



COUNTRY OF ORIGIN INFORMATION REPORT

# BURMA (UNION OF MYANMAR)

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23 JULY 2010

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**Please note:** Information which has been updated since the last edition of this document is indicated by the use of grey highlighting. A version of the report without highlighting is available from the [RDS website](#).

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## Preface

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- i This Country of Origin Information Report (COI Report) has been produced by COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 1 July 2010. The 'Latest News' section contains further brief information on events and reports accessed from 2 July and 23 July 2010. The report was issued on 23 July 2010.
- ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- iii The Report aims to provide a compilation of extracts of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- iv The structure and format of the COI Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.
- vi As noted above, the Report is a compilation of extracts produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.
- vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent

documents. All sources contain information considered relevant at the time this Report was issued.

- viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the COI Service upon request.
- ix COI Reports are published regularly on the top 20 asylum intake countries. UKBA officials also have constant access to an information request service for specific enquiries.
- x In producing this COI Report, COI Service has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to UKBA as below.

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### **INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION**

- xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's country of origin information material. The IAGCI welcomes feedback on UKBA's COI Reports, COI Key Documents and other country of origin information material. Information about the IAGCI's work can be found on the Chief Inspector's website at <http://www.ociukba.homeoffice.gov.uk>
- xii In the course of its work, the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the COI Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at <http://www.ociukba.homeoffice.gov.uk/>
- xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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## Latest News

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The Latest News provides a non-exhaustive selection of significant events since 2 July 2010. Further information may also be available from the list of useful sources below .

### EVENTS IN BURMA FROM 2 JULY TO 23 JULY 2010

- 23 July            Three pro-democracy campaigners, Cho Cho Kyaw Nyein, Nay Ye Ba Swe and Mya Than Than Nu, known as the “three princesses of Burma” because their father’s were all prime ministers of Burma, intend to take part in the forthcoming elections despite believing they have little hope of winning.  
The Guardian, Burma's 'three princesses' prepare for election they have no chance of winning, 23 July 2010  
<http://www.guardian.co.uk/world/2010/jul/22/burma-three-princesses-electoral-fight>  
Date accessed 23 July 2010
- 22 July            Militia border guards on the Thai/Burma border have been accused of subjecting Burmese deported from Thailand to extortion, rape and assault.  
ABC News, Burma junta accused of extortion, rape, 22 July 2010  
<http://www.abc.net.au/news/stories/2010/07/22/2961644.htm?section=justin>  
Date accessed 22 July 2010
- 19 July            The press censorship board, the Press Scrutiny and Registration Division, censored all articles in tribute to Martyrs’ Day, which commemorates the assassination on 19 July 1949 of nine members of Burma’s independence movement.  
The Irrawaddy, Martyrs Day tributes censored, 19 July 2010  
[HTTP://WWW.IRRAWADDY.ORG/HIGHLIGHT.PHP?ART\\_ID=19002](HTTP://WWW.IRRAWADDY.ORG/HIGHLIGHT.PHP?ART_ID=19002)  
Date accessed 19 July 2010
- 15 July            The Union Solidarity and Development Association (USDA), a mass-movement supporting the junta, has disbanded and transferred its assets to a new political party, the Union Solidarity and Development Party (USDP). Critics claimed that the move is designed to ensure the junta dominates the elections later this year.  
BBC News, Burma junta support group USDA disbands, 15 July 2010  
<http://www.bbc.co.uk/news/world-asia-pacific-10651760>  
Date accessed 22 July 2010
- 9 July             In addressing the UN Security Council, Deputy Permanent Representative to the UK, Philip Parham, expressed his concern that Burma’s military dictatorship continued to target civilians, particularly from ethnic minorities. He stated “The use of rape and other forms of sexual violence remain a serious concern, as do the use of child soldiers and forced labour for military use.”  
UK Mission to the United Nations, Press Centre, Security Council debate on the Protection of Civilians in Armed Conflict, 7 July 2010  
<http://ukun.fco.gov.uk/en/news/?view=News&id=22500749>  
Date accessed 22 July 2010

### USEFUL SOURCES FOR FURTHER INFORMATION

A list of sources with weblinks is provided below, which may be useful if additional up to date information is required to supplement that provided in this report. The full list of



sources used in this report can be found in [Annex D](#) – References to source material:

[BBC News Asia-Pacific](#)

[Democratic Voice of Burma](#)

[The Irrawaddy](#)

[Burma Campaign UK](#)

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## Background information

### 1. GEOGRAPHY

- 1.01 The Republic of the Union of Myanmar (formerly Burma) lies in north-east South East Asia. (Europa World online, accessed 25 January 2010) [1] (Country Profile) NB “Britain’s policy is to refer to Burma rather than ‘Myanmar’.” (Foreign and Commonwealth Office (FCO) Country Profile: Burma, 2 December 2008) [5a] “It is bordered by Bangladesh and India to the north-west, by the People’s Republic of China and Laos to the north-east and by Thailand to the south-east.... In 2006 the functions of the capital city were transferred from Yangon [Rangoon] to the new administrative centre of Nay Pyi Taw.” (Europa World Online, accessed 25 January 2010) [1] (Country Profile) Burma covers a total area of 677,000 square kilometres (419,740 square miles). (FCO Country Profile: Burma, 2 December 2008) [5a]
- 1.02 Burma’s total population is an estimated 52 million. Rangoon’s (the capital) population is approximately 5.8 million and its administrative centre, Nay Pyi Taw, has a population of 200,000. (FCO Country Profile: Burma, 2 December 2008) [5a] As noted in the US Department of State (USSD) *Background Note* on Burma, dated 31 January 2010 “The country is divided into seven divisions (tain): Irrawaddy, Bago (Pegu), Magway, Mandalay, Yangon (Rangoon), Sagaing, and Tanintharyi (Tenassarim) and seven ethnic states (pyi nay): Chin State, Kachin State, Kayin (Karen) State, Kayah (Karenni) State, Mon State, Rakhine (Arakan) State, and Shan State.” [7c] (Government)
- 1.03 The official language is Burmese. (Europa World online, accessed 25 January 2010) [1] (Country Profile) There are a number of ethnic minority languages including Shan; various Karen, Karenni and Chin languages; Arakanese; Jingpaw; Mon; Palaung; Parauk; Wa; and Yangbye. English is widely spoken in areas frequented by tourists. (USSD *Background Note*, 31 January 2010) [7c] (People) According to the Ethnologue website, accessed 25 January 2010, there are over 100 living languages in Burma. [30a]
- 1.04 The principal ethnic groups, as noted in the FCO’s Burma Country Profile, were “Bamar (69%), Shan (8.5%), Karen (6.2%), Rakhine (4.5%), Mon (2.4%), Chin (2.2%), Kachin (1.4%), Karrenni (0.4%), other indigenous (0.1%) and foreign nationalities (including Burmese Indian & Sino Burmese people) 5.3%.” [5a]
- 1.05 The US Department of State (USSD) *International Religious Freedom Report 2009*, published 26 October 2009, stated for Burma that the majority of the population followed Theravada Buddhism. While “[t]he principal minority religious groups include Christians (primarily Baptists, Roman Catholics, and Anglicans, along with several small Protestant denominations), Muslims (mostly Sunni), Hindus, and practitioners of traditional Chinese and indigenous religions.” [7b] (Section I)
- 1.06 Europa World online noted the following days were observed as public holidays in Burma:
- “4 January (Independence Day); 14 February (for Union Day); 2 March (Peasants’ Day, anniversary of the 1962 coup); March\* (Full Moon of Tabaung); 28 March (for Armed Forces’ Day); 13–16 April\* (Maha Thingyan—Water Festival); April\* (Myanma New Year); May\* (Full Moon of Kason); 2 May\* (for

Workers' Day); 19 July (Martyrs' Day); July\* (Full Moon of Waso and beginning of Buddhist Lent); October\* (Full Moon of Thadingyut and end of Buddhist Lent); 26 October (Deepavali); November\* (Tazaungdaing Festival); November/December\* (National Day); December\* (Kayin New Year); 26 December (for Christmas Day). \* A number of holidays depend on lunar sightings." [1] (Country Profile)

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MAP

1.07 United Nations Cartographic Section (UNCS) reference map of May 2008:



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## 2. ECONOMY

- 2.01 The Foreign and Commonwealth Office (FCO) Country Profile for Burma, last updated 2 December 2008, noted:

“As a result of economic mismanagement, and despite substantial natural resources, Burma is a poor country. Fundamental problems in the economy remain unresolved, and the macroeconomic situation remains unstable. The banking sector is fragile and the small private sector struggles with an unpredictable policy environment and a multitude of market distortions. Inflation remains high.

“Despite inflation, structural rigidities, weak economic policies, and low investment the Burmese economy is thought to be growing (although at a much lower rate than Burmese official figures) largely due to growth of gas exports. However, unless a comprehensive programme of stabilisation and reform is undertaken, prospects for sustainable growth remain bleak and social indicators will continue their downward slide.” [5a]

- 2.02 A 2009 estimate of the country's Gross Domestic Product (GDP) was measured at US\$27.5 billion. (Economist Intelligence Unit (EIU), 1 January 2010) [46] The unemployment rate was estimated to be five per cent in 2008. (CIA World Factbook, 7 April 2010) [6a] The USSD *Background Note* dated 31 January 2010 noted that:

“Despite Burma's growing GDP due to increasing oil and gas revenues, the regime's mismanagement of the economy has created a downward economic spiral for the people of Burma. The state remains heavily involved in most parts of the economy, infrastructure has deteriorated, and rule of law does not exist. The majority of Burmese citizens lead a subsistence-level existence with minimal opportunity for economic improvement. Inflation, though now relatively low, is caused primarily by public sector deficit spending and the eroding value of the local currency (the kyat) and has reduced living standards over time. Inflation will likely remain a problem.” [7c] (Economy)

- 2.03 The Special Rapporteur's progress report on the human rights situation in Burma, published 10 March 2010, following his February 2010 visit, stated:

“The Government of Myanmar spends 0.5 per cent of the gross domestic product (GDP) on health, and 0.9 per cent of GDP on education, while the military and State-owned enterprises together account for 80 per cent of total State spending. Regional disparities in poverty remain alarming. While the figure for people below the official food poverty line is 10 per cent countrywide, it is 40 per cent in Chin, 21 per cent in northern Shan State, and 20 per cent in eastern Shan State, according to estimates.” [32e] (paragraphs 98-99)

- 2.04 The main industry types were recorded as oil and natural gas, agricultural processing, wood and wood products, cement, construction materials, copper, tin, tungsten, iron, pharmaceuticals, fertilizer, garments, jade and gems. The main agricultural products were rice, pulses, beans, sesame, groundnuts, sugarcane, hardwood, fish and fish products. (CIA World Factbook, 7 April 2010) [6a]

- 2.05 The BBC noted in its country profile for Burma, last updated on 9 March 2010, that “Military-run enterprises control key industries, and corruption and severe mismanagement are the hallmarks of a black-market-riven economy.” [28a]

See also [Corruption](#)

- 2.06 On wages, the FCO noted in a letter, updated 26 June 2010, originally dated 8 January 2008 that:

“The average annual wage in Burma remains around 300,000 kyat, which is around the wage of a low-level civil servant. A skilled labourer earns around 350,000 per annum. The poorest casual labourers in rural communities receive as little as 650 kyat per day for casual labour, but in Rangoon, the lowest wage is double that. The informal exchange rate (used by the majority of Burmese citizens who work with dollars and by non-Burmese citizens living or travelling in Burma) is \$1=1250 kyat [as at 8 January 2008], and has remained stable (between 1250-1300 kyat) over 2007.” [5m]

- 2.07 Regarding the current exchange rate, Europa World online, accessed 25 January 2010, stated that “The unofficial exchange rate remained stable throughout the 2008/09 fiscal year and had reportedly declined slightly, to 1,030 kyats per US dollar, in April 2009.” [1] (**Economic Affairs**) A report by Partners Relief & Development and Free Burma Rangers, entitled *Displaced Childhoods: Human Rights & International Crimes Against Burma’s Internally Displaced Children*, dated April 2010, stated “The official exchange rate of the Kyat is set by the military regime and, as of January 2010, 6.3177 Kyat equaled 1 U.S. dollar. Most transactions in Burma occur according to the black market rate where 1 U.S. dollar is worth 975 Kyat.” [29a] (p v)

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### 3. POLITICAL SYSTEM

- 3.01 The US Department of State *Background Note* on Burma, dated 31 January 2010, stated that:

“The Union of Burma is ruled by a military regime called the ‘State Peace and Development Council’ (SPDC)... Burma consists of 14 states and divisions. Administrative control is exercised from the central government through a system of subordinate executive bodies and regional military commanders. Power is centralized within the SPDC, which maintains strict authoritarian rule over the people of Burma through intimidation by a pervasive security apparatus, a military-led system of economic patronage, strict censorship, repression of individual rights, and suppression of ethnic minority groups. The prime minister is appointed directly by the SPDC... The SPDC continues its harsh rule and systematic human rights abuses, and insists that any future political transition take place on its terms.” [7c] (Government and political conditions)

- 3.02 The Economist Intelligence Unit’s (EIU) *Country Profile* on Burma, dated 9 October 2008, stated:

“The military junta, the State Peace and Development Council (SPDC), is the dominant force in the country, with no checks on its power. The SPDC takes all major policy decisions and appoints all government members, most of whom have military backgrounds. The government functions poorly, undermined by rampant corruption and abuse of power. Regional military commanders, who are appointed by the SPDC, enjoy considerable power in the areas they control. There is no clear process for ensuring transfer of power within the SPDC, and there are tensions between the various factions at the top. The last election was held in 1990, which the National League for Democracy (NLD) won. However, the junta refused to recognise the result, and the NLD’s leader, Aung San Suu Kyi, has been held under house arrest for much of the period since the election.” [46a] (Democracy index)

- 3.03 The EIU observed in its Burma *Country Report*, dated 1 April 2010, that the SPDC had “... enacted a range of laws to facilitate the holding of parliamentary elections in 2010. Details of the legislation are unclear, but there is little to suggest that the new rules have genuinely been designed to liberalise the country's political system. Instead they support the view that the junta is intent on proceeding with an electoral process to try to legitimise its grip on power.” [46b] (The political scene: The junta creates new election laws and commission)

- 3.04 Europa World online, accessed 26 January 2010, noted:

“The military has a leading role in the country's national politics. Ministers for defence, home affairs, security and border affairs must be members of the military. The Commander-in-Chief of the defence forces is authorized to exercise all state power should an emergency arise that threatens the disintegration of the union, the disintegration of sovereignty or the loss of national sovereignty. A state of emergency may be extended to a period of at least a year. The military is immune from prosecution for any actions undertaken during emergency rule.” [1] (The Constitution)

- 3.05 Europa World online stated that under the new Constitution:

“The Chairman is the Head of State. Of the three candidates for the position of Chairman, at least one must be a member of the military, and a member of the military must be at least one of the two Vice-Chairmen. The Chairman is not answerable to court or to parliament in exercising his or her duties. The Chairman can declare a state of emergency, during which time the Commander-in-Chief of the defence forces, with the aid of the National Defence and Security Council (six of the 11 members of which are military personnel) assumes legislative, executive and judicial powers.

“The Pyidaungsu Hluttaw (Union Parliament) consists of a Pyithu Hluttaw (House of Representatives, the lower chamber) and Amyotha Hluttaw (House of Nationalities, the upper chamber). Legislative power is shared by the Union Parliament, regional parliaments and state parliaments, as well as self-administered zones and divisions.

“The Pyithu Hluttaw consists of 224 seats, of which 56 are reserved for the military. The Amyotha Hluttaw consists of 440 seats, of which 110 are reserved for the military. Military representatives must comprise one-third of the members of the state and regional assemblies.

“Multi-party democratic elections will be held in 2010. Candidates are barred from standing for election if they or their parties accept support from foreign governments or religious organizations. Persons married to a foreign national are barred from holding political office. Members of religious orders and destitute persons are not permitted to vote.” [1] (The Constitution)

- 3.06 The EIU *Country Report* dated 1 April 2010 noted that the recently promulgated Political Parties Registration Law requires political parties to register with the Election Commission within 60 days of the new law coming into effect, i.e. before 7 May 2010. The Report added:

“In order to register, however, parties must exclude all members who are serving prison terms. In view of fact that a number of senior NLD members are among the 2,100 or so political prisoners in Myanmar, the party views this stipulation as being grossly unfair. Although some doubt has been raised over whether the party's leader, Aung San Suu Kyi, is deemed to be serving a prison term and thus barred from belonging to a political party, her party's members and most observers have viewed the law as being one that has been drafted with the purpose of setting restrictions that would bar Aung San Suu Kyi from contesting any future poll. The NLD's leadership is thus faced with the dilemma of either registering as a political party, thereby excluding Aung San Suu Kyi and other leading members, or not registering and losing its official recognition as a political party. There is also some uncertainty as to whether the law bars all those who have previously served prison terms from being members of a political party.” [46b] (The political scene: The NLD has yet to decide whether to contest the poll)

See also [Recent events and political developments](#) and [Opposition groups and political activists](#)

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## NATIONAL CONVENTION

- 3.07 Europa World online, accessed 26 January 2010, noted that:



“In early 1993 a National Convention, comprising members of the SLORC [State Law and Order Restoration Council – predecessor to the SPDC] and representatives of the opposition parties, met to draft a new constitution; discussions continued until March 1996, when the National Convention was adjourned...(Government)

“In August 2003 the ruling State Peace and Development Council (SPDC) announced that it planned to reconvene the National Convention in 2004 in order to commence the drafting of a new constitution. The National Convention met in May 2004 and several times thereafter...” [1] (The Constitution)

- 3.08 The Freedom House report, *Freedom in the World 2009*, covering events in 2008, released in April 2009, stated:

“The National Convention, which was responsible for drafting principles for a new constitution, concluded its 14 years of intermittent deliberations in August 2007. It had been dormant between 1996 and 2004, and met only briefly in 2005 and 2006. The convention was boycotted by the main political parties, and its delegates and agenda were tightly controlled by the junta. The body’s recommendations included reserving 25 percent of the seats in any future parliament for the military, and requiring that the president have military experience. In October 2007, the government appointed 54 officials to draft the constitution in line with the convention’s recommendations.” [14b]

See also [Constitutional referendum](#)

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## THE CONSTITUTION

- 3.09 Europa World online stated that the “...draft Constitution was officially published in April 2008. It was submitted to a national referendum on 10 May (postponed until 24 May in regions affected by a major cyclone earlier in the month). The new Constitution, which according to the SPDC was approved by 92.48% of voters, was enacted on 29 May [2008].” [1] (The Constitution)
- 3.10 Europa World online added that “The Constitution can be amended only with the approval of 75% of parliamentarians and one-half of the eligible voters.” [1] (The Constitution)
- 3.11 The Australian National University (ANU) Research School of Pacific and Asian Studies website provided a copy of the [Constitution of the Republic of the Union of Myanmar](#), dated September 2008. [47]

See also [Freedom of Political expression](#)

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## 4. HISTORY – 1948 TO MAY 2008

The following provides a brief history of Burma since independence from the UK. Further information about Burma's recent history can be found in [Freedom House Freedom in the World \[14a\]](#), [US Department of State Background Note \[7c\]](#), [Foreign and Commonwealth Office Country Profile \[5a\]](#) and the [Burma Campaign UK. \[53\]](#)

### 1948 TO 2007

- 4.01 The Freedom House *Freedom in the World 2010* country report on Burma, published 7 May 2010, covering events in 2009, stated that:

“Burma gained independence from Britain in 1948. The military has ruled the country since 1962, when General Ne Win led a coup that toppled an elected civilian government. The ruling Revolutionary Council consolidated all legislative, executive, and judicial power and pursued radical socialist and isolationist policies. Burma, once one of the wealthiest countries in Southeast Asia, eventually became one of the most impoverished in the region.

“The present junta, led by General Than Shwe, dramatically asserted its power in 1988, when the army opened fire on peaceful, student-led, prodemocracy protesters, killing an estimated 3,000 people. In the aftermath, a younger generation of army commanders created the State Law and Order Restoration Council (SLORC) to rule the country. The SLORC refused to cede power after it was defeated in a landslide election by the National League for Democracy (NLD) in 1990. The NLD won 392 of the 485 parliamentary seats in Burma's first free elections in three decades. The junta responded by nullifying the results and jailing dozens of members of the NLD, including party leader Daw Aung San Suu Kyi. She went on to spend 14 of the next 20 years in detention. Aung San Suu Kyi was awarded the Nobel Peace Prize in 1991 for her nonviolent struggle for democracy and human rights.” [14a]

- 4.02 The same source noted:

“The SLORC refashioned itself into the State Peace and Development Council (SPDC) in 1997. In late 2000, the government began holding talks with Aung San Suu Kyi, leading to an easing of restrictions on the NLD by mid-2002. However, the party's revitalization apparently rattled hard-liners within the regime during the first half of 2003. On May 30, 2003, scores of NLD leaders and supporters were killed when SPDC thugs ambushed an NLD motorcade. Arrests and detentions of political activists, journalists, and students followed the attack, which came to be known as the Depayin massacre.

“In a surprise move in 2005, General Than Shwe announced a decision to relocate the country's capital 600 kilometers (370 miles) inland to Nay Pyi Taw, citing congestion and lack of space in Rangoon. Many Burmese believe the decision was made on the advice of astrologers who serve the notoriously superstitious generals.” [14a]

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## PRO-DEMOCRACY PROTESTS: 2007

4.03 The *Freedom in the World 2010* report noted:

“The 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. 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.” [14a]

4.04 The USSD *Background Note*, dated 31 January 2010, stated “In retribution for leading protest marches, monks were beaten and arrested, many monks were disrobed, and several monasteries were raided, ransacked, and closed. In addition to the more than 1,100 political prisoners whose arrests predate the crackdown, another thousand or more were detained due to their participation in the September 2007 protests.” [7c] (History)

4.05 In its *World Report 2008*, released January 2008, covering events in 2007, Human Rights Watch stated “On September 26 [2007], 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 night time 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.” [39a] (Violent crackdown on protests)

4.06 The Economist Intelligence Unit (EIU) observed in its report on Burma, dated 9 October 2008, that:

“In the weeks following the crackdown on protesters in late 2007, the junta came under intense international pressure and Mr Gambari [UN special envoy] was permitted to make a flurry of visits to Myanmar. During the course of these, the SPDC stated that it would agree to open dialogue with Aung San Suu Kyi. The generals went as far as appointing a liaison officer, labour minister Aung Kyi, who held several brief meetings with Aung San Suu Kyi, although these meetings soon came to an end.” [46] (Politics: recent political developments)

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## CYCLONE NARGIS: MAY 2008

4.07 In its *Post-Nargis Periodic Review III*, dated January 2010, the Tripartite Core Group (TCG), consisting of the Association of Southeast Asian Nations (ASEAN), the Burmese government and the United Nations, reported that “In May 2008, Cyclone Nargis struck Myanmar’s Ayeyarwady and Yangon Divisions. An estimated 140,000 people were killed or went missing. Some 2.4 million people were severely affected by the cyclone; in addition to the tragic loss of life,

the total amount of damage and losses in the Nargis affected areas was estimated at 4.5 trillion kyat (US\$4.057 billion).” [23] (p xi)

For more detailed information see Humanitarian situation: [Cyclone Nargis](#)

### CONSTITUTIONAL REFERENDUM: MAY 2008

4.08 The new constitution was completed in 2007/08 and a national referendum was held on 10 May 2008 (postponed to 24 May for cyclone affected areas). Following the referendum, the SPDC announced that 92.48 per cent of the voters had approved the new constitution. (FCO Country Profile, Burma, 2 December 2008) [5a]

4.09 The Human Rights Watch *World Report 2009*, released in January 2009, covering events in 2008, stated that:

“The [constitutional] referendum was carried out in an environment of severe restrictions on access to information, repressive media laws, an almost total ban on freedom of expression, assembly, and association, and the continuing widespread detention of political activists. There were no independent international observers and Burmese and foreign media could only clandestinely cover it. The referendum was marred by voter registration irregularities, coercion and intimidation in communities and at polling stations, and widespread government corruption including ballot stuffing... Widespread international condemnation denounced the referendum as a sham.” [39d] (Constitutional referendum)

4.10 The Freedom House *Freedom in the World 2009* report stated for Burma that:

“The May 2008 constitutional referendum was not free or fair. The preelection period was marked by voter-list manipulation as well as intimidation aimed at opposition campaigners. Voters reported being required to print identifying information on their ballots and being watched by officials as they voted. The SPDC did little to promote public awareness about the contents of the draft constitution and banned public debate. The draft was not translated into any minority language. The junta also forbade international observers and failed to create an independent election committee.” [14a]

4.11 Further information on the new Constitution and election laws can be found in the Congressional Research Service report [Burma’s 2010 Elections: Implications of the New Constitution and Election Laws](#), dated 29 April 2010

See also [The Constitution](#) and [National Convention](#)

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## 5. RECENT DEVELOPMENTS – MAY 2009 TO JULY 2010

- 5.01 Human Rights Watch (HRW) reported in its *World Report 2010*, covering 2009 events, released in January 2010, that National League for Democracy (NLD) leader, Aung San Suu Kyi, was arrested, along with her two housemaids, on 14 May 2009, for breaching the terms of her house arrest by allowing the intrusion of an American citizen, John Yettaw, into her home. The report noted:

“Suu Kyi and her two staff were transferred to Insein prison, and went on trial on May 18 for allegedly violating the 1975 State Protection Act, the draconian law used to justify her house arrest extension orders.

