-June in Nasaka trucks to unknown locations, and have not been heard from since. Mass arrests of Rohingya have also taken place in Buthidaung and Rathedaung townships. Witnesses in Maungdaw township described several instances in which Arakan men wielding sticks and swords accompanied the security forces in raids on Rohingya villages. A 27-year-old Rohingya man told Human Rights Watch, 'Twenty-five of my relatives have been arrested... I saw with my own eyes, two of my nephews were taken by the military and Nasaka. They tried to hide themselves in the large embankments in the paddy fields, but some Arakan found them and stabbed them with long knives. They stabbed them and took them to the jail.'

Human Rights Watch documented the destruction of Buddhist temples, mosques, and thousands of Arakan and Rohingya houses that were burned to the ground during the sectarian violence, leaving an estimated 90,000 people displaced and taking segregated refuge in temporary camps and community sites. Hundreds of Rohingya fled across the nearby border to Bangladesh, where many were forced back by Bangladeshi border guards.

'The violence in Arakan State has devastated both the Rohingya and Arakan communities, but government efforts to identify and arrest those responsible should not result in further abuses,' Pearson said. 'The sectarian violence and state of emergency provides no excuse for the security forces to continue their past record of abuses and discrimination against the Rohingya community.'

The Burmese government restricts international access to northern Arakan State – an area comprising the predominantly Muslim townships of Maungdaw, Buthidaung, and Rathedaung – and severely curtails freedom of movement for Rohingya residents. The Nasaka's long history of arbitrary detentions, torture, and other ill-treatment of Rohingya detainees heightens concerns about the recent mass arrests, Human Rights Watch said." (HRW, 5 July 2012)

An Amnesty International (AI) report of May 2012 states:

"Finally, outside of the conflict areas, ethnic and Muslim minority Rohingyas primarily in northern Rakhine State have experienced no appreciable improvement in the realization

of their human rights. They are still not recognized as citizens and are subject to systemic discrimination in marriage, travel and employment. In the words of one Rohingya who spoke with our delegation, there is a sense that 'all of these changes taking place are for everyone else'. Particularly concerning is that, despite being a state party to the UN Convention on the Rights of the Child, Myanmar continues to deny Rohingya children the right to a nationality." (AI, 25 May 2012, p. 4)

5.6.2 Individuals belonging to recognized ethnic minorities

A February 2012 statement by Amnesty International (AI) includes the following observations with regard to ethnic minorities in Myanmar in general:

"Ethnic minorities make up approximately 35-40% of the country's population, including people of Chinese and Indian ethnicities. According to the government, there are at least 135 different ethnic nationalities in Myanmar, but the exact number is difficult to determine conclusively. There is clear evidence that Myanmar's authorities often target members of ethnic minorities on discriminatory grounds, such as religion or ethnicity, or seek to crush their opposition to major development projects that adversely affect their lands and livelihoods. The Myanmar government often suppresses social organizations, including groups focused around religion or ethnic identity that are outside its authority and control. Some minorities' ethnic identity in Myanmar is closely related to their association with a religion other than the majority Buddhism; this generally means Islam for most Rohingya, and Christianity for many Chin, Kachin, and Karen." (AI, 28 February 2012, p. 3)

The US Department of State (USDOS), in its Country Report on Human Rights Practices states with respect to minorities in general:

"Ethnic minority groups generally used their own languages at home. However, throughout all parts of the country controlled by the government, including ethnic minority areas, Burmese remained the mandatory language of instruction in state schools, and teaching in local languages was not offered. In ethnic minority areas most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages. The government tightly controlled the limited number of Buddhist monastery-based schools, Christian seminaries, and Muslim madrassahs." (USDOS, 24 May 2012, section 6)

The March 2012 Annual Report of the US Commission on International Religious Freedom (USCIRF) states with regard to Christian groups in ethnic minority areas:

"Christian groups in ethnic minority regions, where low-intensity conflicts have been waged for decades, face particularly severe and ongoing religious freedom abuses. The Burmese military has destroyed religious venues, actively promoted conversion to Buddhism, confiscated land, mandated forced labor, and used rape as an instrument of war and intimidation. The Chin, Naga, Kachin, Shan, Karen, and Karenni peoples, each with sizable Christian populations, have been the targets of these abuses. [...]

According to sources compiled by the non-governmental organization (NGO) Christian Solidarity Worldwide (CSW), the military campaign in Kachin state is targeting Chin Christian churches and believers." (USCIRF, March 2012, p. 35)

Kachin

The Irrawaddy, in a July 2012 article, provides the following overview of arrests of ethnic Kachin:

"Although precise figures remain allusive, reports from human rights groups and a steady flow of anecdotal evidence suggests that since June 2011, when fighting resumed between the Burmese government and Kachin Independence Organization (KIO), many ethnic Kachins have been arrested by security forces under suspicion of being rebel sympathizers.

On July 6, an estimated 1,500 demonstrators gathered in the Kachin State capital Myitkyina to demand the release of Lahtaw Brang Shawng, a local farmer who government authorities claim is a captain in the KIO's armed wing, the Kachin Independence Army (KIA), and participated in a bomb plot.

Brang Shawng, 25, was arrested on June 17 at an internally displaced persons camp in government-controlled Myitkyina Township where his family was taking shelter from nearby fighting.

Brang Shawng's wife Ze Nyoi, who was allowed to visit her detained husband, told The Irrawaddy that he was forced to confess after being 'punched, kicked and beaten for three days and nights.' According to his lawyer Mar Khar, Military Affairs Security personnel also used hot knives to burn Brang Shawng's cheeks and carve into his thighs during interrogation.

His trial continues this week but observers already believe a guilty verdict is inevitable. Judge Myint Htoo has so far refused defense requests that Brang Shawng receive proper medical treatment for the injuries he sustained during interrogation.

Although Brang Shawng's story is not uncommon, the decision by his wife and a pastor friend to organize a demonstration to publicize his plight is very rare indeed. Many other Kachin families whose loved ones have been detained during this conflict, which has raged since a 17-year ceasefire broke down over a year ago, remain reluctant to come forward and demand justice for fear of reprisals.

A 27-year-old Kachin NGO worker from northern Shan State told The Irrawaddy that her younger brother was arrested by government soldiers in Kutkhai Township by the conflict zone last November. The brother, 24, a recent university graduate, is now serving three years for being affiliated with the KIO, a charge his sister denies. The NGO worker describes her brother as relatively apolitical and says he was merely in the wrong place at the wrong time. [...]

Bo Kyi, secretary of the Assistance Association for Political Prisoners (Burma), an exiled organization dedicated to helping political prisoners and their families, says fear and intimidation are key factors that prevent Kachin families from speaking out about their loved ones in detention. [...]

Most of the individuals convicted for being affiliated with the KIO appear to have been charged with violating Article 17/1 of the Unlawful Associations Act. However, rights groups including Human Rights Watch continue to report that large numbers of both Kachin civilians and combatants are detained and held with no formal charge or semblance of due process.

Bo Kyi says his organization has learned that at least 20 Kachins have been jailed over the past year for their alleged association with the KIO. His group is working to document these cases but many barriers remain including Kachin State's geographical remoteness and deliberate efforts by the authorities to restrict access for both foreigners and political activists. [...]

While many Kachin civilians arrested by the Burmese government are thought to have been detained in rural areas close to the ever-expanding battlefield, arrests have also taken place in urban areas far from the fighting.

Even Myitkyina residents have described numerous instances where young Kachin men have simply disappeared following brief stops at army and police checkpoints. Some of these were later found to have been used as porters for the war effort but many have not been heard from since. [...]

Probably the most famous Myitkyina resident cited by his fellow Kachin as being a political prisoner is Tang Gun, founder of a martial arts academy and boarding school for local youth. Well respected in the city, Tang Gun was arrested following a Nov. 13 blast that ripped through his home and adjoining workplace. The blast fatally wounded two of Tang Gun's sons and nine others – mostly children. Tang Gun's wife and 27 others, again mostly children, were also injured. Despite Tang Gun not being home at the time, authorities quickly determined he was responsible. According to the official explanation, Tang Gun, with the help of the KIO, had been using his school to teach children to use explosives and it was blown up accidentally. An accusation that is 'completely ridiculous,' according to a Myitkyina-based community activist who has known Tang Gun for many years. The pro-KIO website Kachinland News reported that Tang Gun was forced to confess to the crime under torture. A statement released by the KIO on Nov. 18 also denied any involvement with the tragic explosion." (Irrawaddy, 17 July 2012)

Another article by Irrawaddy, dated 31 July 2012, reports:

"Human rights abuses are worsening in northern Burma where more than 100 ethnic Kachin have been detained illegally and face possible torture by government troops, claim observers in the region.

San Aung, a peace broker between the Burmese government and Kachin Independence Organization (KIO), told The Irrawaddy on Monday that local people continue to disappear and so the issue was brought to the National Human Rights Commission in state capital Myitkyina on July 27. 'They only asked me about the peace process and I tried to present about the human rights issue, but they are not interested in it,' he said, adding that the number of ethnic Kachin detainees has more than doubled since last month.

One Kachin family told the BBC Burmese Service on Saturday how they found a relative buried in the ground after he was seized by government troops. [...] Government troops have been accused of detaining local Kachin people who they suspect support the KIO under article 17/1 of the Unlawful Associations Act." (Irrawaddy, 31 July 2012)

A Human Rights Watch (HRW) states in a report published in March 2012:

"Over the last six months of 2011, Human Rights Watch travelled twice to areas in Kachin State, visiting nine camps for internally displaced persons (IDPs), and to areas in China's Yunnan province where refugees have fled. This report draws on more than 100 interviews conducted during those visits with displaced persons, refugees, and victims of abuses, as well as KIA representatives, Burmese army deserters, and humanitarian aid workers. We have continued monitoring events on the ground and have conducted follow-up research through March 2012.

Kachin civilians described to Human Rights Watch how Burmese army soldiers have attacked Kachin villages, razed homes, pillaged properties, and forced the displacement of tens of thousands of people. Troops have deliberately and indiscriminately fired on Kachin civilians with small arms and mortars. According to one 40-year-old Kachin woman, for example, soldiers on November 10, 2011, 'shot mortars into our village three times... So we fled.' A Burmese army deserter described how his battalion deliberately shelled Dingga village with 81 mm mortars so that inhabitants would run away. 'It was intended that way,' he said.

Soldiers have threatened and tortured civilians during interrogations for information about KIA insurgents, and raped women. The army has also used antipersonnel mines and conscripted forced labor. Children as young as 14 have been tortured and forced to serve as army porters, including on the front lines." (HRW, March 2012, pp. 7-10)

A November 2011 report by Partners Relief & Development, a Christian international relief and development agency, presents the following information collected in southern Kachin State in October 2011:

"This report presents data collected from a Partners investigation in southern Kachin State, Burma in October 2011. The testimony of witnesses and on-site photographs reveal multiple acts perpetrated by Burma Army battalions 74 and 276 against ethnic Kachin civilians that potentially amount to war crimes and other extreme crimes. These acts include torture, extrajudicial killing, the specific targeting of civilians, human shielding, unlawful arrest, unlawful detention, forced labor, forced relocation, displacement, property

theft and property destruction. Witnesses reported that Burma Army soldiers entered Nam Lim Pa village on 8 October 2011. Men were arrested and detained for forced labor. Women and children were detained in the Roman Catholic church compound against their will and without provocation or expressed reason. Violent injuries demonstrate signs of extreme physical abuse and strongly suggest the intentional infliction of severe pain or suffering while in custody. Civilian casualties included torture and execution. Eyewitness reports indicate no Kachin Independence Army presence during the time of the attacks. Villagers were forcibly relocated and displaced by armed soldiers. Houses, offices and churches were robbed and vandalized, all without justification. At least one home was robbed and burned to the ground while its owner was arrested and detained." (Partners Relief & Development, November 2011, p. 1)

A November 2011 report by Physicians for Human Rights (PHR) notes with regard to Kachin State:

"Between June and September 2011, the Burmese army looted food from civilians, fired indiscriminately into villages, threatened villages with attacks, and used civilians as porters, human minesweepers, and impressed guides." (PHR, November 2011, p. 3)

Kayah

Information on the situation of Kayah was scarce among the sources consulted by ACCORD within time constraints.

The US Department of State (USDOS) Country Report on Human Rights Practices 2011, published May 2012, notes that during the year 2011, [t]he government reportedly continued its practice of conscripting members of ethnic minorities for service as military porters in Bago Region and in Chin, Karen, Kachin, Kayah, Rakhine, and Shan states" (USDOS, 24 May 2012, section 1f). The same source further states:

"An estimated 470,000 IDPs were in the East, of whom approximately 200,000-230,000 were in temporary settlements in areas administered by ethnic minorities. Approximately 110,000 were believed to be in hiding in remote areas, and an estimated 125,000 had followed government eviction orders and moved to designated relocation sites. The Kachin, Karen, Shan, Rohingya, and Kayah were the most affected groups." (USDOS, 24 May 2012, section 2d)

Kayin (Karen)

Information on the situation of Kayin was scarce among the sources consulted by ACCORD within time constraints.

An August 2012 report by Physicians for Human Rights (PHR) provides the following documentation of human rights violations concerning ethnic Kayin in surveyed townships in Kayin State and Tenasserim Region:

"PHR documented abuses that occurred between January 2011 and January 2012 in eight townships in Karen State and in two townships in Tenasserim Division that were populated mostly by Karen people. PHR's research shows that during 2011, as citizens in Rangoon experienced new freedoms, nearly one third of the families we surveyed in Karen State reported human rights violations. Notably, some violations were up to eight times higher in areas occupied by the Burmese army than in areas contested by the Burmese army and insurgent groups. The data suggest that ceasefires do not in themselves end human rights violations for some ethnic minorities, and that the Burmese government must do more to guarantee their human rights. [...]

Out of all 665 households surveyed, 30% reported a human rights violation. Forced labor was the most common human rights violation reported; 25% of households reported experiencing some form of forced labor in the past year, including being porters for the military, growing crops, and sweeping for landmines. Physical attacks were less common; about 1.3% of households reported kidnapping, torture, or sexual assault.

Human rights violations were significantly worse in the area surveyed in Tavoy, Tenasserim Division, which is completely controlled by the Burmese government and is also the site of the Dawei port and economic development project. Our research shows that more people who lived in Tavoy experienced human rights violations than people who lived elsewhere in our sampling area. Specifically, the odds of having a family member forced to be a porter were 4.4 times higher than for families living elsewhere. The same odds for having to do other forms of forced labor, including building roads and bridges, were 7.9 times higher; for being blocked from accessing land, 6.2 times higher; and for restricted movement, 7.4 times higher for families in Tavoy than for families living elsewhere. The research indicates a correlation between development projects and human rights violations, especially those relating to land and displacement." (PHR, August 2012, pp. 1-3)

Chin

A September 2012 report by the Chin Human Rights Organization (CHRO) provides coverage of incidents up to April 2012 regarding ethnic Chin members. As indicated by the CHRO, the report draws on interviews conducted in Chin State, Kalaymyo town in Sagaing Region and Saw township in Magway Region, where sizable Chin populations live, as well as Chin refugees outside Myanmar:

"For decades, the Chin have suffered deep-rooted, institutionalized discrimination on the dual basis of their ethnicity and religion. [...]

Ongoing violations of religious freedom include: widespread restrictions on constructing and renovating Christian infrastructure; destruction of Christian crosses; violations of freedom of religious assembly; and threats, intimidation, and harassment of pastors and missionaries. A distorted version of Buddhism continues to be imposed by the authorities on the predominantly Christian Chin as a tool of oppression, and arguably as part of an unwritten policy of forced assimilation. This has included forced relocation and land

confiscation to build Buddhist infrastructure; forced labour exacted from Chin Christians to build pagodas and monasteries; and most recently, extortion to pay for Buddhist religious festivals.

In preparing this report, CHRO documented:

- The destruction of 13 Christian crosses, many of them large structures over 20 feet tall.
- 15 Buddhist pagodas or monasteries built with forced labour exacted from Chin Christians.
- More than 40 separate incidents of torture or ill-treatment, targeted at Chin on the dual basis of their ethnicity and religion.
- 24 official complaints of violations of religious freedom and other human rights abuses (including rape and extra-judicial killing) lodged by Chin Christians at various levels of government, where no action was taken against the alleged perpetrators.

As well as violations of the right to manifest their religion, proselytize, and assemble for religious gatherings, the Chin have also been subjected to induced and coerced conversion by State actors." (CHRO, September 2012, p. xiii)

"Today, Chin Christians are able to secure low-level civil service positions, but very few are given promoted positions. At the Chin State-level, just 14 percent of the departmental head positions are held by Chin Christians. At the township level, only one quarter of the Township Administrative Officer positions are held by Chin Christians; the rest are occupied by Burman Buddhists." (CHRO, September 2012, p. 46)

The US Department of State (USDOS) Country Report on Human Rights Practices notes:

"Go Pian Sing, a member of the ethnic Chin minority and a practicing Christian, was reportedly kidnapped and 'disappeared' by military personnel in 2009 in Rangoon. In January 2010 he was sentenced to 15 years, the maximum under the Electronics Act, for allegedly sharing information with foreign media about Burma's military ties with North Korea. At year's end he remained imprisoned at Taungoo prison." (USDOS, 24 May 2012, section 1e)

"A human rights activist in Chin State reported that government troops in Thlen Rawn village tortured and beat a village administrator accused of associating with the Chin National Army in September." (USDOS, 24 May 2012, section 1g)

The 2011 USDOS International Religious Freedom Report states:

"Chin Christians reported that local authorities operated a high school that only Buddhist students could attend and promised government jobs to the graduates. Christians had to convert to Buddhism to attend the school. An exiled Chin human rights group claimed local government officials placed the children of Chin Christians in Buddhist monasteries, where

they were given religious instruction and converted to Buddhism without their parents' knowledge or consent." (USDOS, 30 July 2012, section 2)

Mon

Information on the situation of Mon was scarce among the sources consulted by ACCORD within time constraints.

As reported by Al Jazeera in February 2012, "[t]he ethnic Mon community has been permitted by authorities to publicly celebrate their national day for the first time in 15 years in Myanmar and members of the ethnic Mon community "assembled across the country, including in Yangon, Myanmar's largest city [...] to mark the ancient founding of Hanthawady, the last Mon kingdom." The article notes that "[t]he national day celebrations were permitted after a peace deal that was struck between the new Mon State Party and the government" a week previously. A Mon leader is quoted as saying that he is pleased with the recent political changes but disappointed by the fact that there is no Mon representative in the new cabinet (Al Jazeera, 8 February 2012).

Arakan/Rakhine

For information regarding Arakan/Rakhine, please see section 5.6.6 below.

Shan

Information on the situation of Shan was scarce among the sources consulted by ACCORD within time constraints.

Amnesty International (AI) indicates in a February 2012 statement:

"In several ethnic minority areas, including in parts of Kayin, Kachin and Shan States where conflict reignited or intensified in 2010 and 2011, the Myanmar army continues to commit widespread and systematic human rights violations against civilians.

Civilians have been a target of the Myanmar army. [...] Ethnic Shan civilians recount stories of torture, arbitrary detention and forced relocation." (AI, 28 February 2012, p. 2)

5.6.3 Muslims, Hindus of Indian descent, and individuals of Chinese descent who are unable to obtain citizenship and access related rights

The USDOS 2011 International Religious Freedom Report states:

"The government eased restrictions on the building of churches following the November 2010 elections. The government continued to monitor Muslim activities closely. Restrictions on worship for other non-Buddhist minority groups also continued. Although there were no new reports of forced conversions of non-Buddhists, authorities in some cases influenced the placement of orphans and homeless youth, preferring Buddhist monasteries to Christian orphanages. Adherence or conversion to Buddhism was an unwritten prerequisite for promotion to most senior government and military ranks. Nearly all senior

level officers of the ruling Union Solidarity and Development Party (USDP) and the armed forces are Buddhists.” (USDOS, 30 July 2012, Executive Summary)

“Citizens of Indian origin, who are concentrated in major cities and in the south central region, predominantly practice Hinduism or Islam, although some are Christian. Islam is practiced widely in Rakhine State and in Rangoon, Irrawaddy, Magwe, and Mandalay Divisions, where some Burmese, Indians, and ethnic Bengalis practice the religion. Chinese ethnic minorities generally practice traditional Chinese religions.” (USDOS, 30 July 2012, section 1)

“Muslims across the country, as well as ethnic Chinese and Indians, often were required to obtain permission from township authorities to leave their home towns. [...]

The government discouraged Muslims from enlisting in the military and Christian or Muslim military officers who aspired to promotion beyond the rank of major were encouraged by their superiors to convert to Buddhism. Some Muslims who wished to join the military reportedly had to list ‘Buddhist’ as their religion on their applications, although they were not required to convert.” (USDOS, 30 July 2012, section 2)

The US Commission on International Religious Freedom (USCIRF) notes in its Annual Report published March 2012:

“In the past year, minority religious groups, especially Muslims and Christians, continued to face serious abuses of religious freedom and other human rights by the military. In some localities, military commanders have conscripted members of ethnic and religious minorities against their will for forced labor. Those who refuse conscription are threatened with criminal prosecution or fined and there are credible reports in the past of death and beatings of those who refused conscription. [...]

Police often restricted the number of Muslims who could gather in one place. In some places, Muslims were only allowed to gather for worship and religious training during major Muslim holidays. Police and border guards also continued inspections of Muslim mosques in Rakhine state; if a mosque cannot show a valid building permit, the venue can be ordered closed or destroyed. The government has, in recent years, ordered the destructions of mosques, religious centers, and schools. During the current reporting period, the Burmese military maintained a campaign to create ‘Muslim Free Areas’ in parts of Rakhine (Arakan) state. Military commanders have closed mosques and madrassas, stoked ethnic violence, and built pagodas in areas without a Buddhist presence, often with forced labor. Refugees report that the military continues to entice conversion to Buddhism by offering charity, bribes, or promises of jobs or schooling for Muslim children. The Burmese military has instigated riots against ethnic minority Muslims in the past, targeting both Rohingya and the Chinese Pathay Muslim groups.” (USCIRF, March 2012, pp. 33-34)

The Asian Centre for Human Rights (ACHR) reports in December 2011:

"One of the despicable measures taken by Gen Ne Win following the coup of 1962 was to seize the properties of Indian-origin Burmese who had been living in Burma for generations, by nationalising private property in 1964. Over 300,000 ethnic Indians were also expelled. Gen Ne Win feared domination by the Indian-origin Burmese in the administration and major business enterprises.

About 50 years later, Burma finds itself in the same situation, but now with the Chinese. In the last 20 years, millions of Chinese have moved into Burma from neighbouring Yunnan and other provinces. From Burmese timber and gems to mines, oil and gas, the Chinese control everything. Mandalay today looks more a city of China than Burma, with Chinese-owned hotels, guesthouses, restaurants and small businesses. The Chinese festivals have become an integral part of the city's cultural calendar. [...]

As the Burmese have been pushed to the margins, resentment against the Chinese has become all pervasive." (ACHR, 8 December 2011)

5.6.4 Ethnic Bamar residing in ethnic minority areas

Among the sources consulted by ACCORD within time constraints, no specific information could be found on the situation of ethnic Bamar residing in ethnic minority areas.

An article published by Eurasia Review in February 2012 provides the following analysis of relations between ethnic Bamar and minority groups:

"12 February marked Myanmar's Union Day, which commemorates the signing of the Pinlon Agreement in 1947. The agreement created the 'Union of Burma' where the majority Bamars and a myriad of ethnic minorities opted to achieve independence from the British as a single state. How this arrangement fared is well known, as Myanmar still copes with ethnic rebellions and grievances. President Thein Sein's government has embarked on an ambitious initiative to secure peace with ethnic rebels which hug Myanmar's borders. [...]

The sincerity of the government's push for dialogue remains doubted by sceptical dissidents. On one hand, the Myanmar government has made good use of the public relations value of the peace drives to reinforce its claims of reforms. On the other side of the arena, ethnic misgivings, ongoing conflicts with the Kachins, alleged past government insincerities and the fragility of agreements are highlighted to claim that the current process would not solve the ethnic issues.

A 'trust deficit' exists between the government and ethnic minority groups who remain sceptical, as they do not perceive a fundamental change in the power structure. Dissidents and rebels have long accused the Tatmadaw (the military) of neglecting the Pinlon Agreement, of its pathological dislike for federalism and for ignoring ethnic grievances. However, the fact is that most of the majority Bamar are unaware of, and often unable to fathom the sentiments behind ethnic grievances. For the minorities, vivid recollections of unequal and often violent treatment serve as stark reminders to be wary of both the military and the Bamar. These grievances can easily be exploited to turn into hatred.

Beyond the military there exist grievances about Burmanisation, the promotion of the Burmese language, the state's strong association with Buddhism (for non-Buddhists) and historical events, some dating back centuries. Even ethnic Buddhist monks have misgivings of 'being dictated' to by Bamar monks. On their part, the Bamar who form 70% of the population view themselves as either first amongst equals or elder brothers. The minorities however desire complete equality: they wish to be part of the 'Myanmar state' but not of the 'Burmese nation'. To the Bamar both notions are almost interchangeable. Enthusiasm surrounding Myanmar's recent political reforms remains mainly confined to the Bamar, as some minorities view it as beguilement by a 'fresh' set of Bamar faces." (Eurasia Review, 24 February 2012)

5.6.5 Non-Rohingya Muslim groups in Rakhine State and their treatment

Amnesty International (AI) states in a report published in July 2012:

"The Myanmar government declared a state of emergency in Rakhine State on 10 June, following an outbreak of communal violence the previous week among the Buddhist Rakhine, Muslim Rakhine, and Muslim Rohingya communities. It remains in effect in several areas. Since then, Myanmar's Border Security Force (nasaka), army, and police have conducted massive sweeps in areas that are heavily populated by Rohingyas. Hundreds of mostly men and boys have been detained, with nearly all held incommunicado, and some subjected to ill-treatment. [...]

Amnesty International has also received credible reports of other human rights abuses against Rohingyas and other Rakhine Muslims – including physical abuse, rape, destruction of property, and unlawful killings – carried out by both Rakhine Buddhists and security forces. The authorities should stop these acts and prevent others from occurring.

On 3 June, a large group of local Rakhine Buddhists killed 10 Muslims in Taung Gouk township in Rakhine State, who were returning by bus to their homes in Yangon." (AI, 19 July 2012)

A June 2012 press release by the UN Office of the High Commissioner for Human Rights (OHCHR) states that the UN Special Rapporteur on the human rights situation in Myanmar, Tomás Ojea Quintana, referring to ongoing violence in Rakhine State triggered by conflicts between Buddhist and Muslim communities, "noted that discrimination against the Muslim community, particularly the Rohingyas in Northern Rakhine State is the root cause of these communal conflicts." (OHCHR, 13 June 2012)

With reference to violence that erupted in Rakhine State in June 2012, an August 2012 Human Rights Watch (HRW) report notes that "[t]he killing of the 10 Muslim travelers in Toungop on June 3 and the Muslim riots in Maungdaw were accompanied by an unprecedented increase in biased Burmese media coverage that was in some instances openly hostile towards the Rohingya and non-Rohingya Muslims" (HRW, August 2012, p. 20).

5.6.6 Rakhines/Arakan in Rakhine State

Information on the situation of Rakhines in Rakhine State was scarce among the sources consulted by ACCORD within time constraints.

According to the August 2012 Human Rights Watch (HRW) report, the Myanmar army “has committed numerous human rights violations against both the Arakan and Rohingya populations” of Rakhine State, including “killings, widespread forced labor, rape, torture, land confiscation, and other abuses” (HRW, August 2012, p. 13).

5.6.7 Muslims outside Rakhine State and access to citizenship

The World Directory of Minorities and Indigenous Peoples, published by Minority Rights Group International (MRG) in September 2009, provides the following overview of Muslim minorities outside Rakhine State:

“There are additionally other distinct groups of Muslim minorities throughout much of the country, and in particular in most Burmese cities or towns. Most of these disparate, though at times quite substantial, groups are the descendants of ‘migrants’ from various parts of what is now India and Bangladesh, though they may have been established for generations in the country.

Many of these latter groups of Muslims speak Burmese and/or their language of origin. Some of them, however, have gravitated to some degree into the linguistic and cultural spheres of other minorities. In Karen State, for example, many Muslims have integrated into Karen communities, speak Karen, and sometimes refer to themselves as ‘Black Karen.’” (MRG, September 2009, Muslims and Rohingya)

The US Department of State (USDOS) 2011 International Religious Freedom Report of July 2012 states that Islam is “practiced widely in Rakhine State and in Rangoon, Irrawaddy, Magwe, and Mandalay Divisions, where some Burmese, Indians, and ethnic Bengalis practice the religion” (USDOS, 30 July 2012, section 1). The same source reports of “[p]referential treatment for Buddhists and widespread prejudice against ethnic South Asians, particularly ethnic Rohingya Muslims” (USDOS, 30 July 2012, section 3).

5.7 Intra-ethnic tension

Among the sources consulted by ACCORD within time constraints no relevant information could be found beyond what has already been covered in section 4.4 (pp. 82-83) of the previous Myanmar COI Compilation of October 2011.

6 Freedom of religion

In its International Religious Freedom Report published July 2012, the US Department of State (USDOS) notes with regard to the religious demography of Myanmar:

"Theravada Buddhism is the dominant religion. It coexists with astrology, numerology, fortune telling, and veneration of indigenous pre-Buddhist era deities called 'nats'. The principal minority religious groups include Christians (primarily Baptists, Roman Catholics, and Anglicans, along with several other small Protestant denominations), Muslims (mostly Sunni), Hindus, and practitioners of traditional Chinese and indigenous religions. According to official statistics, approximately 90 percent of the population practices Buddhism, 4 percent practices Christianity, and 4 percent practices Islam. These statistics almost certainly underestimated the non-Buddhist proportion of the population. There has not been a census since 1983. Independent researchers place the Muslim population as being between 6 and 10 percent. A very small Jewish community in Rangoon has a synagogue but no resident rabbi." (USDOS, 30 July 2012, section 1)

6.1 National legal framework and its current implementation

This section does not include information already covered in section 5.1 (pp. 84-86) of the previous Myanmar COI Compilation of October 2011.

The July 2012 USDOS report on International Religious Freedom mentions political reforms and the easing of restrictions on church building as well as a new law to protect freedom of assembly and procession:

"The constitution and other laws and policies restrict religious freedom. The government implemented considerable political reforms, but did not demonstrate a trend toward either improvement or deterioration in respect for and protection of the right to religious freedom. The government maintained restrictions on certain religious activities and limited freedom of religion, although it generally permitted adherents of government-registered religious groups to worship as they chose. While constraints on respect for and protection of the right to religious freedom continued, the community of Christian churches reported a notable easing of restrictions on church building and a positive relationship with the Ministry of Religion, including the ministry's organization of interfaith dialogues. The government also passed a new law to protect freedom of assembly and procession and provided greater access to ethnic minority areas for U.S. officials and organizations." (USDOS, 30 July 2012, section 2)

"The government passed the Peaceful Assembly and Procession Bill on December 2, the first law in several decades to allow peaceful assembly. In a sign of greater openness, government officials, foreign diplomats, and former ambassadors joined the Jewish community's December celebration of Hanukkah, held for the first time outside the synagogue. The MCC [Myanmar Council of Churches] reported that the Ministry of Religious Affairs eased restrictions on the building of churches, noting for example that in Taungoo, displaced people built a church in a safe area outside the conflict zone. The MCC also noted that the ministry held interfaith dialogues throughout the country. The government released a number of political prisoners in October, including 29 monks,

according to one local group that tracks political prisoners.” (USDOS, 30 July 2012, section 2)

The report also contains information on censorship and review of religious publications and on required government permission for certain activities of religious organisations:

“The government took steps to relax some media controls but all religious publications remained subject to censorship and review by the Ministry of Religious Affairs. It is illegal to import translations of the Bible and Qur’an in indigenous languages. Religious organizations are not required to register with the government, but if a religious organization wants to engage in certain activities (religious education, charitable work, etc.), it needs to obtain government permission. The government discouraged proselytizing by non-Buddhist clergy, often through the use of censorship. These restrictions mostly affected some Christian denominations and Islam.” (USDOS, 30 July 2012, section 2)

As reported by Radio Free Asia (RFA) in an article dated 20 August 2012, “[t]he Burmese government announced on Monday the lifting – after 50 years - of direct censorship of print media, removing requirements that journalists submit articles on religion or politics for government review before publication. Private daily newspapers remain banned, though, and regulations against publishing information ‘harmful to state security’ remain in place, leaving open the possibility of self-censorship or of prosecution after articles appear in print.” (RFA, 20 August 2012)

For further information on the removal of pre-publication censorship, please refer to section 7.1 of this publication.

6.2 Current treatment of members of religious groups:

This section does not include information already covered in section 5.2 (p. 86) of the previous Myanmar COI Compilation of October 2011.

According to the 2012 Annual Report of the US Commission on International Religious Freedom (USCIRF), every religious group in Myanmar is affected by religious freedom violations (USCIRF, March 2012, p. 31). The report also states:

“The Burmese military is implicated in some of the world’s worst human rights abuses, including [...] particularly severe religious freedom violations. These abuses continued in the past reporting period, despite November 2010 elections that installed a new government and some initial reforms announced during 2011-2012. Religious groups, particularly ethnic minority Christians and Muslims and Buddhist monks suspected of engaging in anti-government activity, faced intrusive monitoring, arrest, mistreatment, destruction or desecration of property, severe restrictions on worship, education, and religious activities, and targeted violence. Monks are still imprisoned for participating in peaceful demonstrations in 2007, and the ban on independent Protestant ‘house church’ activities remains.” (USCIRF, March 2012, p. 31)

The USDOS notes in its July 2012 report on International Religious Freedom:

"There were reports of abuses of religious freedom, including the continued detention and incarceration of Buddhist monks throughout the country, the arrest of Muslims in the broader Rangoon area for unauthorized teaching as well as praying in living quarters, and the interrogation and harassment of Baptists in Kachin State.

[...] The government selectively enforced legal restrictions on religious freedom. Religious organizations were subject to restrictions on freedom of expression and association. The government's pervasive internal security apparatus imposed implicit restrictions on collective and individual worship through infiltrating and monitoring meetings and activities of virtually all organizations.

[...] The government continued to discriminate against minority religious groups, restricting educational activities, proselytizing, and restoration or construction of churches and mosques. In most regions, Christian and Islamic groups that sought to build small places of worship on side streets or other inconspicuous locations were able to do so only with informal approval from local authorities. When local authorities or conditions changed, some approvals were rescinded and, in some cases, authorities demolished existing religious buildings. Construction on the Sufi Shahul Hamid Nagori Flag Post and Mosque in Insein was stopped and the structures were subsequently torn down after authorities claimed that the construction exceeded the scope of the permits; the city government then filed criminal suits against the trustees of the mosque. Formal requests often encountered long delays, generally were denied, and even when approved could subsequently be reversed by a more senior authority." (USDOS, 30 July 2012, section 2)

6.2.1 Buddhists

This section does not include information already covered in section 5.2.1 (pp. 86-88) of the previous Myanmar COI Compilation of October 2011.

Freedom House (FH) describes the position of Buddhism and Buddhist monks in Myanmar in its September 2012 report *Countries at the Crossroads* as follows:

"Burma is home to a Theravada Buddhist majority and many religious minorities. The state actively supports the Buddhist Sangha (clergy), and for ethnic Burmans this support gives Buddhism the character of an official religion. The government has funded the construction of countless religious buildings and monuments across the country. However, since Buddhist monks played a leading role in the 2007 protests, those who are considered politically subversive have been subjected to surveillance and harsh treatment." (FH, 20 September 2012)

The US Commission on International Religious Freedom (USCIRF) mentions in its March 2012 report that the military generally promotes Theravada Buddhism:

"Despite its crackdown on monks who participated in the 2007 'Saffron Revolution' and restrictions on perceived anti-government Buddhists, the military generally promotes Theravada Buddhism, particularly in the ethnic minority areas, sometimes pressuring or offering economic inducements to encourage conversion. Throughout Burma's history, patronage of the Buddhist community was necessary to legitimize a government's hold on

power. Military and civilian government leaders have continued this practice, publicly participating in Buddhist rituals. Buddhist doctrine is an optional course taught in all government-run schools and daily prayer is required of all students; in some schools, children who are not Buddhist reportedly are allowed to leave the room during this time, but in others they are compelled to recite the prayer." (USCIRF, March 2012, p. 33)

The USCIRF further reports on government interference in Buddhist affairs when it comes to political activities viewed as critical of the government:

"Government interference in Buddhist affairs predated the 2007 protests and continued in the past reporting year, focusing on monks and ceremonies viewed as critical of the government. Members of the Buddhist sangha are subject to a strict code of conduct that is reportedly enforced through criminal penalties. Monks are not allowed to preach political sermons, make public statements, or produce literature with views critical of government policies or the military. Monks are also prohibited from associating with or joining political parties or taking part in peaceful demonstrations or ceremonies viewed as political, such as commemorations of Aung Sang Suu Kyi or for the victims of the 2007 demonstrations. Military commanders retain jurisdiction to try Buddhist monks in military courts. [...] In December 2011, a monk was arrested for delivering speeches about the need for further political reform." (USCIRF, March 2012, pp. 32-33)

The USDOS report on International Religious Freedom for the year 2011 states that the government continued its efforts to exert control over the Buddhist clergy and gives the figure of 130 monks in prison by the end of 2011:

"The government continued its efforts to exert control over the Buddhist clergy (Sangha). It tried Sangha members for 'activities inconsistent with and detrimental to Buddhism' and imposed on the Sangha a code of conduct enforced by criminal penalties. The government continued the detention, imprisonment, and interrogation of politically active Buddhist monks. In prison, some monks were defrocked and treated as laypersons. In general they were not allowed to shave their heads and were not given food compatible with the monastic code, which dictates that monks should not eat after noon. They often were beaten and forced to do hard labor.

According to the Thailand-based Assistance Association of Political Prisoners in Burma (AAPP), at the end of the year an estimated 130 monks remained in prison, many of them arrested after the September 2007 peaceful prodemocracy demonstrations. During the year, some of the monks, as well as other political prisoners, remained in remote jails away from their family members, limiting their access to basic necessities and medicines that visiting relatives generally provided." (USDOS, 30 July 2012, section 2)

The USCIRF mentions the release of prominent leaders of the 2007 demonstrations as well as the detention of Buddhist monks suspected of anti-government activities:

"Although the new government has released prominent leaders of the 2007 demonstrations, Buddhist monks suspected of anti-government activities have been detained in the past year. Most of the recent releases were conditional. U Gambira, head

of the All-Burma Monks Alliance, has been twice detained by police because of his public criticism of the government and for unilaterally re-opening sealed monasteries." (USCIRF, March 2012, p. 31)

In an article published by the Guardian on 11 February 2012, the detention and the release of Shin Gambira, the leader of the Alliance of All Burma Buddhist Monks, is reported in detail. Gambira was one of the political prisoners who had been released in a mass amnesty on 13 January 2012 before he was detained anew for one day:

"An activist monk who led a 2007 uprising against Burma's former military government has returned to his monastery after being taken for questioning by the authorities just weeks after his release from prison. Shin Gambira, the leader of the Alliance of All Burma Buddhist Monks, was taken from a monastery in Rangoon on Thursday night by authorities and officials from the ministry of religious affairs, but returned home safely late on Friday. Shin Gambira's brief detention is still shrouded in mystery. [...] Shin Gambira, 33, was one of the leaders of the pro-democracy Saffron revolution during which monks led protests against the junta that had ruled Burma for 49 years. [...] Shin Gambira was sentenced to 68 years in prison for his role in the protests but was released in a mass amnesty of political prisoners on 13 January. In an interview last month, he said he had endured beatings, solitary confinement and sleep deprivation. Several associates of Shin Gambira told Reuters they suspected he was suffering from mental problems because of the ill treatment and interrogation endured while in prison. A fellow activist monk, known as Issariya, said he suspected Shin Gambira was detained for entering a monastery that had been sealed off by the authorities." (Guardian, 11 February 2012)

6.2.2 Christians

This section does not include information already covered in section 5.2.2 (p. 88) of the previous Myanmar COI Compilation of October 2011.

Freedom House (FH) emphasises the close overlap between religious and ethnic minorities and cites the Christians of Kayin (Karen) and Kachin States as an example and mentions new fighting in Kachin State in June 2011:

"In most cases, non-Buddhist religious minorities are also ethnic minorities. In Karen and Kachin States, for example, Christianity forms an integral part of the social and political fabric. Complaints about government harassment of Christians often come in the context of counterinsurgency campaigns. Indeed, harassment of religious minorities is most common in contexts where other political and cultural rights are being restricted. Since the beginning of renewed fighting in Kachin State in June 2011, there have been reports of attacks on Christian congregations. By contrast, during the preceding 17-year ceasefire, Kachin Christian churches were allowed in most cases to develop religious, educational, health, and social programs without interference." (FH, 20 September 2012)

The USCIRF reports on religious freedom abuses faced by Christian groups in ethnic minority areas and lists the Chin, Naga, Kachin, Shan, Karen and Karenni peoples as having sizable Christian populations:

"Christian groups in ethnic minority regions, where low-intensity conflicts have been waged for decades, face particularly severe and ongoing religious freedom abuses. The Burmese military has destroyed religious venues, actively promoted conversion to Buddhism, confiscated land, mandated forced labor, and used rape as an instrument of war and intimidation. The Chin, Naga, Kachin, Shan, Karen, and Karenni peoples, each with sizable Christian populations, have been the targets of these abuses.

In January 2012, the civilian government announced that a ceasefire was reached with the Karen National Union (KNU), temporarily ending one of the longest and bloodiest ethnic insurgencies. However, military operations continue in other regions. In June 2011, the Burmese military ended a seventeen-year ceasefire with the Kachin Independence Organization (KIO) and its armed wing, the Kachin Independence Army (KIA). According to the Special Rapporteur on Burma's September 2011 report, armed conflict has threatened ethnic and religious minorities and 'engender[s] serious human rights violations, including extrajudicial killings, sexual violence, arbitrary arrest and detention, internal displacement, land confiscations, the recruitment of child soldiers and forced labor and portering.' According to the Kachin Women's Association-Thailand (KWAT), between 25,000 and 50,000 civilians have fled their villages and are living as internally displaced persons (IDPs) in makeshift camps along the China-Burma border, or hiding in the jungle.

According to sources compiled by the non-governmental organization (NGO) Christian Solidarity Worldwide (CSW), the military campaign in Kachin state is targeting Chin Christian churches and believers. On October 16, 2011, soldiers from Light Infantry Battalion 438 seized control of a Roman Catholic Church in Namsan Yang village, Waimaw township. The troops fired into the church during mass and beat the priest's assistant, Jangma Awng Li. He and four other men were handcuffed and detained by the soldiers. The same battalion, later joined by soldiers from Light Infantry Battalion 121, continued through the village and stopped at a Baptist church compound, looting and burning it. Members of the village were taken away to be used for forced labor." (USCIRF, March 2012, p. 35)

In September 2012, the Chin Human Rights Organization (CHRO) released a detailed report documenting the situation of Chin Christians in Myanmar. The report states that "[t]oday the Chin are approximately 90 percent Christian" (CHRO, September 2012, p. 18) and elaborates on the meaning of the Christian religion for the identity of the ethnic Chin:

"As the former Special Rapporteur on religious intolerance has noted, 'religions are systems of beliefs and practices, myths, rites and worship that have the effect of uniting members of a group and ensuring the group's existence and often even its ethnic identity.' As explored in Chapter Two of this report, this is particularly true for the Chin, as Christianity helped to unify them and create a shared common identity as ethnic Chin." (CHRO, September 2012, p. 37)

The CHRO report can be accessed via the following link:

- CHRO - Chin Human Rights Organization: "Threats to Our Existence": Persecution of Ethnic Chin Christians in Burma, September 2012
http://www.chro.ca/images/stories/files/PDF/Threats_to_Our_Existence.pdf

The March 2012 Human Rights Watch (HRW) report on wartime abuses and forced displacement in Kachin State mentions that the army razed homes and churches at the end of 2011:

"Other human rights groups have documented how in November and December the Burmese army razed homes and Christian churches in several villages in Kachin State, including Namlim Pa, Dawhpum Yang, Dingga, Namsang Yang, Aungja, and Sanpai villages, leading thousands to flee to improvised camps on the border or in China." (HRW, March 2012, p. 54)

The USDOS report on International Religious Freedom for the year 2011 contains information with regard to practices promoting conversions from Christianity to Buddhism and reports on requirements for permissions to build new churches and on the prohibition of proselytizing in some areas:

"Although authorities appear to have moved away from a campaign of forced conversion, there continued to be evidence that other means were being used to entice non-Buddhists to convert to Buddhism. Chin Christians reported that local authorities operated a high school that only Buddhist students could attend and promised government jobs to the graduates. Christians had to convert to Buddhism to attend the school. An exiled Chin human rights group claimed local government officials placed the children of Chin Christians in Buddhist monasteries, where they were given religious instruction and converted to Buddhism without their parents' knowledge or consent. Reports suggested that the government also sought to induce members of the Naga ethnic group in Sagaing Division to convert to Buddhism through similar means. During the year there were no reports of forced religious conversions. [...]

Christian groups reported greater ease in obtaining permission to buy land or build new churches during the year. In some cases authorities continued to deny permission to build, asserting that applicants had violated various aspects of Burma's complex land laws. In some areas permission to repair existing places of worship was easier to acquire.

[...] Government authorities continued to prohibit Christian clergy from proselytizing in some areas. Christian groups reported that authorities sometimes refused residency permits for Christian ministers attempting to move to new townships. They indicated this was not a widespread practice, but depended on the individual community and local authority. Nonetheless, Christian groups reported that church membership increased, even in predominantly Buddhist regions." (USDOS, 30 July 2012, section 2)

The Christian advocacy and human rights organisation Christian Solidarity Worldwide (CSW) reports in October 2011 that the army seized control of two churches in Waimaw Township in Kachin State:

"According to CSW's sources, on 16 October soldiers from Light Infantry Battalion 438 seized control of a Roman Catholic Church in Namsan Yang village, Waimaw township, where 23 worshippers, mostly women and elderly people, had gathered for the 8am Sunday service. The worshippers took refuge from the gunfire behind the Maria prayer sanctuary. When the troops saw them, they shot several rounds of bullets into the sanctuary. The Catholic assistant to the priest, 49 year-old father-of-four Jangma Awng Li, decided to speak to the troops as he is fluent in Burmese. He was beaten in his head with a rifle butt, and injured his forehead when he hit a concrete wall. He and four other men were handcuffed and detained by the soldiers.

The troops, who were later joined by soldiers from Light Infantry Battalion 121, continued to march through the village shooting, and reached the Baptist church compound in the evening. During the march the detainees, including four from other villages who had been with the troops for two weeks, were used as forced labour. The detainees had to stay with the troops overnight and were temporarily stationed in the Baptist church compound. The whole northern part of village was burned and both church properties were destroyed.

[...] On 18 October, a 19 year-old girl, Maran Kawbu, was detained, tortured and gang-raped by soldiers from the same battalion in Namsan Yang. Her body was left on the river bank. In Momauk, approximately 500 internally displaced persons (IDPs) have fled the conflict and are seeking temporary accommodation in the church. On 19 October, one man, a Shan farmer named Mr Tintun, was shot dead by soldiers from Light Infantry Brigade 601, while fishing." (CSW, 21 October 2011)

In October 2011, CSW reports that Christians in Phakant Township in Kachin State face new restrictions on conducting Bible study:

"On 14 October, 2011 the Chairman of Maw Wan Ward in Phakant Township, Kachin State sent a letter to local churches [...]. The letter refers to an order by the General Township Administration Department requiring Christians in Phakant Township to submit a request at least 15 days in advance for permission to conduct 'short-term Bible study, Bible study, Sunday school, reading the Bible, fasting prayer, Seasonal Bible study and Rosary of the Virgin Mary Prayer'. A request for permission must be accompanied by recommendations from other departments, and must be submitted to the Township Administration Office.