“The trial dragged on for three months, with frequent delays and with international fair trial standards lacking. Suu Kyi was allowed legal representation, but the court did not meet her counsel's request to present a number of witnesses (there were 14 prosecution but only two defense witnesses). The court was closed to the public, with foreign diplomats and the press permitted to observe the trial only on a few occasions. On August 11 Suu Kyi was found guilty, and sentenced to three years' hard labor, but almost immediately Home Affairs Minister Gen. Maung Oo read out a letter from President Than Shwe declaring the sentences of Suu Kyi and her staff would be commuted to 18 months' house arrest. The court sentenced Yettaw to seven years' hard labor for breaching Suu Kyi's house arrest conditions and for immigration violations, but he was released a week later on humanitarian grounds during a visit by US Senator Jim Webb. Suu Kyi appealed her sentence, but the Rangoon Division Court dismissed the appeal on October 1 (2009).” [39b]

- 5.02 Human Rights Watch also noted that:

“In 2009 the SPDC conducted two prisoner amnesties, releasing 6,313 prisoners in February and 7,114 in September, but only 31 of those released in February and an estimated 130 released in September were political prisoners. They included journalist Eine Khine Oo, arrested in 2008 for helping victims of Cyclone Nargis, and magazine editor Thet Zin. An estimated 2,100 political prisoners remain incarcerated for their peaceful activities in Burma. Many prominent prisoners, such as student leader Min Ko Naing and famed comedian and social activist Zargana, have been transferred to isolated prisons with poor health and sanitation facilities.

“Meanwhile, arrests of human rights defenders, activists, and NLD members continued throughout 2009. On September 3, authorities arrested US citizen Kyaw Zaw Lwin when he arrived in Rangoon. Zaw Lwin, who had been active in international campaigns on the rights of political prisoners, has reportedly been tortured in prison. The International Committee of the Red Cross (ICRC) is still denied access to Burmese prisons and detention facilities.” [39b]

- 5.03 The Foreign and Commonwealth Office (FCO) *Human Rights Annual Report 2009*, published 11 March 2010, echoed some of HRW's comments and stated “Throughout 2009, members of Aung San Suu Kyi's party, the NLD, continued to be arrested on an almost weekly basis. An increase in the number of arrests of journalists and editors, social-welfare organisers and civil society actors was also reported towards the end of 2009.” [5b] (p91)

See also [Fair Trial](#), [Prison conditions](#) and [Political affiliation](#)

## BUILD-UP TO 2010 NATIONAL ELECTIONS

- 5.04 The Economist Intelligence Unit (EIU) noted in its *Country Report* for Burma, dated 1 April 2010, that:

“Myanmar's state media announced on March 8<sup>th</sup> [2010] that five election-related laws had been passed, covering the establishment of an election commission; elections to the two national-level assemblies – the People's Assembly (lower house) and the Nationalities Assembly (upper house) – in the proposed new parliament; regional assemblies; and rules for the registration of political parties. In view of the fact that the laws have not been officially translated and that the junta has banned local media from reporting on them and other controversial election-related issues, it is difficult to garner accurate and detailed information on the new legislation. However, pro-democracy groups, including the main opposition party in Myanmar, the National League for Democracy (NLD), the UN and a host of foreign governments have denounced the new laws. According to some members of the NLD, the new laws are even more restrictive than they had expected them to be. Although it has published the new laws, which are needed for the junta to implement its road map to ‘disciplined democracy’, the junta has yet to announce a date for the planned elections.

“Under the Union Election Commission Law, a 17-member Election Commission was established on March 11th, chaired by Thein Soe, a deputy chief justice. Under the law, the appointed chairman and members of the commission had to meet the criteria of being over 50 years old, were not members of any political party, and were deemed by the SPDC to have a good reputation among the people. Concerns among opposition groups centre on the fact that the chairman and members of the commission have in effect been handpicked by the junta and are thus likely to be military loyalists. The commission has extensive authority in terms of conducting the elections and supervising political parties. Of particular concern for opposition groups planning to take part in the elections is that the commission has the power to decide which political parties can contest the polls. It will also set the rules for polling and has the authority to disqualify parties or candidates for breaking these rules.” [46b] **(The political scene: The junta creates new election laws and commission)**

- 5.05 A report by the International Federation for Human Rights (FIDH) and the Alternative ASEAN Network on Burma (ALTSEAN – Burma), entitled *SPDC election laws set the stage for a sham election*, dated 23 April 2010, listed the provisions under the new Electoral Commission and Political Parties Registration Laws:

“The Election Commission Law

- Under the Election Commission Law, the junta handpicked the 17-member Election Commission, which presides over all aspects of the electoral process. The Election Commission Chairman Thein Soe is a former Army Major General who served as a military judge.
- The Election Commission Law gives the Election Commission the authority to deny or delay elections in ethnic nationality areas for ‘security reasons’.
- The Election Commission Law states that the Election Commission decisions regarding political parties are not subject to appeal to any court.
- The Election Commission has the authority to disband and abolish political parties that: 1) fail to uphold the constitution; or 2) accept

persons as members barred from joining political parties under the Political Registration Law. [See, below].

“The Political Parties Registration Law

- The Political Parties Registration Law excludes the following from forming or joining a political party:
  - a) anyone convicted by a court and serving a jail term (e.g.: Daw Aung San Suu Kyi);
  - b) anyone associated with ‘outlawed organizations’;
  - c) Buddhist monks or members of other religious orders;
  - d) civil servants.
- The Political Parties Registration Law forbids armed opposition groups from taking part in the elections.
- Political parties must vow to safeguard the 2008 constitution and not to engage in activities that could affect religious or racial sentiment or create social commotion that would impact ‘dignity or morals.’ The law is loosely defined to restrict campaigning against the SPDC.
- Current political parties that are legally recognized must apply with the Elections Commission by 7 May [2010] to maintain their legal status. Those parties who fail to apply will be declared illegal and their properties will be subject to seizure by the SPDC.” [31a] (p4)

5.06 On 26 April 2010, more than 20 members of the ruling junta resigned from the army in what was widely seen as a bid to run as civilians in forthcoming elections and thereby prolong military control. (*The Guardian*, 27 April 2010) [24] BBC News reported on 30 April 2010 that “Burma’s Prime Minister Thein Sein has applied to register a new political party ahead of elections scheduled for later this year... Thein Sein and 26 others applied to register the Union Solidarity and Development Party (USDP) with the electoral commission on Thursday [29 April], Burma’s state media reported.” [28c]

5.07 BBC News reported on 7 May 2010 that the National League for Democracy (NLD) was disbanded after it failed to register for the forthcoming elections before the junta’s deadline of 6 May. The NLD decided to boycott the elections due to, what Win Tin – a leader figure in the NLD - described as, “oppressive” election laws that were introduced in March 2010. The laws included banning “... anyone with a criminal conviction from being a member of a political party. That meant that the NLD would have to expel Ms Suu Kyi and many other key leaders if it wanted to take part in the polls. The laws also nullified the NLD’s 1990 victory.” [28d]

5.08 The EIU noted in its *Country Report* for Burma dated 1 May 2010 that “By mid-April [2010] a total of 16 new political parties, in addition to three existing ones, had registered with the Election Commission. Some of the new organisations appear to be genuine pro-democracy parties that could attract voters who would otherwise have backed NLD candidates, but many of them are thought to be fronts for the military or to be backed by unscrupulous businessmen.” [46c] (**The political scene: The NLD decides to boycott the planned elections**)

5.09 The EIU Viewswire, *Myanmar politics: End of the NLD*, dated 4 June 2010, commented that:

“Preparations for upcoming elections are producing major shifts in Myanmar’s political landscape. Aung San Suu Kyi’s National League for Democracy (NLD)

was in effect disbanded in May after refusing to register as a political party in protest against unjust election laws. Controversially, a number of former NLD members have formed a new party, the National Democratic Force (NDF), to contest the elections. Meanwhile, the ruling State Peace and Development Council (SPDC, the military junta) has established its own political party, confirming widely held suspicions that the point of the elections is to cement the military's grip on power rather than to move towards genuine democracy. “ [46d]

See also [Political system](#) and [Opposition groups and political activists](#)

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## Human Rights

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### 6. INTRODUCTION

- 6.01 The UN Special Rapporteur's progress report on the situation of human rights in Burma, dated 10 March 2010, stated that, as in previous reports:

"... there is a pattern of gross and systematic violation of human rights which has been in place for many years and still continues. The human rights that are part of this pattern are broad-ranging and include the rights to life, to liberty, to personal integrity, to freedom of expression, assembly and religion, to judicial remedy and due process of law, to nationality, to protection of civilians and internally displaced communities and to prohibition against discrimination, among others.

"Given the gross and systematic nature of human rights violations in Myanmar over a period of many years, and the lack of accountability, there is an indication that those human rights violations are the result of a State policy that involves authorities in the executive, military and judiciary at all levels. According to consistent reports, the possibility exists that some of these human rights violations may entail categories of crimes against humanity or war crimes under the terms of the Rome Statute of the International Criminal Court." [32e] (paragraph 120-121)

- 6.02 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), Burma, published 11 March 2010, noted in its introductory section:

"The regime continued to abridge the right of citizens to change their government and committed other severe human rights abuses. Government security forces allowed custodial deaths to occur and committed extrajudicial killings, disappearances, rape, and torture. The government detained civic activists indefinitely and without charges. In addition regime-sponsored mass-member organizations engaged in harassment, abuse, and detention of human rights and prodemocracy activists. The government abused prisoners and detainees, held persons in harsh and life-threatening conditions, routinely used incommunicado detention, and imprisoned citizens arbitrarily for political motives. The army continued its attacks on ethnic minority villagers. The government sentenced Aung San Suu Kyi – general secretary of the country's independence movement, the National League for Democracy (NLD) – to 18 additional months of house arrest for violating the terms of her confinement. The government routinely infringed on citizens' privacy and restricted freedom of speech, press, assembly, association, religion, and movement. The government did not allow domestic human rights nongovernmental organizations (NGOs) to function independently, and international NGOs encountered a difficult environment. Violence and societal discrimination against women continued, as did recruitment of child soldiers, discrimination against ethnic minorities, and trafficking in persons, particularly of women and girls. Workers' rights remained restricted. Forced labor, including that of children, also persisted. The government took no significant actions to prosecute or punish those responsible for human rights abuses.

“Ethnic armed groups and some cease-fire groups allegedly committed human rights abuses, including forced labor and recruitment of child soldiers.” [7a]

6.03 In its special report, *Worst of the Worst 2010*, dated 3 June 2010, Freedom House rated Burma as one of the nine worst countries in the world for political rights and civil liberties, giving it an average rating of seven – the least free rating. [14c] (p6)

6.04 The Freedom House *Freedom in the World 2010 Country Report on Burma*, released in May 2010, covering events in 2009, stated that:

“Burma is not an electoral democracy. The SPDC [State Peace and Development Council] rules by decree; controls all executive, legislative, and judicial powers; suppresses nearly all basic rights; and commits human rights abuses with impunity. Military officers occupy almost all cabinet positions, and active or retired officers hold the top posts in all ministries as well as key positions in the private sector. The SPDC does not tolerate dissent and has a long history of imprisoning anyone who is critical of the government.” [14a]

See also [Political affiliation](#)

6.05 Human Rights Watch (HRW) noted in their *World Report 2010*, covering 2009 events in Burma, published 20 January 2010, that:

“Burma's human rights record continued to deteriorate in 2009 ahead of announced elections in 2010. The ruling State Peace and Development Council (SPDC) systematically denies citizens basic freedoms including freedom of expression, association, and assembly. More than 2,100 political prisoners remain behind bars. This, and the politically-motivated arrest and trial of Aung San Suu Kyi only to send her back to house arrest for another 18 months, confirmed that Burma's military rulers are unwilling to allow genuine political participation in the electoral process... Abuses such as sexual violence against women and girls, extrajudicial killings, forced labor, torture, beatings, and confiscation of land and property are widespread. In clear violation of international humanitarian law, the Burmese army and non-state armed groups continue to routinely use antipersonnel landmines, and target food production and means of civilian livelihood.” [39b]

6.06 The FCO commented in its *Human Rights Report 2009*, published 17 March 2010, that:

“The human rights situation in Burma continued its downward trend in 2009. Daily life in Burma continues to be characterised by the denial of almost all fundamental rights, and a pervasive military and security presence. Expressions of opposition to the regime often result in arrest and extended detention without trial. Despite international pressure, the regime made no attempt in 2009 to engage in substantive political dialogue with the democratic opposition and ethnic groups.” The FCO Report added “We expect further human rights abuses in 2010 as the regime maintains a tight grip on internal security in the months leading up to elections.” [5b] (p89)

6.07 The same source added:

“The military remains the major perpetrator of human rights abuses in Burma. However, other actors, including some ethnic militia, business corporations and illegal groups, for example, involved in drugs and people trafficking, form part of a broader landscape characterised by corruption and little or no accountability for human rights abuses. In this respect, it is telling that Burma has ratified few international human rights conventions. Abuses are particularly prevalent in areas where no ceasefire exists between ethnic groups and the military. We continue to receive credible reports of forced labour, land confiscation, the recruitment and use of child soldiers, rape and disappearance.” **[5b] (p89-90)**

6.08 The UN Special Rapporteur’s report dated 10 March 2010 stated that:

“The human rights issues confronting Myanmar are many, complex and interdependent. At the centre of the daunting challenges to the full realization of human rights in the country is the pattern of widespread and systematic violations which has existed for many years and still persists. The prevailing culture of impunity, in fact, is a necessary consequence of the lack of accountability for grave human rights violations when they do occur. The lack of independence of the judiciary and weak rule of law are also preconditions for this pattern. The large number of prisoners of conscience in Myanmar demonstrates the abrogation of the fundamental rights to freedom of expression, assembly and association. The plight of ethnic minorities and civilians along the country’s border areas who are subject to discrimination and grave human rights abuses has continued for too long, due to the prevailing culture of impunity. Recommendations made by the international community, including the four core human rights elements proposed by the Special Rapporteur, remain largely outstanding...The four core human rights elements are: the release of all prisoners of conscience; review and reform of specific national legislation, in compliance with international human rights standards; reform of the judiciary to assure independence and impartiality; and specific measures by the military and police including respecting international human rights and humanitarian law and establishing a permanent and meaningful training programme on human rights.” **[32e] (paragraphs 13-14)**

6.09 The same source noted that Burma “... is party only to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. However, as a Member State of the United Nations, it is still bound by the Universal Declaration of Human Rights proclaimed on 10 December 1948 and subsequent Declarations adopted by the General Assembly.” **[32e] (paragraph 115)**

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## 7. SECURITY FORCES

- 7.01 The UN Special Rapporteur's report on the situation of human rights in Burma, dated 24 August 2009, stated:

"In accordance with procedural law, the police have the responsibility for law enforcement, including for arrest and detention. However, military intelligence agencies participate in arrests, investigations and interrogations, and hold prisoners in army facilities, as happened on a large scale during the 2007 protests. The Special Rapporteur is concerned about the uncertain role of military intelligence, and the rise of non-formal gangs for security purposes such as Swan Ar Shin. They should not have any role in arresting people, which is against the criminal procedure and principles of due process of law." [32c] (paragraph 39)

See also [Other government forces](#)

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### POLICE

- 7.02 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009) noted:

"The Myanmar Police Force falls administratively under the Ministry of Home Affairs... Special Branch (SB) police officers are responsible for detaining persons suspected of 'political crimes' perceived to threaten the government.

"Security forces maintained a tight grip on inhabitants, due in large part to the fear imposed by arbitrary detention, and also through threats to an individual's livelihood, such as ordering small businesses to close.

"Police corruption and impunity were serious problems. Police typically required victims to pay substantial sums for crime investigations and routinely extorted money from the civilian population. There are no effective legal mechanisms available to investigate security force abuses. The government took no significant measures to reform the security forces." [7a] (Section 1d)

- 7.03 Jane's *Sentinel Country Risk Assessments*; Myanmar, Security and Foreign Forces, updated 3 October 2008, reported that the police force has a total strength of approximately 72,000 officers, with police stations in all major population centres. The same source continued that:

"Other law enforcement agencies under the Ministry of Home Affairs, but independent of the Myanmar Police Force, include the Bureau of Special Investigation which is concerned with economic crimes and corruption, the Special Branch which is concerned with 'political' crimes and has assumed increasing prominence in the monitoring of political dissidents in the past four years, the Criminal Investigation Department, the Railways Police Department, and the City Development Department. Reserved units are assigned to highway patrol and oil field security and are attached to state and divisional police forces." [8a] (Security and foreign forces)

- 7.04 The Bureau of Special Investigations (BSI) handles financial crimes and the Criminal Investigation Department handles violent crime including rape and murder. (Immigration and Refugee Board of Canada, 25 February 2008) [37b]

### ARMED FORCES

- 7.05 The strength of the Burmese armed forces (Tatmadaw) reaches a total of 350,000 to 400,000 personnel. (Jane's *Sentinel Country Risk Assessments*; Myanmar, updated 11 December 2009) [8a] (Armed forces)

- 7.06 The army is the largest of the armed forces with between 300,000 and 350,000 personnel. "The Myanmar Army has traditionally been structured and deployed primarily for internal security operations - both to quell civil dissent in major population centres and to conduct counter-insurgency operations in rural districts against communist guerrillas, ethnic separatists and the armies of narcotics warlords..." However, since 1989 "... greater emphasis is being given to conventional defence roles, including territorial defence. The army has also given higher priority to participation in civil infrastructure development projects, although its frequent use of forced labour has earned it international notoriety." (Jane's *Sentinel Country Risk Assessments*; Myanmar, updated 11 December 2009) [8a] (Army) Jane's further noted that "While the previously much neglected air force and navy have received significant new equipment over the past decade, the armed forces remain generally weak in terms of training, communications, mobility, logistics and maintenance." [8a] (Armed forces: Defence structure)

- 7.07 Jane's continued in its section on the army, dated 11 December 2009, that:

"Senior leadership have long advocated a 'People's Warfare' strategy to defend the country against foreign invasion by engaging in a war of attrition. In response to the West's continued criticism of the military government and the progressive imposition of economic sanctions, the regime has increasingly emphasised the threat of a US invasion. In response, the Tatmadaw has revived the People's Warfare doctrine in its training and propaganda. It seems unlikely, however, that these forces would remain unified in the face of foreign invasion given extremely poor morale within the armed forces and the military government's low legitimacy.

"In accordance with the People's Warfare doctrine the military can call into service the wives of armed forces personnel, retired servicemen, firemen, police, civil servants and members of the government controlled Union Solidarity Development Association. All such persons receive short military training and refresher courses as well as political indoctrination. Personnel serving in combat units are typically are deployed for four month periods, followed by four months rest. Attrition rates are extremely high due to low morale." [8a] (Army: Adaptability/Sustainment)

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### HUMAN RIGHTS VIOLATIONS BY THE SECURITY FORCES

See also [Prison conditions](#)

### Abuses by the armed forces

- 7.08 The UN Special Rapporteur's progress report on the human rights situation in Burma, dated 10 March 2010, following his visit in February 2010, stated that:

"Military operations have placed a particularly heavy burden on rural populations, affecting their ability to sustain livelihoods. There have been numerous and frequent reports of civilians being forced to serve as porters and guides for the military, to build and maintain roads, to construct military camps and to labour for infrastructure projects. Cases of rape and sexual violence, many of them against young girls and adolescents, have been reported by human rights organizations over the past years as committed by military personnel." [32e] (paragraph 63)

- 7.09 A report by Partners Relief & Development and Free Burma Rangers, entitled *Displaced Childhoods: Human Rights & International Crimes Against Burma's Internally Displaced Children*, (Partners and FBR Displaced Childhoods Report) dated April 2010, stated:

"The SPDC [State Peace and Development Council] typically relies on relocation sites to control the movements and activities of the ethnic civilian population. Relocation sites are generally located close to Burma Army camps and in areas fully controlled by the SPDC and heavily monitored by Burma Army soldiers. As a result, nearly every aspect of daily life is controlled by the military and the security of IDPs [Internally Displaced Persons] in relocation sites is particularly tenuous. The constant presence of SPDC soldiers in and around relocation sites escalates the risk of human rights abuses for IDPs.

"IDPs in relocation sites are reportedly subject to regular forced labor and portering, extortion, confiscations of money and property, and violent retaliation for failing to abide by the demands of SPDC soldiers... In some instances, relocated villagers are forced to serve as human landmine sweepers and made to walk through potentially mined fields in front of Burma Army vehicles and troops. Abuses are committed by soldiers against site residents with impunity." [29a] (p30)

- 7.10 The UN Special Rapporteur's report on Burma dated 24 August 2009 stated:

"It should be noted that risking civilians' lives as sweepers in landmined areas is not a Government policy, but a practice adopted by a number of battalions, depending mainly on the commanders. The number of casualties among civilians caused by the explosion of mines is high. Very often, children playing in the forest have also been said to be victims of such explosions. It is estimated that the casualties over the past five years have increased. In addition to Kayin State, landmine casualties have been reported in Kayah, Rakhine and Shan States." [32c] (paragraph 61)

- 7.11 Amnesty International noted in its Report 2010, *The State of the World's Human Rights*, (AI Report 2010) published 27 May 2010, that in Burma:

"The army committed human rights violations in connection with official development projects, including forced labour, killings, beatings, land

confiscation, forced farming, restrictions on movement, and confiscation of property. Battalions providing security for the Yadana, Yetagun and Kanbauk-Myiang Kalay natural gas pipelines in Tanintharyi Division and Kayin State forced civilians to work on barracks, roads and sentry huts. Authorities also confiscated land without compensation in relation to the Shwe gas project in Rakhine State, and targeted villagers suspected of opposing or questioning the project. Authorities arrested, detained and interrogated local villagers, forcing some to flee the area.” [12e] (p238)

See also Children, [Child soldiers](#) for information about the recruitment of children into the armed forces

## Arbitrary arrest and detention

7.12 The USSD Report 2009 observed that:

“The law does not prohibit arbitrary arrest or detention, and the government routinely employed both practices. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the government regularly used this provision. The 1975 State Protection 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.” [7a] (Section 1d)

7.13 Reporting on the 2007 pro-democracy uprising, Amnesty International’s (AI) Report 2008 stated:

“Once the protests were underway but before the 25-29 September crackdown, more arrests of NLD [National League for Democracy] and 88G [88 Generation Student’s Group] activists took place – many of which were clearly a pre-emptive measure before the crackdown.

“Mass round-ups occurred during the crackdown itself, and the authorities continued to arrest protesters and supporters throughout the year, making use initially of a three-week curfew in October [2007]. Between 3,000 and 4,000 political prisoners were detained, including children and pregnant women, 700 of whom were believed still in detention at year’s end. At least 20 were charged and sentenced under anti-terrorism legislation in proceedings which did not meet international fair trial standards. Detainees and defendants were denied the right to legal counsel.” [12a] (Political imprisonment)

7.14 The FCO stated in a letter dated 30 October 2007 that family members of individuals the authorities were looking for were in the “higher risk category”. The letter stated that over the past month [following the pro-democracy uprising] incidences of family members being detained, in lieu of the missing activists, had occurred. [5p]

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## Torture

7.15 The USSD Report 2009 noted that “There are laws that 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.

As in previous years, authorities took little or no action to investigate the incidents or punish the perpetrators...” [7a] (Section 1c)

7.16 Amnesty International stated in its Annual Report 2009 that “There were no provisions for freedom from torture and other ill-treatment...” [12e] (Legal, constitutional or institutional developments)

7.17 The Assistance Association for Political Prisoners (Burma) (AAPPB) noted in its *Annual Report 2009* that “The regime’s continued use of torture and inhumane treatment of prisoners continued throughout 2009, with numerous accounts of torture, physical abuse, and prisoners placed in dog cells and other forms of solitary confinement. In June, five political prisoners in Rangoon’s Insein prison were held in military dog cells and banned from receiving family visits.” [44b] (p5)

7.18 The USSD Report 2009 added further that:

“Former political prisoners released in September [2009] claimed the government subjected them to eight different types of torture – ranging from forced squatting for prolonged periods of time to electric shocks – during interrogation to extract confessions or intimidate. They also complained of inedible food, beatings, and unsanitary conditions leading to severe health problems. Many were held in solitary confinement and forced to share an eight-by-eight-foot cell with up to three other prisoners with only a bucket to use as a toilet.

“Monks in particular allegedly were subjected to cruel treatment. Many monks held since 2007 for participating in the September 2007 prodemocracy protests against the regime were defrocked and forced to eat three meals a day (monks generally do not eat after midday). Authorities beat, sometimes severely, those who resisted.