CSW obtained a copy of the document in Burmese, and a translation, last week. Churches in Burma are already required to obtain permission for any events other than Sunday services, but this new regulation imposes further severe restrictions.

CSW's East Asia Team Leader Benedict Rogers said, "For many years, successive Burmese regimes have suppressed freedom of religion and imposed serious restrictions on Christians and other religious minorities. Christians and Muslims in particular have been the target of discrimination and persecution. It appears that despite changes in rhetoric, there has been no change of attitude, particularly at a local level, on the part of Burmese authorities to religious minorities. [...]" (CSW, 31 October 2011)

In November 2011, CSW reports about the detention of a pastor and the death of a pastor's assistant after being severely tortured:

"The pastor of Banggaw Kachin Baptist Church, Rev Gam Aung, was arrested by Burma Army soldiers in Manwin village at 3pm on 17 November, while speaking on the telephone in a shop. Local sources say no reasons were given for his arrest and his whereabouts are unknown. [...] According to CSW's sources, Rev Shayu Lum Hkawng, assistant to the pastor of an Assemblies of God church in Muk Chyuk village, Waimaw Township, died on 7 November after severe torture. He had been detained along with the pastor, Rev Lajaw Lum Hkawng, and tied up, after Burma Army soldiers attacked and looted the church the previous day. The whereabouts of Hpalawng Lum Hkawng, deacon and youth music team leader, who was injured in the attack, has disappeared. (CSW, 21 November 2011)

6.2.3 Muslims including ethnic Bamar and those living outside Rakhine State

This section does not include information already covered in section 5.2.3 (pp. 88-89) of the previous Myanmar COI Compilation of October 2011.

The US Commission on International Religious Freedom (USCIRF) mentions in its March 2012 report that "Muslims routinely experience strict controls on a wide range of religious activities, as well as government-sponsored societal violence" (USCIRF, March 2012, p. 31). The report further details:

"Police often restricted the number of Muslims who could gather in one place. In some places, Muslims were only allowed to gather for worship and religious training during major Muslim holidays. Police and border guards also continued inspections of Muslim mosques in Rakhine state; if a mosque cannot show a valid building permit, the venue can be ordered closed or destroyed. The government has, in recent years, ordered the destructions of mosques, religious centers, and schools. During the current reporting period, the Burmese military maintained a campaign to create 'Muslim Free Areas' in parts of Rakhine (Arakan) state. Military commanders have closed mosques and madrassas, stoked ethnic violence, and built pagodas in areas without a Buddhist presence, often with forced labor. Refugees report that the military continues to entice conversion to Buddhism by offering charity, bribes, or promises of jobs or schooling for Muslim children.

The Burmese military has instigated riots against ethnic minority Muslims in the past, targeting both Rohingya and the Chinese Pathay Muslim groups.

[...] In March 2011, the UN Special Rapporteur on Human Rights in Burma again reported to the UN Human Rights Council that he was 'deeply concerned about the systematic and endemic discrimination faced by the Muslim community... [which] lead[s] to [their] basic and fundamental human rights being denied.' Specific concerns identified included 'restrictions of movement; limitations on permission to marry; various forms of extortion and arbitrary taxation; land confiscation and forced evictions; restricted access to medical care, food and adequate housing; forced labor; and restrictions on Muslim marriages.'" (USCIRF, March 2012, pp. 34-35)

The July 2012 USDOS report on International Religious Freedom states that “[i]t remained extremely difficult for Muslims to acquire permission to build new or repair existing mosques, although internal maintenance was allowed in some cases” (USDOS, 30 July 2012, section 2) and continues:

“In Arakan State, government officials reportedly denied permits for the renovation of mosques with one exception: a large mosque in Maung Daw Township near the border with Bangladesh. Historic mosques in Mawlamyine, Mon State and Sittwe, Rakhine State, as well as other areas, continued to deteriorate because authorities did not allow routine maintenance. A number of restrictions were in place on the construction or renovation of mosques and religious schools in northern Rakhine State. According to a representative of an Islamic association, local authorities in Bago confiscated an ancient Muslim cemetery. The military government completely banned all religious services at the cemetery in 2005 and destroyed other parts of the cemetery between 2002 and 2010.

The roof repair of a Rangoon mosque became the center of controversy after the Yangon City Development Committee forced the mosque to suspend work. Rangoon Mayor and USDP candidate Aung Thein Linn allegedly approved the renovation project after the Muslim community agreed to support him in the elections. However, authorities revoked the permit after the Buddhist community allegedly sent a letter of protest to the Union Election Commission in Naypyitaw. At year’s end, the mosque was still without a roof.” (USDOS, 30 July 2012, section 2)

In its September 2012 report *Countries at the Crossroads*, Freedom House (FH) states:

“Separately, since June 2012, violence between Muslim and Buddhist groups in western Burma’s Rakhine State has also tested the government’s commitment to religious freedom. The uncertain place of the Rohingya, a Muslim minority group, in Burmese society provides fuel for uncompromising politics on both sides.” (FH, 20 September 2012)

For further information regarding the violence between Muslim and Buddhist groups in Rakhine State, please refer to section 3.8 of this publication. For further information on the treatment of the Rohingya, please refer to section 5.6.1 of this publication.

6.2.4 Other religious groups including Hindus

In its 2011 Religious Freedom Report, the US Department of State (USDOS) describes the ethnic and religious diversity of Myanmar and mentions Hindus, traditional Chinese religions and indigenous beliefs as other religious groups besides Buddhist, Christian and Muslim groups:

“The country is ethnically diverse, with some correlation between ethnicity and religion. Theravada Buddhism is the dominant religion among the majority Burman ethnic group and also among the Shan, Arakanese, and Mon ethnic minorities. Christianity is dominant among the Kachin, Chin, and Naga ethnic groups. Protestant Christian groups reported recent rapid growth among animist communities in Chin State. Christianity also is practiced widely among the Karen and Karenni ethnic groups; although many Karen and Karenni are Buddhist and some Karen are Muslim. Citizens of Indian origin, who are concentrated in major cities and in the south central region, predominantly practice

Hinduism or Islam, although some are Christian. Islam is practiced widely in Rakhine State and in Rangoon, Irrawaddy, Magwe, and Mandalay Divisions, where some Burmese, Indians, and ethnic Bengalis practice the religion. Chinese ethnic minorities generally practice traditional Chinese religions. Traditional indigenous beliefs are practiced widely among smaller ethnic groups in the highland regions." (USDOS, 30 July 2012, section 1)

Among the sources consulted by ACCORD within time constraints no information could be found on the treatment of members of these groups.

7 Freedom of expression and association

7.1 Domestic legal framework

7.1.1 *Freedom of expression*

This section does not include information already covered in section 6.1.1 (pp. 91-95) of the previous Myanmar COI Compilation of October 2011.

The US Department of State (USDOS) notes in its Country report on Human Rights Practices for 2011, published May 2012, that:

“The government used the penal code to render excessive sentences against political activists by allowing government prosecutors to charge detainees with multiple violations of tangential and archaic or widely ignored laws, such as violating currency laws, publishing materials likely to cause alarm, or spreading rumors. This practice resulted in lengthy cumulative sentences. The regime prosecuted political prisoners under such measures as Defamation of the State, the Emergency Provision Act, Law on Safeguarding the State from the Danger of Subversive Elements, Television and Video Act, Unlawful Associations Act, Electronic Transactions Law, and the Law Relating to the Forming of Organizations.” (USDOS, 24 May 2012, section 1e)

The Freedom House (FH) report Freedom of the Press 2012 (covering events of 2011) notes the following on developments related to Internet freedom:

“While there are no existing laws on monitoring internet communication, the government tracks internet activity and blocks certain websites, including some foreign news sources and foreign-hosted email services. However, in September, Reporters Without Borders confirmed that access to a number of previously banned foreign news websites – including the British Broadcasting Corporation, Reuters, the Bangkok Post, the Straits Times, Radio Free Asia, Irrawaddy, DVB, and the VOA Burmese service – had been unblocked, although internet connections continued to be very slow. In addition, a range of e-mail, blog, and social-media sites, including Gmail, Facebook, and YouTube, were unblocked.” (FH, May 2012)

Another report by FH, published September 2012 and covering the period from January 2011 to May 2012, notes:

“Harsh media laws remain in effect and could be used at any time to punish a wide range of online expression, the technical censorship system appears intact, and some opposition blogs continue to be blocked. [...]

The government’s first attempt to restrict internet freedom was through the 1996 Myanmar Computer Science Development Law, which made possession of an unregistered computer modem and connection to unauthorized computer networks punishable by up to 15 years in prison. Other laws passed later have reinforced a climate of fear and self-censorship surrounding online interactions, though in 2011, internet users pushed the

boundaries of permissible speech and mobilized successful campaigns for political or social change. [...]

Despite the government's control and the above-mentioned slowdown, there have been no credible reports of politically motivated disruptions to internet connectivity in 2011 and early 2012, unlike in previous years. Rather, the disruptions that occurred appeared due to technical problems. [...]

For years, the Burmese government systematically restricted access to political websites and online media outlets run by the Burmese exile community. This changed in September 2011 when the government lifted the blocks not only on foreign news sources such as Reuters, the British Broadcasting Corporation (BBC), Radio Free Asia, and the Bangkok Post, but also on major exile media sites such as the Irrawaddy, Mizzima, and Democratic Voice of Burma; the latter had long been on the regime's blacklist for their critical reporting. The websites of international human rights groups were also unblocked. [...]

Despite these notable positive developments, the impact of the new opening has been tempered by the still low penetration rate and an atmosphere of uncertainty. In particular, harsh laws used to sentence bloggers and online journalists to long prison terms remain in effect and could be employed at any time to punish those accessing, disseminating, or providing information to the unblocked news outlets [...]. As a result, self-censorship remains common among internet users, though less so than in the past.

Although the new civilian-led government of President Thein Sien, who took office in March 2011, has introduced unprecedented improvements to the internet freedom landscape, the reforms lack a firm legal foundation. As a result, users remain at risk of prosecution and imprisonment under the repressive laws enacted by the previous military junta, and a small number of individuals imprisoned for online activities remain in custody." (FH, 24 September 2012)

The US Department of State (USDOS) notes in its May 2012 report covering events in 2011 that "[t]he government controlled content in all print publications, and it owned or controlled all domestic radio and television broadcasting facilities." (USDOS, 24 May 2012, section 2a)

Likewise, the above-cited May 2012 report by Freedom House (FH) states the following with regard to print and broadcast media:

"Media concentration remains high, even though a number of formerly exiled media organizations have begun opening outlets in the country. The government owns or controls all domestic broadcast media and daily newspapers, and exercises tight control over a growing number of privately owned weekly and monthly publications." (FH, May 2012)

Turning to the issue of pre-publication censorship in 2011, the report notes:

"While there was some improvement in the extent of official censorship, the majority of private periodicals remain subject to prepublication censorship under the 1962 Printers

and Publishers Registration Act, which requires that all content be approved by the authorities." (FH, May 2012)

The Democratic Voice of Burma (DVB) reports that on 20 August 2012, the government announced it had abolished pre-publication censorship of the country's media. However, along with the announcement, the government also imposed a set of 16 guidelines to local news journals, warning editors that "the state shall not be negatively criticised". The 16-point document, which was seen by the DVB, further prohibits "wording that encourages, supports or incites individuals and organisations that are dissident to the state", as well as "things that will damage ties with other countries". As noted by the DVB, the government's Press Scrutiny and Registration Division (PSRD) will continue to monitor what is published in the media and editors who do not abide by the new guidelines risk prosecution under Myanmar's existing laws. (DVB, 20 August 2012)

The Burma Partnership (BP) notes the following with regard to the abolishment of pre-publication censorship:

"Prior submission of print media content that had been imposed for the last 48 years ended when the Press Scrutiny and Registration Board (PSRD) introduced its post-publication checks that came effective on 20 August. Journals and newspapers no longer need to submit their publication beforehand but afterward. However, the 1962 Printers and Publishers Registration Act and the 2004 Electronics Transaction Act that have been repeatedly used to jail journalists and activists are still in place. Journals have been suspended and could still be suspended at any time. Furthermore, journalists and reporters have to abide by the newly introduced 16-point ethical guidelines that prohibit them from criticizing the state." (BP, 27 August 2012)

Article 19, a London-based human rights organisation with a focus on the defence and promotion of freedom of expression and freedom of information, notes in September 2012 that a new media law, originally scheduled to be adopted in June 2012, has been repeatedly delayed and is now due in early 2013. (Article 19, 11 September 2012)

7.1.2 Freedom of association and assembly

This section does not include information already covered in section 6.1.2 (pp. 95-96) of the previous Myanmar COI Compilation of October 2011.

The May 2012 report by USDOS (covering 2011 events) provides the following information regarding freedom of association and assembly in Myanmar:

"The constitution provides the right to freedom of assembly but with significant limitations. The government did not respect the right in practice. A long-standing ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although it was not enforced consistently. [...]

The constitution and laws allow citizens to form associations and organizations; however, the government restricted this right in practice. The government reportedly blocked efforts of ethnic language and literature associations to meet and teach, and it impeded efforts of

Islamic and Christian associations and organizations to gather and preach. Byzantine regulations and political considerations impeded registration of NGOs; the government continued to deny some local NGOs registration. In November the president signed into law an amended Political Parties Registration Law that opened registration to opposition parties [...].” (USDOS, 24 May 2012, section 2b)

For further information regarding the amended Political Parties Registration Law, please refer to section 2.3.2 of this publication.

In its 2011 Report on International Religious Freedom, the USDOS mentions that “[t]he government passed the Peaceful Assembly and Procession Bill on December 2, the first law in several decades to allow peaceful assembly”. (USDOS, 30 July 2012, section 2)

For further information regarding key provisions of the Law on Peaceful Assembly and Peaceful Procession, please see section 2.7.2 of this publication.

The human rights organisation Article 19 states that on 5 July 2012, the government adopted a Decree on the Right to Peaceful Assembly and Peaceful Procession. As noted by the rights group, “[t]he Decree is a bylaw which regulates in details the legal regime for public assemblies, as set out by the Law Relating to Peaceful Assembly and Peaceful Procession” and “makes the provisions of the Law operational”. (Article 19, 2012)

The Article 19 report from which the above information was taken offers a detailed legal analysis of the Decree on the Right to Peaceful Assembly and Peaceful Procession and is available via the following link:

- Article 19: Myanmar: The Decree on the Right to Peaceful Assembly and Peaceful Procession, 2012
<http://www.article19.org/data/files/medialibrary/3440/12-09-19-LA-Myanmar.pdf>

In its May 2012 report, the USDOS elaborates as follows on the Labour Organisation Law, which was signed by the president on 11 October 2011 and repeals the Trade Union Act of 1926:

“Under this law workers may freely join labor organizations in their trade sector. Labor organizations must register with the Chief Registrar's Office. The law also provides that government may offer assistance to labor organizations but must allow them to operate independently. The law permits labor organizations to demand the reinstatement of workers dismissed for union activity.

The law provides for a limited right to strike and right to lock out, subject to certain conditions and with the exception of certain industries. Strikes require a vote of the majority of the union's members, and three days' notice in the private sector or 14 days' notice in a public utility. The law prohibits strikes on purely political grounds but allows strikes related to labor policies, for example labor market policies, and on issues directly related to labor affairs, such as wages, salaries, welfare, and working hours.

Strikes are prohibited in essential services, defined as 'those whose interruptions are liable to endanger the life, health, or security of the people in any segment of the population' and include water services, electricity services, fire services, health services, and telecommunications services. However, the law also states that a nonessential service may become an essential service if the strikes last so long as to cause irreversible or disproportionate damage to 'the occupational interests of those involved in the dispute.' This definition includes a broader range of sectors than the international norm.

The law gives unions the right to negotiate with employers with the objective of ensuring collective representation of workers and employers for the development of their labor relationships. It does not contain measures regarding management of the bargaining process and handling of disputes. [...]

Organizations that attempted to register under the new labor law were unable to do so. The government cited lack of implementing legislation. At year's end implementing regulations had not been issued." (USDOS, 24 May 2012, section 7a)

For further information on the Labour Organisation Law, please see section 2.7.3 of this publication.

7.2 Treatment of (actual or perceived) members and supporters of, and participants in:

7.2.1 The National League for Democracy (NLD)

This section does not include information already covered in section 6.3.1 (pp. 98-100) of the previous Myanmar COI Compilation of October 2011.

The UK Border Agency (UKBA) Country of Origin Information Report of February 2012 quotes an email from the UK Foreign and Commonwealth Office (FCO), dated 21 December 2011, as saying:

"In recent months a number of NLD members have been able to travel overseas and return to Burma without interference from the authorities. Following the re-registration of the NLD as an official political party in December 2011, and their likely entry into parliament following by-elections in early 2012, it is likely that NLD members, whether active or inactive, will be able to leave and re-enter the country without significant hindrance. It is unlikely, though not impossible, that inactive NLD members would be questioned on re-entering the country." (UKBA, 2 February 2012, p. 136)

In its March 2012 report, Freedom House (FH) states that "[a]t the end of 2011, the government was still holding some 2,000 political prisoners, including hundreds of members of the NLD". Furthermore, in the same report, FH remarks that "in 2011 the government allowed Aung San Suu Kyi and the NLD to hold meetings and public gatherings with little interference." (FH, March 2012)

In a March 2012 press release covering the run-up to the parliamentary by-election held in April 2012, Human Rights Watch (HRW) quotes NLD chairperson Aung San Suu Kyi as stating:

“I don’t think we can consider it genuinely free and fair if we consider what has been going on for the last couple months,’ Aung San Suu Kyi said at a news conference on March 30, citing ‘many, many cases of intimidation’ of NLD party members by officials.” (HRW, 30 March 2012)

For further information on the pre-election period of the April 2012 by-election, please see section 2.3.2 of this publication.

BBC reports on 22 May 2012 that about 10 NLD members were temporarily detained in connection with protests held by hundreds of people in Mandalay against chronic power shortages:

“The demonstrations were the largest since an abortive uprising led by Buddhist monks five years ago. [...] Under new laws accompanying a dramatic period of political change, public gatherings like these are no longer illegal - but do require several days’ notice. Officials say the Mandalay protest did not have prior approval. [...]

About 10 members of opposition leader Aung San Suu Kyi’s National League for Democracy party (NLD) were detained for questioning, NLD Mandalay MP Ohn Kyaing told the AFP news agency. ‘The authorities treated them well and released them afterwards,’ he said.” (BBC, 22 May 2012)

Amnesty International (AI) reports that on 3 July 2012, Myanmar authorities freed 80 prisoners on “humanitarian grounds”, including three members of the NLD. (AI, 4 July 2012)

The Alternative ASEAN Network on Burma (ALTSEAN) notes that on 10 July 2012, NLD members in Bago (Pegu) were denied permission to hold a public commemoration on Martyrs’ Day on 19 July:

“On 10 July, authorities in Pegu refused to grant permission to members of the National League for Democracy (NLD) to hold a public commemoration on Martyrs’ Day on 19 July. Subsequent requests to hold it at different locations were also denied. The authorities reportedly told the NLD that permission was not granted because laying wreathes in the town’s centre would be ‘a bad omen.’” (ALTSEAN, 12 July 2012)

7.2.2 The National League for Democracy-Liberated Area (NLD-LA)

On its undated website (probably last updated before the official dissolution of the State Peace and Development Council in March 2011), the NLD-LA describes itself as follows:

“The NLD is distinct from the NLD-LA (National League for Democracy-Liberated Areas), which operates in the Thai-Burma border areas and abroad. However, the NLD-LA advocates the position of the NLD in calling for a tripartite dialogue between the SPDC, the NLD, and representatives of the ethnic minority groups of Burma.” (NLD-LA, undated)

In a July 2012 article, the Myanmar Times states that after several years in exile, Zaw Myint, a member of the NLD-LA office in Malaysia, was granted permission to return to Myanmar:

"A member of the National League for Democracy-Liberated Areas' office in Malaysia last week returned to Myanmar, after receiving permission from President U Thein Sein. U Zaw Myint, 47, who led the NLD Youth in South Okkalapa township from 1988 and became head of NLD-LA in Malaysia from 2003, returned home on June 4 [sic, presumably July]. 'After I saw the invitation to come back home in each of the president's speeches, I went to the Myanmar embassy in Malaysia in January and informed them of my wish to go back home,' U Zaw Myint told The Myanmar Times last week. 'They asked me to sign the required documents. In the interval, the by-elections and other events have occurred in Myanmar. I had to wait to come back home, but I eventually got permission. They also arranged air tickets for me,' he said. Among the documents he signed was a pledge not to directly or indirectly harm the dignity of the state and its constitution. [...] He said there were still 10,832 NLD members in Malaysia. The NLD-LA also has branches in the United States, United Kingdom, Japan, Norway, South Korea, Canada and Thailand." (Myanmar Times, 9 July 2012b)

In an article dated 28 August 2012, Radio Free Asia (RFA) mentions that according to state media, authorities have removed more than 2,000 people from a 6,165-person travel blacklist, allowing some prominent dissidents who fled the former military regime to return to Myanmar. Among those taken off the blacklist was Nyo Ohn Myint, one of the leaders of the NLD-LA. (RFA, 28 August 2012)

7.2.3 The All Burma Student Union (ABSU)/All Burma Federations of Students Union (ABFSU)

This section does not include information already covered in section 6.3.2 (pp. 100-101) of the previous Myanmar COI Compilation of October 2011.

In an article dated May 2012, Radio Free Asia (RFA) reports that the ABFSU, an umbrella organisation for all student unions in Myanmar, was banned more than two decades ago but continued to operate underground. As regards the treatment of ABFSU members, the article notes:

"The ABFSU has been organizing local unions in Burma, but the group says it has faced threats and intimidation from the authorities.

According to reports, the group has most recently faced harassment in Myaungmya district, in Western Burma's Ayeyarwady region, where local police, military intelligence, and fire department police have been collecting information about student union members.

Members said authorities had been coming to their homes in Wakema township during the middle of the night, threatening their parents, and taking copies of their residency and ID cards, as well as taking note of their majors at school." (RFA, 9 May 2012)

The Irrawaddy reports in June 2012:

"Leaders of the All Burma Federation of Student Unions (ABFSU) were told on Wednesday to register as an official association by the Rangoon authorities or potentially face imprisonment.

However, prominent members of the umbrella body which represents Burmese student organizations denied this step was necessary as it has no intention to stand for election." (Irrawaddy, 6 June 2012)

The Democratic Voice of Burma (DVB) cites a leading ABFSU member as saying that on 6 July 2012, authorities arrested and temporarily incarcerated several group members in Yangon (Rangoon), Mandalay, Myingyan and Shwebo, and Shan State's Lashio who were preparing to commemorate the 50th anniversary of the military's crackdown on students in 1962 (DVB, 9 July 2012).

7.2.4 88 Generation Students Group

This section does not include information already covered in section 6.3.3 (pp. 101-102) of the previous Myanmar COI Compilation of October 2011.

The Progress Report by the UN Special Rapporteur on the situation of human rights in Myanmar, published by the UN Human Rights Council (HRC) in March 2012, notes that on 12 January 2012, President Thein Sein granted amnesty to 651 prisoners, including members of the 88 Generation Students Group:

"On 12 January, the President granted another amnesty to 651 prisoners. While estimates vary, a significant number of those released were prisoners of conscience, including former Prime Minister Khin Nyunt and the Chairperson of the Shan Nationalities League for Democracy, Khun Htun Oo, members of the 88 Generation Students Group, including Min Ko Naing, monks jailed for their role in the 2007 demonstrations, and activists and journalists." (HRC, 7 March 2012, p. 7)

The Irrawaddy notes that on 7 August 2012, two government ministers, Soe Thein and Aung Min, appeared at a monastery in Mandalay to meet activists belonging to the "88 Generation" group, who were preparing to hold a commemorative event for the 24th anniversary of the 1988 democracy uprising. As reported by the Irrawaddy, "[t]he Naypyidaw representatives said that they came to pay their respects on the day and donated one million kyat to the group. They also confirmed that their visit came with the official blessing of the president himself." (Irrawaddy, 8 August 2012)

A September 2012 article for the Wall Street Journal's (WSJ) Southeast Asia Real Time blog reports on a "rapprochement" between the government and the "88 Generation" movement. The author, WSJ's Celine Fernandez, writes:

"For years they were arch-enemies of Myanmar's oppressive military regime, targeted as much if not by more by military leaders than Aung San Suu Kyi and her National League for Democracy political party.