“The armed forces reportedly used coercive and abusive recruitment methods to procure porters. Persons forced into portering or other labor faced extremely difficult conditions, beatings, rape, lack of food and clean water, and mistreatment that at times resulted in death. For example, in Chin State throughout the year there were reports the government army forced villagers to fence an army camp with bamboo sticks and transport army rations and supplies. The government took no action against those responsible.” [7a] (Section 1c)

7.19 An open letter to the UN Special Rapporteur on torture by the Asian Human Rights Commission (AHRIC), dated 18 January 2010, stated that:

“... courts at all levels in Myanmar routinely accept as evidence confessions that have been obtained through the use of torture; and second, anecdotally the use of torture is now more widespread than at any time in recent decades. The AHRIC has over the last couple of years received many reports of the use of torture, including extreme forms of torture normally associated with politically driven inquiries, in ordinary criminal cases. The making of payments to police officers to have them not torture detainees is also reportedly commonplace...” [43a]

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## Extrajudicial killings and disappearances



- 7.20 The USSD Report 2009 noted “There were numerous reports the government or its agents committed arbitrary or unlawful killings. The government rarely punished officials responsible for the deaths. During the year there were reports of killings in connection with conflict in Shan and Karen states.” [7a] (Section 1a)

See also [Ethnic groups](#)

- 7.21 The USSD Report 2009 added that:

“In 2008 security forces killed several persons in their custody; however, at year's end no officials had been held accountable. For example, there were no developments in the killings by soldiers and riot police of at least 40 inmates at Insein Prison in May 2008. The government did not investigate or punish those responsible for other custodial deaths in 2008... The government took no action to investigate or punish those responsible for extrajudicial killings of at least 30 persons during the regime's violent suppression of peaceful prodemocracy demonstrations in 2007, including Buddhist monk U Thilavantha and Japanese photojournalist Kenji Nagai. Additionally, the government did not investigate or punish those responsible for custodial deaths in 2007...” [7a] (Section 1a)

- 7.22 Regarding ‘disappearances’, the USSD Report 2009 observed that:

“Private citizens and political activists continued to ‘disappear’ for periods ranging from several hours to several weeks or more. Such disappearances generally were attributed to authorities who detained individuals for questioning without informing family members and to the army's practice of seizing private citizens for portering or related duties, often without notifying family members. Military forces routinely ignored requests by family members for information. There were reports of disappearances during the year in connection with conflicts in Shan and Karen states... During October 26-27 [2009], authorities arrested seven members of Lin Let Kye (Shining Star), a group formed in May 2008 to assist in the Cyclone Nargis relief effort. At year's end the whereabouts of the seven and the reason for their arrest were unknown. According to an NGO [non-governmental organisation], more than 10 other persons, including entertainers, writers, and press workers, were arrested in October. There was no information on their whereabouts or the reason for their arrest.” [7a] (Section 1b)

## OTHER GOVERNMENT FORCES

- 7.23 Jane's *Sentinel Country Risk Assessments: Myanmar*, noted in its section on armed forces, updated 11 December 2009, that:

“Military reserves include government personnel village militias, and members of the Myanmar Red Cross and Fire Brigade, who generally all undergo basic military training. Small arms and platoon-level training has also been given to many members of the large pro-government Union Solidarity Development Association (it claims membership of 22.8 million members). The War Veterans Association is also considered part of the national reserve. These forces have not been deployed with regular army units and would probably not add significantly to its fighting capability.” [8a] (Armed forces)

- 7.24 Amnesty International noted in its Report 2010, *The State of the World's Human Rights*, published 27 May 2010, for Burma, that “In June [2009], attacks by the army and the government-supported Democratic Karen Buddhist Army (DKBA)

internally displaced thousands of ethnic minority Karen civilians and caused 4,800 refugees to flee to Thailand. The DKBA forcibly recruited people during the offensive for both portering and military service, destroyed abandoned villages, and planted land mines in the wake of the exodus.” [12e] (p237)

See also [Ethnic Groups](#)

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## Intelligence agencies

- 7.25 In its section on security and foreign forces, Jane’s *Sentinel Country Risk Assessments*: Myanmar, updated 3 October 2008, noted that:

“The military’s huge and powerful intelligence apparatus is now solely under the auspices of the Office of the Chief of Military Affairs Security (OCMAS) [also referred to as Military Security Affairs (MSA)]... Military regional commands exercise command over intelligence units within their areas of geographical control. Central intelligence headquarters conducts administrative and analysis missions but the regional commanders will direct intelligence operations.” [8a]

- 7.26 MSA officers are, along with Special Branch police officers, responsible “for detaining persons suspected of ‘political crimes’ perceived to threaten the government.” (USSD Report 2009). [7a] (Section 1d) An Immigration and Refugee Board of Canada Response to Information Request, dated 25 February 2008, observed that the MSA handled the most serious political issues and matters relating to ethnic groups who have agreed a cease-fire with the military regime.. [37b]

- 7.27 In an email response dated 5 June 2007, the Foreign and Commonwealth Office (FCO) stated that Burma’s military intelligence unit conducted surveillance operations on both members of the general public and individuals. Members of the general public were also used to carry out surveillance operations. The FCO further noted that it was likely that the military intelligence unit would be able to find out if an individual was involved in political activity. [5f] The USSD Report 2009 stated “Security personnel regularly screened private correspondence, telephone calls, and e-mail.” [7a] (Section 1f)

See also [Freedom of association and assembly](#)

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## People’s militia

- 7.28 *The Irrawaddy* stated in an article dated 21 January 2010, that a so-called “People’s War Strategy” had been incorporated into the new Constitution. Section 340 of the chapter entitled *Defense Services* states “With the approval of the National Defense and Security Council, the Defense Services has the authority to administer the participation of the entire people in the Security and Defense of the Union. The strategy of the people’s militia shall be carried out under the leadership of the Defense Services.” [26b]
- 7.29 The same source added that:

“In 2001, a book titled ‘*Manual for Application of People’s War Strategy*’ was issued under [General] Than Shwe's instruction. In Chapter 2, ‘People’s War Strategy,’ it says: ‘Our country’s national vision is to build a peaceful, modern and developed nation. As we set the People’s War Strategy as our national defense goal to protect our vision, we must carry out this strategy practically.’

“The strategy outlines 12 basic concepts. The five most interesting are: give political leadership [to the people]; organize [the people] based on the five development actions; utilize four strengths such as [nationalist] mind, people, time and place; form people’s militias; and finally, to unite the people and the military cohesively.

“To carry out the concept of fostering ‘political leadership’ under the strategy of the people’s militia, the generals believed a mass organization was needed, and it formed the Union Solidarity and Development Association (USDA) to assume that role... Other core organizations named as people’s militias are: the Myanmar War Veterans Organization, the Myanmar Fire Brigade, the Myanmar Red Cross Service, the Myanmar Maternal and Child Welfare Association and the Myanmar Woman’s Affair Federation.” [26b]

- 7.30 *The Irrawaddy* article further noted “The manual states that the people’s militia's duties include attacking an enemy by creating instability through psychological warfare, assassinating enemy leaders and organizing systematic single or group terrorist attacks (such as poisoning water sources or destroying fuel pipelines or railroads with explosive devices, and burning electrical power plants).” [26b]
- 7.31 Jane’s *Sentinel Country Risk Assessments: Myanmar*, noted in its section on Security and foreign forces, dated 3 October 2008, that the People’s Militia had a total strength of 35,000 personnel. [8a] (Security forces)

### Union Solidarity and Development Association (USDA)

- 7.32 The Economist Intelligence Unit (EIU) recorded in its Burma report, dated 9 October 2008, that:
- “The Union Solidarity Development Association (USDA), set up by the junta in 1993, is being groomed as its political wing. Heavy-handed recruitment tactics are used to boost USDA membership (which totalled 16m in 2001). However, genuine support for the junta within the USDA is thought to be limited. In August and September 2007 USDA members were sent to harass participants in peaceful protests against the junta, a move that has further soured public feeling towards the organisation.” [46]
- 7.33 *The Irrawaddy* noted in an article dated 21 January 2010 that:
- “Some Burma observers have assumed that the USDA would be transformed into a political party and contest in the 2010 election. But this assumption now appears unlikely, and Than Shwe will probably maintain the USDA as the central mass organization... The USDA is at the core of the people’s war strategy, and, as such, it must participate in the junta’s five development actions, which are health, education, transportation, economic development and security.” [26b]
- 7.34 The Freedom House report, *Freedom in the World 2010*, Burma, issued in May 2010, covering events in 2009, noted that “Some public-sector employees and ordinary citizens are compelled to join the USDA.” [14a] The USSD Report 2009

noted that professors and teachers, along with all other state employees, were required to join the USDA. [7a] (Section 2a) The USSD Report 2008 noted that “The USDA... increasingly assumed the responsibilities of law enforcement authorities, engaging in the arrest, detention, and interrogation of human rights and prodemocracy activists.” (Section 1d) The USDA were also known to confiscate personal property for their own use. [7g] (Section 1f)

- 7.35 Mizzima news reported on 19 March 2010 that, as of 12 March, the USDA had 24 million members. [33c] The US Department of State *International Religious Freedom Report 2008* (USSD IRF Report 2008) stated that participation in the activities of the USDA was often compulsory. [7b] (Section II)
- 7.36 The Immigration and Refugee Board of Canada (IRB) recorded in a Response to Information Request (RIR), dated 25 February 2008, from information received from a Burmese former political prisoner, that “... the Union Solidarity and Development Association (USDA) has local intelligence branches which monitor the general population in various neighbourhoods across the country. He added that the Ministry of Information also has an intelligence branch, comprised of pro-regime journalists who monitor journalists, bloggers and Internet users.” [37b]

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### Swan Arr Shin

- 7.37 The HRW *World Report 2008*, covering events in 2007, released in January 2008, noted that a civilian parliamentary group, *Swan Arr Shin*, supported the USDA and security forces in breaking up the September 2007 demonstrations. [39a] (Violent crackdown on protests)
- 7.38 The HRW report, *Crackdown: Repression of the 2007 popular protests in Burma*, dated 6 December 2007, stated

“In addition to the USDA, the SPDC has more recently formed a new paramilitary group called the Swan Arr Shin [SAS] or ‘Masters of Force.’ Although the SPDC rarely officially acknowledges the existence of the Swan Arr Shin, almost all Burmese interviewed by Human Rights Watch spoke about the activities of the Swan Arr Shin in their neighborhoods, and were able to identify Swan Arr Shin members from their areas... Swan Arr Shin members are given rudimentary military training in marching, shouting slogans, organizing participants and basic hand combat techniques...

“Ordinary Swan Arr Shin members are paid 5,000 kyat a month, a bag of rice, and some cooking oil by pro-government business leaders, and are used mostly for routine neighborhood surveillance and police assistance during ordinary times. Other SAS members, mostly known thugs and petty criminals, are used more often to engage in violence against opposition figures, and are paid between 3,000 and 5,000 kyat per day.

“The SAS command structure parallels that of the local government structure. Ward level SAS units reportedly have 20 members and in some cases are overseen by former ward leaders. Township level SAS units vary in size depending upon the number of wards they comprise. District level SAS units are reportedly overseen by USDA members. Swan Arr Shin operations are commanded by the riot police and indirectly overseen by the army.” [39e] (Chapter VIII)

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## 8. MILITARY SERVICE

- 8.01 The CIA World Factbook noted in its section on *Military service age and obligation*, undated, accessed 20 April 2010, that military service in Burma was voluntary for men and women aged 18 years and over. However, forced conscription of children occurred. [6b]
- 8.02 The UN Special Rapporteur's report on the progress of the human rights situation in Burma, published 10 March 2010, following his February 2010 visit, stated "Despite measures by the Government of Myanmar to prevent and halt the recruitment and use of child soldiers, these practices still persist in the military and by non-State actors. Children from vulnerable poor families are particularly at risk of being lured into the military with promises of jobs and food. There have been reports of threats of arrests to children who refuse to join the military." [32e] (paragraph 76)
- 8.03 Radio Free Asia reported on 17 September 2009 that:

"Burmese military commanders routinely assign troops to recruit children to work in military compounds, enticing them with false promises of a monthly salary, an army officer who fled to Thailand this year said. Enlisted soldiers 'are just told to go and look for new recruits. Some are asked to look for new recruits while they are on home leave. There are also some who are specifically assigned to look for new recruits,' the former army captain said. 'They would have to go to Rangoon, and to Mandalay and to other places. They have to look for new recruits in those places,' he said. 'It's all official... When they enlist new recruits they usually use their own methods to get them. For example, they would tell the new recruits that in the army they will be given free food and that they will be paid a monthly salary,' he said in an interview here." [18b]

See also [Child soldiers](#) and [People's Militia](#)

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## 9. JUDICIARY

### ORGANISATION

- 9.01 The USSD *Background Note* on Burma, updated 31 January 2010, observed “The legal system is based on a British-era system, but the military regime often rules by decree and there is no guarantee of a fair public trial; the judiciary is not independent. [7c] (Government) Europa World online, accessed 2 March 2010, noted that, following the imposition of military rule in 1988 “... a Supreme Court with five members was appointed. A chief justice, an attorney-general and a deputy attorney-general were also appointed. In March 2003 a deputy chief justice, four more justices and two further deputy attorney-generals were appointed.” [1] (Judicial system)

### INDEPENDENCE

- 9.02 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009) noted that:

“The judiciary is not independent of the government. The SPDC appoints justices to the Supreme Court, which in turn appoints lower court judges with SPDC approval. These courts adjudicate cases under decrees promulgated by the SPDC that effectively have the force of law. The judiciary system includes courts at the township, district, state, and national levels. While separate military courts for civilians do not exist, the regime frequently directs verdicts in politically sensitive trials of civilians.” [7a] (Section 1e)

- 9.03 The UN Special Rapporteur’s report on the human rights situation in Burma, published 24 August 2009 following a February 2009 visit to the country, noted that:

“The Special Rapporteur regrets that the independence of lawyers to practise their profession is hindered for political motivation. Moreover, those who abide by integrity and principle are often charged under the Contempt of Courts Act (1926), which does not specify what actually constitutes contempt of court, leaving it open for any interpretation and decision by higher courts. Even after serving the unfair imprisonment, the career of many of these lawyers is destroyed, since their licence is revoked and they cannot find any other job elsewhere.

“The existence of the prisoners of conscience seriously undermines the independence of the judiciary, despite its guarantee by domestic legislation, including the Judiciary Law (2000) and the Constitution (2008). In most cases, judges operate on conclusions based on instructions from political and higher instances.” [32c] (paragraphs 36-37)

- 9.04 The Asian Human Rights Commission (AHRC) noted in its report *The State of Human Rights in Burma in 2009*, published on 10 December 2009, that:

“The problem of the total loss of habits of an independent judiciary is not only among judges and prosecutors in Burma but also among defence lawyers. Ordinary defence lawyers see their role not as advocates of law but as brokers. This is because ordinary criminal cases are decided through payment of money between the parties, to the police, the prosecutor, the judge and other personnel.

The government itself to some extent acknowledges the corruption in the system, but is unable to address it because the corruption extends to all parts of government, because there are no institutional means to make change, and because the cooperation of the judiciary with the official programme depends upon its personnel being able to make money out of their positions. Therefore, the problem of the non-independence of the judiciary is intimately tied to the problem of endemic corruption.” [43b] (p8)

9.05 The USSD Report 2009 further stated:

“The government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system remain formally in place, the court system and its operation were seriously flawed, particularly in the handling of political cases. The misuse of blanket laws – including the Emergency Provisions Act, Unlawful Associations Act, Habitual Offenders Act, Electronic Transactions Law, 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 deprive citizens of the right to a fair trial and to stifle peaceful dissent. Executive Order 5/96, which provides for the arrest of any person deemed a threat to the National Convention and the ‘roadmap to democracy,’ effectively suppressed open debate among citizens. Pervasive corruption further served to undermine the impartiality of the justice system.” [7a] (Section 1e)

9.06 The Freedom House *Freedom in the World 2010* report, covering events in 2009, released in May 2010, also stated that the judiciary was not independent and that:

“Judges are appointed or approved by the junta and adjudicate cases according to its decrees. Administrative detention laws allow people to be held without charge, trial, or access to legal counsel for up to five years if the SPDC concludes that they have threatened the state’s security or sovereignty. The frequently used Decree 5/96 authorizes prison terms of up to 20 years for aiding activities ‘which adversely affect the national interest’.” [14a]

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## FAIR TRIAL

9.07 The USSD Report 2009 stated that:

“The 2000 Judiciary Law provides for the right to a fair trial, but it also grants broad exceptions, in effect allowing the regime 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 a presumption of innocence. Juries are not used in trials. Defendants have the right to be present at their trials. In political cases defendants were rarely given timely access to an attorney. By law the government is not obligated to provide an attorney at public expense except in death penalty cases. Defendants and their attorneys were given access to government-held evidence relevant to their cases only after charges were made and when the case was put before the court.



“Common criminal cases were open to the public. Defense attorneys in criminal cases generally had 15 days to prepare for trial. However, this 15-day delay did not always apply in political cases. 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 the court sentenced their clients immediately upon entering the courtroom, without arguments. 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. NLD members and other prodemocracy activists generally appeared able to retain the counsel of lawyers without fear the lawyers might be imprisoned; however, lawyers were not always given the opportunity to mount a proper defense. They often 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.” [7a] (Section 1e)

- 9.08 The UN Special Rapporteur's report on the progress of the human rights situation in Burma, published 10 March 2010 following his February 2010 visit, stated that:

“... many trials are conducted behind closed doors within prison compounds, without legal representation, without the presence or knowledge of their family members, without proof of evidence or with defective evidence, and pursuant to arbitrary decisions of the judges... Defence lawyers face great difficulties ranging from not being informed of the dates and venues of the trials, to not being allowed to meet the detainees in private in advance of the trials.” [32e] (paragraphs 36 and 38)

- 9.09 The same source noted:

“The penal code allows the government to render excessive sentences against political activists. For example, article 505 of the penal code allows authorities to impose two-year prison terms on anyone who publishes material likely to cause alarm. Another provides an unspecified prison term for spreading rumors. In addition, the regime often prosecuted political prisoners under the Emergency Provision Act, Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts, Television and Video Act, Unlawful Association Act, Electronic Transactions Law, and Law Relating to the Forming of Organizations.

“The government routinely 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. SPDC Chairman Senior General Than Shwe can unilaterally extend or shorten a period of detention, as he has with detained opposition leader Aung San Suu Kyi.

“The law provides those convicted of crimes with the right of appeal, and there is a multistage appeals process; however, in most appeal hearings the verdicts were upheld.” [7a] (Section 1e)

- 9.10 Referring to the trial of Aung San Suu Kyi, leader of the opposition, National League for Democracy, (see also [Recent events and political developments](#)), Human Rights Watch noted in its *World Report 2010*, covering 2009 events, released in January 2010, that “The trial dragged on for three months, with frequent delays and with international fair trial standards lacking. Suu Kyi was allowed legal representation, but the court did not meet her counsel's request to present a number of witnesses (there were 14 prosecution[s] but only two defense witnesses). The court was closed to the public, with foreign diplomats and the press permitted to observe the trial only on a few occasions.” [39b]
- 9.11 The USSD Report 2009 noted that:
- “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. One father said police took his son for questioning and did not allow him to return home. After three weeks the father was granted limited access to see his son and was allowed to attend his son's trial until the judge revoked the defense lawyer's powers, effectively ending the trial. In another case the mother of a law student complained her son was given a 13-year sentence but was not allowed to have a defense lawyer.” [7a] (Section 1e)
- 9.12 With regards to the pro-democracy activists' trials, which took place during 2008, Human Rights Watch reported in an article dated 11 November 2008 that “Family members often have not been permitted to attend the current trials. In some cases legal representation has been denied, and four lawyers for political activists have been sentenced to prison time for contempt when they tried to withdraw their representation at their clients' request or protested unfair hearings.” [39c]

See also [Political affiliation](#)

## PENAL CODE AND CODE OF CRIMINAL PROCEDURE

- 9.13 The Burma Lawyers' Council, accessed 18 May 2010, provided access to the text of the Burma [Penal Code](#) [45a] and the [Code of Criminal Procedure](#). [45b]

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## 10. ARREST AND DETENTION – LEGAL RIGHTS

- 10.01 Europa World online reported that under the new Constitution “Citizens may not be detained for more than 24 hours without trial, except on security or similar grounds.” [1] (The Constitution) However the UN Special Rapporteur report, dated 24 August 2009, noted that:

“In terms of procedures, the law requires that the arrestee is brought before a judge within 24 hours. However, people are often detained without charges, sometimes without ever being brought before a judge, and are sometimes released without explanation. Tin Myo Win, Daw Aung San Suu Kyi’s doctor, was arrested on 6 May 2009 and released on 16 May without any explanation from the authorities for his detention. Also in April 2009, five members of the Federation of Trade Unions of Burma were arrested and subsequently released without explanation.

“In accordance with procedural law, the police have the responsibility for law enforcement, including for arrest and detention. However, military intelligence agencies participate in arrests, investigations and interrogations, and hold prisoners in army facilities, as happened on a large scale during the 2007 protests. The Special Rapporteur is concerned about the uncertain role of military intelligence, and the rise of non-formal gangs for security purposes such as Swan Ar Shin. They should not have any role in arresting people, which is against the criminal procedure and principles of due process of law.” [32c] (paragraphs 38-39)

- 10.02 The Democratic Voice of Burma reported on 1 February 2008 “The Military Government has created several new laws and ordinances that are used as the legal foundation for incarcerating people without any arrest warrants, legal proceedings, trials and legal appeals”. [3a] The Freedom House report, *Freedom in the World 2010* observed “Administrative detention laws allow people to be held without charge, trial, or access to legal counsel for up to five years if the SPDC concludes that they have threatened the state’s security or sovereignty.” [14a]
- 10.03 The USSD Report 2009 stated “Bail was commonly offered in criminal cases, but it was rarely allowed for political prisoners. The government regularly refused detainees the right to consult a lawyer and occasionally imprisoned or detained lawyers. The government continued to use incommunicado detention and often failed to inform detainees’ relatives of detentions until much later.” [7a] (Section 1d)
- 10.04 The Foreign and Commonwealth Office (FCO) *Human Rights Annual Report 2009*, published 11 March 2010, stated “Detention without trial remains commonplace. Some detainees are released after a few days; others are taken into custody in unknown locations, awaiting military trials. People have been sentenced in closed military courts, which not even family members are permitted to attend.” [5b] (p92)
- 10.05 In a letter to the Home Office dated 30 October 2007, the Foreign and Commonwealth Office (FCO) stated records were kept of people arrested, even if they were released without charge. [5p]

See also [Arbitrary arrest and detention](#)

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**ARREST WARRANTS**

- 10.06 Arrest warrants can be issued by the courts to the police within a matter of hours in order to make an arrest. (FCO letter, dated 20 October 2008) [5e] It was possible that an arrest warrant could be left with a family member of the person named on the warrant in that person's absence. (FCO email, 27 February 2008) [5c]
- 10.07 A Burmese police officer, consulted by the FCO, stated that warrants would normally only be issued in Burmese. However, the police officer said that, although he had no personal experience of such, if the warrant was for a foreigner a court could possibly issue the papers in English, as well as provide a Burmese version. (FCO email, 5 September 2007) [5d]
- 10.08 The United States Department of State (USSD), accessed 23 April 2010, listed, in its [Visas section](#) for Burma, a number of documents including police and prison records, which were genuinely available from the relevant offices in Burma. [7f] (**Burma Reciprocity Schedule; Country documents**)

See also [Forged and fraudulently obtained documents](#)

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## 11. PRISON CONDITIONS

- 11.01 The UN Special Rapporteur's progress report on the human rights situation in Burma, dated 10 March 2010, stated that "There are 44 prisons in Myanmar and at least 50 labour camps." [32e] (paragraph 20) The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), released on 11 March 2010, noted:

"The Department of Prisons operated a reported 42 prisons and more than 100 labor camps. According to the Asian and Pacific Conference of Correctional Administrators, in 2008 there were approximately 65,000 male and 9,100 female prisoners. Pretrial detainees were held together with convicted prisoners. Former prisoners complained of being held in aging physical structures, which received no maintenance and were infested with rodents, bacteria, and mold." [7a] (Section 1c)

- 11.02 The UN Special Rapporteur report on the human rights situation in Burma, dated 24 August 2009, noted that:

"The Special Rapporteur has received alarming reports on the health conditions of some 136 prisoners who do not receive proper medical treatment or medication. Unfortunately, Salai Hla Moe, suffering from hepatitis and stomach swelling, passed away on 12 May 2009 owing to a lack of adequate medical care in Myingyan prison. He was the 140th prisoner of conscience since 1998 who passed away in prison because of health problems. Htay Lwin, suffering from tuberculosis, passed away in Mandalay prison on 28 December 2008. The authorities must ensure that each death in detention is investigated, accountability is established and the families are informed.

"Most prisoners of conscience rely on their families for medication and food supplies. More than 600 prisoners have been reported to have been transferred to remote prisons far from their family houses. This makes it more difficult, sometimes impossible, for the families to ensure regular visits. This not only affects the morale of the prisoners and their families, but it also has physical consequences for the prisoners not receiving their regular medication. The Special Rapporteur has received information that even the medicine prescribed by prison doctors is sold to the inmates. Those who do not have the financial capacity to pay for the medicine are of course at risk of never recovering from their health problems.

"Some 12 prisons in the country are reported to have no prison doctors, and some do not even have a health-care service. The capacity of prison dispensaries or hospitals, wherever they exist, is said to be insufficient compared to the number of detainees. According to information received, Insein prison, with more than 10,000 detainees, has only three medical doctors." [32c] (Paragraphs 24-26)

- 11.03 The USSD Report 2009 noted:

"Prison and labor camp conditions generally were 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. In many cases family members of prisoners, who generally were allowed one or two visits per month, supplemented prisoners' official

rations of medicine and basic necessities. According to the Thailand-based Assistance Association for Political Prisoners (Burma) [AAPPB], authorities sent more than 200 political prisoners to remote prisons located hundreds of miles from their families... The government denied prisoners adequate medical care, although medical services in prisons partially reflected the poor health care services available to the general population. Collective reports from three dozen prisons indicated hepatitis B and amoebas were the most prevalent medical problems. Prisoners also suffered from various diseases, including malaria, heart disease, high blood pressure, 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.” The Report also recorded numerous instances of where the authorities failed to provide adequate medical care to prisoners. [7a] (Section 1c)

- 11.04 The UN Special Rapporteur’s progress report on the human rights situation in Burma, dated 10 March 2010, stated that reports continued to be received “... on the alarmingly high number of deaths in prison. While official statistics have not been made available, it appears that both prisoners of conscience and regular prisoners are subject to conditions that lead to death.” [32e] (paragraph 24)
- 11.05 The same source added:
- “Of serious concern to the Special Rapporteur are reports that prisoners of conscience are subject to torture during the interrogation period and in detention. According to testimonies from prisoners of conscience who were released, there are systematic patterns of abuse and torture of detainees. Various forms of physical, psychological and sexual abuse by officials have been detailed in reports. Deliberately poor prison conditions combined with purposeful medical negligence cause extreme suffering of prisoners.” [32e] (paragraph 33)
- 11.06 The Foreign and Commonwealth Office (FCO) *Human Rights Annual Report 2009*, published 17 March 2010, stated that “A number of prisoners... were moved between late 2008 and early 2009 from Insein prison to prisons in remote border areas where conditions are harsh. This relocation is a deliberate policy designed to isolate prisoners of conscience from their families and supporters. Some family members must now travel for up to five days to provide the food, medicine and support without which many prisoners would struggle to survive.” [5b] (p92)
- 11.07 The same source noted that in Burma “Access to prisoners remains heavily constrained and the International Committee of the Red Cross (ICRC) has been unable to recommence its independent prison visits, halted in 2006. It does, however, still provide limited financial support to prisoners’ families.” [5b] (p92)
- 11.08 The USSD Report 2009 also added:
- “The government did not permit media and other independent groups to monitor prison conditions. The government continued to deny the International Committee of the Red Cross (ICRC) unfettered access to prisons. As a result the ICRC could not follow the cases of more than 4,000 detainees, including minors, foreigners, and sick and elderly prisoners. The ICRC’s mandate was limited to supporting family visits to detainees and providing physical rehabilitation for landmine victims and other persons with disabilities.” [7a] (Section 1c)

- 11.09 The UN Special Rapporteur report, published 24 August 2009, stated that he had "... received disturbing reports regarding the harsh conditions of detention, including solitary confinement, forced labour, shackling, and ill-treatment of prisoners, in particular during the interrogation phase... The list of those in need of urgent medical treatment is long. According to reliable reports, some 25 prisoners of conscience are being held in solitary confinement." [32c] (Paragraph 28)
- 11.10 The same source added that:
- "... while visiting the dispensary and talking at random with the inmates at Insein prison in February 2009, the Special Rapporteur discovered a shackled prisoner who had tried to run away from forced labour in a military compound in Kayin State. The prison authorities admitted having some 30 to 40 shackled prisoners in Insein. In some prisons, prison governors run the premises and treat prisoners as they wish, with no respect for existing rules and regulations. Urgent attention from higher authorities is required to ensure effective oversight and accountability." [32c] (Paragraphs 30-31)
- 11.11 In his progress report of 10 March 2010, the UN Special Rapporteur stated that:
- "... [He] was allowed to visit three prisons — Sittwe, Buthidaung and Insein — where he met with 14 prisoners of conscience and one former child soldier. While serious concerns on prison conditions remain, such as inadequate water and food rations and extortion by prison staff, the Special Rapporteur understands that the conditions in both Buthidaung and Insein had improved over the past few months. The Special Rapporteur would like to encourage the authorities to continue these efforts throughout the prison system. He invites the authorities to address effectively the requests of prisoners who staged hunger strikes in Insein and in Buthidaung in February 2010 for better food and health care as well as for reading and writing material." [32e] (paragraph 19)
- 11.12 The Assistance Association for Political Prisoners (Burma) (AAPPB) noted on its website, updated 7 March 2010, that there were 2,185 political prisoners in Burma, 137 of whom were in bad health. The [AAPPB](#) also listed the names of those detained. [44a]

See also [Abuses by the security forces](#) and [Political affiliation](#)

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## 12. DEATH PENALTY

- 12.01 Burma retains the death penalty for ordinary crimes, including murder, but, according to Amnesty International's undated list of abolitionist and retentionist countries. However it "...can be considered abolitionist in practice in that they have not executed anyone during the past 10 years and are believed to have a policy or established practice of not carrying out executions." [12b] (Abolitionist in practice)
- 12.02 The UN Special Rapporteur's progress report on human rights situation in Burma, published 10 March 2010 following his February 2010 visit, noted "While the Special Rapporteur again commends the Government for the effective moratorium on the use of death penalty, he regrets that lower courts continue to hand down death sentences." [32e] (paragraph 40)
- 12.03 Radio Free Asia (RFA) reported on 8 January 2010 that:
- "A Burmese court has sentenced a government employee and a retired army officer to death for leaking secret details of a government visit to North Korea in 2008, according to reporters based in Burma's former capital, Rangoon. The men, retired Major Win Naing Kyaw and Foreign Ministry employee Thura Kyaw, were convicted of distributing photographs of a secret network of military tunnels along with a report containing evidence of high-level contacts with North Korea, raising international fears that Burma could be developing nuclear weapons...A leading lawyer in Burma who asked not to be named said he doubts the death sentences will be carried out, noting that more than 200 people have been on death row in Burma since 1988 and that none has been executed." [18a]
- 12.04 Amnesty International noted in its report *The State of the World's Human Rights*, published 27 May 2010, covering events in 2009, that "In October [2009], a court in Laogai, Shan State, sentenced at least one child soldier to death for killing a person who may also have been a child soldier." [12e] (p238)

See also Children: [Child soldiers](#)

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## 13. POLITICAL AFFILIATION

### FREEDOM OF POLITICAL EXPRESSION

The section should be reading in conjunction with [Freedom of speech and media](#), and [Human rights institutions, organisations and activists](#)

- 13.01 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), released on 11 March 2010, noted:

“The regime continued its systematic use of coercion and intimidation to deny citizens the right to change their government. The regime continued to prevent the parliament elected in 1990 from convening.

“The 2008 constitution – not yet in force – provides for popularly elected legislators to a bicameral parliament; however, it stipulates at least 25 percent of the seats must be reserved for military members appointed by the uniformed commander in chief of Defense Services. It also bars many persons from office who had not resided in the country for at least 10 consecutive years prior to election, had prior misconduct the regime deemed disqualifying, accepted assistance from a foreign government, or were entitled to citizenship of a foreign nation. Additionally, by the constitution's own terms, the SPDC [State Peace and Development Council] will continue to ‘exercise state sovereignty’ until the parliament is convened within 90 days of the general election. At year's end a date for the 2010 elections had not been set, nor had electoral legislation been issued.

“Since 1962 active-duty military officers have occupied the most important positions in the central government and in local governments, and the regime placed active duty or retired military officers in senior-level positions in almost every ministry. Active-duty or retired military officers occupied 30 of 33 ministerial-level posts, including prime minister and the mayoral posts in Rangoon, Mandalay, and the administrative capital Nay Pyi Taw.” [7a] (Section 3)

See also [Political system](#) and [The Constitution](#)

- 13.02 The Amnesty International (AI) Report 2009, *The State of the World's Human Rights*, published 28 May 2009, noted that:

“In February [2008], the government issued the Referendum Law for the Approval of the Draft Constitution, which provided for a prison term of up to three years and/or a substantial fine for anyone caught campaigning against the referendum. The government used the law to detain many activists peacefully campaigning against the constitution or calling for a boycott. Over 70 were arrested in late April for trying to stage a peaceful demonstration. Journalists and human rights defenders were particularly targeted for their work throughout the year.” [12c] (Freedom of expression)

- 13.03 Amnesty International noted in a statement dated 22 February 2010 to the UN Human Rights Council that:

“The government of Myanmar violates the human rights of ethnic minority political opponents and activists in many ways, including torture and other ill-treatment; discrimination on the basis of religion and ethnicity; unlawful killings;

and arbitrary detention for short periods or imprisonment. All of those detained or imprisoned were or remain among Myanmar's large population of political prisoners (hovering around 2,100 prisoners) – detained because of their political, religious or other conscientiously held beliefs, ethnic origin, language, national or social origin, birth, or other status. Most are prisoners of conscience; they have expressed their beliefs peacefully. Many such political opponents and activists told Amnesty International that they faced government repression as part of a larger movement, as in Rakhine [Arakan] State during the 2007 Saffron Revolution, while others said that the authorities pursued them for specific actions, such as organizing a small anti-dam signature campaign in Kachin State. Even relatively simple expressions of political dissent faced repression, as when Karenni youths were detained for floating small boats on a river with 'No' (to the draft constitution) written on them." [12d] (Repression of ethnic minorities)

See also [Freedom of religion](#) and [Ethnic groups](#)

13.04 The USSD Report 2009 added:

"Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. The government used coercion and intimidation to induce persons, including nearly all public-sector employees and many students, to join the government's mass mobilization organization – the Union Solidarity and Development Association (USDA) – the government-backed Myanmar Women's Affairs Federation (MWAFF), and the Myanmar Maternal and Child Welfare Association, and attend meetings in support of the regime. The government also used coercion to entice or force members of the NLD [National League for Democracy] and other opposition parties to resign, and it publicized the coerced resignations in government media." [7a] (Section 1f)

### Political prisoners

13.05 Following a visit to Burma in February 2010 by the UN Special Rapporteur, a progress report on the situation of human rights in Burma, dated 10 March 2010, stated that:

"The Special Rapporteur has repeatedly expressed grave concerns about the house arrest of Daw Aung San Suu Kyi and the high number of prisoners of conscience and has called for the release of all prisoners of conscience without delay and without conditions. He recalls that one of the four core human rights elements that he proposed to the authorities is the progressive release of prisoners of conscience before the announced 2010 elections. Nevertheless, during his recent mission, the Special Rapporteur did not receive any indication that the Government is willing to release all prisoners of conscience. The Government of Myanmar does not accept that there are any prisoners of conscience in Myanmar. While there was a release of 131 prisoners of conscience in September 2009 and 29 prisoners in February 2009, these figures lack proportionality to the more than 2,100 prisoners of conscience who remain detained. In fact, the number of prisoners of conscience has nearly doubled in the past two years. These prisoners come from all walks of life, and include monks, students, teachers, lawyers, journalists and political activists. Some have spent many years in prison and continue to suffer under long sentences." [32e] (paragraph 15)

- 13.06 In its Report 2010, *The State of the World's Human Rights*, Amnesty International (AI Report 2010), published 27 May 2010, noted for Burma that "Although in February and September [2009] the government released more than 13,000 prisoners, there were only 158 known political prisoners among them... [who] had all been imprisoned for approximately 10 years... Authorities frequently kept political prisoners in solitary confinement." [12e] (p236)
- 13.07 The Amnesty International Report 2009, published 28 May 2009, stated "The government detained people for campaigning against the constitution, assisting cyclone survivors, and carrying out human rights and pro-democracy work. Ethnic minority leaders and activists were also detained for expressing concern about the status and role of their states and interests under the new constitution." [12c]
- 13.08 Reporters sans Frontières stated in its *World Report 2009*, published 5 January 2010, that "The junta sets out to physically and psychologically break imprisoned journalists by sending them to insalubrious prisons far from the capital. The Than Shwe regime has a criminal approach to political prisoners, refusing to allow them medical treatment when they need it. Worse still, a young poet was infected with the Aids virus in prison in 2006 as a result of a forced blood transfusion." [16a]
- 13.09 The FCO noted in its *Human Rights Annual Report 2009*, published 17 March 2010, that it expected the number of political prisoners to increase ahead of the 2010 elections. The FCO added that despite some "prisoner" releases prior to the United Nations General Assembly in September 2009, "... only a small proportion of those released were political detainees, who were close to the end of their sentences and at least as many people were arrested for their political activities as were freed in 2009." [5b] (p91)
- 13.10 The FCO, in association with the Assistance Association for Political Prisoners (Burma), Human Rights Watch and Burma Campaign UK, compiled a [list of Burma's political prisoners](#), profiling one each week until the 2010 elections.

See also [Prison conditions](#), [Recent events and political developments](#) and [Arrest and detention – legal rights](#)

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## FREEDOM OF ASSOCIATION AND ASSEMBLY

- 13.11 The USSD Report 2009 noted that freedom of assembly was limited by law and that in practice it was severely restricted by the government. The report stated:
- "An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although it was not enforced consistently, and authorities sometimes prohibited smaller gatherings. While the NLD [National League for Democracy] is a legal political party, all of its offices, except its Rangoon headquarters, remained closed by government order, and the NLD could not lawfully conduct party activities outside its headquarters building. The government required the nine other legally registered political parties to request permission from the government to hold meetings of their members. The regime

and its supporters routinely used intimidation, violence, and the power of arrest to disrupt peaceful demonstrations and meetings.” [7a] (Section 2b)

13.12 On freedom of association, the same source added that:

“The Association Law provides for citizens to form associations and organizations; however, the government restricted freedom of association, particularly for NLD members, prodemocracy supporters, and those who contacted exile groups or individuals thought to be associated with groups in exile. A statute prohibits associating with any organization the head of state declares to be unlawful.

“Freedom of association generally existed only for government-approved organizations, including trade associations, professional bodies, and the USDA. Few secular, nonprofit organizations existed, and those that did took special care to act in accordance with government policy. There were 10 legally registered political parties, but most were moribund. Authorities harassed and intimidated parties not supportive of regime policies.” [7a] (Section 2b)

### Demonstrations outside of Burma

13.13 In a letter to the Country of Origin Information Service, updated 26 June 2010, originally dated 1 August 2008, regarding Burmese nationals attending demonstrations overseas, the Foreign and Commonwealth Office (FCO) stated that they were:

“...not aware of any cases of individuals who have faced persecution in Burma simply as a result of participating in a demonstration overseas.

“It is difficult to judge how the authorities react in individual circumstances. But my belief is that an individual would only have a high risk of facing penalties if they had been seen to a) lead/organise the demonstrations or b) be responsible for a particularly extreme act of incitement. Taking part in demonstrations/events attended by a number of people is, in my view, unlikely to merit particular attention. On return to Burma, they may be subject to scrutiny (ie watched, followed and allowed restricted movement) but this is the case for many people in Burma.” [5g]

13.14 The same source continued “If there were penalties for participating in such events the Burmese authorities could take a number of different actions. They could, for example, have their passport revoked on return to Burma. They could be arrested and prosecuted for instigating unrest or inciting anger against the state (sedition). This could lead to a prison sentence, possibly for life.” [5g]

13.15 The Immigration and Refugee Board of Canada (IRB) noted in a Response to Information Request (RIR), dated 7 August 2007, that:

“A program manager with extensive experience with Myanmar issues who works for Inter Pares, a registered Canadian charity that promotes humanitarian assistance and human rights protection (25 Sept. 2006), provided the following information to the Research Directorate during a telephone interview on 27 July 2007. Regarding whether authorities in Myanmar monitor its citizens who travel to other countries, the Program Manager stated that it can vary depending on the identity of the person, on how the person left the country and whether they are

politically active. The Program Manager explained that the Myanmar regime has an 'extensive' monitoring system, and that people feel watched, even when they are abroad. Citizens who are not politically active and who illegally cross the border could possibly go unnoticed by the authorities, but the movements of citizens who are politically active would likely be monitored by authorities. The Program Manager specified that Myanmar authorities' concept of 'politically active' is rather wide-ranging; for example, a health worker could be considered as politically active. The Program Manager also stated that members of the Rohingya ethnic minority in particular are closely monitored by authorities, that they face 'persecution' and that there are clear systems in place to keep track of them. She indicated that it is common practice for organizations who work with people from Myanmar to be extremely careful with information exchanged via e-mail or telephone as there are legitimate concerns that the regime is closely monitoring their work." [37a]

13.16 The same source continued:

"A projects officer with the Asian Legal Resource Centre (ALRC), a non-governmental organization (NGO) that has general consultative status with the Economic and Social Council of the United Nations (UN 12 Feb. 2004; ALRC 13 Nov. 2001) and that monitors human rights cases in Myanmar (ibid. 30 July 2007), provided the following information to the Research Directorate in correspondence dated 30 July 2007:

"[The ALRC] is aware, from a number of cases, that the government of Myanmar does certainly monitor the activities of its citizens abroad, particularly those engaged in political activities. However, the extent to which it is able to do so is a matter of conjecture: it is limited in its capacity to monitor by personnel and modern technological resources. Nonetheless, it uses certain techniques, such as requiring citizens to come to the embassies and consulates to pay tax and renew passports, to maintain a presence among persons abroad who have not obtained residency or citizenship in other countries'." [37a]

13.17 The IRB noted in the same response:

"The following information was provided to the Research Directorate by a country analyst for Asia at the Internal Displacement Monitoring Centre (IDMC) in correspondence dated 27 July 2007. The Country Analyst specified that the information provided was her own viewpoint based on her extensive experience covering Myanmar.

"The government of Burma is not in a position to monitor the activities of all of its citizens living in other countries as the number of people who have left Burma is huge (there are an estimated 3 million who have fled Burma due to persecution or human rights violations). However, in certain cases the government may monitor the activities of those citizens living overseas who were already engaged in political activities while living in Burma and came onto the government's radar screen then. The likelihood of such people getting permission by authorities to leave the country, however, becomes pretty small. A large chunk of the politically active Burmese community living overseas fled the country back in late 1980s/early 1990s by crossing the borders illegally with the assistance of Burmese ethnic minority groups that were engaged in armed conflict with the government. Many of them have not been able to return since because of their political opinions.'

‘Burmese citizens who have traveled outside their country in more recent years are generally in two categories:

‘i) Those who are farmers or unskilled workers from lower-income groups who are barely able to survive due to government violations or repressive policies. These kinds of persons cross the border illegally into Burma’s neighbouring countries such as Thailand or India. I would say the majority of this group are from Burmese ethnic minorities. If they do make it to Canada or other western countries, it is often as refugees who have been granted third country resettlement.’

‘ii) Those who are more educated, economically better-off, and get official permission to leave the country for purposes such as studying abroad, or working abroad. I would say the majority of these are from the Burman majority group and people from this category have an easier time reaching Canada or other western countries.’

‘I have been asked to provide affidavits of support for Burmese asylum seekers in my home country, the USA, and they are generally from the second category. What I have found to be the norm in those cases is that the asylum seeker came to the US as a student and then became active in the pro-democracy movement. If the activities were largely of limited scope, such as marching in a peace rally at their college campus, or writing an op-ed in their college newspaper on Aung San Suu Kyi’s birthday, then it is highly unlikely that the government of Burma will be able to/would even be interested in monitoring the activities of such individuals.’

‘If however, the individuals had one or two minor experiences with political activism in Burma, and then after coming to the US became much more active in terms of joining political groups like the US Campaign for Burma, spoke out at political gatherings of Burmese in exile, even met President Bush (as a Burmese refugee woman did in 2005) then the chances of their being monitored become much higher. One way to gauge if Burmese living overseas are being monitored would be to try to find out if the situation for their families inside Burma has changed in any way (so for example, has the family received visits from the Burmese authorities since the person became politically active, that would definitely be an indication that the authorities are aware).’ (Country Analyst 27 July 2007)” [37a]

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## OPPOSITION GROUPS AND POLITICAL ACTIVISTS

13.18 The USSD Report 2009 noted that “There were 10 legally registered political parties, but most were moribund. Authorities harassed and intimidated parties not supportive of regime policies.” [7a] (Section 2b)

13.19 The Freedom House report, *Freedom in the World 2009*, covering events in 2008, released in July 2009, noted:

“Since rejecting the results of the 1990 elections and preventing the unicameral, 485-seat People’s Assembly from convening, the junta has all but paralyzed the victorious NLD party. Authorities have jailed many NLD leaders, pressured

thousands of members to resign, closed party offices, harassed members' families, and periodically detained supporters to block planned meetings. Hundreds of NLD members were arrested for their participation in the 2007 protest movement. Besides the NLD, there are more than 20 ethnic political parties that remain suppressed by the junta. In November 2008, about 40 dissidents, including 14 members of the 88 Generation Students, were each sentenced to 65 years in prison." [14b]

- 13.20 The UN Special Rapporteur's report, published 10 March 2010, stated "Organized groups such as associations of monks, students and human rights defenders have been harshly suppressed. Currently some 500 monks and students remain imprisoned." [32e] (paragraph 55)

### National League for Democracy (NLD)

- 13.21 BBC News reported on 7 May 2010 that the National League for Democracy (NLD) was disbanded after it failed to register for the forthcoming elections before the junta's deadline of 6 May 2010. The NLD decided to boycott the elections due to the "oppressive" election laws that were introduced in March, which included banning "... anyone with a criminal conviction from being a member of a political party. That meant that the NLD would have to expel Ms Suu Kyi and many other key leaders if it wanted to take part in the polls. The laws also nullified the NLD's 1990 victory." [28d]

- 13.22 Mizzima news reported on 6 May 2010 that:

"Former National League for Democracy party central committee members and other members are set to form a new political party, the National Democratic Force, to contest this year's election, a party spokesman said. Former NLD central committee members Khin Maung Swe, Dr. Than Nyein, Dr. Win Naing, Thein Nyunt, Thein Hla Oo, Soe Win, Than Win and 21 other party members reached the decision at a meeting in Rangoon today." [33d]

- 13.23 The Democratic Voice of Burma (DVB) reported on 7 May 2010 that "Nyan Win, the NLD's long time spokesman, urged the founders of the new party to refuse to participate in the polls. 'They should formally obey the unanimous decision of the NLD [to boycott the elections]', he told AFP. 'Whether they obey the decision or not is their choice. But I'm not preventing them'." However, Central Executive Committee member and NLD spokesperson, Khin Maung Swe, added that "... the move [to form a new party] is not intended to be an attack on Suu Kyi or the NLD. 'For those who form the new party, Daw Aung San Suu Kyi is still a leader to them. She always will be'." [3c]

- 13.24 DVB added that "The fate of the NLD... is unclear; the group has been legally abolished, but members say it will continue to work as a social organisation." [3c]

- 13.25 The Economist Intelligence Unit (EIU) noted in its report on Burma, dated 9 October 2008, that historically:

"The NLD remains the most important source of political opposition to the junta. However, years of intense harassment by the junta have weakened the party. Most party offices have been forced to close and many members forced to resign. When NLD leaders were able to meet supporters around the country during a brief thaw in 2001-02, the massive turnout at some of these gatherings,

despite intimidation by the USDA, showed that popular support for the NLD remained strong. The generals continue to see Aung San Suu Kyi as a major threat, and she has spent 12 of the past 19 years under house arrest.” [46] **(The National League for Democracy)**

- 13.26 The FCO *Human Rights Annual Report 2009* observed that the “NLD and other opposition members face particular harassment, and sometimes physical assault, and have been prevented from opening party regional offices. U Win Tin and NLD leaders are under constant surveillance.” [5b (p92) The USSD Report 2009 reported on the arrest and detention of a number of NLD members during 2009. [See report for details] [7a] **(Section 1e)**
- 13.27 In an email response dated 5 June 2007, the Foreign and Commonwealth Office (FCO) stated that Aung San Suu Kyi led the whole of the National League for Democracy (NLD), including the youth wing. The NLD was only allowed to operate in Rangoon/Yangon, where the NLD’s Central Executive Committee was based. All other offices in Burma were closed. [5f]
- 13.28 The FCO noted in a letter dated 8 March 2007 that committees existed within the NLD, including Social Welfare, Woman’s Association, Medical Assistance, Adult Membership Committee, Media Committee, Legal Committee and Youth Wing. [5o]
- 13.29 With regards to political activists working together, Human Rights Watch (HRW) stated in its report, *Burma’s Forgotten Prisoners*, dated 16 September 2009, that “In the last few years, the NLD [National League for Democracy] youth wing has been most visible – comprised of bold and innovative activists who often work in conjunction with other emerging groups such as the 88 Generation Students and Generation Wave.” [39f] **(The 88 Generation Students)**

See also [Political system](#) and [Recent events and political developments](#)

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## All Burma Monks Alliance

- 13.30 The EIU Burma report, dated 9 October 2008, noted that:
- “Myanmar’s highly revered Buddhist monks are an important source of political opposition. Monks played a key role in the failed 1988 pro-democracy uprising, and in September 2007 thousands of monks again took to the streets, initially to protest against economic hardship before leading mass protests seeking to oust the military. Some of those involved belonged to an activist group calling itself the Alliance of All Burmese Buddhist Monks. The SPDC has sought to infiltrate the monkhood with its own supporters, and it detained hundreds of monks following the 2007 protests.” [46] **(The Buddhist monkhood)**
- 13.31 The All Burma Monks Alliance (ABMA) was formed in the wake of the 2007 pro-democracy protests and became the military’s main target at the demonstrations. (Amnesty International Report 2008) [12a] **(Freedom of expression)** One of the leaders of the ABMA, and alleged organisers of the protests, U Gambira, was arrested and charged for violating the Unlawful Associations Act, which carries a prison sentence of up to three years. He was also charged with immigration offences for allegedly trying to cross the Thai-Burma border without permission,



a sentence that carries a possible five years in prison. U Gambira's brother, Ko Aung Kyaw Kyaw, was also arrested and charged under the same offences. (USSD IRF Report 2008) [7b] (Section II) Mizzima news reported on 21 November 2008 that U Gambira was sentenced by a special court to a total of 68 years in prison following his participation in September 2007's "Saffron Revolution". [33b]

See also [Fair Trial](#) and [Religious Freedom](#), subsection on [Buddhists](#)

## 88 Generation Students group (88 GSG)

- 13.32 As reported by Mizzima news, dated 11 November 2008, in a time line on the 88 generation group:

"[The] 88 generation group is not a political party but rather a movement, comprising a generation of students who were active during the 1988 pro-democracy uprising... Most of the members of the 88 generation group are former political prisoners who served long sentences in Burma's notorious penal system, subjected to serious human rights abuses... The group was formed in 2005 by politically active student leaders, including Min Ko Naing." [33a]

- 13.33 The EIU noted in its Burma report, 9 October 2008, that:

"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." [46] (88 Generation group)

- 13.34 The UN Special Rapporteur's report, published 10 March 2010, stated "The well known 88 Generation Students group has been punished most severely for advocating peaceful democratic changes. Many of its prominent members have been arrested and sentenced to lengthy prison terms." The report added that at least two leaders of 88 GSG were serving 65 year prison sentences. [32e] (paragraph 55)

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## Generation Wave

- 13.35 The Democratic Voice of Burma (DVB), reported on 6 February 2009 that "Generation Wave was formed on 9 October 2007 and is made up of the younger generation of students and artists." [3b]
- 13.36 Human Rights Watch stated in its report, *Burma's Forgotten Prisoners*, dated 16 September 2009, that Generation Wave members included "...hip hop artists such as Zay Yar Thaw, and young activists such as Arkar Bo, Aung Zay Phyo, Thiha Win Tin, Yan Naing Thu, and Wai Lwin Phyo." [39f] (The 88 Generation Students)

- 13.37 In its Political Prisoner Profile of activist Zayar Thaw, last updated on 29 June 2009, the Assistance Association for Political Prisoners (Burma) (AAPPB) stated that the group Generation Wave (Myoset-Thit-Lunge):

“...was founded... during September 2007’s Saffron Revolution... Generation Wave campaigns against the military dictatorship by singing protest songs and distributing anti-government leaflets. It worked closely with the secret organization, Freedom Fighters to produce a CD called ‘Oh Myanmar’, which includes the ‘NO NO NO’ song to accompany the ‘Vote No Campaign’ in the May 2008 referendum on the constitution. On October 9, 2008 Generation Wave distributed leaflets bearing the message ‘End of the Dictatorship 2008’ around Rangoon, Mandalay and other cities across Burma to mark the one-year anniversary of the group’s founding.” [44c]

### All Burma Federation of Student Unions (ABFSU)

- 13.38 The All Burma Federation of Student Unions (ABFSU) re-emerged during the pro-democracy uprising in 1988 then went underground in 1990 following the arrest and imprisonment of some of its members. At the 2007 pro-democracy demonstrations the ABFSU resurfaced again. (*The Irrawaddy*, 28 August 2007) [26a]

See also [History](#)

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## 14. FREEDOM OF SPEECH AND MEDIA

The section should be read in conjunction with [Political affiliation](#)

- 14.01 The BBC reported in its country profile for Burma, last updated 9 March 2010, that:

“The Burmese media have been strictly controlled since the 1962 military coup. Everything from poetry to films is censored, filtering not only criticism of the government but most bad news, including reports of natural disasters and sometimes even defeats by the national football team.