But these days, members of the '88 Generation' movement — composed of one-time student leaders whose 1988 protests nearly toppled the Myanmar junta — are in fashion in Naypyitaw, where they are increasingly being asked to weigh in on policy and advise government leaders and former military bosses on how to further reform the country.

The rapprochement took a major symbolic step forward in early August, on the eve of the 24th anniversary of the 1988 protests, when Myanmar President Thein Sein sent two of his cabinet ministers to meet with 88 Generation leaders in Mandalay as the activists gathered to commemorate the failed uprising of their youths. The ministers gave the activists a donation of 1 million kyats, or roughly US\$1,100.

That gesture came after a series of meetings between 88 Generation leaders—many of whom were recently freed from prison after years behind bars, sometimes in solitary confinement—and top government officials.

In one sit-down earlier this year, 88 Generation leaders met with Aung Min, now a cabinet minister in President Thein Sein's office who has led the president's efforts to resolve conflicts with armed minority groups, to discuss ethnic divides.

In July, the activists met Lower House Speaker Shwe Mann, who is considered one of Myanmar's most powerful figures, in a session 88 Generation leaders said was designed to build mutual trust. On August 7, the activists met again with Aung Min as well as Soe Thein, a former industry minister who is now also attached to the president's office and considered another rising star in Myanmar politics.

In mid-August, Myanmar's government said it was including one 88 Generation leader, Ko Ko Gyi, on a 27-member national commission to investigate recent communal violence involving Rohingya Muslims in Western Myanmar, which left at least 83 people dead when tensions intensified in June. Leaders from the 88 Generation have themselves pushed for a more active public role, offering themselves earlier this year as mediators between Naypyitaw and the Kachin Independence Organisation, which represents ethnic-Kachin residents who are battling government forces for more sovereignty.

In March, the 88 Generation formed an election watchdog network with other civil society groups to monitor the country's April 1 by-elections; it later released an interim report saying it was satisfied with the elections but listed a number of areas that needed improvement. When the Western Myanmar violence flared in June, 88 Generation leaders visited the state to observe conditions. Now, its leaders are touring the country this month to meet with recently-released political prisoners." (WSJ, 4 September 2012)

The Myanmar Times, in an article published 24 September 2012, states that 18 members of the 88 Generation student group received their passports after six months from the date of application, but not before group leader Min Ko Naing refused to leave for the US to accept an award in protest over the issue:

"Eighteen members of the 88 Generation student group received passports last week after a wait of six months, but not before leader Min Ko Naing boycotted a planned trip

to the United States over the issue. Twenty members of the group applied for passports in March and April and Min Ko Naing and Ko Mya Aye received theirs in August and July respectively. Min Ko Naing was scheduled to travel to the US last week to receive a National Endowment for Democracy award on September 20 but stayed in Myanmar because his colleagues had been unable to get passports." (Myanmar Times, 24 September 2012)

7.2.5 All Burma Monks' Alliance (ABMA)

This section does not include information already covered in section 6.3.4 (pp. 102-103) of the previous Myanmar COI Compilation of October 2011.

Mizzima reports as follows on a statement issued on 21 December 2011 by the ABMA:

"A statement issued on Monday by the All Burma Monks Alliance (ABMA) said the country's political problems could not be solved in the newly formed Parliament, and it favored meetings and dialogue to solve problems. [...]

The statement noted the country's civil wars and human rights violations in ethnic areas and its lack of democracy in social, economic and political affairs in Burma. It also pointed out that some monasteries have been closed and monks are denied freedom of speech." (Mizzima, 22 November 2011)

The US Commission on International Religious Freedom (USCIRF) notes in its Annual Report of March 2012 (covering the period of April 2011 through February 2012):

"Although the new government has released prominent leaders of the 2007 demonstrations, Buddhist monks suspected of anti-government activities have been detained in the past year. Most of the recent releases were conditional. U Gambira, head of the All-Burma Monks Alliance, has been twice detained by police because of his public criticism of the government and for unilaterally re-opening sealed monasteries." (USCIRF, March 2012, p. 31)

"In January 2012, the civilian government conditionally released U Gambira, the head of the All-Burma Monks Alliance, and as many as 29 other monks." (USCIRF, March 2012, p. 32)

7.2.6 Generation Wave (GW)

This section does not include information already covered in section 6.3.5 (p. 103) of the previous Myanmar COI Compilation of October 2011.

The Myanmar Times indicates that on 13 January 2012, 651 prisoners were released under an amnesty announced by the government the previous day. According to one released prisoner, a total of 82 of the detainees were freed from Yangon's Insein prison, among them four members of Generation Wave. (Myanmar Times, 16 January 2012)

Reporting on a presidential amnesty which saw the government releasing 514 prisoners on 17 September 2012, Amnesty International (AI) states:

"Among those released on 17 September were some foreign nationals and at least 90 political prisoners, including Khin Kyi aka Zin Min Aung whom Amnesty International had recognised as a prisoner of conscience. Khin Kyi is a member of Generation Wave and was sentenced to 15 years' imprisonment in 2008 for peaceful political activities." (AI, 18 September 2012)

7.2.7 The United Front of Burmese Activists for Democracy

Among the sources consulted by ACCORD within time constraints no relevant information could be found.

7.2.8 Youth Social Network For Change

Among the sources consulted by ACCORD within time constraints no relevant information could be found.

7.2.9 Human rights lawyers (Burma Lawyers' Council)

Among the sources consulted by ACCORD within time constraints no relevant information could be found beyond what has already been covered in section 6.3.8 (pp. 103-104) of the previous Myanmar COI Compilation of October 2011.

7.2.10 Committee Representing People's Parliament (CRPP)

In an article dated October 2011, Mizzima provides the following information pertaining to the Committee Representing People's Parliament (CRPP):

"The Committee Representing People's Parliament (CRPP) says that it will cooperate with the new government only after it releases all imprisoned political leaders, observes a nationwide cease-fire and enters a dialogue for peace with ethnic [sic] groups. [...]"

The CRPP was formed in 1998 by individual winners of the 1990 general election and 10 winning political parties including the Chin, Mon, Rakhine, Shan and the National League for Democracy. Earlier, the CRPP called for convening a parliament with the winning parties, which was ignored by the then-military government." (Mizzima, 10 October 2011)

Among the sources consulted by ACCORD within time constraints no further relevant information could be found with regard to the Committee Representing People's Parliament (CRPP).

7.2.11 Major demonstrations inside Myanmar

Please see sections 2.1.1 and 2.2.1 of this publication and section 6.3.9 (pp. 104-106) of the previous Myanmar COI Compilation of October 2011 for information on the treatment of participants in the 1988 Uprising and the 2007 Saffron Revolution.

In an article dated 21 May 2012, Agence France-Presse (AFP) news agency reports as follows on a protest held by more than 1,000 people in Mandalay against severe power cuts and the reaction of authorities:

"More than 1,000 people in Burma's second-largest city have held a protest against severe power cuts, residents told AFP, the country's biggest public demonstration in five

years. The demonstrations come after Burma's nominally-civilian government approved a bill allowing authorised peaceful protest, one of a series of reformist moves since the end of army-rule last year. Under the new law demonstrators are required to seek permission five days in advance in order to hold a protest, or risk one year in jail. Although the Mandalay protesters, who apparently mobilised online, failed to ask for permission the rally was not broken up by police, residents told AFP." (AFP, 21 May 2012)

The Irrawaddy states in an article dated 29 May 2012 that the above-mentioned blackout demonstrations, which started in Mandalay, subsequently spread to Prome (Pyay), Bago and Yangon (Rangoon) – with up to 3,000 protesters seen around Sule Pagoda. As further noted in the article, authorities tried to charge six demonstrators who were temporarily taken into police custody in Prome on 24 May 2012 under the Peaceful Protest Law of 4 December 2011:

"During the demonstration in Prome (Pyay) on May 24, police arrested six activists but they were subsequently bailed. However, the authorities tried to charge them under Peaceful Protest Law of Dec. 4, 2011.

The judge rejected the police's attempt to file charges due to a lack of legal justification for the case, said one of the protest organizers, adding that demonstrators who were manhandled may instead file complaints against the officers involved." (Irrawaddy, 29 May 2012)

The Democratic Voice of Burma (DVB) reports as follows on the power protests and the treatment of protest participants in Bago (Pegu) Region:

"Teenage protestors in Pegu division's Thonse township were allegedly beaten by local police officers, while they were participating in a candlelight vigil on 24 May. [...]

Protests have spread across the country as demonstrators demand adequate access to electricity. While the protests have largely remained peaceful, reports of police assaulting participants are on the rise. [...]

On 23 May, four electricity protesters in another Pegu division town, Prome, were assaulted and detained by the police for unlawful protest. They were later released after they were bailed out by their parliamentary representatives." (DVB, 28 May 2012)

7.2.12 Demonstrations outside Myanmar

This section does not include information already covered in section 6.3.10 (pp. 106-107) of the previous Myanmar COI Compilation of October 2011.

The February 2012 COI report by the UK Border Agency (UKBA) refers to the following information provided by the UK Foreign and Commonwealth Office (FCO) with regard to the treatment of Myanmar nationals who participated in demonstrations in the UK:

"In an email to the COI Service dated 21 December 2011, the FCO confirmed that its view concerning Burmese nationals participating in demonstrations in the UK remained the same as in its letter dated 4 February 2011 [...], with the exception that it now judged the

risk of arrest and prosecution to have reduced following the Burmese government's invitation welcoming back people from exile." (UKBA, 2 February 2012, p. 61)

For the information contained in the FCO letter of 4 February 2011 referred to in the above quote, please see p. 106 of the previous Myanmar COI Compilation of October 2011.

On 28 August 2012, the Guardian reports that the government has removed 2,082 names from its travel blacklist, enabling some of the Myanmar nationals living abroad to come back to the country:

"Burma's government has trimmed 2,082 names from its notorious blacklist, opening travelling privileges to roughly a third of the people officially barred from entering or leaving the country, an official said on Tuesday. [...]"

The list has included journalists, critics and a wide range of people that the former military junta deemed a threat to national security. It blocks foreigners and Burmese abroad from entering the country and also prohibits certain Burmese nationals from leaving.

State-owned newspaper the New Light of Myanmar indicated that at least some of those removed from the list were Burmese nationals living abroad. It reported that the changes give a 'green light ... to those Myanmar citizens who are currently in foreign countries, enabling them to return home.'" (Guardian, 28 August 2012)

The anonymous author of an article commenting on Myanmar's travel blacklist, published by the Irrawaddy in September 2012, states that "[s]ince reform kicked off in Burma, the president invited exiles to come back but they will still remain under surveillance" (Irrawaddy, 7 September 2012).

7.2.13 Anniversary or commemorative activities of past demonstrations

Please see sections 2.1.3 and 2.2.3 of this publication for information pertaining to the celebration of the anniversaries of the 1988 Uprising and the 2007 Saffron Revolution.

For information on the treatment of ABFSU members who were preparing to commemorate the 50th anniversary of the military's crackdown on students in 1962, please see section 7.2.3 of this publication.

7.3 Monitoring of political activists outside Myanmar by government authorities

The May 2012 report by the US Department of State (USDOS) states:

"Activists reported that through official intelligence network and administrative procedures, the government systematically monitored the travel of citizens and closely monitored the activities of those known to be active politically [...]" (USDOS, 24 May 2012, section 1f)

For more specific, but older information on the government's monitoring of political activists outside Myanmar, please see section 6.3.10 (pp. 106-107) of the previous Myanmar COI Compilation of October 2011.

7.4 Treatment of human rights/social/political activists

The USDOS notes in its May 2012 report that the government "imprisoned citizens arbitrarily for political motives" and "detained civic activists indefinitely and without charges". (USDOS, 24 May 2012, Executive Summary)

7.4.1 Internet users, bloggers

This section does not include information already covered in section 6.4.1 (p. 107) of the previous Myanmar COI Compilation of October 2011.

The September 2012 report by Freedom House (FH) provides the following information with regard to the treatment of Internet users, including bloggers and other online activists:

"Throughout 2011, several internet users were sentenced under the ETL [Electronic Transactions Law], though all were subsequently freed as part of a large-scale prisoner release in January 2012. [...] As of May 2012, no new arrests of internet users had been made." (FH, 24 September 2012)

"Trials for bloggers and other online activists that took place in 2011 were grossly unfair, lacking due process and typically held in special closed courts. Most defendants were denied access to legal counsel or adequate time to prepare a defense. Like other political prisoners in Burma, individuals detained on internet-related charges are at risk of torture and medical neglect in custody." (FH, 24 September 2012)

The International Crisis Group (ICG) notes that in September 2011, a ban on 30,000 Internet sites was lifted, allowing Internet users for the first time to access political coverage without restriction:

"In September 2011, restrictions on 30,000 blocked internet sites were lifted, allowing internet users in Myanmar unrestricted access to political content for the first time. This included the lifting of blocks on international and exiled media and exiled opposition and advocacy groups, as well as sites such as Facebook, Twitter, YouTube and many others. Access to virtual private networks, essential for secure business communications, was also opened." (ICG, 11 April 2012, p. 4)

7.4.2 HIV/AIDS activists

In an article dated July 2012, the Global Post (GP) reports changes in the authorities' attitude towards AIDS activists and humanitarian workers:

"The junta that formerly ruled Myanmar for close to five decades arrested AIDS activists, blocked humanitarian activities and actively discriminated against those with HIV. It controlled information on anything that might make Myanmar, one of the world's most repressive and impoverished nations, look bad – and that included information on HIV/AIDS.

'In the past there was a lot of difficulty working for HIV. Local authorities tried to interrupt me,' said Phyu Phyu Thin, who was briefly imprisoned for her activism and now runs clinics for HIV patients, including the one caring for Myint Myint Soe.

The junta began acknowledging the extent of the HIV problem over the past few years, and activists and humanitarian workers have been allowed to operate more freely. A reform-minded, quasi-civilian government took power in 2011 and allowed Phyu Phyu Thin to run for office. The former political prisoner is now a member of Parliament." (Global Post, 26 July 2012)

Among the sources consulted by ACCORD within time constraints no further relevant information could be found with regard to the treatment of HIV/AIDS activists.

7.4.3 Human rights lawyers

This section does not include information already covered in section 6.4.2 (pp. 107-109) of the previous Myanmar COI Compilation of October 2011.

In its Annual Report for 2011, the Assistance Association for Political Prisoners (Burma) (AAPP) provides the following overview of the situation of lawyers working for human rights, democracy and political prisoners:

"The continued crackdown on lawyers working for human rights, democracy, and political prisoners is the most salient example that the rule of law and an impartial judiciary still do not exist in Burma. Repression against lawyers intensified throughout the year as enforcement of silencing tactics, such as harassment, license revocations, and public slandering continued to plague lawyers. Those who defend cases where the government's interests are at stake are particularly vulnerable to the repressive tactics. The lack of law enforcement, as highlighted by NLD spokesperson U Tin Oo, means that political prisoners especially suffer.

Lawyers who dare to pursue sensitive cases, such as land confiscations or forced labor, risk having their licenses temporarily suspended or permanently revoked. Doing so causes undue hardship on lawyers, who not only have their source of income stripped from them, but also often have their reputations publicly disgraced. Two lawyers in Mandalay, Shwe Hla and Myint Thwin, who were involved in political and human rights activities, have had their licenses suspended for 3 years for allegedly violating the lawyer's code of ethics. The Asian Legal Resource Centre has advocated on behalf of 32 lawyers, whose licenses have been revoked for political reasons, urging the cases to be reviewed by the country's judiciary and their licenses immediately reinstated.

In addition to the active attempts at silencing lawyers, many political cases are still tried in closed courts where lawyers are denied access to defend their clients. An Arakanese man, Yamarwadi Ashin Pyinnyarsara, has spent the last 14 months in Thayet prison with access denied to all visitors, including his lawyer. The right to a fair trial is a fundamental human right that has been denied to every political prisoner detained and every human rights lawyer who dares to challenge the government's interests.

The un-rule of law prevailed throughout the year as evidenced by the persecution of lawyers representing opposition groups. One such example is the multiple arrests and mistreatment of Pho Phyu, a high profile lawyer who represents landless farmers. Pho Phyu was arrested for leading a farmer's protest against land confiscations by corporations with government connections in Rangoon. During his interrogation, he was given a foul tasting liquid to drink instead of water. The liquid caused dizziness and nausea, and made breathing difficult. He also claims to have been mentally tortured. Pho Phyu now faces charges of illegal assembly and disobeying government orders. Although he was released the following day, the pervasive air of intimidation and harassment exists for lawyers. It is clear there has been no change in the justice system." (AAPP, January 2012)

In its May 2012 report, the USDOS notes the following with regard to the treatment of lawyers representing political prisoners or political cases:

"Lawyers representing political prisoners or political cases faced harassment and have been disbarred and arbitrarily arrest and detained. During the year authorities revoked the license of U Tin Aung Tun, a lawyer representing farmers in a land confiscation case. The Asian Legal Resource Center reported some 32 lawyers remained disbarred and unable to practice law for political reasons." (USDOS, 24 May 2012, section 1e)

In its October 2011 Annual Report (covering the period from January 2010 to April 2011), the Observatory for the Protection of Human Rights Defenders, formed by the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), notes with regard to the treatment of human rights defenders, including lawyers who provided legal assistance to political prisoners:

"In 2010-2011, human rights defenders continued to face harsh repression. Many remained detained in very harsh conditions, as they were subjected to torture and forced labour, and denied medical treatment, which led to the death of at least one human rights defender in May 2010. In particular, the crackdown on trade unionists, land rights activists, lawyers who provided legal assistance to political prisoners as well as on individuals active in relief efforts in the aftermath of Cyclone Nargis, continued unabated." (FIDH/OMCT, 24 October 2011, p. 283)

"In Burma, lawyers defending farmers who denounced the military occupation and confiscation of their lands were harassed by the police and local authorities." (FIDH/OMCT, October 2011, p. 270)

As reported in a press release by the Asian Human Rights Commission (AHRC), human rights lawyer Aung Thein had his passport confiscated after returning from a meeting of the Asian Alliance on the Elimination of Torture and Ill Treatment held in Hong Kong in July 2012. Looking at the possible reasons behind this move, the press release quotes the AHRC executive director as saying:

"We are forced to conclude, in the absence of any evidence to suggest otherwise, that the confiscation of U Aung Thein's passport is somehow a consequence of his trip to Hong

Kong to attend a programme on the elimination of torture and ill treatment in Asia." (AHRC, 23 August 2012)

In a press release published 30 August 2012, Freedom House (FH) notes that on 29 August 2012, authorities decided to imprison human rights lawyer and activist Saw Kyaw Kyaw Min. FH provides the following background information about his case:

"In May 2012, Saw Kyaw Kyaw Min returned to Burma after more than three years in exile. Saw Kyaw Kyaw Min fled Burma to Thailand in October 2008 after charged with contempt under section 228 of the criminal code, a charge that carries a sentence of up to six months in prison. During the 2008 trial of activists charged for their role in the September 2007 Saffron Revolution, three defendants turned their backs to the court in protest of the unfair legal proceedings. Saw Kyaw Kyaw Min and fellow counsel for the activists, Nyi Nyi Htwe, were charged with intentional insult to a public servant after refusing to force their clients to face the judge. Saw Kyaw Kyaw Min was subsequently sentenced in absentia to the maximum allowable penalty." (FH, 30 August 2012)

The Asian Human Rights Commission (AHRC) reports that on 9 June 2012, the Supreme Court informed human rights lawyer Robert San Aung that it had decided to allow him to practice again after almost 20 years of disbarment. As noted by the AHRC, Robert San Aung had his lawyer's licence revoked in 1993 after representing defendants in political cases. Since 1974, he has also been imprisoned six times for political motives. (AHRC, 19 July 2012)

7.4.4 UN and NGO workers

This section does not include information already covered in section 6.4.3 (pp. 109-110) of the previous Myanmar COI Compilation of October 2011.

The USDOS report of May 2012 provides the following information with regard to the situation for domestic and international human rights NGOs in 2011:

"The government did not allow domestic human rights organizations to function independently. Although local human rights NGOs reported significantly less harassment than they did prior to the 2010 elections, the majority could not successfully register, exposing staff members to imprisonment for unlawful association. There were no known local, registered human rights NGOs; some local NGOs had reportedly applied for registration through the Ministry of Home Affairs but their applications had been indefinitely delayed. Unregistered human rights organizations reported continued government and Police Special Branch monitoring but fewer incidents of harassment.

During the first part of the year [2011], human rights advocates were denied entry visas unless traveling under the aegis of a sponsor acceptable to the government and for purposes approved by the government. However, later in the year human rights activists and advocates obtained visas, including representatives from the international NGO Human Rights Watch. The government's monitoring of the movements of foreigners, interrogation of citizens concerning contacts with foreigners, and restrictions on the freedom of expression and association persisted." (USDOS, 24 May 2012, section 5)

Also in its May 2012 report, the USDOS notes that NGO and UN agency staff continued to face travel restrictions imposed by the Myanmar government:

"The government maintained travel restrictions on foreign journalists, NGO staff, UN agency staff, and diplomats in most regions. International humanitarian NGOs and UN agencies reported greater government acknowledgement of national deficiencies and an increased willingness of the government to engage. Employees of these international organizations reported continued difficulty obtaining long-term visas. UN agencies and NGOs continued to negotiate with the government to agree on mutually acceptable guidelines for activities." (USDOS, 24 May 2012, section 5)

In an article dated 17 August 2012, the Irrawaddy notes the following with regard to the arrests of aid workers in Rakhine (Arakan) State:

"UN operations in parts of Kachin State not controlled by the government have been significantly reduced since mid-June when six aid workers for the world body were arrested while performing relief work in western Burma's Arakan State.

In addition, eight local staff members from other NGOs were arrested under similar circumstances. At least five of these are believed to be from Medecins Sans Frontieres (MSF). All of those detained appear to be citizens of Burma.

Local Burmese staff working for the UN in Burma may not enjoy the same full diplomatic protection of their international colleagues yet should in theory still benefit from some security courtesy of various international treaties. During former junta chief Snr-Gen Than Shwe's regime local UN staff were frequently detained under what were commonly accepted as trumped-up charges." (Irrawaddy, 17 August 2012)

The Integrated Regional Information Network (IRIN), in an article dated 30 August 2012, reports with reference to UN sources that three aid workers, including two UN employees, have been released after being sentenced in a Myanmar court for involvement in sectarian violence that erupted in Rakhine State in June 2012. The three men – all Myanmarese Muslims – were freed following a presidential pardon by President Thein Sein announced on 28 August 2012. However, as noted in the article, five more aid workers, including one employee of UNHCR, two men working for Médecins Sans Frontières (MSF) and two for Action Against Hunger (ACF), remain in detention. (IRIN, 30 August 2012)

In a written statement on the human rights and humanitarian situation in Rakhine State, published by the UN Human Rights Council (HRC) in September 2012, the Minority Rights Group (MRG) notes with regard to the treatment of aid workers:

"Local UN and INGO humanitarian staff were arrested some of whom continue to be detained - on unfounded charges of treason. At the same time, aid workers have been threatened by local Rakhine groups for their role in distributing aid." (HRC, 3 September 2012, p. 3)

7.5 Treatment of journalists, media workers, artists

This section does not include information already covered in section 6.5 (p. 110) of the previous Myanmar COI Compilation of October 2011.

The 2011 Annual Report of the Assistance Association for Political Prisoners (Burma) (AAPP), published January 2012, provides the following information with regard to the situation of journalists, bloggers and writers:

“Although the year was marked by a loosening of media restrictions, all printed and electronic media still remain firmly under state control. Journalists, bloggers, and writers continue to operate in an oppressive environment with strict regulations on freedom of speech. Media activists are harassed by state authorities and the national security services.” (AAPP, January 2012)

In its May 2012 report, the USDOS notes that in 2011, “[a]uthorities continued to arrest, intimidate, and sue violence against journalists”. According to the Committee to Protect Journalists (CPJ), at the end of 2011, twelve journalists remained in detention, in addition to eight Democratic Voice of Burma (DVB) reporters. In September 2011, however, “the government lifted restrictions on some journalists once considered by authorities to be enemies of the state”. (USDOS, 24 May 2012, section 2a)

For information on the abolishment of pre-publication censorship, a set of newly introduced ethical guidelines for journalists and editors, and possible consequences faced by those who fail to abide by these guidelines, please see section 7.1.1 of this publication.

The Assistance Association for Political Prisoners (Burma) states in a report dated November 2011 that “[i]t is nearly impossible for former political prisoners to resume their normal lives outside of the prison walls. Students are barred from enrolling in school and finishing their studies; lawyers and doctors have their licenses revoked; artists are banned from performing; and former political prisoners are not allowed to hold political office due to their criminal records.” As an example, the report cites the cases of Zarganar, satirist and charity worker, and Zayar Thaw, musician and human rights activist, who have not been allowed to perform since their releases in May and October 2011, respectively. (AAPP, 9 November 2011)

The Democratic Voice of Burma (DVB) reports that on 20 September 2012, authorities in Mandalay briefly detained performance artist Sue Myint Thein who was walking around the city covered in blue duct tape. According to reports, police told the artist that he had failed to secure permission to stage the performance. Sue Myint Thein was also detained in May 2012, when he staged a performance in Mandalay with several foreign artists, and is still facing charges related to this incident. (DVB, 20 September 2012)

7.6 Treatment of individuals making complaints of land confiscation by local authorities

This section does not include information already covered in section 6.6 (p. 111) of the previous Myanmar COI Compilation of October 2011.

The US Department of State (USDOS), in its May 2012 report, mentions that in 2011, authorities revoked the licence of Tin Aung Tun, a lawyer representing farmers in a land confiscation case (USDOS, 24 May 2012, section 1e).

Also in its May 2012 report, the USDOS provides the following information with regard to the newly created Myanmar National Human Rights Commission, which at the end of 2011 had accepted hundreds of citizen complaints, reportedly focused on issues related to tenure rights and land confiscation:

“The government created the Myanmar National Human Rights Commission on September 5 following Quintana’s August 21-25 visit. [...] On October 7, the government announced procedures for citizens to file complaints of human rights violations with the commission, and at year’s end the commission had accepted hundreds of complaints, reportedly focused on issues related to tenure rights and land confiscation. At year’s end, however, the commission’s ability to operate as a credible, independent mechanism remained untested.” (USDOS, 24 May 2012, section 5)

The Democratic Voice of Burma (DVB) reports in an article dated November 2011 that Pho Phyu, a high-profile lawyer in Myanmar, was arrested and accused of leading around 60 landless farmers during a demonstration in Yangon (Rangoon) on 27 October 2011. As noted in the article, Pho Phyu claims he was drugged during the subsequent interrogation which was led by intelligence officials and lasted around 12 hours. He was then sent to a police station in Botahtaung township, where he says he was treated well. (DVB, 2 November 2011)

The Asian Human Rights Commission (AHRC) reports that on 31 August 2012, authorities detained Ko Wai Lu, a lawyer working with farmers who were protesting the takeover of a large area of agricultural land in Sarlingyi Township (Sagaing Region) by an army-owned company and a private partner. At the time of his arrest, Ko Wai Lu was on his way to take a group of the people affected by the land confiscation to meet UN officials and others in Yangon (Rangoon). (AHRC, 13 September 2012)

8 Women, children, sexual orientation

8.1 Domestic legal framework

8.1.1 Women

This section does not include information already covered in section 7.1.1 (pp. 112-113) of the previous Myanmar COI Compilation of October 2011.

The USDOS human rights report for 2011, dating from May 2012, provides the following information about laws relating to women and the enforcement of these laws:

"Rape is illegal, but the government did not enforce the law effectively. Spousal rape is not a crime unless the wife is under 14. The minimum age requirement for marriage is 18. [...]"

There are no laws specifically against domestic violence or spousal abuse (including spousal rape), although there are laws related to committing bodily harm against another person. The related prison terms range from one year to life, in addition to possible fines.

[...] The penal code prohibits sexual harassment and imposes fines or up to one year's imprisonment. There was no information on the prevalence of the problem because these crimes were largely unreported.

By law women enjoy the same legal rights as men, including property and inheritance rights; however, it was not clear if the government enforced the law." (USDOS, 24 May 2012, section 6)

8.1.2 Children

This section does not include information already covered in section 7.1.2 (pp. 113-114) of the previous Myanmar COI Compilation of October 2011.

The May 2012 report by the USDOS states the following with regard to legal provisions concerning children and their enforcement:

"By law education is compulsory, free, and universal through the fourth standard (approximately age 10). However, the government continued to allocate minimal resources to public education, and schools routinely charged informal fees. Rates of school attendance were low, largely due to economic hardship.

[...] There are laws prohibiting child abuse, but they were neither adequate nor enforced. The government cooperated with UNICEF to strengthen the 1993 Child Law, which contains many provisions to protect children from abuse, sale, and other types of exploitation. The punishment for violators is up to two years' imprisonment or a fine of up to 10,000 kyat (\$22)." (USDOS, 24 May 2012, section 6)

In its Trafficking in Persons Report 2012, covering the period covering March 2011 to February 2012, the USDOS notes the following with regard to legal provisions criminalising forced

labour, including the recruitment of children into the army, and the extent to which these provisions were enforced:

“Engaging in forced labor, including the recruitment of children into the army, is a criminal offense under both the new Wards and Village Tracts Administration Act and Penal Code Section 374, which could result in imprisonment for up to one year, or a fine, or both. In addition, forced labor is prohibited under Section 359 of Burma’s 2008 Constitution. The power and influence of the Burmese military continued to limit the ability of civilian police and courts to address cases of forced labor and the recruitment of child soldiers by the armed forces. Without assent from high-ranking military officers, law enforcement officials generally were not able to investigate or prosecute such cases. During the year, however, the Ministry of Defense reported its own efforts to investigate and punish military personnel for their involvement in recruiting children for military service.” (USDOS, 19 June 2012)

8.1.3 Sexual orientation

The May 2012 report by the US Department of State (USDOS) indicates that “the penal code contains provisions against ‘sexually abnormal’ behavior, and laws against ‘unnatural offenses’ apply equally to both men and women”. However, as noted by the USDOS, “[t]hese laws were not enforced [...] and there were no impediments to organizations or activities for lesbian, gay, bisexual and transgender persons”. (USDOS, 24 May 2012, section 6)

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) website comments as regards the legal situation of homosexuals in Myanmar that male-to-male sexual relationships are not legal under the Penal Code, Act 45/1860 (Revised Edition), section 377 of which is quoted as follows:

“Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animals shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to 10 years, and shall be liable to fine.” (ILGA, undated)

However, as noted by ILGA, this law is not often applied. Female-to-female sexual relations are indicated as being legal, as the just-quoted provisions of Penal Code section 377 with regard to “carnal intercourse” are understood as not covering female-to-female activity. (ILGA, undated)

The ILGA website further adds:

“We have very limited information on LGBTI [Lesbian, Gay, Bisexual, Trans and Intersex] issues in Myanmar/Burma. Probably there are few, if any, criminal charges laid under the penal code.” (ILGA, undated)

8.2 Situation of women

This section does not include information already covered in section 7.2 (p. 115) of the previous Myanmar COI Compilation of October 2011.

Freedom House (FH) reports in March 2012:

"Burmese women have traditionally enjoyed high social and economic status, but women remain underrepresented in the government and civil service. In the 2010 elections, only 114 out of 3,000 candidates were women." (FH, March 2012)

With respect to the economic and labour market situation of women in Myanmar, the USDOS report of May 2012 notes:

"Women remained underrepresented in most traditionally male occupations (e.g., mining, forestry, carpentry, masonry, and fishing) and were effectively barred from certain professions, including the military officer corps. Poverty affected women disproportionately." (USDOS, 24 May 2012, section 6)

The USDOS further states that "[w]omen and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV". (USDOS, 24 May 2012, section 6)

In an article dated June 2012, the Global Post (GP) identifies the following key issues affecting the situation of women in Myanmar:

"*Human rights organizations say that rape by the military has been a persistent reality against ethnic women across different conflict areas for decades. Both Human Rights Watch and Kachin Women's Association Thailand recently put out reports accusing the Myanmar army of ongoing abuses and rape in Kachin State, where fighting has raged since last June.

*Mostly women and children fill the internally displaced persons camps created to help those fleeing violence. The past year of fighting in Kachin State has displaced upwards of 75,000 people. Another 140,000 people who fled fighting in eastern Myanmar live in refugee camps in Thailand, and at least 446,000 internally displaced persons live in the eastern border region of Myanmar and Thailand.

*While school enrollment ratios for girls and boys have almost achieved parity, decades of economic mismanagement and high levels of poverty have made girls particularly vulnerable to sex trafficking and exploitation.

*The military government's lack of investment in healthcare for decades has created a health crisis for Myanmar's women. Some midwives in rural areas are responsible for overseeing 40 to 50 villages each. A third of the country's women do not have access to free contraceptives, leading to unwanted and unhealthy pregnancies. In eastern Myanmar, preventable causes like postpartum hemorrhaging and unsafe abortion drive up the maternal mortality rate to 721 deaths per 100,000 live births. In conflicted and internally displaced persons areas, the rate spikes to 1000 to 1200 per 100,000 live births, according to Ibis Reproductive Health.

Cultural conservatism in Myanmar also dissuades women from being empowered leaders. [...] A slight change in women's involvement has already been seen in parliament. Before

the April 1 by-elections, the parliament's 613-filled seats included only 18 women, according to the Inter-Parliamentary Union and UN Women, Myanmar still ranked 135 out of 143 in terms of global female political participation but the by-elections increased the number of women holding seats by a dozen." (GP, 15 June 2012)

8.2.1 Sexual and Gender-based Violence (SGBV)

This section does not include information already covered in section 7.2.1 (pp. 115-117) of the previous Myanmar COI Compilation of October 2011.

In its March 2012 report, Freedom House (FH) notes with regard to abuses perpetrated against women:

"Domestic violence and trafficking are growing concerns, and women and girls in refugee camps are at an increased risk of rape, sexual violence, and being targeted by traffickers. The Women's League of Burma has accused the military of systematically using rape and forced marriage as a weapon against ethnic minorities." (FH, March 2012)

The US Department of State (USDOS), in its report dated May 2012, notes with reference to information provided by Kachin and Shan human rights groups:

"The Kachin Women's Association Thailand reported that Burma Army troops gang-raped at least 18 women and girls between June 10-18 during advances on Kachin Independence Army strongholds along the border with China. Army troops reportedly killed four of these women, and one later died from her injuries. The Shan Women's Action Network and Shan Human Rights Foundation documented the rape of five women, including a 12-year-old, a 50-year-old, and a nine-month-pregnant woman, by an army patrol from the Light Infantry Battalion 513 in the village Wan Loi in Ke See township on July 5." (USDOS, 24 May 2012, section 1g)

Furthermore, in the same report, the USDOS provides the following information with regard to authorities' responses to rape:

"The government did not release statistics concerning the number of rape prosecutions and convictions. The police generally investigated reported cases of rape. However, when government soldiers committed rape in ethnic areas, the army rarely took action to punish those responsible." (USDOS, 24 May 2012, section 6)

In his report on conflict-related sexual violence, published January 2012 and covering the period from December 2010 to November 2011, the UN Secretary-General states the following with regard to perpetration of rape by government troops in ethnic border areas:

"39. Information, including that noted by the United Nations, points to widespread perpetration of rape by Government armed forces (Tatmadaw Kyi) in militarized ethnic border areas, particularly in eastern Myanmar. In many instances, the occurrence of rape is allegedly more than opportunistic but condoned by military commanders.

40. The ongoing tensions in ethnic border areas and armed conflict with armed ethnic groups reportedly continue to engender serious human rights violations, including attacks

against civilian populations and sexual violence. Reports indicate that as many as 32 women and girls throughout Kachin State were allegedly raped by the Tatmadaw Kyi between June and August 2011. According to the Government, there were four cases of rape in Shan State and one case in Kachin State in 2011 and punitive action has been taken against the perpetrators." (UNGA, 13 January 2012, pp. 12-13)

In its June 2012 report, the Kachin Women's Association Thailand (KWAT) states that the Myanmar army has continued to use rape as a "weapon of war" in the conflict with the Kachin Independence Army (KIA). Since the outbreak of fighting between the two sides in June 2011, KWAT has documented the cases of at least 43 women and girls who were sexually assaulted by government troops and 21 of whom were killed. As noted by KWAT, "[t]he rapes have been widespread, occurred in thirteen townships, by ten different battalions". (KWAT, June 2012, p. 6)

The KWAT report details the following incidents:

"In several instances, women were openly kept as sex slaves by military units, showing complete confidence of impunity by the officers involved. This included two young women who had been forcibly conscripted with other men as porters from the Kachin capital of Myitkyina, and ended up being gang-raped nightly for several weeks as they accompanied a military patrol of several hundred troops in the hills south of the capital. [...]

In another incident, a 28-year-old woman called Roi Ja was captured together with her husband and father-in-law by Burmese soldiers while farming near the town of Loiye on the China-Burma border. The husband and father-in-law managed to escape, but Roi Ja was taken to the nearby Mubum hilltop base of Light Infantry Battalion 321, and detained there. Kachin porters at the base saw her and three other women being kept for three days and sexually abused by the soldiers at the camp. Roi Ja's husband repeatedly appealed to the LIB 321 commander at Loiye for the release of his wife, but to no avail, and she has since disappeared.

In January 2011 [sic, presumably 2012], a Kachin lawyer assisted Roi Ja's husband to file a case at the Supreme Court at Naypyidaw against LIB 321 for the abduction of his wife. Roi Ja's husband travelled down Naypyidaw to attend the hearing on February 23. However, he was not permitted to speak at the hearing. The court simply heard the testimony of a lieutenant from LIB 321, who asserted that no woman by the name of Roi Ja had been detained at the camp. Two weeks later the verdict was announced that the case had been dismissed. [...]

The recent gang-rape and prolonged torture of a 48-year-old grandmother in a village church on May 1 2012, provide strong evidence of the continuing confidence of the Burmese military to commit sexual violence with impunity." (KWAT, June 2012, pp. 6-7)

In a more recent report published October 2012, KWAT states with regard to sexual violence perpetrated against civilians in Kachin State:

"Since the start of the conflict, KWAT has documented widespread human rights abuses committed by the Burma Army against civilians, including sexual violence, torture, and killing, which likely amount to crimes against humanity and war crimes. Burmese troops have committed sexual violence against at least 61 women and children, about half of whom were killed." (KWAT, October 2012)

In a press release accompanying an August 2012 report on Buddhist-Muslim violence that erupted in Rakhine (Arakan) State in June 2012, Human Rights Watch (HRW) notes that "Burmese security forces committed killings, rape, and mass arrests against Rohingya Muslims after failing to protect both them and Arakan Buddhists" (HRW, 1 August 2012).

The report itself, which gives a detailed account of human rights violations by state security forces in Rakhine (Arakan) State since June 2012, is available via the following link:

- HRW - Human Rights Watch: "The Government Could Have Stopped This"; Sectarian Violence and Ensuing Abuses in Burma's Arakan State, August 2012 (available at [ecoi.net](http://www.ecoi.net/file_upload/1788_1343905672_burma0812webwcover-0.pdf))
http://www.ecoi.net/file_upload/1788_1343905672_burma0812webwcover-0.pdf

8.3 Situation of children

This section does not include information already covered in section 7.3 (pp. 117-119) of the previous Myanmar COI Compilation of October 2011.

The 2011 UK Foreign and Commonwealth Office (FCO) Report on Human Rights and Democracy of April 2012 provides the following overview of the situation of children in Myanmar:

"In 2011, many children in Burma continued to receive inadequate education, healthcare or social protection, with children among the internally displaced population in particular lacking access to services. The Special Rapporteur for Human Rights in Burma reported in March that fewer than 60% of children complete primary education.

The use of child soldiers continued to be a problem in the Burmese military and some armed ethnic groups. Many children continued to work, largely due to poverty, and there remained no code of conduct to protect working children. There is little protection under the law for how children are treated within the Burmese police justice system." (FCO, April 2012, p. 183)

The US Department of State (USDOS) Country Report on Human Rights Practices for 2011 notes:

"The government did not dedicate significant resources to protecting the rights and welfare of children. Children were at high risk, as deteriorating economic conditions forced destitute parents to take them out of school to work in factories and teashops or to beg. With few or no skills, increasing numbers of children worked in the informal economy or in the street, where they were exposed to drugs and petty crime, risk of arrest, trafficking for sex and labor exploitation, and HIV/AIDS. [...]

The mortality rate of internally displaced children in conflict areas was significantly higher than in the rest of the country. In addition such children had few learning resources. [...] Many children were placed in orphanages that lacked adequate food and services.” (USDOS, 24 May 2012, section 6)

As regards child prostitution, the USDOS report further states:

“Children reportedly engaged in prostitution for survival without third-party involvement. The penalty for child prostitution is 10 years’ imprisonment and applies to the customer. The law prohibits pornography; the penalty is three to five years’ imprisonment. The law prohibits statutory rape; if a victim is under 14 years of age, the sexual act is considered rape, with or without consent. The maximum sentence is two years’ imprisonment when the victim is between ages 12 and 14, and 10 years’ to life imprisonment when the victim is under 12. In Rangoon and Mandalay, and increasingly in Chin State, observers noted the widespread presence of female prostitutes who appeared to be in their teens. Additionally, some brothels reportedly offered young teenage ‘virgins’ to their customers for a substantial additional fee. Although there is no law explicitly banning child sex tourism, article 13 of the 1949 Suppression of Prostitution Act and the Prostitution Act prohibit pimping and prostitution, respectively, and the penal code prohibits having sex with a minor.” (USDOS, 24 May 2012, section 6)

Based on field research in 15 villages in Ye Township (Mon State) and Yebhyu Township (Tanintharyi/Tenasserim Region), a January 2012 report by the Woman and Child Rights Project (WCRP), an NGO founded by members of the Human Rights Foundation of Monland (HURFOM) to monitor and protect the rights of women and children in southern Myanmar, documents “grave violations” of children’s rights between 2005 and 2010, the vast majority of which were committed by government troops. The report, which found evidence of child soldier recruitment, killing and maiming, rape and sexual abuse, and forced labour, is available via the following link:

- WCRP - Woman and Child Rights Project: Coercion, Cruelty and Collateral Damage: An assessment of grave violations of children’s rights in conflict zones of southern Burma, January 2012
<http://rehmonnya.org/wp-content/themes/rehmonnya-theme/images/pdf/WCRP%20for%20Report.pdf>

For further information pertaining to the situation of children in Myanmar, please see sections 4.4.1 (forced recruitment) and 4.5 (forced labour) of this publication.

8.4 Trafficking in persons

This section does not include information already covered in section 7.4 (pp. 119-120) of the previous Myanmar COI Compilation of October 2011.

The USDOS 2012 Trafficking in Persons Report provides the following overview regarding internal and external human trafficking and the government’s efforts to investigate and punish trafficking offences:

"Poor economic conditions within Burma have led to increased legal and illegal migration of Burmese men, women, and children throughout East Asia and to destinations in the Middle East, where they are subject to forced labor and sex trafficking. [...] The government is beginning to address the systemic political and economic factors that cause many Burmese to seek employment through both legal and illegal means in neighboring countries, where some become victims of trafficking.

Trafficking within Burma both by government officials and private actors continues to be a significant problem. Military personnel and insurgent militia engage in the unlawful conscription of child soldiers and they continue to be the leading perpetrators of forced labor inside the country, particularly in conflict-prone ethnic areas. [...] Exploiters subject girls to sex trafficking, particularly in urban areas. Anecdotal evidence suggests that a small number of foreign pedophiles occasionally exploit Burmese children in the country, and observers expressed concern over a possible increase in this problem as tourism increases.

The Government of Burma does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The Burmese government took a number of unprecedented steps to address forced labor and the conscription of child soldiers; these steps amount to a credible commitment to undertake anti-trafficking reforms over the coming year. Authorities continued significant efforts to address the cross-border sex trafficking of women and girls, and inaugurated a national hotline to respond better to public complaints of all forms of human trafficking. The government repealed antiquated laws that sanctioned its use of forced labor; enacted new legislation that clearly prohibits forced labor imposed by any entity; and embarked on an ambitious new plan of action with the ILO to eradicate forced labor by 2015. Nevertheless, forced labor of civilians and the recruitment of child soldiers by both military officials and private entities remained serious problems. [...] The climate of impunity and repression and the government's lack of accountability in forced labor and the recruitment of child soldiers represent the top casual factors for Burma's significant trafficking problem.

[...] In February 2012, parliament repealed two antiquated colonial-era laws that had provided explicit legal sanction for government employees' use of forced labor among the citizenry – the 1907 Villages and Towns Acts. At the same time these antiquated laws were repealed, the government enacted the Wards and Village Tracts Administration Act which, after its amendment in March 2012, explicitly prohibits and punishes the use of forced labor by any entity.

Burma prohibits sex trafficking and labor trafficking through its 2005 Anti-Trafficking in Persons Law, which prescribes criminal penalties that are sufficiently stringent and commensurate with those prescribed for rape. Engaging in forced labor, including the recruitment of children into the army, is a criminal offense under both the new Wards and Village Tracts Administration Act and Penal Code Section 374, which could result in imprisonment for up to one year, or a fine, or both. In addition, forced labor is prohibited under Section 359 of Burma's 2008 Constitution. The power and influence of the Burmese military continued to limit the ability of civilian police and courts to address cases of forced

labor and the recruitment of child soldiers by the armed forces. Without assent from high-ranking military officers, law enforcement officials generally were not able to investigate or prosecute such cases. During the year, however, the Ministry of Defense reported its own efforts to investigate and punish military personnel for their involvement in recruiting children for military service.

Through 26 Anti-Trafficking Task Forces operating in key cities and at international border crossings, the police continued to identify and investigate trafficking offenses and to arrest suspected trafficking offenders. The Government of Burma reported investigating 136 cases of trafficking, and prosecuting 231 offenders in 2011 – 160 of whom were female – compared to 234 convicted in 2010.” (USDOS, 19 June 2012)

Furthermore, in the same report, the USDOS elaborates as follows on measures of support and protection for trafficking victims:

“The Burmese government made progress in ensuring that victims of trafficking were identified and received access to services. In September 2011, the government inaugurated a national trafficking hotline that has since led to the rescue of 57 victims of trafficking. In addition, the government launched an anti-trafficking website in February 2012. Government officials in 2011 identified 177 victims of trafficking, including 14 males. Sixty-nine percent of the victims identified were women and girls subjected to forced marriage in China (in contrast to the 82 percent of victims identified in 2010 who were subject to this form of trafficking). The remaining 31 percent of victims identified and assisted in 2011 consisted of internal labor and sex trafficking and the forced labor of Burmese nationals in other countries. During a presentation of these statistics, a senior Burmese official remarked that – though the figures depict a growing share of labor trafficking victims – the government’s data still underrepresented the true magnitude of forced labor problem. The government in March 2012 established a Human Trafficking Fund to support improved assistance to victims of trafficking, and in 2011 it disbursed a total of \$5,400 to 16 victims in compensation from the seized property of traffickers. As part of its joint implementation of the ILO complaints mechanism for forced labor, the government identified and released 57 children who had been recruited into military ranks. [...]

Authorities reported assisting 229 Burmese victims identified and repatriated by foreign governments in 2011, including 147 from China and 72 from Thailand. This represented a decrease from 348 victims repatriated to Burma by foreign authorities in 2010. In previous years, repatriated Burmese victims were involuntarily placed in Department of Social Welfare (DSW) rehabilitation centers for a mandatory minimum of two weeks, which stretched into months if authorities could not find an adult family member to accept responsibility for the victim. The government ceased this practice in late 2011, in line with international norms on trafficking victim protections. Victims repatriated since September 2011 have been given the option of going to a government rehabilitation center or returning to their communities immediately.” (USDOS, 19 June 2012)

For further information pertaining to trafficking in persons, please refer to sections 4.4, 4.5, 8.2.1 and 8.3 of this publication.