“The state controls the main broadcasters and publications. Print and broadcast media are dominated by formulaic reports on the daily official and religious ritual activities of the ruling generals, accounts of progress in the implementation of policies, and denunciations of alleged US and UK plots against Burma.

“Foreign radio is a key source of information about both the outside world and events at home. The BBC, Voice of America, the US-backed Radio Free Asia and the Norway-based opposition station Democratic Voice of Burma target listeners in Burma. Well-off Burmese have access to some international television and a limited number of international publications.

“Internet access is tightly controlled by the government. It is further hampered by a poor telephone infrastructure and an unreliable supply of electricity.” [28a]

- 14.02 The Foreign and Commonwealth Office (FCO) *Human Rights Annual Report 2009*, published 17 March 2010, noted:

“In a small positive development, media censorship reduced slightly during 2009. News journals were able to report more freely on humanitarian assistance efforts, diplomatic relations, elections and constitutional affairs. Independent radio stations began broadcasting in the two main cities, Rangoon and Mandalay, and attracted much popular support. Despite this, no criticism of the regime was tolerated. Several editors and a number of journalists were detained in 2009, accused of being social activists and of being critical of the government.” [5b] (92)

- 14.03 In its Annual Prison Census of 2009, the Committee to Protect Journalists (CPJ) reported that as of 1 December 2009, nine journalists were imprisoned in Burma. [15a] A further two journalists working for the Democratic Voice of Burma (DVB) were later sentenced to a total of 40 years in prison. Hla Hla Win was given 27 years on 30 December 2009, and Ngwe Soe Lin, also known as Tun Kyaw, received 13 years imprisonment on 27 January 2010. (CPJ, 1 February 2010) [15b]

See also [Political prisoners](#)

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## 15. HUMAN RIGHTS INSTITUTIONS AND ACTIVISTS

The section should be read in conjunction with [Political affiliation](#) and [Freedom of speech and media](#)

- 15.01 The US Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, stated that:

“The government did not allow domestic human rights organizations to function independently, and it remained hostile to outside scrutiny of its human rights record. Approximately 45 nonpolitical, international humanitarian NGOs operated in the country. A few others had a provisional presence while undertaking the protracted negotiations necessary to establish permanent operations in the country.

“The government maintained travel restrictions on foreign journalists, NGO staff, UN agency staff, and diplomats in most regions. Human rights advocates regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the government and for purposes approved by the government. The government's monitoring of the movements of foreigners, its frequent interrogation of citizens concerning contacts with foreigners, its restrictions on the freedom of expression and association of citizens, and its practice of arresting citizens who passed information about government human rights abuses to foreigners obstructed efforts to investigate human rights abuses. Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed and seldom could be verified.

“Authorities often allowed NGO staff to travel ‘unaccompanied’ to areas affected by Cyclone Nargis in 2008, although SB [Special Branch] police monitored many visits. Some international NGOs and UN agencies were required to have a government representative accompany them on field visits to other areas of the country, at the NGO or UN expense, although this rule was not consistently enforced. Foreign staff often experienced difficulty obtaining permission to travel to project sites outside of the cyclone-affected areas.

“Many international humanitarian NGOs and UN agencies reported government pressure to limit their activities, and access to human rights activists, prisoners, and ethnic minorities by international personnel was highly restricted. UN agencies and NGOs continued to negotiate with the government to agree on mutually acceptable guidelines for the activities of humanitarian organizations.”  
[7a] (Section 5)

- 15.02 The International Federation for Human Rights (FIDH) *Observatory for the Protection of Human Rights Defenders Annual Report 2009*, released on 18 June 2009, stated in its section on Burma that “International NGOs working in health education and counselling for HIV/AIDS patients in particular were targeted. In March [2008], NGOs working in this sector were ordered by the authorities to stop their activities at the grassroots level. This included Save the Children Fund, Population Services International (PSI), Marie Stopes International (MSI), Care International in Myanmar (Care-Myanmar) and World Vision.” [31b] (p272)

- 15.03 The FIDH Annual Report 2009 also noted that “Human rights lawyers defending activists involved in particular in the Saffron Revolution were also targeted by the authorities.” The Report gave examples of a number of lawyers and other human rights defenders who had received prison terms due to their activities, which were often seen as opposing the state. [31b] (p266-273)
- 15.04 The website ‘NGOs in the Golden Land of Myanmar’, accessed 26 April 2010, provided an [Online Directory of Development Organizations](#) in Burma.

See also [Opposition groups and political activists](#)

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## 16. CORRUPTION

- 16.01 In its 2009 Corruption Perceptions Index (CPI), released in September 2009, Transparency International ranked Burma (Myanmar) 178<sup>th</sup> in the world corruption ranking, out of 180 countries, giving it a CPI score of 1.4. (CPI Score relates to perceptions of the degree of corruption as seen to exist among public officials and politicians by business people and country analysts. It ranges between 10 (highly clean) and 0 (highly corrupt). [21a]
- 16.02 The Freedom House report, *Freedom in the World 2010*, on Burma stated that “In a system that lacks both transparency and accountability, corruption and economic mismanagement are rampant at both the national and local levels.” [14a]
- 16.03 The US Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, stated for Burma that:
- “The law provides for criminal penalties for official corruption; however, the government rarely and inconsistently enforced the anticorruption statute, and officials frequently engaged in corrupt practices with impunity. A complex and capricious regulatory environment fostered corruption. Authorities usually enforced anticorruption laws only when the regime's senior generals wanted to take action against officials whose egregious corruption had become an embarrassment or when they wanted to punish officials deemed a threat to the senior generals' power.” [7a] (Section 4)
- 16.04 The same source added that “Police corruption and impunity were serious problems. Police typically required victims to pay substantial sums for crime investigations and routinely extorted money from the civilian population. There are no effective legal mechanisms available to investigate security force abuses. The government took no significant measures to reform the security forces.” [7a] (Section 1d) The report further noted “Pervasive corruption further served to undermine the impartiality of the justice system.” [7a] (Section 1e)

See also Security forces: [Police](#) and [Judiciary](#)

## 17. FREEDOM OF RELIGION

Religion and ethnicity are closely connected in Burma, and users are recommended to read this section in conjunction with [Ethnic groups](#)

### OVERVIEW

17.01 The United States Department of State *International Religious Freedom Report 2009* (USSD IRF Report 2009), published on 26 October 2009, covering events from 1 July 2008 to 30 June 2009, stated that in Burma “The new Constitution provides for freedom of religion; however, it also grants broad exceptions that allow the regime to restrict those rights at will. Although authorities generally permitted most adherents of registered religious groups to worship as they choose, the Government imposed restrictions on certain religious activities and frequently abused the right to freedom of religion.” [7b]

17.02 The same source added:

“Although the country has no official state religion, successive military and civilian governments have supported and associated themselves conspicuously with Theravada Buddhism. In 1961 the Government’s push to make Buddhism the state religion failed due to countrywide protests by religious minorities. In practice, the Government continues to show a preference for Theravada Buddhism through official propaganda and state-sponsored activities, including donations to monasteries and pagodas, encouragement of education at Buddhist monastic schools in rural areas, and support for Buddhist missionary activities. Promotions within the military and the civil service are reserved for followers of Buddhism. The Ministry of Religious Affairs includes the powerful Department for the Promotion and Propagation of Sasana (Buddhist teaching).” [7b] (Section II)

17.03 Burma was designated a “country of particular concern” (CPC) by the United States Commission on International Religious Freedom (USCIRF). USCIRF noted in its *Annual Report 2010* (USCIRF Annual Report 2010), published 29 April 2010, covering events from 1 April 2009 to 31 March 2010, that:

“The SPDC [State Peace and Development Council] severely restricts religious practice, monitors the activity of all religious organizations, and perpetrates violence against religious leaders and communities, particularly in ethnic minority areas. In the past year, the SPDC has engaged in severe violations of the freedom of religion and belief including: the arrest, mistreatment, and harassment of Buddhist monks who participated in peaceful demonstrations in 2007 or are suspected of antigovernment activity; the severe repression and forced relocation of the Rohingya Muslim minority; the banning of independent Protestant ‘house church’ activities; and the abuses, including forced labor, relocations, and destruction of religious sites, against ethnic minority Protestants.” [9a] (p31)

17.04 The USSD IRF Report 2009 noted that:

“Official public holidays include numerous Buddhist holy days, as well as a few Christian, Hindu, and Islamic religious holidays. The Government observes the following religious holidays as national holidays: the Full Moon Day of Tabaung, the four-day Thingyan (water festival), Buddhist New Year’s Day, the Full Moon Day of Kason, the Full Moon Day of Waso, the Full Moon Day of Thadinkyut, the

Full Moon Day of Tazaungmone, Christmas, Idul Alhwaha, and Deepa Vali.” [7b] (Section II)

See also [Political affiliation](#) for information about the treatment of Buddhist monks.

## DEMOGRAPHY

17.05 The USSD IRF Report 2009 noted:

"The country has an area of 261,970 square miles and a population the International Monetary Fund estimates at 50 million. The majority follow Theravada Buddhism, although in practice popular Burmese Buddhism coexists with astrology, numerology, fortune telling, and veneration of indigenous pre-Buddhist era deities called 'nats.' Buddhist monks, including novices, number more than 400,000 and depend on the laity for their material needs, including clothing and daily donations of food. The country has a much smaller number of Buddhist nuns. The principal minority religious groups include Christians (primarily Baptists, Roman Catholics, and Anglicans, along with several small Protestant denominations), Muslims (mostly Sunni), Hindus, and practitioners of traditional Chinese and indigenous religions. According to official statistics, almost 90 percent of the population practices Buddhism, 4 percent Christianity, and 4 percent Islam. These statistics almost certainly underestimate the non-Buddhist proportion of the population. Independent scholarly researchers place the Muslim population at between 6 and 10 percent. A tiny Jewish community in Rangoon has a synagogue but no resident rabbi and lacks enough resident believers to constitute a minyan, the quorum needed for certain religious rites.

"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 among the Shan, Arakanese, and Mon ethnic minorities in the east, west, and south. Christianity is the dominant religion among the Kachin ethnic group of the north and the Chin and Naga ethnic groups of the west, some of whom also continue to practice traditional indigenous religions. Protestant groups report recent rapid growth among animist communities in Chin State. Christianity is also practiced widely among the Karen and Karenni ethnic groups of the south and east, although many Karen and Karenni are Buddhist and some Karen are Muslim. Burmese citizens of Indian origin, who are concentrated in major cities and in the south central region, predominantly practice Hinduism, though some ethnic Indians are Christian. Islam is practiced widely in Rakhine [Arakan] State, where it is the dominant religion of the Rohingya minority, and in Rangoon, Irrawaddy, Magwe, and Mandalay Divisions, where some Burmans, Indians, and ethnic Bengalis practice Islam. Chinese ethnic minorities generally practice traditional Chinese religions. Traditional indigenous beliefs are practiced widely among smaller ethnic groups in the highland regions. Practices drawn from those indigenous beliefs persist in popular Buddhist rituals, especially in rural areas.” [7b] (Section I)

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## CONSTITUTION AND LEGISLATION

17.06 Under the new Constitution, the USSD IRF Report 2009 noted that:



“It specifically recognizes the ‘special position of Buddhism as the faith practiced by the great majority of citizens,’ but also recognizes Christianity, Islam, Hinduism, and animism as religions ‘existing’ in the country. It states that the Government shall ‘render assistance and protect the religions it recognizes.’

“The Constitution prohibits discrimination on the basis of religion. Most adherents of recognized religious groups generally are allowed to worship as they choose; however, the Government imposes restrictions on certain religious activities and frequently abuses the right to religious freedom. The Constitution protects the right to seek redress for violations of freedoms but does not specify how such claims will be addressed. Moreover, anti-discrimination laws do not apply to ethnic groups not formally recognized under the 1982 Citizenship Law, such as the stateless Muslim Rohingyas in northern Rakhine State.” [7b] (Section II)

17.07 The same report stated that:

“Virtually all organizations, religious or not, must register with the Government. Religious organizations register with the Ministry of Home Affairs with an endorsement from the Ministry for Religious Affairs. A government directive exempts ‘genuine’ religious organizations from official registration; however, in practice, only registered organizations can buy or sell property or open bank accounts. Due to these requirements, most religious organizations seek registration. Leaders of registered religious groups also have more freedom to travel than those of unregistered organizations.” [7b] (Section II)

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## BUDDHISTS

17.08 Despite the military junta showing a preference for Theravada Buddhism [the Burmese authorities “... actively promoted conversion to Buddhism...” in ethnic minority regions. (USCIRF Annual Report 2010) [9a] (p35)], during the 2007 pro-democracy protests, monasteries were raided, thousands of monks were arrested, and those detained were reportedly abused and forcibly defrocked. (Freedom House, *Freedom in the World 2009*) [14b] During 2009/10 “Buddhist monasteries viewed as epicenters of the demonstrations continue to face severe restrictions on religious practice. Monks suspected of anti-government activities have been detained in the past year [April 2009 to March 2010]”. [9a] (p35).

17.09 The USSD IRF Report 2009 noted:

“The Government controls the organization and restricts the activities and expression of the Buddhist clergy (Sangha), although some monks have resisted such control. Based on the 1990 Sangha Organization Law, the Government has banned any organization of Buddhist monks other than the nine state-recognized monastic orders. Violations of this ban are punishable by immediate public defrocking and criminal penalties. The nine recognized orders submit to the authority of the State Monk Coordination Committee (‘Sangha Maha Nayaka Committee’ or SMNC), the members of which are indirectly elected by monks.” [7b] (Section II)

17.10 The Foreign and Commonwealth Office (FCO) Human Rights Annual Report 2009, published 17 March 2010, stated “...since Buddhist monks led the protests against rising fuel and food prices in late 2007 (the so-called Saffron Revolution), the Burmese Buddhist community and individual monasteries have been

targeted for surveillance. In October [2009] around 30 monks were arrested. Monastic schools are constantly monitored by military security.” [5b] (p93)

17.11 The USCIRF *Annual Report 2010* observed that:

“Government authorities continue closely to monitor monasteries viewed as focal points of the protest and have restricted usual religious practices in these areas. Monks perceived to be protest organizers have been charged under vague national security provisions, including ‘creating public alarm;’ ‘engaging in activities inconsistent with and detrimental to Buddhism;’ ‘the deliberate and malicious...outraging of religious feelings;’ and ‘engaging in prohibited ‘acts of speech intended for religious beliefs’.” [9a] (p33)

See also Opposition groups and political activists: [All Burma Monks Alliance](#)

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## CHRISTIANS

17.12 The FCO *Human Rights Annual Report 2009* noted that there continued to reports of discrimination against Christian communities during 2009. The Report stated “Christians from the Chin ethnic group working in government are allegedly denied promotion unless they change their religion. Pastors are singled out for forced labour and there are reports that it is extremely difficult to obtain permission to repair churches.” [5b] (p93)

17.13 The USCIRF *Annual Report 2010*, reported that:

“Christian groups in Burma continue regularly to experience difficulties in obtaining permission to build new churches, hold public ceremonies or festivals without permission, and import religious literature. A government regulation promulgated in early 2008 bans religious meetings in unregistered venues, such as homes, hotels, or restaurants. Burmese Christians claim that 80 percent of the country’s religious venues could be closed by the regulation. ‘House churches’ proliferated in the past decade because the government regularly denied permissions to build new churches.

“In January 2009, the SDPC took steps to enforce the regulation, ordering 100 churches and religious meeting places in Rangoon to stop holding services and forcing Protestant leaders to sign pledges to that effect. There are additional reports of church closings in Mandalay. Burmese Christians believe that enforcement of the government’s ban came in response to humanitarian aid they provided to Cyclone Nargis victims in May 2008. In the aftermath of the cyclone, the SPDC forcibly closed some religious charities providing humanitarian support, particularly those channeling foreign assistance.” [9a] (p34-35)

17.14 The same source added:

“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, and mandated forced labor. The Chin, Naga, Kachin, Shan, Karen, and Karenni peoples, each with sizable Christian populations, have been the primary targets of these abuses. In the past year, for

instance, authorities in Kachin state halted attempts by the Shatapru Baptist Church to build a Christian orphanage. In late 2007, a military general in Shan state confiscated land from a Catholic diocese and destroyed the home of the bishop. No compensation has been awarded. In ethnic minority areas, Christians are required to obtain a permit for any gathering of more than five people outside of a Sunday service. Permission is regularly denied, or secured only through bribes.” [9a] (p35)

17.15 The USSD IRF Report 2009 for Burma noted that:

“Government authorities continued to prohibit Christian clergy from proselytizing in some areas. Christian groups reported that several times during the reporting period local authorities denied applications for residency permits for known Christian ministers attempting to move to a new township. The groups indicated this was not a widespread practice but depended on the individual community and local authority. In some instances, local authorities reportedly confiscated NRCs of new converts to Christianity. Nonetheless, Christian groups reported that church membership grew, even in predominantly Buddhist regions.” [7b] (Section II; Restrictions on religious freedom)

17.16 In its report, *Carrying the Cross*, dated 23 January 2007, Christian Solidarity Worldwide (CSW) recorded that “A document, allegedly from the Ministry of Religious Affairs, has been widely circulated in Rangoon. Headlined ‘Programme to destroy the Christian religion in Burma’, it contains 17 points:

1. There shall be no home where the Christian religion is practised.
2. No home will accept any preaching about Jesus.
3. Teenagers should not wear inappropriate western clothing.
4. The Christian concept of ‘No other God but me’ is narrow-minded and should not be acceptable.
5. There shall be no Christian preaching/evangelism on an organised basis.
6. Take care as the Christian religion is very gentle – identify and utilise its weaknesses.
7. If anyone discovers Christians evangelising in the countryside they are to report it to the authorities and those caught evangelising will be put in prison.
8. Christians believe ‘Christ died on the cross’ and gives salvation. This is untrue and should be contradicted.
9. Buddhists should find Christian weak points and use these weak points to convert Christians to Buddhism.
10. Buddhists should study the Christian Bible so that they can contradict those parts which are untrue and be able to resist the Christian message.
11. The Old Testament and the New Testament are not the same. The two translations into Burmese by Judson and Thara Kwala are different. Find out their inconsistencies.
12. In the Christian religion God only loves the twelve tribes of Israel and does not love all the people in the rest of the world.
13. Buddhists love everybody, not just the twelve tribes of Israel. The Christian religion does not love everybody and this should be pointed out.
14. The principle of the creation story in the Bible is wrong.
15. The offerings taken at Christian meetings should be checked.
16. Study the Holy Spirit and show Christians that they have a wrong understanding.
17. Christian beliefs have to be contradicted in all circumstances.” [13a] (p17)

17.17 The same source noted that:

“Another 17-point document circulated in Chin State provides a variation on the theme. Called *The Facts to Attack Christians*, it instructs Buddhists ‘to attack Christian families and the progress of Christians’, ‘to criticise sermons which are broadcast from Manila, Philippines’, ‘to stop the spread of the Christian movement in rural areas’, ‘to criticise the Holy Spirit after thorough study’ and ‘to attack Christians by means of both non-violence and violence’.” [13a] (p18)

- 17.18 On 20 January 2007 *The Telegraph* reported on the same document, which was shown to *The Sunday Telegraph* by human rights groups, and noted that the document “... may have been produced by a state-sponsored Buddhist group, but with the tacit approval of the military junta. The regime has denied authorship of the document – which also calls for teenagers to be prevented from wearing Western clothes – but has made no public attempt to refute or repudiate its contents.” [20a]

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## MUSLIMS

- 17.19 The USCIRF *Annual Report 2010* stated that:

“Enforcement of discrimination policies targeting Muslims widened in the past year. Police and border guards also continue inspections of Muslim mosques in Rakhine state; if a mosque cannot show a valid building permit, the venue is ordered destroyed. Nine mosques were closed in the previous year. The government also permitted the destruction of religious centers and schools. During the reporting period, the Burmese government maintained a campaign to create ‘Muslim Free Areas’ in parts of Rakhine 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 stepped up its presence in Rakhine state recently, reportedly in advance of planned 2010 elections... Since 1988, the government reportedly has permitted only three Muslim marriages per year in certain villages of Rakhine state. Efforts to lift this restriction have failed. Muslims also report difficulties in obtaining birth certificates for newborns, particularly in the city of Sittwe.” [9a] (p34)

- 17.20 The UN Special Rapporteur’s progress report on the human rights situation in Burma, dated 10 March 2010, stated that “Since 1994 the Myanmar authorities have refused to issue birth certificates to many Muslim children. As a consequence of their statelessness, these children face discrimination with regard to education, health care and employment.” (paragraph 88) The same source added that, unlike other Burmese nationals, the Rohingya Muslim community:

“... must apply for papers from Nasaka, the border and immigration forces in Northern Rakhine State, which checks for citizenship and age of majority, in order to get married. This process is reported to cost 40,000 kyat (about \$40), which many Muslims cannot pay, and can take up to several years to complete. As a consequence, many Muslims are arrested and sentenced up to five years in prison for offenses relating to these requirements. The majority of the prison population of Buthidaung were Muslim, most of them for charges related to

immigration or marriage offenses. However, the Supreme Court in 2009 overturned two convictions for illegal marriage.” [32e] (paragraph 89)

17.21 The UN Special Rapporteur noted in his report dated 24 August 2009, on the human rights situation in Burma that “The problem of statelessness is the root of chronic scourges endured by the Muslim population. Without any identity papers, this population needs to apply for travel permits, which are costly and cannot be obtained by everyone. Being confined to its own villages limits the possibility to have access to health care and education, to find a job, and thus to provide the basics for living in dignity.” [32c] (paragraph 72)

17.22 The same source added:

“The number of cases of allegation of forced labour imposed on the Muslim community has considerably increased in 2009. It is said that since March 2009, the Government is building a barbed-wire fence along its border with Bangladesh. To this end, the Muslim community is required to provide work without compensation to excavate earth, raise an embankment, manufacture concrete pillars, and transport the pillars in its fishing boats to the various sections of the embankment. It is said that army forces enter people’s houses in the middle of the night to collect them for the forced labour, and those who refused have been beaten.” [32c] (paragraph 79)

17.23 The USSD IRF Report 2009 noted that:

“Authorities frequently refused to approve requests for gatherings to celebrate traditional Christian and Islamic holidays and restricted the number of Muslims who could gather in one place. For instance, in satellite towns surrounding Rangoon, Muslims were only allowed to gather for worship and religious training during major Muslim holidays... Muslims across the country, as well as some ethnic minority groups such as Chinese and Indians, often were required to obtain permission in advance from the township authorities to leave their hometowns.” [7b] (Section II, Restrictions on religious freedom)

17.24 The USCIRF *Annual Report 2010* noted that “Tensions between the Buddhist and Muslim communities have resulted in outbreaks of societal violence over the past several years, some of it instigated by Burmese security forces.” [9a] (p33)

17.25 The 2010 UNHCR Country Operations Profile for Myanmar, undated, accessed 23 April 2010, stated that “There has been no significant change in the situation of Muslim residents of northern Rakhine State. However, in the lead-up to the 2010 elections, the Government has made some overtures to them, suggesting that their legal status may be improved and that restrictions on movement, marriage and other rights may be eased.” [10a]

17.26 The Democratic Voice of Burma (DVB) reported on 9 April 2010 that identity cards had been issued to the Rohingya minority in Rakhine state in what was seen to be a move to secure votes in the forthcoming elections. However, rather than being identified as Rohingya, their status has been categorised as “Burmese Muslims”, inflaming some locals who claimed it could heighten racial tensions. [3d]

See also [Ethnic groups](#) and [Identity cards](#)

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## 18. ETHNIC GROUPS

- 18.01 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, observed that:

“Wide-ranging governmental and societal discrimination against minorities persisted. Tension between the government army and ethnic populations remained high; the army occupied some ethnic groups' territories and controlled certain cities, towns, and highways. Abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of members of ethnic groups by government soldiers. Some armed ethnic groups also may have committed abuses, but on a much smaller scale than the government army.

“Rohingya Muslims who returned to Rakhine State were discriminated against because of their ethnicity. Returnees faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages.” [7a] (Section 5)

- 18.02 The FCO Country Profile for Burma, updated 2 December 2008, stated:

“Ethnic minorities make up more than 30% of the overall population. There are around 120 different minorities, and seven main groups besides the dominant (Buddhist) Burmans. Armed conflict continues in several parts of Burma, although the government has negotiated ceasefire arrangements with several armed groups including the Kachin Independence Army (KIA), the United Wa State Army (UWSA) and the Shan State Army - North (SSA-N). Those still fighting include the Karen National Liberation Army (KNLA), the Karenni Army, the Shan State Army - South (SSA-S) and the Shan State National Army (SSNA). The Karen National Union (KNU) has been fighting since 1949. The picture now is a complex patchwork of ceasefire and non-ceasefire groups. Some, like the Wa - close to the border with China - have carved out a significant degree of autonomy. Some have splintered and there is intra ethnic tension.” [5a] (The Ethnic Minorities)

- 18.03 In an in-depth report on Burma's refugees, IRIN news, accessed 20 May 2010, noted that:

“About two-thirds of the population are ethnic Burmese, while the remainder are Shan, Karen, Rakhine, Chinese, Mon and Indian, as well as the Akha, Chin, Danu, Kachin, Kokang, Lahu, Naga, Palaung, Pao, Rohingya, Tavoyan and Wa peoples. There are about 135 ethnic sub-groups, according to the government. The minorities live mostly in the hills and mountains bordering Bangladesh, China, India, Laos and Thailand, while the Burmese are found in the central alluvial plains and major towns and cities.” [49b]

- 18.04 The US Commission on International Religious Freedom *Annual Report 2010* (USCIRF Annual Report 2010), published 29 April 2010, stated that:

“Muslims in Rakhine state, on the western coast, 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 status to Rohingyas because their ancestors allegedly did not reside in the country at the start of British colonial rule. In 2007, five UN Special Rapporteurs called on the SPDC [State Peace and Development

Council] to repeal or amend its 1982 Citizenship Law to insure compliance with international human rights obligations. Without citizenship status, Rohingyas do not have 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. Approximately 800,000 Rohingya live in Burma, primarily in Rakhine state. Refugees living in Bangladesh report that some Rohingya are prevented from owning property, residing in certain townships, or serving as government officials.” [9a] (p33-34)

- 18.05 Human Rights Watch (HRW) *World Report 2010*, covering events in 2009, published on 20 January 2010, noted:

“The Burmese military continues to attack civilians in ethnic conflict areas, particularly in eastern and northern Burma. In May 2009, attacks by the army and its proxy force, the Democratic Karen Buddhist Army (DKBA), displaced thousands of civilians and forced an estimated 5,000 refugees into Thailand. In late July attacks by Burmese army troops against 39 villages in central Shan state displaced an estimated 10,000 civilians in the area.

“Tensions between the military government and an estimated two dozen armed militias with longstanding, semi-official ceasefire agreements increased during 2009 as the government instructed them to disarm and transform into smaller ‘Border Security Guard’ forces ahead of the 2010 elections. In August 2009, government attacks against an official ceasefire militia, the Myanmar National Democratic Alliance Army in northern Shan state, drove some 37,000 ethnic Kokang and Chinese civilians into southern China. Some of the refugees have returned, but thousands have remained in China due to fears of further fighting.” [39b] (Ethnic Conflict Areas, Internal Displacement, and Refugees)

- 18.06 In its section on the army, updated 11 December 2009, Jane’s *Sentinel Country Risk Assessments: Myanmar*, noted that:

“The Tatmadaw [Burmese army] is primarily oriented toward counter-insurgency operations. Although the military has secured ceasefires and peace agreements with many of the countries ethnic insurgencies, several insurgencies persist and several of the peace agreements threaten to come apart in response to the military’s efforts to integrate the armies of these groups as subordinate ‘border guard forces’. On-going counter-insurgency operations remain brutal low-tech operations with heavy casualties of civilians.” [8a] (Army: Adaptability)

- 18.07 Minority Rights Group International noted in its report *State of the World’s Minorities and Indigenous People’s 2010 – Burma*, published 1 July 2010, that “Many ethnic minorities have their own armed resistance movements, and there are about 40 armed groups in Burma. The government claims to have negotiated ceasefire agreements with 17 armed groups, including the Kachin Independence Army, the United Wa State Army and the Shan State Army... In 2009, some of those agreements began to break down, possibly as a result of an attempt by the military leadership to consolidate power before the elections.” [38b] (p126)

- 18.08 In its Report 2010, *The State of the World’s Human Rights*, published 27 May 2010, Amnesty International (AI Report 2010) noted that “The government continued to target ethnic minority activists for their work on political, environmental, and/or religious issues, and for their real or imputed support of



ethnic political and armed groups.” The Report gave examples of members of different ethnic groups that had been arrested, detained and beaten by the authorities. [12e] (p237)

18.09 The Amnesty International Report 2009, published 28 May 2009, stated that

“In eastern Myanmar, a military offensive by the tatmadaw (Myanmar army) continued against ethnic Karen civilians. Government forces engaged in widespread and systematic violations of international human rights and humanitarian law, amounting to crimes against humanity. Violations included extrajudicial executions, torture, forced labour, forced displacement and enforced disappearances.” [12c] (Armed conflict)

18.10 The AI Report 2010 also added that:

“In Rakhine State, systematic persecution of ethnic minority Rohingyas continued unabated, causing thousands to flee to Bangladesh, Thailand or Malaysia, often on boats. In January [2009], the Myanmar navy intercepted one such boat that had recently left Myanmar, and held the 78 Rohingyas on board for six days and beat them severely, before sending them back out to sea. In April, at the regional meetings of the Bali Process, the government publicly refused to recognize Rohingyas either as an existing ethnic minority or as citizens of Myanmar.” [12e] (p237)

18.11 The USCIRF Annual Report 2010 stated “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. Those who do not carry out their tasks have been shot or beaten to death.” [9a] (p33)

See also [Military service](#)

18.12 The Economist Intelligence Unit recorded in its Burma report, dated 9 October 2008 that:

“Several important ethnically based political parties performed well in the 1990 election, but most were subsequently banned. In addition to having political parties, many ethnic groups have military wings that have been involved in conflicts with the junta, some of which have persisted for several decades. Some groups have agreed ceasefires with the SPDC, and in return have been given varying degrees of control over local affairs. Others have continued their armed conflict, demanding greater autonomy for ethnic minority areas and an end to human rights abuses. The latter groups include the Karen National Union and its armed wing. Low-level conflict continues to destabilise large regions of the country, primarily along the eastern border in parts of the states of Shan, Karenni and Karen. For years the SPDC has used brutal tactics, including torture and forced relocation, in a bid to stamp out ethnic minority opposition movements.” [46] (Ethnic minority groups)

18.13 Minority Rights Group International provided further information on Burma's ethnic minority groups in its [World Directory of Minorities and Indigenous Peoples](#), last updated September 2009. [38a]

For further information on minority religious/ethnic groups, see [Freedom of Religion](#)

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## 19. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS (LGBT)

- 19.01 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, observed:

“The penal code contains provisions against ‘sexually abnormal’ behavior, and authorities applied them to charge gay men and lesbians who drew official attention. The maximum sentence is 20 years’ imprisonment and a fine. Under the penal code, laws against ‘unnatural offenses’ apply equally to both men and women. Nonetheless, such persons had a certain degree of protection through societal traditions. There was no official or social discrimination based on sexual orientation in employment.” [7a] (Section 5)

- 19.02 The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), accessed 17 May 2010, commented with regards to Burmese law that male to male sexual relationships were illegal but female to female sexual relationships were legal. ILGA stated that “Anal intercourse between a man and another man, a woman or an animal” was prohibited under Section 377 of the Penal Code (PC). On female to female sexual relations, ILGA noted “The ‘carnal intercourse’ law... is understood as not covering female to female activity in the countries with the same provision (originating in the Indian Penal Code of 1860).” ILGA noted that punishment for committing an offence under Section 377 of the PC was imprisonment of less than ten years although this was rarely applied. [22a]

- 19.03 ILGA added that it had:

“...very limited information on LGBTI issues in Myanmar/Burma. Probably there are few, if any, criminal charges laid under the penal code. 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.” [22a]

- 19.04 The Burma profile page, undated, accessed 1 July 2010, of the website [www.globalgayz.com](http://www.globalgayz.com), observed that:

“Homosexuality is illegal in Burma. The authoritarian nature of the government makes it difficult to obtain accurate information about the legal or social status of LGBT Burmese citizens. there are numerous laws that prohibit spreading a sexually transmitted disease, committing ‘a public nuisance, making, selling, or distributing ‘obscene’ material, buying or selling a prostitute under the age of eighteen or anything that might affect the morality of an individual, society or the public in a negative way. The current political climate is such that no organized LGBT political or social life can exist. Burma’s social mores about human sexuality have been described as being ‘extremely conservative’.” [sic] [54]

- 19.05 The Democratic Voice of Burma noted in an article dated 19 May 2010 that although the “archaic” law outlawing homosexual activity is rarely used, stigmatism remains. The report noted “The Burmese government last year [2009] marked World AIDS Day with an article in the state-run New Light of Myanmar newspaper linking the disease to ‘socially unacceptable behaviour’.” [3e]

See also Medical issues: [HIV/AIDS](#)

- 19.05 Purple Dragon, which claimed to be Asia's largest and oldest tour company for gay travellers to ten countries in Asia, accessed 29 April 2010, reported for Burma that:
- “Gay and trans-gendered people in Myanmar are rarely openly apparent, except for spirit mediums who channel the energies of revered and feared nat spirits. You will likely not see people expressing their sexuality through dress or behavior. Ladyboys, commonly seen and tolerated across the border in Thailand, are virtually absent here. The government works hard to prevent the rise of a sex industry and to control nightlife which encourages this... Cruising does take place and some nightlife venues provide social opportunities for gays and lesbians.” [17] (Gay life in Myanmar)
- 19.06 Diva magazine, accessed 9 July 2010, noted in its worldwide listings for Burma, undated, that “... in common with its neighbours the Burmese are very tolerant of homosexuality and there appears to be little social prejudice. So although homosexuality is technically illegal we found that gays were very open in Burma for example we saw obvious gay couples visiting temples together and holding hands. Because there is no gay scene as such most gay life revolves around public places.” [51] (Scene and culture) Purple Dragon noted, however, that although it was common to see men walking hand-in-hand, this did not necessarily indicate that they were gay. [17] (Gay life in Myanmar)
- 19.07 The Inter Press Service (IPS) News Agency reported on 3 June 2010 that “According to Ko Aye, who conducted a pioneering study on men who have sex with men (MSM) in Burma in 2003, stigma remains against [gay men]... Yet while he says there is ‘not a very serious or strong reaction’ against MSM, many MSM themselves apparently think there is a need to keep their ‘true identity’ secret.” The report added that “...despite the official condemnation of homosexuality, there are dozens of local MSM networks in major cities such as Rangoon and Mandalay, with local community-based organisations providing these with information and counselling services.” [50a]
- 19.08 The sources consulted provided no specific information on the position of lesbian or bisexual women, or transgender persons. For the position of women generally see [Women](#) below.

Further articles on LGBT persons maybe found on the [Globalgayz](#) website. [54]

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## 20. DISABILITY

- 20.01 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, stated that in Burma:

“There is no law providing for equal treatment before the law and for general protection against discrimination. Under the constitution, all citizens have the right to education and healthcare. The government did not actively discriminate against persons with disabilities in employment, access to healthcare, education, or the provision of other state services, but there were few official resources to assist persons with disabilities. There are no laws mandating accessibility to buildings, public transportation, or government facilities.

“The Ministry of Health is responsible for medical rehabilitation of persons with disabilities, and the Ministry of Social Welfare is responsible for vocational training. The government operated three schools for the blind, two for the deaf, two rehabilitation centers for adults with disabilities, and two for children with disabilities. However, the government provided inadequate funds for its schools and programs for persons with disabilities.

“Military veterans with disabilities received benefits on a priority basis, usually a civil service job at equivalent pay. Official assistance to nonmilitary persons with disabilities in principle included two-thirds of pay for up to one year for a temporary disability and a tax-free stipend for permanent disability; however, the government did not provide job protection for private sector workers who became disabled.” [7a] (Section 6)

- 20.02 The Human Rights Foundation of Monland (HURFOM), reported on its website with regards to disabled people in Burma, dated 1 June 2008, that:

“Disabled people in Burma do not have access to a range of support services as in other more developed countries, and employment for a disabled person is unlikely. For this reason disabled people are often reduced to begging, and we therefore only meet them at festivals, bus stations, train stations and other crowded places where money may be given to them freely. If jobs are offered to them they are lowly and poorly remunerated, such as plastic or bottle collecting... a lack of formal education regarding disabilities, and a still widely held superstitious belief that disabled persons have been made disabled as punishment for bad deeds in a previous life, leaves disabled people neglected, viewed as abnormal and looked down upon.” [34] (paragraphs VI -VII)

- 20.03 The same report noted that education for disabled children was limited. [34] (paragraph VIII)

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## 21. WOMEN

### OVERVIEW

- 21.01 The Freedom House report, *Freedom in the World 2010*, Burma, published 7 May 2010, covering events in 2009, stated “Burmese women have traditionally enjoyed high social and economic status, but domestic violence and trafficking are growing concerns, and women remain underrepresented in the government and civil service. The Women’s League of Burma has accused the military of systematically using rape and forced marriage as a weapon against ethnic minorities.” [14a]
- 21.02 Burma became an accession state to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in July 1997. (UN Treaty Collection, accessed 10 March 2010) [32d]
- 21.03 A report, dated 12 March 2010, by the Office of the UN Resident/Humanitarian Coordinator in Myanmar stated that, following the destruction and death caused by cyclone Nargis in 2008, “... approximately 14 out of every 100 households are now headed by women, the majority being widows. Female-headed households are often vulnerable. Sixty percent of female-headed households live in unsatisfactory shelters, they make up the highest percentage of the low income groups, and children from female-headed households frequently drop out of school due to financial constraints.” [48]
- 21.04 The USSD Report 2009 stated:
- “Prostitution is prohibited by law and punishable by up to five years in prison. In practice most prostitutes received three years’ imprisonment, while brothel owners received five years in prison. Clients were not punished; they received HIV/AIDS counseling. Prostitution grew in urban areas, particularly in some of Rangoon’s ‘border towns,’ ‘new towns’ (populated chiefly by poor families who were relocated forcibly from older areas of the capital), and in downtown massage parlors that doubled as brothels. Police tolerated the existence of these brothels and prostitution in exchange for bribes and in-kind payments.” [7a] (Section 6)

### LEGAL RIGHTS

- 21.05 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, noted that “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.” [7a] (Section 6)
- 21.06 Commenting on the State Peace and Development Council’s (SPDC) second and third periodical report to CEDAW, submitted in 2007, the Women’s League of Burma (WLB) stated in its report *In the Shadow of the Junta*, dated 2008, that:
- “Women in Burma do not enjoy an effective constitutional guarantee of substantive equality. The regime’s recently approved constitutional provisions not only fail to effectively promote gender equality, but guarantee that the armed forces, an almost exclusively male institution, will control a quarter of seats in the lower and upper houses of the legislature. At the same time, the SPDC has

failed to introduce temporary special measures that would assist women in realizing equality.

“There is no indication that the country’s laws have been revised to address direct and indirect discrimination or that the CEDAW and its principles have been incorporated into domestic legislation. In terms of family law, there is a plethora of customary laws still utilized by Burman and non-Burman ethnic groups concerning marriage, adoption, property ownership and inheritance rights. Many of these laws emphasize women’s roles as childbearers and home-makers while giving men greater economic and decision-making power in domestic affairs.

“The institutional mechanisms for addressing gender discrimination in Burma are extremely limited. The national women’s machinery is comprised of regime’s organized NGOs (GONGOs), whose leaders are wives of SPDC commanders. They are forced to promote the regime’s policies, and are prevented from taking a rights – or empowerment-based approach.” [27a] (p1)

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## POLITICAL RIGHTS

- 21.07 The USSD Report 2009 noted that “Women were excluded from political leadership... There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court.” [7a] (Section 3) The Women’s League of Burma noted that “... the Fundamental Principles of the new Constitution include provisions that effectively exclude women from public office. Thus, far from introducing temporary special measures that would assist women in realizing equality, the government, via the provisions of its constitution, is guaranteeing their exclusion.” [27a] (p18)
- 21.08 The Concluding observations of the Committee on the Elimination of Discrimination against Women, dated 7 November 2008, noted that “While noting that the majority of university graduates are women, the Committee is concerned at the very low rate of participation of women in all areas of public, political and professional life, including in the National Assembly and the realms of government, diplomacy, the judiciary, the military and public administration, especially at senior levels.” [32a] (paragraph 28)

## SOCIAL AND ECONOMIC RIGHTS

- 21.09 The USSD Report 2009 noted “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.” [7a] (Section 6) The USSD Report 2008 stated that “Women did not receive equal pay for equal work on a consistent basis. Women legally are entitled to receive up to 26 weeks of maternity benefits, but in practice these benefits often were not accorded them.” [7g] (Section 5)
- 21.10 The USSD Report 2009 added:
- “There were no independent women’s rights organizations, although there were several groups with some relationship to the government. The MWAF [Myanmar

Women's Affairs Federation] was the leading 'nongovernmental' women's organization. The Myanmar Maternal and Child Welfare Association, another government-controlled agency, provided assistance to mothers and children. The Myanmar Women Entrepreneurs' Association, a professional society for businesswomen, provided loans to women starting new businesses. While not controlled by the government, the association enjoyed good relations with the government and was allowed to conduct its activities to support women in business." [7a] (Section 6)

- 21.11 The Social Institutions and Gender Index (SIGI), accessed 9 July 2010, noted with regards to marriage and family life that:

"Women in Myanmar are well protected in some aspects of family life, but not all. The country's customary law sets the legal age of marriage at 20 years for women and at puberty for men. In a 2007 study, the Committee on the Elimination of Discrimination against Women (CEDAW) reported that the Buddhist Women Special Marriage and Succession Act of 1954 is less strict in that, dependent on parental consent, it allows Buddhist girls above 14 years to marry non-Buddhist men. In fact, early marriage is still an issue of some concern. A United Nations report published in 2004 estimated that 11 per cent of girls between 15 and 19 years of age were married, divorced or widowed. The situation is gradually changing for the better: age at first marriage is rising, largely due to improved access to education and increased participation in the labour force. The law states that all marriages shall be based on mutual consent, and officially recognises cohabitation – with the intent to marry – as sufficient for couples to legally be considered husband and wife." [52] (Family code)

- 21.12 The same source added "Polygamy is permitted under Myanmar customary law [dhammathats], but is socially frowned upon and generally unpopular. The Myanmar Women's Affairs Federation (MWAF) points out that in polygamous unions, the law stipulates that the second wife must be given an equal social status with the first wife." [52] (Family code)

- 21.13 The Women's League of Burma recorded in its 2008 report *In the Shadow of the Junta* that:

"In terms of family law, there is a plethora of customary laws still utilized by Burman and non-Burman ethnic groups concerning marriage, adoption, property ownership and inheritance rights. Many of these laws emphasize women's roles as child-bearers and home-makers while giving men greater economic and decision-making power in domestic affairs... There have been no attempts to harmonize... various customary laws with the country's codified law, including the various religious acts regarding marriage, or to ensure that their provisions do not conflict with the CEDAW." [27a] (p13)

- 21.14 IRIN news noted in an article dated 10 March 2010 that abortion was illegal in Burma. [49a] However with regard to having children, the USSD Report 2009 observed that:

"Couples and individuals had the right to decide the number, spacing, and timing of children, and they did so free from discrimination. Access to information on contraception was limited, and reproductive health services, including the availability of contraceptives, generally were limited to private clinics. Women



and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.” [7a] (Section 6)

21.15 The SIGI report on Burma stated:

“With regards to parental authority, fathers are perceived as the head of the household and have the duty of providing for their wives and children. Mothers carry out the majority of household-related work, including child-rearing, and may sometimes control the household finances. In the event of divorce, it is common that custody of boys is awarded to the father and of girls to the mother, but the children may be consulted in the decision-making process. The CEDAW reports that very young children, regardless of sex, are usually placed in their mother’s care.” [52] (Family code)

21.16 The same source added:

“Ancient dhammathats and present-day customary law both grant men and women equal rights to inheritance. There is no discrimination between men and women, husbands and wives, widows and widowers, sons and daughters, or grandsons and granddaughters. According to the MWAF, variations in inheritance rights are based solely on the degree of relationship with the deceased, and the general order of succession is comparable to practices in other countries. However, the CEDAW reports that customary law does not recognise wills and any joint property held by a couple transfers automatically to the surviving spouse.” [52] (Family code)

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## VIOLENCE AGAINST WOMEN

21.17 The USSD Report 2009 noted:

“Domestic violence against women, including spousal abuse, remained a problem. Spousal abuse or domestic violence was difficult to measure because the government did not maintain statistics. There are no laws specifically against domestic violence or spousal abuse, 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.

“Police generally were reluctant to act in domestic violence cases; however, in cases where women sustained injuries and filed a report, police generally took action. Typically punishment for men in these cases was a fine but no jail time. The government-affiliated MWAF – usually chaired by the wife of the prime minister – sometimes lobbied local authorities, including the police, to investigate domestic violence cases involving spousal abuse. Since the MWAF is controlled by wives of regime leaders, police usually investigated cases referred to them by the group.” [7a] (Section 6)

21.18 On rape, the same source stated:

“Rape is illegal, but the government did not enforce the law effectively. If the victim is under 14 years of age, the act is considered rape with or without consent. In such cases 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. Spousal rape is not a crime unless the wife is under 14. The regime did not release statistics concerning the number of rape prosecutions and convictions. The police generally opened and investigated reported cases of rape. However, in ethnic areas, when government soldiers committed rape, the army rarely took action to punish those responsible.” [7a] (Section 6)

21.19 The USSD Report 2009 also noted that “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.” [7a] (Section 6)

21.20 Dated 7 November 2008, the Concluding observations of the Committee on the Elimination of Discrimination against Women stated that:

“While noting the adoption of a National Action Plan in 2002 and the activities undertaken by the subcommittee on violence against women of MNCWA [Myanmar National Committee for Women's Affairs], the Committee expresses concern at the high prevalence of violence against women and girls, such as widespread domestic violence and sexual violence, including rape. The Committee is also concerned that such violence appears to be socially legitimized and accompanied by a culture of silence and impunity, that cases of violence are thus underreported and that those that are reported are settled out of court. The Committee is concerned that geographical areas of particular concern include northern Rakhine State and those areas affected by Cyclone Nargis, as well as other areas where women and girls are particularly vulnerable and marginalized. It is also concerned at information that victims of sexual violence are forced under the law to report to the police immediately, prior to seeking health care, and that as a consequence such victims choose to not seek health, psychological and legal support. The Committee regrets the absence of data and information on violence against women, disaggregated by age and ethnic group, as well as studies and/or surveys on the extent of such violence and its root causes.” [32a] (paragraph 22)

21.21 In his report dated 20 March 2010, the UN Special Rapporteur commented that:

“The Committee on the Elimination of Discrimination against Women has expressed deep concern at the high prevalence of sexual and other forms of violence, including rape, perpetrated against rural women from the Shan, Mon, Karen, Palaung and Chin ethnic groups by members of armed forces. The Committee also expressed concern at the apparent impunity of the perpetrators of such violence, although a few cases have been prosecuted, and at reports of threats against and intimidation and punishment of the victims.” [32e] (paragraph 72)

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## 22. CHILDREN

### OVERVIEW

22.01 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, cited that:

“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. Many were placed in orphanages. 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...

“There are laws prohibiting child abuse, but they were neither adequate nor enforced. The government claimed child abuse was not a significant problem. However, accurate statistics were not available, and some international NGOs believed the problem was more widespread than the government acknowledged.” [7a] (Section 6)

22.02 A report by Partners Relief & Development and Free Burma Rangers, entitled *Displaced Childhoods: Human Rights & International Crimes Against Burma's Internally Displaced Children*, (Partners and FBR Displaced Childhoods Report) dated April 2010, stated that Burma acceded to the UN Convention on the Rights of the Child (CRC) in 1991. However, the report added:

“Despite such [CRC] provisions, children in Burma are not immune to government-sanctioned abuse... childhood is often disrupted by violence, insecurity, and poverty. Children are witnesses of and subject to arbitrary and extrajudicial killings, torture and mistreatment, arbitrary arrest and detention, rape and sexual violence, forced labor and portering, recruitment as child soldiers, and restrictions on basic and fundamental freedoms. They are inordinately affected by the rampant poverty, inadequate schools, and poor healthcare that exists in Burma.” [29a] (p3)

22.03 Listing the issues that faced children in Burma, UNICEF noted in its background report, accessed 23 April 2010, that:

- “Infant mortality remains high in Myanmar, with 1 in 10 live births resulting in the death of the infant.
- Malnutrition is widespread among under-five-year-old children, with about one third of children severely or moderately stunted and underweight.
- Only 15 per cent of children are exclusively breastfed for the first three months. The practice of giving water to infants continues despite many advocacy campaigns.
- Malaria continues to be a national priority disease with more than a half million cases every year. Approximately half of malaria deaths in the South-east Asia region occur in Myanmar.
- More than 25 per cent of the population lacks access to safe drinking water. Arsenic contamination is a major concern.
- While Myanmar culture traditionally places a high value on education and net school enrolment rates are high at over 80% for both boys and girls,

the drop-out rate is also high with less than 55% of those children actually completing the primary cycle...