8.5 Sexual orientation

This section does not include information already covered in section 7.5 (pp. 120-122) of the previous Myanmar COI Compilation of October 2011.

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) website notes:

"A few years ago a number of gay men were detained during the Taungbyone Nat festival near Mandalay (an event fairly famous for attracting gay men and transvestite spirit mediums). The men were detained for a couple of days and released without charges being laid. Apparently this pattern has not occurred in more recent years." (ILGA, undated)

The USDOS, in its report published May 2012 and covering the year 2011, states that existing legal provisions against "sexually abnormal" behaviour and "unnatural offenses" were not enforced and that "there were no impediments to organizations or activities for lesbian, gay, bisexual and transgender persons". The report further mentions that there was no official or social discrimination in employment on the grounds of sexual orientation. (USDOS, 24 May 2012, section 6)

According to the 2012-2013 issue of International Spartacus Gay Guide, a travel guide for gay males, male-to-male sexual relations are illegal under the Penal Code. However, as noted by the guide, "[t]here have been no reports of any recent prosecution under this legislation and a social tolerance towards homosexuality prevails". (Spartacus International Gay Guide, 1 March 2012, p. 615)

In a May 2012 article reporting on the country's first public gay pride event, BBC states:

"Gay relationships are still a crime in Burma, but the law is not strictly enforced. However activists say discrimination is rife and they want the law to be repealed. [...] Social taboos concerning sexuality have also had an impact on Burma's sexual health. A United Nations report published two years ago said that 29% of gay men in some Burmese cities were HIV-positive." (BBC, 17 May 2012)

The March 2012 Global AIDS Response Progress Report prepared by the Myanmar government's National AIDS Programme (NAP) (reporting period: January 2010 to December 2011) states that "[s]tigma and discrimination of men who have sex with men is reportedly still high and notably appears to affect their desire to access public health facilities" (NAP, 31 March 2012, p. 19).

The Guardian reports in May 2012 that according to activists, "the culture of repression that has long existed in Burma [...] prevents many LGBT people from coming out, for fear of being ostracised by their families as much as targeted by police". Yet, as noted in the article, in 2011 the country got its first LGBT-targeted TV programme, Colours Rainbow TV, which airs once a month online. The organisation that created the TV programme also publishes a quarterly magazine, Colours Rainbow, and distributes it free within Myanmar. (Guardian, 13 May 2012)

9 Housing, land and property rights

9.1 Legal framework and implementation

This section does not include information already covered in section 9.5 (pp. 142-143) of the previous Myanmar COI Compilation of October 2011.

The US Department of State (USDOS) in its report of May 2012 notes:

“Although the Land Acquisition Act protects the privacy and security of the home and property, agents of the government entered homes without judicial authorization. In May local authorities in Pyay entered houses, without judicial authorization, in an area where a human rights organization planned to hold a seminar.” (USDOS, 24 May 2012, section 1f)

An English translation of the Land Acquisition Act of 1894, mentioned in the above quotation, is available via the following link:

- Land Acquisition Act, 1894 (available at Burma Library)
<http://www.burmalibrary.org/docs11/The-Land-Acquisition-Act-1894.pdf>

The Geneva-based NGO Displacement Solutions (DS) states in a report dated October 2012 that in March 2012, two new and “particularly significant” HLP (housing, land and property) laws were adopted – the Farmland Law and the Vacant, Fallow and Virgin Lands Management Law. With regard to how the laws are perceived by observers, DS notes:

“While the new Government’s passage of the new HLP [housing, land and property] laws in March 2012 created some new benefits and were the first legislative efforts in a half century to at least receive public criticisms of the bills that resulted in the new laws, the general consensus of observers is that the resulting laws sacrifice security of tenure for commercial interests and have many other significant and potentially debilitating deficits. The concerns expressed by many were that, at best, these laws will fail to successfully address widespread land grabbing and other HLP rights violations and that, at worst, the laws will only serve to exacerbate the country’s HLP problems. In the eyes of many, the laws are intentionally designed to facilitate, rather than deter, land grabbing and the concentration of land in fewer hands.” (DS, October 2012, p. 11)

The Human Rights Foundation of Monland (HURFOM) states that under section 43 of the Farmland Law, the Land Nationalization Act (1953), the Tenancy Law (1963), and the Law Safeguarding Peasant Rights (1963) are effectively repealed. According to HURFOM,

“[t]hese repealed laws include some prescriptions and conditions that are beneficial to farmers and the country, but they are not addressed in the newest Farmland Law. The disadvantages of this new Law will not only cause conflict but may also turn into protests.” (HURFOM, 29 May 2012)

In a report published by the UN General Assembly (UNGA) in September 2012, the UN Special Rapporteur on the situation of human rights in Myanmar notes with regard to the Farmland Law and Parliament’s plans to address the issue of land seizures:

“Article 37 (a) of the Constitution provides that the State is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere. On this basis, section 29 of the Farmland Law approved by the parliament on 30 March 2012 allows the State to take over any land for a project in the national interest. Under section 15, land takeovers and the resolution of land disputes are the responsibility of a council comprising the Minister and Deputy Minister of Agriculture and Irrigation, among others. Land confiscations were discussed by the parliament in July and a new parliamentary committee will reportedly be established to investigate the issue. The Chair of the Reform and Development Monitoring Committee, a parliamentary committee, recently stated that the Farmland Law would be amended as a result of recent land confiscation complaints.” (UNGA, 25 September 2012, p. 10)

For further information on the Farmland Law and the Vacant, Fallow and Virgin Lands Management Law, please refer to section 2.7.4 of this publication.

9.2 Current practices relating to land confiscation

The Irrawaddy states in an article dated September 2012 that “[e]ver since the 1963 Land Acquisition Act, which nationalized ownership of all land across the country, confiscation practices have been widespread for various reasons – including project construction, expansion of urban areas, establishment of industrial zones and building army bases.” (Irrawaddy, 26 September 2012)

In a report by the UN Special Rapporteur on the situation of human rights in Myanmar, published by the UN General Assembly (UNGA) in September 2012, it is noted that:

“The Special Rapporteur continues to receive reports of violations of land and housing rights, in particular regarding the impact of infrastructure projects, natural resource exploitation and associated land confiscations and grabbing. While there are no clear data, he has been informed that land confiscations have increased since 2010. Allegations of land confiscations and grabbing have resulted in demonstrations by farmers and civil society activists. The Myanmar National Human Rights Commission has acknowledged that many of the complaints that it receives relate to land disputes and land confiscations.” (UNGA, 25 September 2012, p. 9)

The Asian Human Rights Commission (AHRC) states in a report of December 2011 that increasingly, private companies with links to the military are seizing land:

“Whereas seizure of land has long been practiced in Burma, in the past land seizure was mostly carried out directly by state officials or the military. Hence, contestation over land seizure in such cases was between the state and affected citizens. Increasingly, with the changes in government and economy in Burma, private companies with connections to military officers or retired military officers are seizing land.” (AHRC, 9 December 2011, p. 3)

An October 2012 article by Voice of America (VOA) reports as follows on land seizures by government, private companies and the military:

"In Burma, all land is nominally owned by the state, leaving small-scale farmers without legal land titles. Over the years, businesses with connections to the country's military government were able to seize land from farmers and villagers, mostly to build lucrative mining or agricultural projects. Many of those who lost their lands received little compensation. Now, as the government considers new laws to attract foreign investors, activists say there has been a rash of land seizures with up to 3.6 million hectares being taken by government, private companies and the military as the economy prepares for more foreign investment. [...] Burma's Army, which has a long history of land seizures, is also accused of continuing to grab land in ethnic areas." (VOA, 22 October 2012)

The VOA article adds:

"While activists say the problem is worsening, there are signs that the government is responding to the issue through the creation of the land commission under the Office of the President. Kevin Woods, a researcher with Amsterdam-based Transnational Institute, says the commission illustrates the new 'political space' that allows protestors to file complaints - in stark contrast with the past. 'It was never possible before for villagers to speak out about this or else they would disappear. And suddenly now it's possible - not of course without intimidation from authority figures, but people are not disappearing from raising these issues and it's having a kind of domino effect in terms of other villagers,' stated Woods." (VOA, 22 October 2012)

In an article dated October 2012, Mizzima reports on land confiscation for a copper mining project in Monywa (Sagaing Region) that unleashed protests among affected villagers:

"The latest flashpoint is the Monywa copper mine project in Burma's northwestern Sagaing region where protest have [sic] been ongoing since August. In early September, hundreds of security forces stormed the copper mine site in search of land rights activists who helped organize earlier protests by 10,000 villagers demanding the return of land they said was unfairly seized for the project. Villagers said the mining companies have illegally confiscated more than 8,000 acres (3,237 hectares) of farmland from 26 villages in Sarlingyi since 2011." (Mizzima, 23 October 2012)

Reuters news agency reports that in July 2012, about 200 farmers protested on the outskirts of Yangon, saying their land was seized by property company Zaykabar. Its chairman, Khin Shwe, is a member of the upper house of parliament and listed under US and European sanctions for links to the former junta. In the same month, in Meiktila (Mandalay Region), about 30 farmers demonstrated against what they described as the seizure of their rice farms for a highway between Yangon and Mandalay. (Reuters, 9 August 2012)

9.3 Treatment of those who lodge complaints against land confiscation to either the local authorities or international organisations

This section does not include information already covered in section 7.6 of this publication.

In its newsletter for December 2009, the Burma Campaign UK states with regard to the treatment of farmers who filed complaints to the ILO regarding land confiscation:

"In December two farmers involved in a land dispute in Burma which was taken up by the ILO were given seven-year prison sentences. The two farmers had brought complaints to the ILO after the Burmese army confiscated their land in 2007. Following the ILO intervention, the land was returned earlier this year. However, in August the two farmers were accused of cutting down a eucalyptus tree on the land and arrested. The arrests are widely viewed to be retribution for the farmers' involvement with the ILO.

The ILO has acknowledged that, despite having an agreement with the Burmese government that complainants will not be harassed, there is a risk of retribution. In October, 12 farmers who filed complaints to the ILO regarding land confiscation were sentenced to up to five years with hard labour." (Burma Campaign UK, January 2010, pp. 1-2)

Among the sources consulted by ACCORD within time constraints no further information could be found regarding treatment of persons who filed complaints against land confiscation to international organisations.

10 Freedom of movement

10.1 General

In its Country Report on Human Rights Practices for 2011, published May 2012, the US Department of State (USDOS) states that “[t]here are no laws explicitly protecting freedom of movement within the country, foreign travel, emigration, and repatriation” (USDOS, 24 May 2012, section 2d). The USDOS lists details on in-country-movement, foreign travel, exile and emigration and repatriation:

“In-country Movement: In practice regional and local orders, directives, and instructions restricted freedom of movement. [...]

Foreign Travel: The government restricted foreign travel of political activists, former political prisoners, and some local staff of foreign embassies. Authorities denied passports and exit permission, although unlike in previous years, late in the year they began issuing passports to some people whose requests had previously been denied. A lawyer who was politically active with the opposition in 1990 was denied a passport in March to travel abroad for health reasons.

Exile: There is a sizeable Burmese diaspora with many citizens in self-imposed exile. On August 17, President Thein Sein announced that the government would allow exiles to return home and consider waiving a subset of nonviolent criminal charges. However, the offer included no formal policy or procedure to guarantee the exiles’ security.

Emigration and Repatriation: [...] The government allowed the UNHCR limited access to monitor potential areas of return to assess conditions for the voluntary return of refugees and IDPs, leading UNHCR officials to determine that conditions remained unsuitable for their return.” (USDOS, 24 May 2012, section 2d)

10.2 Imposition of travel restrictions for certain groups and in certain areas, including documentation needed for internal travel

This section does not include information already covered in section 8.2 (pp. 123-125) of the previous Myanmar COI Compilation of October 2011.

The USDOS reports on restrictions of movement for internally displaced persons, refugees, and stateless persons as well as for women under the age of 25 and the monitoring of the movements of foreigners:

“The government restricted the ability of internally displaced persons, refugees, and stateless persons to move. While freedom of movement was primarily related to a person’s possession of identification documents, in practice ethnicity and place of origin were sometimes factors for the authorities in enforcing regulations. For example, NGOs reported that a Muslim family from Rangoon with full citizenship was arrested at the Sittwe airport and forced to pay a bribe to secure their release. [...]

Citizens of ethnic states report that the government restricted the travel of, involuntarily confined, and forcibly relocated IDPs, refugees, and stateless persons. In an effort to

address the problem of trafficking in persons, officials continued to impede the travel of women under the age of 25." (USDOS, 24 May 2012, section 2d)

"The government's monitoring of the movements of foreigners, interrogation of citizens concerning contacts with foreigners, and restrictions on the freedom of expression and association persisted." (USDOS, 24 May 2012, section 5)

In its April 2011 shadow report to the Committee on the Right of the Child (CRC), the Child Rights Forum of Burma (CRFB) mentions travel restrictions for young women in Eastern Shan State in the context of anti-trafficking measures:

"The trafficking problem in Burma must also be understood in terms of tight restrictions on freedom of movement and access to information. Since 1997, unaccompanied young women between 16 and 25 in Eastern Shan State have been forbidden to travel to the Thai border, according to a directive by the SPDC Regional Commander. This limits the right to freedom of movement of young people and placed them further under the control of others. It has also become more difficult and more expensive for women to get passports. Without legal ID cards or travel documents, no knowledge about their destinations and limited survival skills, including language skills, young people rely on people with former travel experience when they travel, increasing their vulnerability to trafficking.

CRFB member organizations working with victims of trafficking both inside Burma and along the borders have witnessed, in the last decade, 'flagrant corruption along the borders'. This corruption impedes any efforts to combat trafficking and hold perpetrators to account. Antitrafficking measures have placed more restrictions on the movement of women and girls, and led to increased extortion and unjust arrests by local authorities." (CRFB, 29 April 2011, p. 24)

In September 2012, Human Rights Watch (HRW) reports on interviews which it has conducted with twelve recently released political prisoners from various ethnic groups since July 2012. According to the interviewees, the Myanmar government placed "severe restrictions on them" which included restrictions on their freedom of movement. The report continues:

"Burma's Ministry of Home Affairs has refused to issue passports to many former political prisoners, including democracy and human rights activists, public interest lawyers, and journalists. Former political prisoners told Human Rights Watch they were informed by the ministry that they were ineligible to obtain a passport for a period of one year following their release, but provided no legal basis for this decision. One former prisoner said he had been denied a passport since his release in 2010, and that the Special Branch on two occasions in 2012 had interrogated him regarding his most recent passport application. Former political prisoners told Human Rights Watch this restriction has prevented them from travelling abroad to visit family, attend conferences, obtain education or training, and receive awards. The standard processing time for a passport in Burma is 21 days." (HRW, 17 September 2012)

In its report on International Religious Freedom covering the year 2011, the US Department of State (USDOS) writes with regard to the freedom of movement of minority groups:

"Muslims across the country, as well as ethnic Chinese and Indians, often were required to obtain permission from township authorities to leave their home towns. Authorities often denied Rohingya and other Muslims living in Rakhine State permission to travel for any purpose; however, permission was sometimes obtained through bribery. Muslims in other regions were granted more freedom to travel, but still faced restrictions. For example, Rohingyas living in Rangoon needed permission from immigration authorities to travel into and out of Rakhine State." (USDOS, 30 July 2012, section 2)

Irrawaddy reports in an August 2012 article that "[c]ourts in northern Arakan State have sentenced around 60 ethnic Arakanese to six months in prison for violating curfews imposed following the outbreak of communal riots in June" (Irrawaddy, 23 August 2012). The article continues:

"The curfews, initially declared in six townships after the worst clashes between Arakanese Buddhists and Rohingya Muslims in decades erupted on June 8, were later extended to three other townships earlier this month in the wake of another outbreak of violence. Around 800 people, including four members of the Rakhine Nationalities Development Party (RNDP), have been arrested for violating the dusk-to-dawn curfews, but only a handful have faced charges, according to local sources. 'Among those who were detained, most were released, while some have been held for the past two months pending a court decision,' said RNDP central committee member San Hla Kyaw." (Irrawaddy, 23 August 2012)

10.3 Registration procedures at village level

The USDOS reports with regard to guest lists required for households hosting persons not domiciled there:

"The law requires that persons who intend to spend the night at a place other than their registered domicile must inform local ward or village authorities in advance. Any household that hosts a person not domiciled there must maintain a guest list and submit it to authorities. Ward-level officials continued, albeit reportedly to a lesser degree than in previous years, unannounced nighttime checks of residences for unregistered visitors." (USDOS, 24 May 2012, section 2d)

Among the sources consulted by ACCORD within time constraints no relevant information could be found beyond what has already been covered in section 8.3 (pp. 125-128) of the previous Myanmar COI Compilation of October 2011.

10.4 Freedom of movement in relation to non-recognized ethnic minorities

The USDOS country report on human rights practices for the reporting year 2011 states with regard to the Rohingya:

"Authorities require the Rohingya, a stateless population, to carry special documents and travel permits for internal movement in five areas in northern Rakhine State:

Butheedaung, Mungdawe, Rathedaung, Kyauktaw and Sittwe, along the border with Bangladesh. Officials lifted travel restrictions for Rohingya in Thandwe and Kyaukphu districts in June." (USDOS, 24 May 2012, section 2d)

In its January 2012 submission to the Committee on the Rights of the Child (CRC) on the situation of stateless Rohingya children in Myanmar, the NGO Arakan Project states the following with regard to freedom of movement of Rohingyas:

"The Rohingyas are virtually confined to their village tracts. They must apply for a travel pass even to visit a neighbouring village, and travel is strictly restricted within Northern Rakhine State. In February 2001, Sittwe, the state capital, was declared off-limits for them. Their lack of mobility has devastating consequences, limiting their access to markets, employment opportunities, health facilities and higher education. Those who overstay the validity of their travel pass find their names removed from their family list, precluding them from returning home.

Rohingyas are also forbidden to travel abroad. Border passes are only issued for business purpose and sometimes for medical treatment in Bangladesh but, if caught upon return without valid permission, they could face prosecution and up to 5 years imprisonment for violating the Burma Immigration (Emergency Provisions) Act, 1947.

After migrating outside of Myanmar, Rohingyas are systematically denied the right to return to their country as Myanmar consistently refuses to re-admit them. [...]

Restriction of movement impacts on Rohingya children in several ways. It prevents them from accessing university education, sometimes even secondary schools, and better equipped health facilities. But it also locks their family into poverty and food insecurity, preventing them from searching for jobs and markets elsewhere in Myanmar. Consequently it encourages out-migration with no prospect for return, thus dividing family units permanently." (Arakan Project, January 2012, p. 8)

Human Rights Watch (HRW) reports in the context of the outbreak of sectarian violence in Rakhine (Arakan) State in June 2012:

"The displaced Rohingya population have faced an even more difficult humanitarian situation than the rest of the affected population because of government-imposed restrictions on movement and attacks on Rohingya who left displaced camps and villages. For example, Rohingya who were not displaced were unable to leave their homes in the closely guarded neighborhood of Aung Mingala in Sittwe due to threatened violence from Arakan. In other areas of Sittwe as well as in northern Arakan State, the security forces have imposed restrictions on movement, preventing Rohingya from moving around town. Tens of thousands more Rohingya have gone to displacement sites outside main towns, some in the forest, or have been hiding around Maungdaw and Sittwe. Some have been staying with host families." (HRW, August 2012, p. 39)

In the report, HRW quotes from an interview with a Rohingya man in June 2012 who had been living in hiding with his family in a home in Sittwe, Rakhine (Arakan) State:

"The difficulty is that we are not getting services and we cannot move freely from one place to another. I cannot keep silent any longer. We have been indoors for two weeks. On Wednesday at 6 a.m. I went secretly to the market. I was the only one and got some curry and mangoes for my family. I saw most of the Arakan people marketing very happily but the Muslim people cannot go. That is our suffering. We cannot go outside freely. How long will we be staying in this house? How long can we live in this condition? I don't know what the government is planning to do with us.... We cannot get rice. The lack of rice is the main problem." (HRW, August 2012, p. 40)

The HRW report also mentions that Rohingya have been unable to travel to market and that reportedly some Rohingya have been beaten and killed after leaving their area:

"In northern Arakan State much of the Rohingya displacement is due to security force abuses after the initial clashes in early June. The affected villages are also in more remote areas around Maungdaw where access by humanitarian agencies is severely inhibited by longstanding government restrictions on Rohingya populated areas, and the state of emergency imposed after the June clashes. Food stocks in these areas were looted in recent attacks, and Rohingya have been unable to travel to market, making them increasingly vulnerable." (HRW, August 2012, p. 40)

"Human Rights Watch received several reports of Rohingya who ventured out of their area for food and other provisions and were beaten and killed; Human Rights Watch was unable to independently verify the claims." (HRW, August 2012, p. 41)

In a press release dated October 2012, the UN High Commissioner for Refugees (UNHCR) notes that after the outbreak of inter-communal violence in June 2012, "[m]ovement is still restricted in parts of Rakhine state, preventing some villagers from going to work, accessing markets, food supplies, health services and education" (UNHCR, 4 October 2012).

11 Further human rights considerations

11.1 Exit and return to Myanmar

11.1.1 Exit and entry procedures, in particular developments since October 2011

The US Department of State (USDOS) Country Report on Human Rights Practices 2011, dated May 2012, notes the absence of laws explicitly protecting foreign travel, emigration and repatriation (USDOS, 24 May 2012, section 2d). The same report further notes:

“The government restricted foreign travel of political activists, former political prisoners, and some local staff of foreign embassies. Authorities denied passports and exit permission, although unlike in previous years, late in the year they began issuing passports to some people whose requests had previously been denied. A lawyer who was politically active with the opposition in 1990 was denied a passport in March to travel abroad for health reasons.” (USDOS, 24 May 2012, section 2d)

The UK Border Agency (Home Office) COI report of February 2012 cites an e-mail response from the UK Foreign and Commonwealth Office (FCO) dated 21 December 2011:

“In recent months a number of NLD members have been able to travel overseas and return to Burma without interference from the authorities. Following the re-registration of the NLD as an official political party in December 2011, and their likely entry into parliament following by-elections in early 2012, it is likely that NLD members, whether active or inactive, will be able to leave and re-enter the country without significant hindrance. It is unlikely, though not impossible, that inactive NLD members would be questioned on re-entering the country.” (UKBA, 2 February 2012, p. 136)

The UKBA report further states with reference to the above-mentioned e-mail from the FCO:

“In an email to the COI Service dated 21 December 2011, the FCO commented that ‘Some politically active individuals continue to be denied passports by the authorities. Equally, there are some high profile political activists and NLD members who do have passports, and who travel overseas without problems. [Therefore] ‘some politically active persons continue to encounter difficulties in being issued with passports.’” (UKBA, 2 February 2012, p. 139)

The Irrawaddy reports in a September 2012 article that authorities granted passports to Min Ko Naing, a leader in the pro-democracy protests of 1988 and 2007 and “a handful of other prominent activists”, including Ko Ko Gyi, another high-profile leader in the 1988 protests. The article notes that “[p]assports in Burma are generally issued within three weeks but quotes Ko Ko Gyi as saying that nearly two dozen other pro-democracy activists have been left in limbo. According to Ko Ko Gyi, some of them had applied for passports up to six months before and were told by the Home Ministry that their requests have been put on hold for a year. The article further reports that “Zaw Thet Htwe, a journalist who was imprisoned under the junta and freed in January, said he was given no formal reason for not getting a passport. But he was told informally that he and others were under surveillance for a year because they had

been let out of prison early and authorities wanted to keep an eye on them, he said.” (Irrawaddy, 16 September 2012)

In an August 2011 review of an earlier UKBA COI Report on Myanmar, Maung Zarni, a visiting fellow at the Civil Society and Human Security Unit at the London School of Economics and Political Science (LSE), notes that corruption in Myanmar has “enabled activists to buy themselves passports, forged ID cards, and so on in order to enhance their freedom of movement” (IAGCI, 31 August 2011, p. 27).

Among the sources consulted by ACCORD within time constraints, no further relevant information could be found beyond what has been covered in section 9.1.1 (p. 129) of the previous Myanmar COI Compilation of October 2011.