- Despite national legislation which prohibits the recruitment of children below 18 years of age into armed forces or groups, minors continue to be recruited in the armed forces of all parties including non-state groups.” [19a]

22.04 UNICEF also noted some positive achievements affecting children, including:

- “In support of efforts to prevent mother-to-child transmission of HIV, UNICEF was instrumental in expanding services to 54 townships and 22 clinics where pre-test counseling and anti-retroviral drugs became available to all babies born to HIV-positive mothers.
- Vitamin-A supplementation continued during vitamin-A days in March and during nutrition promotion week in September reaching around 6 million children aged between six months and five years in each round, covering approximately 96 per cent of the target population.
- To help combat the spread of Malaria, UNICEF distributed treated mosquito nets to 144,000 households.
- UNICEF was instrumental in the construction of 860 water systems which benefited 22,000 households and 36,000 school children in areas where groundwater is contaminated with arsenic.
- UNICEF assisted training of almost 11,000 teachers from 5,167 schools on child-centred teaching and learning methods. As part of school environment improvement 3,800 school latrines were constructed and roofing sheets and construction materials were provided to 450 schools in 27 townships.
- UNICEF provided support in the efforts to stop economic exploitation and trafficking of children. Over 300 children, female sex workers and other children vulnerable to abuse, exploitation and trafficking were provided with school, health and nutrition support through local non-governmental organizations in 11 townships. UNICEF provided support for the protection, reintegration and recovery of trafficking victims through anti-trafficking units in six border areas.
- UNICEF was among the first agencies on the ground after Cyclone Nargis hit in May 2008. UNICEF’s focus was on providing safe water and maintaining sanitary conditions so as to prevent the spread of water-borne diseases and parasites that can lead quickly to malnutrition and death.” [19a]

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## Basic legal information

22.05 The Coalition to Stop the Use of Child Soldiers reported in its Global Report 2008 for Burma (Myanmar) that “Under the 1993 Child Law, a child was anyone under the age of 16 and a youth was anyone over 16 and below 18.” [36a] The voting age in Burma is 18 years old. (CIA World Factbook, 7 April 2010) [6a] The minimum age for employment for children is 13, although the law was not enforced. (USSD Report 2009) [7a] (Section 7d) The voluntary recruitment age for the military was 18 years old; however boys were forcibly recruited into the army. (Coalition to Stop the Use of Child Soldiers, Global Report 2008) [36a] The criminal age of responsibility is 7 years old. (Burma Lawyers’ Council, The Child

Law, 14 July 1993) [45c] There is no minimum age for marriage for boys, and girls of 14 years old can marry with parental consent. (Committee on the Rights of the Child – Concluding observations, 30 June 2004) [32b]

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## LEGAL RIGHTS

22.06 The Partners and FBR Displaced Childhoods Report, April 2010, stated:

“The main law dealing with children’s rights in Burma is the 1993 Child Law, enacted on 14 July 1993, two years after Burma acceded to the International Convention on the Rights of the Child (CRC). While this law provides a range of positive rights and protections for children, evidence of continued serious abuse and neglect of Burma’s children clearly demonstrates that Burma has failed to uphold the promises codified under the Child Law.” [29a] (p57)

22.07 The USSD Report 2009 noted “According to the Burma Citizenship Law, citizenship is derived through parents, both of whom must be nationals of the country.” [7a] (Section 6)

## VIOLENCE AGAINST CHILDREN

22.08 The USSD Report 2009 stated “There are laws prohibiting child abuse, but they were neither adequate nor enforced. The government claimed child abuse was not a significant problem. However, accurate statistics were not available, and some international NGOs believed the problem was more widespread than the government acknowledged.” [7a] (Section 6)

22.09 The same source added:

“Children reportedly engaged in prostitution for survival without third-party involvement. The penalty for child prostitution is 10 years’ imprisonment. The law prohibits pornography; the penalty is three to five years’ imprisonment. The law prohibits statutory rape; it is punishable by two years to life in prison. In Rangoon and Mandalay, observers noted 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.” [7a] (Section 6)

## CHILD CARE AND PROTECTION

22.10 The USSD Report 2009 observed that:

“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. Many were placed in orphanages. 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.” [7a] (Section 6)

## CHILD SOLDIERS

22.11 The Human Rights Watch *World Report 2010* stated that:

“Burma continues widespread and systematic forced recruitment of child soldiers. In June the United Nations Security Council working group on children and armed conflict released its report on Burma, calling on the SPDC to increase its efforts to end the culture of impunity for the forcible recruitment of child soldiers. The SPDC has instituted cosmetic and largely ineffectual policies to end the recruitment of child soldiers, with a low number of prosecutions of perpetrators that has not addressed the full extent of the problem. The junta limits its engagement with the UN Burma country team efforts through the International Labour Organization (ILO), which has been effective in releasing a small number of child soldiers. Non-state armed groups such as the DKBA [Democratic Karen Buddhist Army] increased their forcible recruitment and use of child soldiers in 2009.” [39b] (Child soldiers)

22.12 The USSD Report 2009 noted that:

“The government army continued to recruit and use child soldiers. The minimum age of enlistment in the army is 18 years, and the government's official policy is to avoid conscripting child soldiers; however, it did not deny their existence. Informal recruiting targeted vulnerable children. Some reports indicated the army recruited children as young as 11. Credible sources indicated the number of child soldiers may have risen to 12,000, although accurate statistics were difficult to obtain.

“In September the media reported the military forcibly enlisted children as young as 14 into the army in Mon and Rakhine states and Bago and Irrawaddy divisions. According to media reports, the South East Command paid brokers 200,000 kyat (approximately \$200) for each child soldier they conscripted. Other children were kidnapped.

“Authorities charged some recruiting staff and other military personnel for unlawful recruiting child soldiers. During the year a captain was dismissed from the army and sentenced to one year with hard labor in a civilian prison. This was the first case of military personnel being punished in a civilian prison for unlawful child-soldier recruiting. This offense may also result in one to three months in military prison with hard labor, loss of 12 months' seniority for pension and promotion rights, salary deductions, and reprimand.

“Ethnic militias, among both ceasefire and non-ceasefire groups, denied the existence of child soldiers in their ranks, although their existence was widely reported.” [7a] (Section 1g)

22.13 The UN Security Council Report of the Secretary-General on children and armed conflict in Myanmar, dated 1 June 2009, covering the period 1 October 2007 to 31 March 2009, stated that “There have been several positive initiatives undertaken and measures purportedly implemented by the Government of Myanmar to prevent and halt the recruitment and use of children. However, the

country task force on monitoring and reporting has been unable to verify many of the outcomes of those initiatives.” [4a] (p2, paragraph 2)

- 22.14 The same source reported that common patterns of recruitment into the Government military units of the Tatmadaw Kyi included the targeting of “... poor and unaccompanied children from the streets, railway stations or Buddhist pagodas...” as well as “...young novice monks from monasteries...” (p3, paragraph 9) The same source indicated that orphans were also recruited into the military and added that underage recruitment by soldiers commonly took place in areas close to recruitment centres in Yangon and Mandalay divisions, although civilian brokers were also paid cash to recruit from further afield, often using deceit to persuade boys to join. [4a] (p3, paragraph 10-11)
- 22.15 The UN Security Council Report further stated that “According to ILO [International Labour Organization], in most cases, underage recruits go through the full formal recruitment process and are required to undertake approximately four and one-half months of training before being sent to their duty station. In a few cases, children have been recruited directly into an operational unit.” [4a] (p4, paragraph 12)
- 22.16 The report continued “According to official reports made available by the Ministry of Foreign Affairs, the Government continues to screen and release underage children found in its armed forces during the training process.” However, cases of released children that did not have the involvement of the ILO or International Committee of the Red Cross (ICRC) could not be verified. “Without a specific ILO complaint, the Government does not actively seek out children in the army or take proactive action on requests to investigate, even when released children confirm the presence of other children in their units.” [4a] (p5, paragraph 14-16)
- 22.17 The UN Special Rapporteur progress report on the situation of human rights in Burma, dated 10 March 2010, stated “In 2009, ILO received 78 complaints concerning underage recruitment, of which 34 led to releases that year; an additional 10 complaints received in 2008 led to discharges in 2009. According to information received by the Special Rapporteur, the Government has released 278 child soldiers.” [32e] (paragraph 77)
- 22.18 On desertion the same source noted that “There appears to be a practice of arresting former child soldiers for desertion some years after the fact.” [32e] (paragraph 81)

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## EDUCATION

- 22.19 The USSD Report 2009 noted that in Burma “Education is compulsory, free, and universal through the fourth standard (approximately age 10). However, the government continued to allocate minimal resources to public education. Rates of school attendance were low, largely due to economic hardship.” [7a] (Section 6)
- 22.20 Dated 7 November 2008, the Concluding observations of the Committee on the Elimination of Discrimination against Women noted that it was concerned:
- “...at the inadequate educational infrastructure and teaching materials, the limited number of qualified teachers and the marked difference in the quality of and

access to education between urban and rural or remote areas, including conflict-affected areas. The Committee is further concerned about traditional attitudes that constitute obstacles to girls' education, as well as about girls' dropout rates due to their involvement in domestic chores." [32a] (paragraph 34)

## HEALTH AND WELFARE

22.21 The Special Rapporteur's progress report on the human rights situation in Burma, dated 10 March 2010, following his visit in February 2010, stated:

"Infant mortality remains high, with an estimated 1 in 10 births resulting in the death of the infant. More than 25 per cent of the population lacks access to safe drinking water. Approximately half of the malaria deaths in South-East Asia occur in Myanmar. More than 30 per cent of Myanmar's children are chronically malnourished. The national prevalence of underweight and stunting among children under 5 years is 32 per cent." [32e] (paragraph 97)

See also [Medical issues](#)

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## 23. TRAFFICKING

- 23.01 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, stated for Burma that:

“The law prohibits enslaving and trafficking persons, but trafficking within and from the country was a significant problem. Government and military use of forced labor remained widespread. Shan and other ethnic minority women and girls were trafficked across the border to nearby provinces in China. Karen and Mon women and girls were trafficked into nearby provinces in Thailand. Both adults and minors were trafficked for the purpose of forced labor in some places. Victims of both genders were trafficked to East and Southeast Asia and the Middle East for sexual exploitation, domestic servitude, and bonded labor. Young women and girls were at the highest risk for trafficking for the purpose of sexual exploitation. Victims of trafficking faced hazardous conditions, including sexual and physical abuse by their traffickers, poor nutrition and sanitary conditions, and disease, including tuberculosis and HIV/AIDS.” [7a] (Section 6)

- 23.02 The US Department of State *Trafficking in Persons Report 2010*, published 15 June 2010, noted in its section on Burma that:

“In some areas, in particular international sex trafficking of women and girls, the Government of Burma is making significant efforts. Nonetheless, serious problems remain in Burma, and in some areas, most notably in the area of forced labor, the Government of Burma is not making significant efforts to comply with the minimum standards for the elimination of trafficking, warranting a ranking of Tier 3. The regime’s widespread use of and lack of accountability in forced labor and recruitment of child soldiers is particularly worrying and represent the top causal factor for Burma’s significant trafficking problem.” [7d] (Burma)

- 23.03 Dated 7 November 2008, the Concluding observations of the Committee on the Elimination of Discrimination against Women commended the State party for adopting measures to help combat trafficking (paragraph 5) but also expressed concern:

“...at the persistence of trafficking and sexual exploitation of women and girls in the country. The Committee is also concerned at reports that the 2005 anti-trafficking law has been abused and that some innocent people have been arrested on false trafficking charges. It is further concerned at the inadequate protection procedures granted for returned trafficked victims from abroad, especially from China, along the border areas, and at the State party’s failure to address the root causes of migration in and from Myanmar, and its consequent inability to seriously address the trafficking problem.” [32a] (paragraph 26)

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## 24. MEDICAL ISSUES

- 24.01 Voice of America (VoA) reported in an article dated 3 January 2008 that: “Years of neglect have crippled Burma’s healthcare system. Modern medicines, if available at all, are often fake, or out of date. Many people rely on traditional cures, made from plants and roots. Burma’s life expectancy is one of the lowest in the world – averaging less than 60 years.” [40a]
- 24.02 The World Health Organisation (WHO) noted in its Burma (Myanmar) health profile, using 2007 figures, that there were four doctors and ten nurses and midwives to every 10,000 people in Burma. [25a]
- 24.03 In its section for International Travel, dated 19 May 2010, the US Department of State (USSD) noted for Burma that:
- “Medical facilities in Burma are inadequate for even routine medical care. There are few trained medical personnel. Most foreign drugs on sale have been smuggled into the country, and many are counterfeit or adulterated and thus unsafe to use... HIV/AIDS is widespread among high-risk populations, such as prostitutes and illegal drug users. Malaria, tuberculosis, hepatitis, and other infectious diseases are endemic in most parts of the country.” [7e]
- 24.04 Médecins Sans Frontières (MSF) stated in its *Activity Report 2008*, published 31 August 2009, that in Burma: “For the hundreds of thousands of people suffering from treatable infectious diseases such as malaria, tuberculosis and HIV/AIDS, the chronically under-resourced healthcare system provides little assistance. The government spends just 0.3 per cent of its gross domestic product on healthcare, the lowest proportion worldwide. Official development aid to Myanmar is also one of the lowest per person worldwide.” [41a] (**Assisting Myanmar’s vulnerable**)
- 24.05 A report by Partners Relief & Development and Free Burma Rangers, entitled *Displaced Childhoods: Human Rights & International Crimes Against Burma’s Internally Displaced Children*, dated April 2010, stated “Medicines are also frequently unavailable in health facilities. In general, accessing medical treatment can be a difficult and expensive process in Burma...” [25a] (p34)

## HIV/AIDS

- 24.06 The UN Special Rapporteur’s progress report on the situation of human rights in Burma, published 10 March 2010, following his February 2010 visit, stated that “An estimated 240,000 people are thought to be living with HIV/AIDS in Myanmar. Among them, 76,000 are in urgent need of antiretroviral treatment, yet less than 20 per cent of them currently have access to it. In 2008, about 25,000 people died of AIDS-related illnesses.” [32e] (**paragraph 105**)
- 24.07 MSF noted in its *Activity Report 2008* that most of the treatment available in Burma for HIV/AIDS is provided by MSF. The report added “Working in the former capital of Yangon and the states of Shan, Kachin and Rakhine and in Thanintaryi division, MSF provides comprehensive care to 16,000 HIV/AIDS patients, 11,000 of whom received ART [anti-retroviral therapy]. Preventive and educational assistance is also targeted towards high-risk groups including sex workers, intravenous drug-users and migrant labourers.” [41a] (**HIV/AIDS: A preventable fate**)

## MENTAL HEALTH

24.08 The World Health Organisation (WHO) Mental Health Atlas 2005 noted for Burma (Myanmar) that:

“Mental health is a part of primary health care system. Actual treatment of severe mental disorders is not available at the primary level. Consultant psychiatrists are posted in different states and divisions and patients are referred to them. Regular training of primary care professionals is carried out in the field of mental health. In the last two years, about 2000 personnel were provided training. Consultants train medical officers and primary care workers about mental health illnesses and means of treating them. There are community care facilities for patients with mental disorders.” [25b] (p328, **Mental Health Facilities**)

24.09 The same source added:

“NGOs are involved with mental health in the country. They are mainly involved in promotion, prevention and rehabilitation. In line with the National Health Policy, NGOs such as Myanmar Maternal and Child Welfare Association and Myanmar Red Cross Society also take a share of service provision. Their role is becoming more important as the needs of collaborative actions for health become more prominent...(**Non-Governmental organisations**) The country has specific programmes for mental health for minorities, disaster affected population, indigenous population, elderly and children. Child Guidance Clinics and Geriatric Care Clinics are conducted twice a week.” [25b] (p329, **Programmes for Special Population**)

24.10 The WHO Mental Health Atlas 2005 also listed the therapeutic drugs that were generally available at primary health care level in Burma, which included carbamazepine, henobarbital, sodium valproate, amitriptyline, chlorpromazine, diazepam, fluphenazine and haloperidol. [25b] (p329, **Therapeutic Drugs**)

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## 25. HUMANITARIAN ISSUES

### CYCLONE NARGIS

25.01 The Office for the Coordination of Humanitarian Affairs (OCHA) reported in its Situation Report No. 52, dated 14 November 2008, that “Cyclone Nargis hit Myanmar on 2-3 May 2008, affecting some 2.4 million people living in Ayeyarwady [Irrawaddy] and Yangon [Rangoon] Divisions. Almost 140,000 people were killed or remain missing, according to the official figures.” [42a]

25.02 The Amnesty International *Report 2009* (AI Report 2009), published 28 May 2009, stated, with regards to the affects of Cyclone Nargis, that:

“More than 84,500 people died and more than 19,000 were injured, while nearly 54,000 remained unaccounted for. In its aftermath the government delayed or placed conditions on aid delivery, and refused international donors permission to provide humanitarian assistance. Following a visit by the UN Secretary-General in late May, access improved, but the government continued to obstruct aid and forcibly evict survivors from shelters.” [12c]

25.03 The FCO Country Profile for Burma, last reviewed 2 December 2008, stated:

“Following the Cyclone the international community pressed the Burmese government to up the scale of the response and to accept the need for foreign aid workers to access the affected areas to increase the effectiveness of the support reaching the victims. On 25th May [2008], an international pledging conference was held in Rangoon attended by UN Secretary General, Ban Ki-Moon. Following the conference a Burmese-UN-ASEAN coordination mechanism set in place to co-ordinate the aid effort.” [5a] (Cyclone Nargis)

25.04 The AI Report 2009 further noted:

“Within days of Cyclone Nargis, the government began to forcibly evict cyclone survivors from government and unofficial resettlement sites where they had fled after their homes were destroyed and their villages flooded. Amnesty International confirmed over 30 instances of forcible eviction by the government in the month following the cyclone alone. In many cases, assistance was either entirely lacking or inadequate. In addition, authorities evicted survivors taking emergency shelter in schools and monasteries in order to hold the constitutional referendum.” [12c] (Forced evictions)

25.05 The same source added:

“For three weeks after Cyclone Nargis struck Myanmar on 2-3 May, the government rejected offers of international assistance and blocked access to the Ayeyarwady delta at the time when survivors most needed food, shelter and access to medicine. Government officials also blocked private domestic donors from distributing aid in the delta. Some authorities conditioned aid and assistance on survivors’ voting in favour of the government’s draft constitution on 24 May, and on their willingness to work or join the army. Some soldiers and local government officials confiscated, diverted or otherwise misused aid intended for cyclone survivors.” [12c] (Lack of humanitarian access)

25.06 Human Rights Watch (HRW) stated in its report *I want to help my own people*, dated 28 April 2010, that:

“Two years after Cyclone Nargis, the needs of hundreds of thousands of survivors have not been met and the relief operation still faces immense challenges. Water shortages continue because of the failure to rehabilitate water catchments and ponds ruined by salt water during the cyclone, causing great concern among rural populations, especially those without independent water supplies. An estimated 100,000 people in the delta are still without adequate shelter ahead of the 2010 monsoon season.” [39g]

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## 26. FREEDOM OF MOVEMENT

26.01 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, stated for Burma that:

“Although the government restricted freedom of movement, most citizens were able to travel within the country. However, authorities closely monitored the movements of some opposition party members.

“Ethnic minority areas previously affected by conflict continued to experience tight controls on personal movement, including frequent military checkpoints and monitoring by military intelligence.

“The government restricted the ability of internally displaced persons, refugees, and stateless persons to move. In particular, the government tightly controlled the movement of Muslim Rohingyas, particularly in Buthidaung, Kyauktaw, Maungdaw, and Rathedaung townships along the border with Bangladesh. Muslim youth from Rakhine State accepted for admission to universities and medical schools outside the state were unable to enroll due to travel restrictions imposed on them. The government also required other noncitizens, primarily ethnic South Asians and Chinese, to obtain prior permission to travel internally. Nonetheless, the country's borders with China, Thailand, Bangladesh, and India remained very porous, with significant undocumented migration and commercial travel occurring.” [7a] (Section 2d)

See also [Exit and return](#)

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## 27. INTERNALLY DISPLACED PERSONS (IDPs)

- 27.01 The Internal Displacement Monitoring Centre (IDMC) observed in its report *Myanmar: Increasing displacement as fighting resumes in the east*, dated 29 January 2010, that:

“Displacement as a result of armed conflict and human rights violations continues in Myanmar. Between August 2008 and July 2009, an estimated 75,000 people from ethnic minority communities in eastern Myanmar were forced to flee their homes. In several areas it is impossible to estimate the number of internally displaced people (IDPs). In October 2009, it was estimated there were at least 470,000 IDPs in rural areas of eastern Myanmar. Here, conflict between the Tatmadaw (the Myanmar Armed Forces) and ethnic insurgent groups has intensified since June 2009, as a result of government plans to transform armed opposition groups which have agreed ceasefires into Tatmadaw commanded Border Guard Forces in the run-up to planned 2010 elections.

“During 2009, displacement was most prevalent in the Shan and Kayin/Karen States, where the IDP populations were reportedly 135,000 and 125,000 respectively. In several parts of Myanmar, coercive measures such as forced labour and land confiscation, often part of state-sponsored development initiatives, have also caused displacement.” [35a]

- 27.02 The UN Special Rapporteur’s report on the human rights situation in Burma, published 10 March 2010, following his visit in February 2010, stated that:

“The Special Rapporteur remains deeply concerned about ongoing conflict in border areas, particularly in eastern Myanmar. Since 1996, up to 1 million people in Myanmar, half of them in the eastern part of the country, have been displaced. Entire communities have been forced to relocate and their houses and food supplies burned to prevent their return. Those who refuse forced relocations and choose to hide risk military attacks. While the number of conflict-affected areas has been reduced with ceasefire agreements, armed clashes affecting civilians caught in the middle continue to be reported.

“It is estimated that there are over 184,000 refugees originating from Myanmar. An estimated 2 million migrants from Myanmar are currently found in Thailand. Thousands of ethnic Chin have crossed the border to the State of Mizoram in India, where some 75,000–100,000 undocumented Chin from Myanmar live. Muslim residents from Northern Rakhine State of Myanmar continue to seek asylum in neighbouring countries and beyond. Approximately 28,000 are residing in two refugee camps in Bangladesh and have been there since 1991 in addition to about 100,000–200,000 residing in Bangladesh with no legal status. There are also some 40,000 individuals of concern from Myanmar in Malaysia.” [32e] (paragraphs 61-62)

- 27.03 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, noted that, in Burma:

“The main causes of displacement were army offensives against ethnic opposition groups, forced relocation and labor, and recruitment of child soldiers. According to the UNHCR, there were at least 500,000 IDPs in the country, although accurate figures were difficult to determine due to poor access to

affected areas. The government provided little or no protection or assistance to IDPs, many of whom were forcibly resettled under dangerous conditions. 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 ongoing fighting between government army and insurgent groups, according to credible observers along the border. In addition female IDPs frequently suffered rape, according to these observers.

“According to NGOs, in late July government troops operating in Shan State burned 10 villages and forcibly relocated an additional 30, affecting 2,000 to 2,500 individuals. Shan groups also accused the army of other grave human rights abuses, including arbitrary arrest, torture, gang rape, and arbitrary execution. According to reports, an estimated 4,000 to 10,000 ethnic Karens were displaced by the latest wave of violence in June and July.” [7a] (Section 2d)

See also [Ethnic groups](#)

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## 28. CITIZENSHIP AND NATIONALITY

- 28.01 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, noted that with regard to stateless persons in Burma:

“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 their nonindigenous ancestry. Of these, the majority-Muslim Rohingya fare the worst, with nearly all Rohingya denied any benefits of citizenship.” [7a] (Section 2d)

- 28.02 The UN Special Rapporteur’s progress report on the human rights situation in Burma, dated 10 March 2010, stated “The provisions in the Constitution are currently confined to citizens, and the very restricted requirement of having both parents as nationals of the country for citizenship will render some people stateless. It is estimated that there are over 723,000 people without citizenship in Myanmar.” [32e] (paragraph 59)

- 28.03 In a question posed to an official at the Foreign and Commonwealth Office (FCO) British Embassy in Yangon (Rangoon) by the Country of Origin Information Service, regarding foreign national residency and marriage rights, the FCO stated in a letter, dated 4 February 2010, that:

“Foreign nationals that have married Burmese citizens are eligible for residency in Burma but they will are not [sic] eligible to register for citizenship (and cannot obtain a ‘National Registration Card, the Burmese citizen identity card). They are registered as ‘guest citizens’ and are not entitled to full citizenship. To apply for foreigners’ residency in Burma, applicants have to apply at the immigration department in Burma, not at Burmese embassies abroad.

“Marriages between Burmese citizens that took place outside Burma are recognized by authorities but they are required to register at Burmese embassies. Marriages between Burmese women and foreigners are not recognised by the authorities, and their children are not permitted Burmese citizenship.” [5r]

- 28.04 The FCO official clarified in a follow-up email, dated 10 February 2010, that “A foreign national married to a Burmese woman is not eligible for residency (unless he gets it some other way, eg through work etc). A foreign national married to a Burmese man is.” [5s]

- 28.05 UNHCR Refworld, accessed 9 April 2010, provided an unofficial translation of the [Burma Citizenship Law, 15 October 1982](#).

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## IDENTITY CARDS

28.06 In a letter from the British Embassy, Rangoon, dated 15 July 2009, a Foreign and Commonwealth Office (FCO) official responded to a series of questions from the UKBA Country of Origin Information Service regarding the acquisition of a Burmese National Registration Card (NRC)/Citizenship Scrutiny Card (CSC). The questions and responses are listed below:

**“What are the criteria for obtaining a card?”**

To obtain a National Registration Card, the applicant's parents and grandparents have to be Burmese citizens.

**“At what age would a citizen apply for a NRC/CSC?”**

A person aged 10 can start applying to obtain a NRC card. The NRC card issued at the aged of 10 has to be renewed and changed to another card at the aged of 18.

**“What documents must be provided when applying?”**

Documents required are:

Application Form of the Immigration and Population Department to be attached with:

1. Birth certificate
2. Family registration card
3. Ward authorities recommendation
4. Township authorities recommendation
5. Family tree (a diagram drawn up to the great-grandparents of both parents)

**“Where would one apply? Is the procedure official, or, like passport applications, could an agent be used?”**

One would apply at the township immigration department, where his/her Family Registration Card is registered. Using agent is not recommended because there have been many cases of cheating.

**“Can a card be applied for from abroad, e.g. via the Burmese embassy in UK?”**

A card can not be applied from abroad.

**“What are the penalties for a) not having a card or possessing a forgery, and b) for obtaining one fraudulently e.g. the holder is not a legal Burmese citizen?”**

- a) A person who does not have a NRC cannot travel inside Burma.
- b) A person forging a NRC card is liable to 7 years imprisonment.
- c) Obtaining one fraudulently also brings 7 years imprisonment.

“Remark: The process to obtain a NRC card is tedious and time consuming, it may take up to one year in some cases, especially if one of his/her grandparents holds a foreigner registration card.” [5t]

See also Exit and return: [Passport issuance and Departure \('D'\) forms](#)

28.07 The Democratic Voice of Burma (DVB) reported on 9 April 2010 that identity cards had been issued to the Rohingya minority in Rakhine [Arakan] state in what was seen to be a move to secure votes in the forthcoming elections.