For general information regarding the issuance of passports, please refer to section 5.2.4 of this COI Compilation.

11.1.2 Legal framework and process required for exiles wishing to return

A May 2012 article by the Irrawaddy reports that while President Thein Sein invited Myanmarese citizens in-exile (including professionals, businessmen and manual labourers) to return to Myanmar, “he did not provide any transparent procedures for those who want to return home” (Irrawaddy, 14 May 2012).

Among the sources consulted by ACCORD within time constraints, no further relevant information could be found on this issue.

11.1.3 Illegal departure

Among the sources consulted by ACCORD within time constraints, no information of recent date could be found with regard to this issue. Please refer to section 9.1.2 (p. 130) of the previous Myanmar COI Compilation of October 2011.

11.1.4 Treatment of persons returning from abroad including:

Individuals with low-level involvement in the 1988 Uprising and the 2007 Saffron Revolution

Among the sources consulted by ACCORD within time constraints, no recent information could be found with specific reference to the treatment of individuals with low-level involvement in the 1988 Uprising and the 2007 Saffron Revolution after their return to Myanmar from abroad.

The following sources contain information regarding the treatment of (former) dissidents who returned from abroad:

The US Department of State (USDOS) Country Report on Human Rights Practices 2011 of May 2012 provides the following general information:

"There is a sizeable Burmese diaspora with many citizens in self-imposed exile. On August 17, President Thein Sein announced that the government would allow exiles to return home and consider waiving a subset of nonviolent criminal charges. However, the offer included no formal policy or procedure to guarantee the exiles' security." (USDOS, 24 May 2012, section 2d)

The Irrawaddy reports in an article published in October 2011:

"In August, Burmese President Thein Sein publicly invited exiles to return home, but his government has yet to put in place any formal policy or procedure that would allow them to feel secure in doing so. As a result, most Burmese exiles still have doubts about their ability to safely go back home and very few have actually accepted the invitation and returned. [...]

Bo Kyi, the joint-secretary of the Thailand-based Assistance Association of Political Prisoners (AAPP-Burma), also sees Thein Sein's invitation as weak without the backing of specific policies and laws that would protect the returning exiles. 'The president said the non-criminal exiles can return home. It is just talk and there's no law or policy on this issue. It is not a part of reforming of country. The Burmese government has done this with the intention of making the exiles weaker,' he said. [...]

In addition, observers note that Thein Sein did not define what he means by 'non-criminal,' and point out that many political prisoners currently held in Burmese jails were placed there on spurious 'criminal' charges under draconian state security laws.

Members of Burma's diverse ethnic groups who are living in exile are also cautious about returning home, with some even seeking asylum in foreign countries since the time that Thein Sein delivered the offer in his speech. [...]

Dr Maung Zarni, a prominent figure in the Burmese democracy movement and a research fellow at the London School of Economics and Political Science, said that without analyzing how and why people became exiled, it is not possible to predict the conditions under which they would return to Burma. [...]

Some actions taken by Thein Sein's government have given exiles cause for concern that if they go back to Burma, their activities will in fact be restricted and they may not be allowed to leave. A source close to the Burmese embassy in Bangkok said that exiles wishing to return home have to sign a five-point statement saying that they will: avoid actions and words which can harm the state; avoid writing, talking and lobbying which can harm the stability of the state; avoid contact with illegal organizations; avoid actions that are destructive or harassing; and be loyal to the state and stay within the law. In addition, the source said that if any exile who has already requested asylum in any foreign country wants to return home, that person must leave their travel documents and identity card at the embassy, which will provide them with a letter of identity. There is no transparent policy stating whether the exiles who return home will be allowed to travel abroad once again.

Some exiles have found that they were not even welcome to return to Burma. Ba Aye and his wife, Than Than Nyunt, who are currently citizens and residents of Australia, received visas from the Burmese embassy in Canberra and returned to Burma on Oct 4, but the Burmese immigration office at the Rangoon International Airport didn't allowed them into the country told them to go back to Australia.

Those who have thus far successfully tested the waters and returned from exile include persons who had become citizens of a foreign country and persons who remain citizens of Burma. Harn Yawngwe – who is a Canadian citizen, the director of the Euro-Burma office in Brussels and the managing director of the Democratic Voice of Burma – went back to Burma on Oct 21 and issued a statement saying that he did so because of Thein Sein's invitation. However, Harn Yawngwe also said that he was making a private trip to his hometown in Shan State and he had no political agenda, fixed itinerary or intention of acting on behalf of any organization during his stay.

Examples of exiles who remain Burmese citizens returning home include Peter Lin Pin, who was elected as an MP in the 1990 election, which the previous military junta disallowed, and some comedians from Tee-Lay-Tee Ah Nyeint, a traditional Burmese dance group." (Irrawaddy, 28 October 2011)

The BBC reports in an article published August 2012:

"Burma has announced the removal of 2,082 names from its blacklist, which bars people deemed a threat to national security from entering or leaving the country. [...]

'These relaxations are in line with the country's transformation,' presidential spokesman, Nay Zin Latt, was quoted by the Associated Press news agency as saying. He added that more names would be eventually removed, and 'only those who were put on the blacklist due to criminal and other economic misdemeanors will remain on the blacklist'. [...]

The blacklist - which the newspaper said included a total of 6,165 names - has also been known to include government critics, foreign journalists and public sector workers who went abroad during military rule." (BBC, 28 August 2012)

In a letter addressing the President of Myanmar dated September 2012, the Asian Human Rights Commission (AHRC) reports about the following case of a lawyer who returned to Myanmar from exile:

"We regret to learn that a lawyer who returned to Myanmar from exile abroad at your behest has been imprisoned on the unjust charges from which he fled in the first place. We urge that the conviction imposed on him be quashed and that he be released from prison immediately.

As you may be aware, Saw Kyaw Kyaw Min fled Myanmar in 2008 after charges were brought against him over the conduct of his clients in court. Saw Kyaw Kyaw Min had been representing a number of persons accused over the monk-led protests of 2007, who turned their backs on the court in protest at the unfair trial process. When the judge instructed the defendants' lawyers to tell their clients to turn around, the lawyers said that

it was the defendants' decision to turn around and they were present only as legal counsel, not to tell the defendants what to do. The next day, the judge, U Aung Than Myint, brought charges against the two lawyers for intentionally insulting a public servant sitting in a judicial proceeding under section 228/512 of the Penal Code. Both were convicted: Saw Kyaw Kyaw Min in absentia, while Nyi Nyi Htwe served six months in jail.

Believing that since the political reform process got under way in earnest, and heeding your call for expatriate Burmese to return home and help remake their country in a time of political transition, Saw Kyaw Kyaw Min made the brave decision not to seek political asylum abroad – which he could have obtained without difficulty, in light of his case – but instead to go back to Myanmar. Unfortunately, contrary to his expectations, Judge U Aung Than Myint brought a case against him in March 2012 (Criminal Case No. 43/2012, Yangon Northern District Court, Judge Aung Thein presiding), and according to information currently available, at the end of August the court sentenced Saw Kyaw Kyaw Min to six months in prison. Saw Kyaw Kyaw Min is currently preparing to appeal against the verdict.” (AHRC, 11 September 2012)

An August 2012 article by the Democratic Voice of Burma (DVB) refers to the same case as follows:

“National League for Democracy member Saw Kyaw Kyaw Min, who fled the country in 2008, yesterday became the first former-exile to be prosecuted upon his return to Burma. He went back in May after Thein Sein invited the country’s exiled community to return to the country as the nominally civil government unveiled new reforms. According to the Saw Kyaw Kyaw Min’s attorney and friend, the lawyer was convicted for disrupting the trials of democracy activists he represented in 2007. ‘[He was charged] under criminal act 228 for disrupting judicial civil servants. Ko Saw Kyaw Kyaw Min was found guilty of that and given the highest sentence – six months,’ said Nyi Nyi Htway.

Saw Kyaw Kyaw Min and fellow lawyer Nyi Nyi Htwe were charged with intentional insult to a public servant sitting in judicial proceedings in 2008 after three of his clients turned their backs to the court during their trial as a protest against the legal process. His clients were arrested during a march calling for the release of democracy icon Aung San Suu Kyi.

Saw Kyaw Kyaw Min was due to appear in court to answer the charges against him on 30 October 2008, but when he went to Insein township court on 29 October to defend two other clients he was told the authorities had ordered his arrest and he fled the country for Thailand.” (DVB, 30 August 2012)

Trafficked women returning illegally

Among the sources consulted by ACCORD within time constraints, no relevant information could be found beyond what has been covered in section 9.1.3 (pp. 130-131) of the previous Myanmar COI Compilation of October 2011.

People living with HIV/AIDS or trafficked persons perceived to have engaged in prostitution and /or are HIV positive

Among the sources consulted by ACCORD within time constraints, no relevant information could be found on this issue.

Persons returning without documentation

Among the sources consulted by ACCORD within time constraints, no relevant information could be found beyond what has been covered in section 9.1.3 (p. 131) of the previous Myanmar COI Compilation of October 2011.

11.2 Treatment of people living with HIV/AIDS

In its report of March 2012, the National AIDS Programme (NAP) Myanmar notes with regard to prevalence and incidence of HIV infections and AIDS-related deaths in 2011:

“It is estimated that around 216,000 people were living with HIV in Myanmar in 2011, of which 36% were female. In the same year, an estimated 18,000 people died of AIDS-related illness. Incidence was estimated at well above 8,000 new infections in 2011, confirming the continuing need for effective prevention efforts.” (NAP, 31 March 2012, p. 4)

As regards the medical treatment of people living with HIV/AIDS, the NAP report states that by the end of 2011, nearly 40,000 adults and children were receiving antiretroviral therapy (ART). However, as noted in the report, the ART coverage remains low with an estimated 120,000 people in need of antiretroviral treatment when the new accessibility criteria of less than 350 CD (cluster of differentiation) count are applied. (NAP, 31 March 2012, p. 6)

In a report published February 2012, the international humanitarian aid organisation Médecins Sans Frontières (MSF) similarly notes that “[a]n estimated 120,000 people living with HIV/AIDS are in need of lifesaving antiretroviral therapy (ART), in Myanmar. In 2010, according to national estimates less than 30,000 of these received it. Over the last few years the UN estimates that between 15,000-20,000 people have been dying annually in Myanmar because of a lack of access to ART” (MSF, 22 February 2012, p. 7). The report adds, however, that “[f]or HIV/AIDS there is no question that the situation in Myanmar has improved from just a few years ago, when virtually no ART treatment was available” (MSF, 22 February 2012, p. 21).

In a February 2012 article examining the reasons for the HIV/AIDS treatment gap in Myanmar, the Integrated Regional Information Network (IRIN) states that according to MSF, inadequate funding is the “biggest problem”. With reference to information provided by the Joint UN Programme on HIV/AIDS (UNAIDS) in Myanmar, IRIN also notes that more than 60 per cent of the country’s 133 ART distribution sites are located in Yangon and Mandalay Regions, and Shan and Kachin States, and that “many people have to travel far to access treatment”. (IRIN, 24 February 2012)

A September 2012 article by Voice of America (VOA) reports as follows on the HIV/AIDS situation in Myanmar and in particular that of marginalised groups:

“Burma's AIDS epidemic mostly affects marginalized groups, such as the gay community. In a country where homosexuality remains illegal, finding and treating gay patients is a challenge for the few health workers devoted to their treatment. [...] About one percent of Burma's population is HIV positive. Among high-risk groups, such as men who have sex with men, health workers estimate as many as 11 percent have HIV. [...] While Burma's National AIDS Plan has helped stem new infections, it offers almost no help for marginalized groups already living with HIV. [...] Because funding is low, no new patients in Burma will be able to receive the lifesaving drugs known as anti-retrovirals until 2014.” (VOA, 10 September 2012)

The US Department of State (USDOS) Country Report on Human Rights Practices for 2011 notes that “[t]here were no reports of societal violence or discrimination against persons with HIV/AIDS”. (USDOS, 24 May 2012, section 6)

However, a press release accompanying a UNAIDS report published 2011 and based on surveys in nine countries in Asia and the Pacific (including Myanmar) states that according to the report's findings, “[HIV-related] stigma and discrimination remain rife across the region as a whole and are evidenced in many environments, including family and community life, as well as employment and health care” (UNAIDS, 29 August 2011).

The report itself, entitled “People Living with HIV Stigma Index: Asia Pacific Regional Analysis”, is available via the following link:

- UNAIDS - Joint UN Programme on HIV/AIDS: People Living with HIV Stigma Index: Asia Pacific Regional Analysis, 2011
http://www.unaids.org/en/media/unaids/contentassets/documents/document/2011/08/20110829_PLHIVStigmaIndex_en.pdf

In an article dated May 2012, Reuters news agency quotes an HIV-positive woman who was abandoned by her family and lives in a private HIV hospice in the suburbs of Yangon as saying that rejection of HIV-infected people by family and neighbours is common in Myanmar. According to Reuters, the woman also recalled an HIV sufferer who was left to starve by villagers, then possibly cremated while in a coma. (Reuters, 31 May 2012)

11.3 Administration of justice

11.3.1 National legal framework (Penal Code and Criminal Procedure)

This section does not include information already covered in section 9.2.1 (p. 131) of the previous Myanmar COI Compilation of October 2011.

In its report of May 2012, the US Department of State (USDOS) notes with regard to the Penal Code:

"The government used the penal code to render excessive sentences against political activists by allowing government prosecutors to charge detainees with multiple violations of tangential and archaic or widely ignored laws, such as violating currency laws, publishing materials likely to cause alarm, or spreading rumors. This practice resulted in lengthy cumulative sentences." (USDOS, 24 May 2012, section 1e)

11.3.2 Independence of the judiciary

This section does not include information already covered in section 9.2.2 (pp. 131-132) of the previous Myanmar COI Compilation of October 2011.

The Asian Human Rights Commission (AHRC) notes in its report detailing the state of human rights in Myanmar in 2011:

"Despite the political changes of the year and associated fanfare, the judiciary in Burma remains inert, tied to the executive, and incapable of performing even basic functions for the defence of human rights. Since the start of the year, structural changes to the judiciary under the 2008 Constitution have not materialized in any meaningful way. On the contrary, the courts continue to be as closed and obscured from public view as before, perhaps even more so." (AHRC, 9 December 2011, p. 9)

In its report published May 2012 and covering the year 2011, the USDOS provides the following information pertaining to Myanmar's judiciary:

"The Judiciary Law of 2000 calls for an independent judiciary; however, in practice the judiciary was characterized by institutionalized corruption and remained under the de facto control of the military and government. According to studies by civil society organizations, payments were made at all stages in the legal process and to all levels of officials, for routine matters such as access to a detainee in police custody and determining the outcome of a case. The court system and its operation were seriously flawed, particularly in the handling of political cases.

The use of blanket laws to arbitrarily arrest and detain citizens for peaceful activities -- including the Emergency Provisions Act, Unlawful Associations Act, Habitual Offenders Act, Electronic Transactions Law, Television and Video Act, and Law on Safeguarding the State from the Danger of Subversive Elements --as well as the manipulation of the courts for political ends continued to stifle peaceful dissent and deprive citizens of due process and the right to a fair trial." (USDOS, 24 May 2012, section 1e)

The March 2012 report by Freedom House (FH) states that "[t]he judiciary is not independent" and that "[j]udges are appointed or approved by the government and adjudicate cases according to its decrees" (FH, March 2012).

In a commentary for the Guardian, published March 2012, James Ross, legal and policy director at Human Rights Watch (HRW), also points to a lack of judicial independence:

"The problem in Burma today is not that judges are struggling to be independent against a heavy-handed regime, but rather that judges are part and parcel of decades of a

military governing system. Judges routinely impose unjustified sentences in political cases, allowing them to keep their jobs and access to the benefits of a corrupt system. Nor will the country's new constitution bring about the necessary changes. Despite language asserting judicial independence, the president retains a dominant role over the parliament in appointing and removing judges. And there are no specific constitutional mechanisms to prevent political interference." (Guardian, 20 March 2012)

The Asian Legal Resource Centre (ALRC) notes in its written statement submitted to the UN Human Rights Council (HRC) in June 2012 that the judiciary is "highly corrupt". With regard to the relationship between the judiciary and the executive, ALRC states:

"Judges in Myanmar lack political or corporate power with which to fight other parts of the state apparatus, and are an easy target for blame laying – indeed, the constant making of accusations against the judiciary over the last couple of decades was one of the methods that army officers used to ensure that the courts remained intimidated and inert before the executive. [...] the judiciary is highly corrupt [...]" (HRC, 11 June 2012, p. 2)

11.3.3 Due process

This section does not include information already covered in section 9.2.3 (pp. 132-134) of the previous Myanmar COI Compilation of October 2011.

The USDOS report of May 2012 (covering the year 2011) contains the following information on legal provisions and practices regarding arrest and detention:

"The law does not specifically prohibit arbitrary arrest but requires permission of a court for detention of more than 24 hours. The government nevertheless arbitrarily arrested and detained citizens. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the government regularly used this provision. The law allows authorities to order detention without charge or trial of anyone they believe is performing or might perform any act that endangers the sovereignty and security of the state or public peace and tranquility. [...]"

By law warrants for searches and arrests are required; however, the MSA [Military Security Affairs] and police conduct searches and make arrests at will. Special Branch police responsible for state security matters reportedly held people during what they termed an 'interrogation phase,' a period not defined in law, before pretrial detention period. With court permission police can detain persons without charge for up to two weeks, with the possibility of a second two-week extension. However, authorities frequently and arbitrarily extended detentions beyond this period, sometimes for up to a year, without bringing the detainees before a judge or informing persons of the charges against them. Detainees were not always allowed prompt access to a lawyer of their choice, or, if indigent, to one provided by the state. The government continued to detain persons under the Emergency Provisions Act of 1950, which allows for indefinite detention. Bail was commonly offered in criminal cases but rarely allowed for political prisoners. Bribery was a common substitute for bail. The government regularly refused detainees the right to consult a lawyer and occasionally imprisoned, detained, and disbarred lawyers

who undertook to represent politically controversial defendants. The government continued to use incommunicado detention and failed to inform detainees' relatives of detentions in a timely fashion." (USDOS, 24 May 2012, section 1d)

The USDOS further states with respect to fair trial procedures:

"The law provides for the right to a fair trial, but it also grants broad exceptions, in effect allowing the government to violate these rights at will. In common criminal cases, the court generally respected some basic due process rights, whereas there was a fundamental lack of due process in most politically sensitive cases.

Defendants do not enjoy the right to presumption of innocence, trial by jury, or, except in capital cases, the right to consult an attorney or have one provided at government expense. There is no right to confront witnesses and present witnesses and evidence, although sometimes witnesses and evidence were allowed. While there is no right to access government-held evidence, sometimes it was provided. Defendants have a right to appeal judgments; however, in most appeal hearings the verdicts were upheld.

Common criminal cases were open to the public. Defense attorneys in criminal cases generally had 15 days to prepare for trial. In political cases, however, courts often did not notify defense attorneys of the trial start date, leaving them little or no time to prepare. Even when lawyers of political activists were allowed the 15 days to prepare their clients' cases, they often were not allowed to present arguments on the day the case was tried in court. Instead, in some instances courts sentenced defendants immediately upon entering the courtroom, without arguments. Defense attorneys could call witnesses, cross-examine them, and examine evidence. However, their primary function was not to disprove a client's guilt, which was usually a foregone conclusion, but rather to bargain with the judge to obtain the shortest possible sentence for the client.

Political trials normally were not open to family members or the public. National League for Democracy (NLD) members and other prodemocracy activists generally appeared able to retain the counsel of lawyers; however, lawyers were not given the opportunity to mount a proper defense. They were denied adequate access to their clients before trial, were not informed when trials would begin, and occasionally were not allowed to attend their clients' trials. Reliable reports indicated senior government authorities dictated verdicts in political cases, regardless of the evidence or the law.

Persons complained they were not informed of the arrests of family members in a timely manner, not told their whereabouts, and often denied the right to see them and attend court hearings." (USDOS, 24 May 2012, section 1e)

As further noted by the USDOS, "[t]he government extended prison sentences under the Law Safeguarding the State from the Dangers of Subversive Elements. The minister of home affairs has the right to extend unilaterally a prison sentence by two months on six separate occasions, for a total extension of up to one year." (USDOS, 24 May 2012, section 1e)

With regard to civil judicial procedures and remedies, the USDOS notes that “[a]lthough no specific mechanisms or laws provide for civil remedies for human rights violations, complainants can use provisions of the penal code and laws of civil procedure to seek civil remedies”. However, as noted in the report, “[t]here were no examples of successful attempts to do so”. (USDOS, 24 May 2012, section 1e)

Freedom House notes that “[t]rials for bloggers and other online activists that took place in 2011 were grossly unfair, lacking due process and typically held in special closed courts” (FH, 24 September 2012).

In a report dated September 2012, the Assistance Association for Political Prisoners (Burma) (AAPP) states that since January 2012, it has documented at least 200 cases involving activists and dissidents being arrested without any formal charges:

“Since January 2012, there has been a substantial increase in the number of activists and dissidents detained without any formal charges in Burma. We have documented at least 200 politically motivated arrests without formal charges in this eight month time period. Of these arrests, less than 60 have resulted in formal court proceedings. Many leave detention unsure whether they will face trial or not. It is clear that politically motivated arrests remains a favored tactic for suppressing critical voices of democracy and human rights.” (AAPP, 27 September 2012, p. 1)

11.3.4 Prison conditions

This section does not include information already covered in section 9.2.4 (pp. 134-137) of the previous Myanmar COI Compilation of October 2011.

The 2011 UK Foreign and Commonwealth Office (FCO) Report on Human Rights and Democracy of April 2012 notes with regard to prison conditions and prisoner abuse:

“Prison conditions have slightly improved in recent years for political prisoners but overall are far from meeting international standards. There continue to be reports of harsh interrogation techniques, solitary confinement, prisoners held in cells intended for military dogs, and overcrowding. Political prisoners have been deliberately held many miles away from their families. Hundreds of prisoners each year are forced to act as porters for army units in conflict zones; many prisoners have died or suffered serious injuries as a result. The International Committee of the Red Cross (ICRC) continued to be denied access to detainees in prison. In July, the ICRC was granted access to three prisons for technical assessments of water and sanitation systems but could not meet with prisoners.” (FCO, April 2012, p. 179)

In its May 2012 report, the US Department of State (USDOS) provides the following more detailed information about the treatment of prisoners (including torture) and prison and labour camp conditions in 2011:

“Laws prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. Security forces routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient,

including severe beatings, electric shocks, burning with lighters, water torture, and deprivation of food, water, and sleep. Both male and female political prisoners reported sexual abuse, including harassment and molestation, beating or burning of the genitals, threats of rape, and rape. As in previous years, authorities took little or no action to investigate incidents or punish perpetrators. [...]

Press reports in late May alleged that the authorities transferred seven political prisoners conducting a hunger strike in Insein prison to 10-by-10 foot cells used to house dogs. The reports noted that these prisoners were routinely beaten, forced to crawl like dogs, and denied water and medical treatment [...].

Prison conditions, and particularly labor camp conditions, continued to be harsh and life threatening. Prison food, clothing, and medical supplies were scarce and of poor quality. Bedding often was inadequate, sometimes consisting of a single mat or wooden platform on the floor. Prisoners did not have access to potable water. In many cases family members, who generally were allowed one or two visits per month, supplemented prisoners' official rations of medicine and basic necessities. Authorities continued to send political prisoners to remote prisons located hundreds of miles from their families to make family visits difficult or impossible.

The government continued to deny prisoners adequate medical care, although these inadequate medical services in part reflected the poor health-care services available to the general population. Prisoners suffered from health problems including malaria, heart disease, high blood pressure, tuberculosis, and stomach problems — the result of unhygienic conditions and spoiled food. HIV/AIDS infection rates in prisons reportedly were high due to communal use of syringes for medical injections and sexual abuse by infected prisoners. Former prisoners reported that prison authorities designated some long-term prisoners as unofficial 'wardens' to supervise and control other prisoners. The sexual abuse by these 'wardens' of prisoners as young as 15 and 16 years of age contributed to high rates of HIV/AIDS infection. Former prisoners also complained of being held in aging physical structures that received no maintenance and were infested with rodents, bacteria, and mold.

The Correctional Department operated an estimated 42 prisons and more than 100 labor camps. According to a human rights activist, there were approximately 66,000 prisoners, 58,000 male and 8,000 female. The number of juvenile detainees was estimated to be a few hundred. Prison overcrowding reportedly was minimal, as authorities were said to transfer prisoners to labor camps as a space-saving measure.

Pretrial detainees were held together with convicted prisoners, and political prisoners were sometimes held together with common criminals. Prison authorities held high-profile political prisoners such as the monk U Gambira, leader of the 2007 monk-led protests or All Burma Monks Alliance, separately. Reports varied on whether or not political prisoners faced significantly different treatment — and whether it was better or worse — than other prisoners.

While there were reports that many prisoners and detainees had access to visitors and could sometimes submit complaints to judicial authorities without censorship or negative repercussion, not all prisoners were allowed to worship freely. Monks imprisoned during the 2007 prodemocracy movement known as the Saffron Revolution reported that they were denied permission to keep Buddhist Sabbath (Uposatha), wear robes, and shave their heads and were not allowed to eat food compatible with the monastic code. Authorities generally did not investigate credible allegations of inhumane conditions. The National Human Rights Commission, formed in August, accepted an unknown number of complaints regarding prison conditions [...]. There were reportedly no measures to improve prison record keeping. There were some alternatives to incarceration for nonviolent offenders, including fines and 'community arrests' requiring the convicted person to stay within their community and report regularly to authorities. There were no rehabilitation programs.

The government generally did not permit media or other independent groups to monitor prison conditions. However, for the first time in nearly six years, on July 1-2 the government allowed officials from the International Committee of the Red Cross (ICRC) to survey the water and sanitation structure of three prisons for future improvements. At year's end the government continued to prevent the ICRC from meeting directly with prisoners." (USDOS, 24 May 2012, section 1c)

The AAPP 2011 Annual Report, dated January 2012, states:

"Prison conditions in Burma fall dangerously below minimum international standards and often rise to the threshold of torture. This is in line with the Convention Against Torture, which has identified overcrowding and inadequate living conditions as tantamount to inhumane and degrading treatment. In addition, denial of medical treatment, poor diet, and lack of dental care is in direct breach of Article 7 of the International Covenant on Civil and Political Rights (ICCPR).

Prisons do not even meet the outdated requirements of the domestic prison regulation manual, which was drafted in British colonial times. Though the Ministry of Home Affairs claimed to be designing a new Prison Act in August, the worst aspects of the prison conditions, such as solitary confinement, transferring prisoners to remote prisons, and systematically denying political prisoners adequate food and medical care, showed no signs of improving. By the end of the year there were no updates on purported reform on the Prison Act. There is also concern that if it is drafted without the necessary input from relevant stakeholders, it will not carry the necessary legislation to prevent torture and inhumane treatment of prisoners that are deeply rooted in the prison system.

Throughout the year there was an alarming trend of torturing political prisoners for complaining about issues within the prison system, requesting better prison conditions, or failing to comply with prison rules. There is a clear pattern of abuse against prisoners who criticize conditions in the prison and demand to be treated in compliance with prison regulations. They are often isolated from the outside world by denying them their family visitation rights, subject to particularly harsh physical and mental abuse, and transferred

to remote prisons so as to limit their influence. Since the swearing in of the U Thein Sein regime, there were at least 3 hunger strikes led by political prisoners. The hunger strikes had in common the shared demand for recognition of their political status and a restoration of their basic prisoner rights." (AAPP, January 2012)

"Throughout 2011, AAPP has consistently received reports of the mistreatment of political prisoners and their families. The lack of access to appropriate healthcare in Burma's prisons is of particular concern as many political prisoners endure deteriorating health statuses as a result of authorities cruelly denying or delaying treatment. Political prisoners are often punished by being sent to remote prisons far from their families, rendering visits extremely difficult. With the escalation of the conflict in Kachin State there have also been numerous reports of prisoners being taken to warzones to be used as porters." (AAPP, January 2012)

Under the heading "Conditions of detention and treatment of prisoners", the March 2012 Progress Report by the UN Special Rapporteur on the situation of human rights in Myanmar states:

"31. Conditions of detention and the treatment of prisoners remain of concern. The Special Rapporteur continued to receive allegations of torture and ill-treatment during interrogation, the use of prisoners as porters or 'human shields' for the military and the transfer of prisoners to facilities in remote areas where they are unable to receive family visits or packages of essential medicine and supplemental food.

32. On 1 June 2011, the Special Rapporteur sent an urgent appeal jointly with the special rapporteurs on freedom of opinion and expression and on torture on the situation of seven female political prisoners in Insein prison, who had reportedly begun a hunger strike on 17 May to express their discontent with the amnesty announced by the President that month. The appeal also addressed the situation of 17 male political prisoners who joined the hunger strike on 22 May to protest against the denial of their rights and five other political prisoners who began a sit-in strike in their prison ward.

33. According to information received, some of the prisoners were placed in solitary punishment cells while others were told to prepare their belongings for transfer to another prison. Following a meeting with the Director-General of the Prisons Department on 25 May, some of the prisoners reportedly ended their hunger strike and protest, and 13 prisoners who had been in solitary confinement were returned to their cells. On 27 May, however, following a meeting with officers from the Special Investigation Department at which anti-Government slogans had been shouted, it was reported that a number of the prisoners were again put in solitary confinement and that all demands had been rejected. In its response to the above-mentioned appeal, dated 2 August 2011, the Government rejected the allegations that seven female prisoners had participated in the hunger strike.

34. According to media reports from around the same period, prisoners in Kale prison had also commenced a hunger strike to protest against the Government's lack of response to a letter sent on prison conditions. On 26 October 2011, 15 political prisoners in Insein prison reportedly began another hunger strike to protest against the denial of the right to

sentence reductions, a right apparently provided for in the Myanmar jail manual. The prisoners were denied drinking water for several days and some were confined to cells normally used for prison dogs as punishment. Family visits were also reportedly denied. The prisoners' demand was rejected and the hunger strike ended on 7 November. On 10 November, another hunger strike was started by six political prisoners in the prison hospital calling for improved medical care and the right to sentence reductions.

35. Members of the national human rights commission conducted visits to Myitkina prison on 9 December, Insein prison on 27 December, and Hlay-Hlaw-Inn Yebet labour camp on 28 December. They interviewed three prisoners and concluded that reports of prisoners being denied water and being held in 'dog cells' as punishment were 'untrue'. The commission did, however, observe that the number of prisoners held in Insein prison far exceeded its maximum holding capacity and that the issue of prison congestion was "an important source of grievances that should be addressed in a timely fashion".

36. During his meeting with prisoners of conscience at Insein prison, the Special Rapporteur was also informed that conditions had generally improved. He received information, however, about continuing ill-treatment by prison officials and the continuous transfers of prisoners to facilities in remote areas, often without their prior notification and without proper notification of family members." (HRC, 7 March 2012, pp. 8-9)

The written statement by Amnesty International (AI) submitted to the UN Human Rights Council (HRC) in February 2012 contains the following brief passage on prison conditions:

"Prison conditions fall far short of international standards. Food, water and medical care are insufficient; many political prisoners are held distant from their families; and many are subjected to torture and other ill-treatment or punishment. Prolonged solitary confinement is common, including in dark cells or military dog cells." (HRC, 28 February 2012, p. 3)

11.3.5 Death penalty

This section does not include information already covered in section 9.2.5 (pp. 137-138) of the previous Myanmar COI Compilation of October 2011.

In its May 2012 report, Amnesty International (AI) classifies Myanmar as "abolitionist in practice" (AI, 24 May 2012).

As reported by the Assistance Association for Political Prisoners (Burma) (AAPP), on 2 January 2012 President Thein Sein signed amnesty order 1/2012 commuting death sentences to life imprisonment and reducing prisoners' jail terms (AAPP, 5 January 2012).

The Democratic Voice of Burma (DVB) notes that according to lawyers, three Muslim men were sentenced to death by the District Court in Kyaukphyu on 18 June 2012 for raping, murdering and robbing Thida Htwe, the girl whose death ignited sectarian violence across Rakhine (Arakan) State in June 2012 (DVB, 18 June 2012).

In an article dated 9 July 2012, the Myanmar Times reports that 13 people have been sentenced to death over the murder of Ko Yu Wai, the owner of a restaurant in Aung Chan Tha Ward, Thanlyin Township (Yangon Region), on 20 July 2011. The judgement was handed down according to sections 302(1)(b)/34 and 302(1)(b) of the Penal Code and also included convictions for crimes that took place several days before Ko Yu Wai was killed. (Myanmar Times, 9 July 2012c)

The Irrawaddy reports on 3 August 2012 that Phyo Wai Aung, an engineer who was sentenced to death in May 2012 for his alleged involvement in bombings at the Thingyan water festival in Yangon in 2010, has been released from custody after receiving a pardon from President Thein Sein (Irrawaddy, 3 August 2012).

11.4 Food security

This section does not include information already covered in section 9.3 (pp. 138-139) of the previous Myanmar COI Compilation of October 2011.

The March 2012 progress report by the UN Special Rapporteur on the situation of human rights in Myanmar, published by the UN Human Rights Council (HRC), notes that according to an analysis of the development situation in Myanmar prepared by the UN country team, "poverty and food insecurity remain two of the most pressing challenges" (HRC, 7 March 2012, p. 6). With regard to the geographical distribution of (food) poverty within the country, the report adds:

"A recent survey conducted by the United Nations Development Programme, in cooperation with the Ministry of Planning and Economic Development, the United Nations Children's Fund and the Swedish International Development Agency, found that Chin State remains the poorest, with 73.3 per cent of the people below the poverty line; Rakhine State, with a rate of 43.5 per cent, was second. The nationwide Integrated Household Living Conditions Assessment of 2010 indicated that Chin, Shan, Kachin, Kayah and Rakhine States suffered from a relatively high incidence of food poverty. The food security situation in Chin State is of particular concern owing to crop failures and a significant reduction in yield in 2011. The situation in the southern areas is deteriorating and available data indicate that malnutrition levels are above emergency thresholds." (HRC, 7 March 2012, p. 12)

In an article dated November 2011, the Integrated Regional Information Network (IRIN) cites local NGOs as stating that part of Myanmar's "breadbasket" in the country's centre (the dry zone) is threatened by soil breakdown and deforestation and that "the area may face greater food insecurity without immediate action". With reference to a report by the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) in Myanmar, IRIN further notes:

"The recent flash flood that hit the dry zone, leaving a reported 161 people missing or dead and another 2,657 households homeless, has raised additional food security concerns due to loss of livestock, seeds and household food reserves, according to a 4 November report by the UN Office for the Coordination of Humanitarian Affairs in Myanmar." (IRIN, 14 November 2011)

In a March 2012 article reporting on the humanitarian situation of conflict-induced internally displaced people (IDPs) in Kachin and Shan States, the Integrated Regional Information Network (IRIN) notes:

“Food insecurity is also likely to prevail until at least the end of 2013, since many IDPs left their farms and lost their harvests, and longer term assistance will be needed to rebuild lives in their areas of origin.” (IRIN, 25 March 2012)

An article by the Irrawaddy, dating from July 2012, reports:

“Local aid workers in eastern Kachin State say more than 1,000 internally displaced persons (IDPs) face extreme food shortages in a makeshift camp located in government-controlled territory south of the town of Pangwa. The IDPs, who are predominately farmers, fled when heavy fighting broke out earlier this year between Burma’s government forces and the Kachin Independence Organization (KIO) in the area surrounding Pangwa, a town on the Sino-Kachin border northeast of Myitkyina which was once the stronghold of the New Democratic Army Kachin (NDAK), a now defunct ceasefire group.” (Irrawaddy, 25 July 2012)

The Kachin Women’s Association Thailand (KWAT) states in its report published October 2012 that the approximately 60,000 Kachin villagers who have been displaced by conflict and are sheltering in Kachin-controlled areas along the China-Myanmar border have been supported almost entirely by private donations from local and overseas compatriots since the conflict in Kachin State broke out in June 2011. According to data compiled from local relief groups, international aid agencies have provided only four per cent of basic food needs of this displaced population. (KWAT, October 2012)

In its GIEWS (Global Information and Early Warning System) Country Brief on Myanmar, dated July 2012, the Food and Agriculture Organization of the United Nations (FAO) provides the following information on the food security situation:

“Overall, food security situation has improved except in areas affected by the floods in October 2011. Official estimates indicate that over 160 people were killed and 36 000 adversely affected, with the majority located in Magway, Mandalay and Sagaing regions. Additionally, crop losses due to the floods severely affected the food security situation in northern Paletwa and Madupi.

Furthermore, in Myanmar’s Rakhine state located in the northwest of the country, thousands of people were displaced, after serious inter-communal violence in June 2012. The Government has therefore declared a state of emergency in this state.

According to WFP [World Food Programme] pockets of food insecurity exist particularly in Buthidaung, Maungdaw and Rathedaung of Northern Rakhine state (NRS) and Pakkoku in the Dryzone.” (FAO, 23 July 2012)

In an article dating from July 2012, the Myanmar Times quotes the country manager of the UN Office on Drugs and Crime (UNODC) in Myanmar as saying that poppy eradication campaigns

have left farmers in Shan State more vulnerable to food insecurity because they were not accompanied by crop substitution programmes (Myanmar Times, 9 July 2012d).

The latest monthly food security updates prepared by the UN World Food Programme (WFP) can be found at the following link:

- WFP - World Food Programme: Publications: Myanmar – Food Security Update, 2012, undated
<http://www.wfp.org/content/myanmar-food-security-update-2012>

11.5 Internal displacement

This section does not include information already covered in section 9.4 (pp. 139-141) of the previous Myanmar COI Compilation of October 2011.

The US Department of State (USDOS) Country Report on Human Rights Practices for 2011, dated May 2012, provides the following overview of the internal displacement situation in Myanmar:

“According to the UNHCR, there were at least 460,000 IDPs in the country as of December, although accurate figures were difficult to determine due to poor access to affected areas; many international organizations estimated the actual number of IDPs to be several million. Most international attention continued to focus on the eastern region, where armed conflict and repressive government policies displaced hundreds of thousands in the past decade to areas within partial reach of international assistance. An estimated 470,000 IDPs were in the East, of whom approximately 200,000-230,000 were in temporary settlements in areas administered by ethnic minorities. Approximately 110,000 were believed to be in hiding in remote areas, and an estimated 125,000 had followed government eviction orders and moved to designated relocation sites. The Kachin, Karen, Shan, Rohingya, and Kayah were the most affected groups. Thousands of persons became newly displaced during the year in Karen, Shan, and Kachin states, according to the Internal Displacement Monitoring Center. The main causes of internal displacement were army offensives against ethnic opposition groups, forced relocation and labor, and recruitment of child soldiers. The government provided little or no protection or assistance to IDPs, many of whom were forcibly resettled under dangerous conditions. There was little access to clean water and health or education services in the IDP areas, and many displaced persons were unable to grow subsistence amounts of food due to continual threats necessitating flight.

Authorities denied humanitarian organizations access to many IDPs in eastern regions along the Thai border on security grounds. IDPs in these areas regularly suffered hardships as a result of fighting between government army and insurgent groups, according to credible observers along the border. In addition there were reports of both government army and insurgent groups raping female IDPs, according to these observers. Karen IDPs in these areas have remained displaced for a number of years. The UNHCR was able to provide assistance to approximately 60,000 IDPs.

Fighting continued throughout the year in several of Burma's ethnic minority areas, including continuation of fighting in Karen State between the Burmese army and ethnic armed groups. Thousands of Karen went to Thailand seeking temporary protection in the Phrop Prah and Three Pagodas Pass areas. Persons in the area reported that many individuals crossed the border into Thailand daily but returned to their homes at night when fighting subsided [...]" (USDOS, 24 May 2012, section 2d)

With regard to conflict-induced displacement, the Internal Displacement Monitoring Centre (IDMC) states in its Global Overview 2011, published April 2012:

"At the end of 2011, it was estimated that more than 450,000 people remained internally displaced in Myanmar. [...]"

In September, as a result of popular protest, President Thein Sein decided to stop construction of the Chinese-funded Myitsone hydropower dam in Kachin state. Nevertheless, fighting between the Kachin Independence Army and government forces in Kachin state and the northern part of Shan state was continuing at the end of 2011, after a 17-year-old ceasefire between the two parties collapsed in June. At least 50,000 people were thus newly displaced in Kachin state and the northern part of Shan state. [...]"

In the south-eastern part of the country (Shan, Kayah, Kayin, and Mon states as well as Bago and Tanintharyi regions), the humanitarian crisis continued throughout 2011. At the end of the year, more than 400,000 people were estimated to be living in internal displacement there. They had been forced to flee their homes due to armed conflicts between armed groups and government forces, and due to human rights violations related to the conflicts." (IDMC, April 2012, pp. 88-89)

The Amnesty International (AI) Annual Report 2012 (covering events of 2011) notes:

"Fighting in ethnic minority areas displaced approximately 30,000 people in Shan state and a similar number in or near Kachin state. The majority of them were forced out of their homes and land by the Myanmar army. Most individuals and families were unable or unwilling to leave Myanmar, and so became internally displaced. In addition, approximately 36,000 people had already been displaced in Kayin state. In a one-year period ending in July, 112,000 people were reportedly forced from their homes in Myanmar, the highest such figure in 10 years." (AI, 24 May 2012)

The Thailand Burma Border Consortium (TBBC), an alliance of international humanitarian agencies working with displaced people of Myanmar, states in a survey of displacement and poverty in southeast Myanmar, published 2011:

"TBBC's partner agencies have documented the destruction, forced relocation or abandonment of more than 3,700 civilian settlements in South East Burma since 1996, including 105 villages and hiding sites between August 2010 and July 2011. [...]"

The destruction and forced displacement of civilian settlements has been a cornerstone of the Tatmadaw's counter-insurgency strategy for decades. This strategy has aimed to undermine the armed opposition's access to recruits, information, supplies and finances by

forcibly relocating villages away from contested areas into government controlled areas. Civilians who do not comply with the orders are considered sympathetic to the rebels, and subsequently targeted in contravention of international humanitarian law.

This year's survey estimates at least 112,000 people were forced to leave their homes in South East Burma between August 2010 and July 2011. Such a large scale of displacement is indicative of ongoing conflict and human rights abuses, and yet this is a conservative estimate as it only covers the rural areas of 50 townships. As the scope of the survey was restricted to South East Burma, the displacement estimates exclude up to 25,000 civilians in northern Burma who have been displaced by the resumption of conflict in Kachin State after the collapse of a 17 year ceasefire agreement. [...]

Armed conflict between the Tatmadaw and three non state armed groups has induced high rates of displacement in central Karen State's border areas with Thailand, northern Shan State and the northern Karen State areas. A breakaway faction of the Democratic Karen Buddhist Army (DKBA) resumed armed resistance in November 2010, and the resulting conflict led to the displacement of over 27,000 people from Myawaddy and surrounding townships. Over 31,000 people have fled from their homes since March 2011 after the Tatmadaw broke a 22 year ceasefire agreement and resumed military offensives against the Shan State Army-North (SSA-N). A further 28,000 civilians have been displaced from northern Karen State and eastern Bago Region as a result of flooding related to the KyaukNaGa dam and the counterinsurgency operations against the Karen National Union (KNU).

At least 450,000 internally displaced persons are currently estimated to remain in rural areas of South East Burma [...]" (TBBC, 2011, pp. 16-18)

In its October 2012 report, the Kachin Women's Association Thailand (KWAT) notes with regard to conflict-induced displacement in Kachin State and northern Shan State:

"Escalating offensives and ongoing atrocities by the Burma Army have caused an estimated total of 100,000 villagers to flee from their homes. 58,282 of these are sheltering in Kachin-controlled areas along the Chinese border; the rest are mainly sheltering in towns in government-controlled areas, including about 10,000 newly displaced in the Hpakant area. Chinese authorities have not allowed any refugee camps on their soil, and in August 2012, pushed back about 7,000 Kachin refugees who had been sheltering in China. [...]"

The Burmese government has restricted international aid agencies from accessing displaced populations in Kachin-controlled areas. The UN has only been granted access four times to these border regions. Most UN aid has been provided to the displaced in the government-controlled areas. According to local relief groups, only 4% of food needs have been provided by international aid groups, including UN, to almost 60,000 people sheltering in China-Burma border areas." (KWAT, October 2012)

In a press release dated October 2012, the UN High Commissioner for Refugees (UNHCR) states with regard to displacement in Rakhine State following the outbreak of inter-communal violence in June 2012:

"The UN refugee agency said on Friday that villagers in western Myanmar's Rakhine state continue to leave their homes in search of food, health care and other assistance some four months after inter-communal violence swept through the region. 'According to figures provided by the local authorities, there are currently some 75,000 internally displaced people in IDP camps in Rakhine state, mostly in and around the townships of Sittwe, Kyauk Taw and Maungdaw,' UNHCR spokesman Adrian Edwards said. This was an increase from the initial government estimate of around 50,000 displaced people shortly after the unrest broke out in early June. In early August, there was a resurgence of violence in Kyauk Taw township; more than 4,000 people had their homes burned down in the attacks. [...]

Despite the rising trend, there have been some returns. Since June, for example, many displaced people whose houses remain intact in Sittwe town have gone home. A fragile calm has returned but the situation is still tense.

Movement is still restricted in parts of Rakhine state, preventing some villagers from going to work, accessing markets, food supplies, health services and education. Out of desperation, people are leaving villages to seek food and medical assistance at the IDP camps." (UNHCR, 4 October 2012)

The Integrated Regional Information Network (IRIN) states in an article dated October 2012 that according to local aid workers and residents, the living conditions of the nearly 75,000 displaced people living in temporary camps and shelters in Rakhine State are deteriorating. With reference to human rights and humanitarian aid groups, the article further elaborates:

"Right now [the displaced] are facing health problems from diarrhoea, fevers and colds. A lot of [them] are living together in small spaces,' said Mohammad Nawsim, secretary of the Rohingya Human Rights Association (RHRA) based in Bangkok. 'Their condition is worse than animals.'

As of 25 September, the government estimated some 72,000 from the (mainly Muslim) Rohingya ethnic group and almost 3,000 people from the (mainly Buddhist) Rakhine ethnic group are displaced. They are staying in 40 camps and temporary sites in Sittwe and Kyauktaw townships, from where they are still able to access schools and work.

Immediately after the outbreak of violence in June, aid agencies visited areas in four affected townships and identified sanitation and clean water as major needs. At the time, only about 30 percent of the surveyed displaced persons had access to clean water, while six out of 10 people did not have any way to store it even if they secured some. A number of camps had only one latrine serving 100 persons. Little has changed in recent months said Nawsim, noting that young and elderly Rohingya in the temporary camps along the road leading west out Sittwe (capital of Rakhine State as well as Sittwe township) are falling ill due to fetid living conditions. [...]

Meanwhile, Rohingya both in the camps and villages have reported arbitrary arrests and detention, said Nawsim, citing frequent phone calls with those in and around camps and shelters for the displaced. [...] Phil Robertson, deputy director of Human Rights Watch's Asia division based in Bangkok, told IRIN the displaced are 'effectively restricted to camps by both the security forces and by the violent attacks they fear from the Rakhine [community].'" (IRIN, 4 October 2012)

In a more recent article, IRIN reports that according to government estimates released on 29 October 2012, more than 28,000 residents have been displaced in Rakhine State following a new outbreak of sectarian violence on 21 October 2012:

"According to Burmese government estimates released on 29 October, more than 28,000 residents have been displaced in Rakhine State following a week of deadly sectarian violence between Rohingya Muslims and ethnic (mainly Buddhist) Rakhine which began on 21 October. [...] The latest displacement comes on top of the 75,000, mostly Rohingya Muslims, currently displaced after communal violence erupted in June following the alleged rape and murder of a Rakhine woman by a group of Muslim men in May. [...] Most of the displaced are currently in nine overcrowded camps in Sittwe, separated from the rest of the community due to security concerns." (IRIN, 29 October 2012)

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