However, rather than being identified as Rohingya, their status has been categorised as “Burmese Muslims”, inflaming some locals who claimed it could heighten racial tensions. [3d]

- 28.08 Mizzima news stated in an article dated 22 February 2010 that temporary ID cards were issued to Muslims in Rakhine state. One resident from Maungdow Township was quoted as saying “This ID states that it is a 'Temporary ID', race as 'Bengali' and religion as 'Islam'.” Mizzima also noted that “The colour of the temporary ID is white and it costs Ks. 3,000-4,000 per card. They are being processed within one week and it is unknown when they will be revoked again.” [33e]

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## 29. FORGED AND FRAUDULENTLY OBTAINED DOCUMENTS

- 29.01 The United States Department of State (USSD) listed, in its [Burma Reciprocity Schedule](#), accessed 15 July 2010, a number of documents, including birth, marriage and death certificates, and police, prison and military records, which were available from the relevant offices in Burma. [7f]

### ARREST WARRANTS

- 29.02 In a letter from the British Embassy, Rangoon, updated 26 June 2010, originally dated 8 January 2008, an official at the Foreign and Commonwealth Office (FCO) stated that they could not confirm the availability of forged documents such as arrest warrants and prison release certificates. The letter continued:

“We [FCO] are under the assumption that all documents are easy to forge here. The Embassy’s visa section regularly encounters forged documents such as bank books, education certificates, birth and marriage certificates but, having made inquiries, the Embassy has no knowledge of arrest warrants and prison release certificates being forged. An NLD [National League for Democracy] ID card would not be difficult to forge. Sources believe it is likely to be easy to forge documents at the border and in Bangkok.” [5m]

- 29.03 In a letter updated 26 June 2010, originally dated April 2008, the FCO stated that it may be possible to purchase documents, such as arrest warrants and police summons, from courts and police stations. [5n]

See also Arrest and Detention – Legal Rights: [Arrest warrants](#)

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### 30. EXIT AND RETURN

- 30.01 In an email from the Foreign and Commonwealth Office (FCO) British Embassy, Rangoon, dated 22 April 2009, an official stated that, for both Burmese nationals and foreigners, no documents were needed to book a plane ticket unless the booking was with the government carrier, Myanmar Airways, in which case an ID card was required. In all circumstances, an ID card was required to pass through immigration control. [5q]

#### EXITING BURMA

- 30.02 The United States Department of State *Country Report on Human Rights Practices 2009* (USSD Report 2009), published 11 March 2010, stated that in Burma:

“An ordinary citizen needed a passport from the Ministry of Home Affairs and a departure form from the Ministry of Immigration and Population to travel outside the country. To address the problem of trafficking in persons, the government continued to hinder or restrict international travel for women, particularly those under 25 years of age.

“Although there is no law explicitly restricting the foreign travel of citizens, the government carefully scrutinized prospective travel abroad of all passport holders. Rigorous control of passport and exit visa issuance perpetuated rampant corruption, as applicants were sometimes forced to pay bribes of up to 400,000 kyat (approximately \$400), roughly equivalent to the average annual salary of a skilled worker.

“The government regularly declined to issue passports to former political prisoners, activists, and some local staff of foreign embassies. College graduates who obtained a passport (except for certain government employees) were required to reimburse the government for the cost of their education. It frequently took several months to receive a passport, particularly if the applicant was unwilling to offer a bribe as incentive for speedier service.” [7a] (Section 2d)

- 30.03 In a letter updated 26 June 2010, originally dated 15 August 2007, the Foreign and Commonwealth Office (FCO) at the British High Commission, Rangoon, stated that there were three ways a Burmese citizen can legally exit Burma:

a) holding a valid passport and valid departure papers (known as ‘D-forms’)

b) at legal border crossing points, either with a passport and D-form or with a border crossing card (which you can receive at the border and requires the return of the citizen within 24 hours).

c) We have heard that the Burmese authorities have recently started issuing 3-year temporary passports at particular crossing points (Myawaddy and Kawthoung), as part of their policy to manage the flow of economic migrants crossing the border. We are still trying to confirm this information.” [5h]

- 30.04 The same source noted:

“All Burmese citizens exiting Burma legally have to receive an exit stamp. If they are travelling by air, the exit stamp will mark the date of departure and the flight number. If they are crossing at legal border immigration points, the exit stamp will mark the date of departure and the name of the border crossing. The exit

stamp does not include information about the date required to return. Nor does it include information about the authorised destination, although if travelling by air, the flight number effectively states the initial destination of travel and D forms state the authorised destination." [5h]

See also [Passport issuance and Departure \('D'\) forms](#)

- 30.05 The FCO also added in a letter dated 30 October 2007 that prominent National League for Democracy (NLD) members did not leave the country, either because they were not given permission to, or because they feared they would not be allowed re-entry into Burma. NLD members who were not active, and therefore not blacklisted, would have been able to exit and enter the country without questioning. [5p]

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### Passport issuance and Departure ('D') forms

- 30.06 The Burmese Ministry of Home Affairs website noted that various types of passports are issued including a business passport, a short-visit business passport, an employment passport, a short-visit passport, and a passport for dependents. In all cases, applicants must provide their "national scrutinization card" and their "family members' registration list". Those applying for business passports must produce company documents and relevant licenses; those applying for an employment passport must produce an "appointment letter from abroad". [11a]
- 30.07 In a letter, updated 26 June 2010, originally dated 11 January 2008, the FCO in Rangoon noted that passports were categorised into business, work, short-visit and student passports, all of which were valid for three years. [5i]
- 30.08 An email response from an official at the UK Border Agency Visa Services in Rangoon, dated 15 September 2009, stated that Burmese passports continued to be handwritten and that no entry clearance staff in Visa Services had seen any machine readable passports. [5u]
- 30.09 In a further email, dated 16 September 2009, another Visa Services official stated that some staff recalled seeing machine readable passports for business men only. However, this was some time ago and it was likely that such passports would now have expired or been cancelled and would not be in current circulation. [5v]
- 30.10 As noted on the Ministry of Home Affairs government website, accessed? to obtain a short-visit passport, applicants must provide an invitation letter from relatives working abroad, provide a copy of their tax assessment, list their next of kin and provide a copy of the passport belonging to the person who has invited them to visit. If their letter of invitation has been written by someone who has renounced their Burmese citizenship and become a citizen of another country, "the invitation letter must be endorsed by the Myanmar [Burmese] embassy concerned". If the applicant is a civil servant, he or she must provide proof of leave. [11a]
- 30.11 The same source stated that all those seeking a passport must submit their application in person; however an exception is made to those who are "old" or in

poor health, who may then send a person to submit the application on their behalf. [11a]

30.12 In a letter, updated 26 June 2010, originally dated 11 January 2008, the FCO stated that although officially it is not permitted, about one quarter of applicants apply for a Burmese passport using an agent or broker. A passport officially costs 20,000 Burmese kyat (approximately £8). Using an agent or broker increased the price to 70,000 kyat (£28) but significantly speeded up the application process. [5] [Costs are approximate as of 11 January 2008]

30.13 As recorded in an interview with a Mon woman in May 2008, the Women's League of Burma stated in its report *In the Shadow of the Junta*, dated 2008, that there were two ways to obtain a passport:

“One is going through an agent. You can just go to the office and take a photo, then give it to the agent and she/he will do everything for you. She/he will directly deal with the official for you. You just go to the Passport office at the final stage, when it is time to pick up the passport. It costs 100,000 Kyat if the waiting period is one month, but if you want it within 7 days, it costs 300,000 Kyat.

“The other process is doing it by yourself, which costs about 30,000 Kyat. It takes about one month to get the passport. You have to fill in several forms including Form No. 17, a document for Tax clearance, and Form No. 19 for the Departure document. These costs do not include traveling expenses and some ‘tea-money’ to speed up the process.” [27a] (p28)

30.14 The Home Affairs website stated that the passport application must get approval from the “board meeting”, before processing begins. The passport is subject to security clearance. The website stated it takes an estimated 45 days to issue the passport. [11a]

30.15 With reference to passport security clearance, the FCO noted in a letter, updated 26 June 2010, originally dated 21 November 2007, that “All [passport] applicants have to provide information about their history – their school qualifications and family background – and have to sign a letter stating they are free from criminal offences (which could include political activity). They also have to submit their National Registration and Family Registration cards. The process involves mini interviews with a range of officials who can on occasion ask intimidating questions.” The letter further noted that if a person was identified as being currently politically active against the government, it was unlikely they would be issued with a passport. [5k] (paragraph 2)

30.16 The USSD Report 2009 observed that passports were often revoked by the authorities for political reasons. [7a] (Section 2d)

30.17 Regarding Departure ('D') forms, the FCO stated in a letter, updated 26 June 2010, originally dated 11 January 2008, that:

“Since November 2006, it has been possible to apply for Departure ('D') forms on-line, making the system much more efficient. It now takes less than an hour to get a 'D' form. As of 1st January 2007, all 'D' forms are issued on line. They are issued by the Ministry of Immigration and are separate to the passport application process. 'D' forms are valid for 30 days from the date of issue. To apply for 'D' forms on-line, applicants have to state their intended date of

departure, flight no. and destination. It cost only 300 kyats (£0.10) payable to the 'D' form department under the Ministry of Immigration. Agents charge 1500 kyats (£0.65) to get 'D' forms. 'D' forms are submitted to immigration at the time of departure and are not required at the time of return. Very few people encounter problems in obtaining a 'D' form." [5i]

- 30.18 The US Department of State gave a description of Burma's passports and other travel documents in its [Burma Reciprocity Schedule](#), accessed 15 July 2010. [7f]

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## ENTERING BURMA

- 30.19 In correspondence updated 26 June 2010, originally dated 5 July 2007, the FCO noted that "A Burmese national, holding a valid Burmese passport, but with an expired UK visa in it, would not draw particular attention on his return to Burma." The FCO noted that it was not standard practice, and that there was no systematic procedure, for questioning returning nationals on their activities outside Burma. [5i] In a further letter, updated 26 June 2010, originally dated 11 September 2007, the FCO stated that having an expired UK visa would not have relevance to an individual's re-entry into Burma, nor would it affect the treatment by the Burmese authorities on return. [5j]

- 30.20 In their letter of 15 August 2007, the FCO stated that it was not aware of any case where an individual has received particular attention for being a returned failed asylum seeker. [5h]

- 30.21 Regarding an individuals fear of arrest by the Burmese authorities for illegally leaving the country, the Women's League of Burma recorded in its report 'In the Shadow of the Junta', dated 2008, that:

"Chinese authorities have been assisting trafficked women and girls from Burma to return home. However, trafficked women can be arrested by the Burmese authorities when they are sent back by the Chinese police to the border. In one case, the woman was detained by the Burmese Immigration checkpoint at the border, and the Immigration officers demanded that she pay a fine of 60,000 Kyat (est. 500 USD), or she would be sentenced to four years and four months in prison for leaving Burma illegally without a passport." [27a] (p27)

- 30.22 The USSD Report 2009 noted "In general citizens who emigrated legally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return." [7a] (Section 2d)

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## FAILED ASYLUM SEEKERS

- 30.23 A Response to Information Request issued by the Immigration and Refugee Board of Canada (IRB), dated 7 August 2007, stated:

"A projects officer with the Asian Legal Resource Centre (ALRC), an non-governmental organization (NGO) that has general consultative status with the Economic and Social Council of the United Nations (UN 12 Feb. 2004; ALRC 13



Nov. 2001) and that monitors human rights cases in Myanmar (ibid. 30 July 2007), provided the following information to the Research Directorate in correspondence dated 30 July 2007:

'[I]t is the position of the ALRC that failed refugee claimants, and in particular those who have engaged in political activities while outside of Myanmar, would have a well-founded fear of persecution if they are repatriated to that country. We have established this position from observation of a number of cases where persons who were repatriated under such circumstances were arrested or disappeared from the airport upon arrival. We have also assisted in obtaining refugee status through the good offices of the UNHCR for a number of other persons on these grounds.'

'It is important to understand that the nature of the state in Myanmar is highly arbitrary, and therefore any decisions made concerning repatriations to that country from Canada should be done with extreme caution. Two persons with apparently similar circumstances may be treated completely differently by the Myanmar authorities, which do not operate according to the rational methods that may be found in established and organised jurisdictions. Thus, it should not be imputed from one case -i.e. where someone is able to return home without facing threats – that the same will happen in another, or at another time'." [37c]

30.24 The IRB further added:

"The following information was provided to the Research Directorate by a Country Analyst for Asia of the Internal Displacement Monitoring Centre (IDMC) in correspondence dated 27 July 2007. The Country Analyst specified that the information provided was her own viewpoint based on her extensive experience covering Myanmar.

'[T]he situation for returnees varies depending on a number of factors. It is also difficult to obtain information on the conditions of failed refugee claimants as once back in Burma they have very limited means of communicating with outsiders (all phone calls and emails inside Burma are monitored; yahoo and hotmail are banned, so people have to rely on state run email domains which are very closely scrutinized).'

"A program manager with extensive experience on Myanmar who works for Inter Pares, a registered Canadian charity that promotes humanitarian assistance and human rights protection (25 Sept. 2006), provided the following information to the Research Directorate during a telephone interview on 27 July 2007. The Program Manager explained that a Myanmar national who is a business person or who is part of the regime or closely connected to it would be less likely to have problems upon returning to Myanmar after a claim for refugee status was denied. Yet, the Program Manager added that it is very difficult to get information on the treatment of failed refugee claimants who return to Myanmar and that she has not heard of any specific case where a Myanmar national was returned to Myanmar after his or her claim for refugee status was rejected, except for the case of Stanley Van Tha..." [37c]

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## Annexes

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### ANNEX A – CHRONOLOGY OF MAJOR EVENTS

Reproduced from the [BBC Timeline](#), last updated 9 March 2010 [28b]

**1937** Britain separates Burma from India and makes it a crown colony.

#### Japanese occupation

**1942** Japan invades and occupies Burma with some help from the Japanese-trained Burma Independence Army, which later transforms itself into the Anti-Fascist People's Freedom League (AFPFL) and resists Japanese rule.

**1945** Britain liberates Burma from Japanese occupation with help from the AFPFL, led by Aung San.

**1947** Aung San and six members of his interim government assassinated by political opponents led by U Saw, a nationalist rival of Aung San's. U Nu, foreign minister in Ba Maw's government, which ruled Burma during the Japanese occupation, asked to head the AFPFL and the government.

#### Independence

**1948** Burma becomes independent with U Nu as prime minister.

**1958-**

**1960** Caretaker government, led by army Chief of Staff General Ne Win, formed following a split in the ruling AFPFL party.

**1960** U Nu's party faction wins decisive victory in elections, but his promotion of Buddhism as the state religion and his tolerance of separatism angers the military.

#### One-party, military-led state

**1962** U Nu's faction ousted in military coup led by Gen Ne Win, who abolishes the federal system and inaugurates "the Burmese Way to Socialism" - nationalising the economy, forming a single-party state with the Socialist Programme Party as the sole political party, and banning independent newspapers.

**1974** New constitution comes into effect, transferring power from the armed forces to a People's Assembly headed by Ne Win and other former military leaders; body of former United Nations secretary-general U Thant returned to Burma for burial.

**1975** Opposition National Democratic Front formed by regionally-based minority groups, who mounted guerrilla insurgencies.

**1981** Ne Win relinquishes the presidency to San Yu, a retired general, but continues as chairman of the ruling Socialist Programme Party.

**1982** Law designating people of non-indigenous background as "associate citizens" in effect bars such people from public office.

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### **Riots and repression**

- 1987** Currency devaluation wipes out many people's savings and triggers anti-government riots.
- 1988** Thousands of people are killed in anti-government riots. The State Law and Order Restoration Council (Slorc) is formed.
- 1989** Slorc declares martial law, arrests thousands of people, including advocates of democracy and human rights, renames Burma Myanmar, with the capital, Rangoon, becoming Yangon. NLD leader Aung San Suu Kyi, the daughter of Aung San, is put under house arrest.

### **Thwarted elections**

- 1990** Opposition National League for Democracy (NLD) wins landslide victory in general election, but the result is ignored by the military.
- 1991** Aung San Suu Kyi awarded Nobel Peace Prize for her commitment to peaceful change.
- 1992** Than Shwe replaces Saw Maung as Slorc chairman, prime minister and defence minister. Several political prisoners freed in bid to improve Burma's international image.
- 1995** Aung San Suu Kyi is released from house arrest after six years.
- 1996** Aung San Suu Kyi attends first NLD congress since her release; Slorc arrests more than 200 delegates on their way to party congress.
- 1997** Burma admitted to Association of South East Asian Nations (Asean); Slorc renamed State Peace and Development Council (SPDC).

### **Release of pro-democracy supporters**

- 1998** 300 NLD members released from prison; ruling council refuses to comply with NLD deadline for convening of parliament; student demonstrations broken up.
- 1999** Aung San Suu Kyi rejects ruling council conditions to visit her British husband, Michael Aris, who dies of cancer in UK.
- 2000** September - Ruling council lifts restrictions on movements of Aung San Suu Kyi and senior NLD members.
- October - Aung San Suu Kyi begins secret talks with ruling council.
- 2001** Ruling council releases some 200 pro-democracy activists. Government says releases reflect progress in talks with opposition NLD leader Aung San Suu Kyi who remains under house arrest.

February - Burmese army, Shan rebels clash on Thai border.

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### Improving border relations

June - Thai Prime Minister Shinawatra visits, says relations are back on track.

September - Intelligence chief Khin Nyunt visits Thailand. Burma pledges to eliminate drugs trade in the Golden Triangle by 2005.

November - Chinese President Jiang Zemin visits, issues statement supporting government, reportedly urges economic reform.

### Conflicting signals

**2002** May - Pro-democracy leader Aung San Suu Kyi released after nearly 20 months of house arrest.

**2003** May - Aung San Suu Kyi taken into "protective custody" after clashes between her supporters and those of government.

August - Khin Nyunt becomes prime minister. He proposes to hold convention in 2004 on drafting new constitution as part of "road map" to democracy.

November - Five senior NLD leaders released from house arrest after visit of UN human rights envoy.

**2004** January - Government and Karen National Union - most significant ethnic group fighting government - agree to end hostilities.

May - Constitutional convention begins, despite boycott by National League for Democracy (NLD) whose leader Aung San Suu Kyi remains under house arrest. The convention adjourns in July.

### Prime minister ousted

October - Khin Nyunt is replaced as prime minister amid reports of a power struggle. He is placed under house arrest.

November - Leading dissidents are freed as part of a release of thousands of prisoners, including Min Ko Naing, who led the 1988 pro-democracy student demonstrations.

December - Giant waves, generated by an undersea earthquake off the Indonesian coast, hit the coast. The prime minister says 59 people were killed and more than 3,000 left homeless.

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**2005** February - Constitutional convention resumes, but without the participation of the main opposition and ethnic groups. Talks end in January 2006 with no reports of any clear outcomes.

7 May - Three near-simultaneous explosions go off in shopping districts in the capital; the government puts the death toll at 23.

July - Asean announces that Burma has turned down the 2006 chairmanship of the regional grouping.

November - Burma says its seat of government is moving to a new site near the central town of Pyinmana.

**2006** March - The new capital - Nay Pyi Taw - hosts its first official event, an Armed Forces Day parade.

**2007** January - China and Russia veto a draft US resolution at the UN Security Council urging Burma to stop persecuting minority and opposition groups.

April - Burma and North Korea restore diplomatic ties, 24 years after Rangoon broke them off, accusing North Korean agents of staging a deadly bomb attack against the visiting South Korean president.

May - Aung San Suu Kyi's house arrest extended for another year.

June - In a rare departure from its normally neutral stance, the International Committee of the Red Cross (ICRC) accuses the government of abusing the Burmese people's rights.

### **Public unrest**

August - Wave of public dissent sparked by fuel price hikes. Dozens of activists are arrested.

September - Military government declares 14 years of constitutional talks complete and closes the National Convention.

Buddhist monks hold a series of anti-government protests. Aung San Suu Kyi is allowed to leave her house to greet monks demonstrating in Rangoon. It is her first public appearance since 2003.

Authorities begin to crack down on protests, but demonstrations continue.

UN envoy Ibrahim Gambari meets opposition leader Aung San Suu Kyi.

October - Normality returns to Rangoon amid heavy military presence. Monks are absent, after thousands are reportedly rounded up.

After some delay, UN Security Council deplores military crackdown on peaceful protesters.

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**2008** January - A series of bomb blasts hits the country. State media blame "insurgent destructionists", including the Karen National Union (KNU), a group fighting for greater autonomy for the ethnic Karen people.

April - Government publishes proposed new constitution, which allocates a quarter of seats in parliament to the military and bans opposition leader Aung San Suu Kyi from holding office. To be put to national referendum on 10 May.

May - Cyclone hits the low-lying Irrawaddy delta. Some estimates put the death toll as high as 134,000.

Referendum proceeds amid humanitarian crisis following cyclone. Government says 92% voted in favour of draft constitution and insists it can cope with cyclone aftermath without foreign help.

Junta renews Aung San Suu Kyi's house arrest.

November - Dozens of political activists given sentences of up to 65 years in series of secretive trials.

December - Government signs deal with consortium of four foreign firms to pipe natural gas into neighbouring China, despite protests from human rights groups.

**2009** January - Thailand expels hundreds of members of Burma's Muslim Rohingya minority who appeared off its coast. Burma denies the minority's existence. Several hundred Rohingyas are subsequently rescued from boats off the coast of Indonesia.

UN envoy Ibrahim Gambari meets opposition leader Aung San Suu Kyi for the first time in a year.

March - Senior US State Department official Stephen Blake visits for talks with Foreign Minister Nyan Win in what the US called a routine visit. The Burmese government said it was notable given his seniority.

UN refugee agency announces expansion of work in northern Rakhine state to aid the Rohingya minority.

April - The National League for Democracy (NLD) main opposition group offers to take part in planned elections if the government frees all political prisoners, changes the constitution and allows in international observers.

### **Aung San Suu Kyi trial**

May - The EU extends the 2006 sanctions for another year, but adds that they can be reviewed in the event of moves towards democracy.

UN and aid agencies say hundreds of thousands in the Irrawaddy Delta still need assistance a year after Cyclone Nargis. The UN says Burma now allows it to bring in all the staff it needs.

August - Opposition leader Aung San Suu Kyi is convicted of breaching the conditions of her house arrest, following a visit by an uninvited US national in May. The initial sentence of three years' imprisonment is commuted to 18 months' house arrest.

October - Aung San Suu Kyi begins talks with Burma's military leaders and is allowed to meet Western diplomats.

**2010** February - The authorities free NLD vice-chairman Tin Oo. Aung San Suu Kyi's deputy had spent more than a decade in prison or under house arrest.

March - Government announces that long-awaited election laws have been passed, with provisions for an electoral commission hand-picked by the junta.

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## ANNEX B – PROMINENT PEOPLE

Reproduced from the Economic Intelligence Unit (EIU) Burma (Myanmar) Country Profile, 9 October 2008

### Main political figures:

#### Senior General Than Shwe

Now in his late 70s, Senior General Than Shwe remains the most powerful man in the country. He heads the armed forces and is the chairman of the ruling military junta, the State Peace and Development Council (SPDC). He is also minister of defence. Despite persistent rumours of ill-health and of tensions between him and Deputy Senior General Maung Aye, he still seems to be calling the shots.

#### Aung San Suu Kyi

The secretary-general of the National League for Democracy and daughter of the independence hero, Aung San, she is extremely charismatic and her personal popularity within Myanmar remains high. She has been held under house arrest for more than half of the past two decades; her most recent period of detention began in May 2003.

#### Deputy Senior General Maung Aye

The SPDC vice-chairman, deputy commander-in-chief of the armed forces and army commander. In theory, he is second in line to Senior General Than Shwe, but the SPDC chairman appears to be increasingly favouring General Shwe Mann.

#### General Shwe Mann

General Shwe Mann holds the post of joint chief of staff of the army, navy and air force. He appears to be gaining in influence, owing to his close relationship with Senior General Than Shwe, who was his regional commander during the early 1980s.

#### General Thein Sein

General Thein Sein was formally appointed prime minister in October 2007, after holding the post on an interim basis when General Soe Win was taken ill. He previously held the post of secretary-1 of the SPDC and also headed the committee in charge of the National Convention (the junta's constitution-drafting body). He has been a strong defender of the junta's plans for reform.

#### Min Ko Naing

Born Paw Oo Tun, Min Ko Naing (which means "conqueror of kings") emerged as one of the most prominent student leaders during the mass pro-democracy uprising in 1988. He was arrested, tortured and jailed for 15 years. After his release, he helped to found the 88 Generation group, which led several successful anti-junta campaigns in 2007. The SPDC cracked down on the group in August 2007, and Min Ko Naing and other leaders were again arrested.

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**ANNEX C – GUIDE TO ACRONYMS**

<b>AAPPB</b>	Assistance Association for Political Prisoners (Burma)
<b>AHRC</b>	Asian Human Rights Commission
<b>AI</b>	Amnesty International
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>BBC</b>	British Broadcasting Corporation
<b>CEDAW</b>	Committee on the Elimination of All Forms of Discrimination Against Women
<b>CIA</b>	United States Central Intelligence Agency
<b>CSW</b>	Christian Solidarity Worldwide
<b>CPJ</b>	Committee to Protect Journalists
<b>DVB</b>	Democratic Voice of Burma
<b>EU</b>	European Union
<b>FCO</b>	Foreign and Commonwealth Office (UK)
<b>FH</b>	Freedom House
<b>FIDH</b>	International Federation of Human Rights
<b>GDP</b>	Gross Domestic Product
<b>HIV/AIDS</b>	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
<b>HRW</b>	Human Rights Watch
<b>ICG</b>	International Crisis Group
<b>ICRC</b>	International Committee of the Red Cross
<b>IDMC</b>	Internal Displacement Monitoring Centre
<b>IDP</b>	Internally Displaced Person
<b>ILGA</b>	International Lesbian and Gay Association
<b>IMF</b>	International Monetary Fund
<b>IOM</b>	International Organisation for Migration
<b>IRB</b>	Immigration and Refugee Board of Canada
<b>IRIN</b>	Integrated Regional Information Network
<b>MRG</b>	Minority Rights Group International
<b>MSF</b>	Médecins sans Frontières
<b>NGO</b>	Non Governmental Organisation
<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>OMCT</b>	World Organisation Against Torture
<b>RSF</b>	Reporteurs sans Frontières (Reporters without Borders)
<b>SPDC</b>	State Peace and Development Council
<b>STC</b>	Save The Children
<b>TB</b>	Tuberculosis
<b>TI</b>	Transparency International
<b>UN</b>	United Nations
<b>UNAIDS</b>	Joint United Nations Programme on HIV/AIDS
<b>UNCRC</b>	United Nations Convention on the Rights of the Child
<b>UNDP</b>	United Nations Development Programme
<b>UNHCHR</b>	United Nations High Commissioner for Human Rights
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>UNPO</b>	Unrepresented Nations and Peoples Organisation
<b>USAID</b>	United States Agency for International Development
<b>USSD</b>	United States State Department
<b>VOA</b>	Voice of America
<b>WHO</b>	World Health Organization

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