



## MYANMAR

### REPUBLIC OF THE UNION OF MYANMAR

Head of state and government: Htin Kyaw (replaced Thein Sein in March)

**The formation of a new civilian-led government did not lead to significant improvements in the human rights situation. The persecuted Rohingya minority faced increased violence and discrimination. Religious intolerance and anti-Muslim sentiment intensified. Fighting between the army and ethnic armed groups escalated in northern Myanmar. The government increased restrictions on access for UN and other humanitarian agencies to displaced communities. Although scores of prisoners of conscience were released, restrictions on freedoms of expression, of association and of peaceful assembly remained. Impunity persisted for past and ongoing human rights violations.**

#### Background

Parliament convened for the first time on 1 February following the November 2015 elections in which the National League for Democracy won a landslide victory. In March, Htin Kyaw was elected as President and the formal transfer of power took place the same month. Aung San Suu Kyi remained constitutionally barred from holding the presidency but in April was appointed State Counsellor, a role created especially for her, which made her the de facto leader of the civilian government. Despite this, the military retained significant political power, with an allocated 25% of seats in Parliament which gave it a veto over constitutional changes, and control over key ministries. The military remained independent of civilian oversight.

#### Discrimination

The situation of the Rohingya deteriorated significantly after attacks on border police outposts in northern Rakhine State in October by suspected Rohingya militants. Nine police officers were killed. Security forces responded with a major security operation, conducting “clearance operations” and sealing the area, effectively barring humanitarian organizations, media and independent human rights monitors from entering. Security forces were responsible for unlawful killings, random firing on civilians, rape and arbitrary arrests.<sup>1</sup> Tens of thousands of people were displaced after their homes were destroyed, and at least 27,000 fled to Bangladesh. The response collectively punished the entire Rohingya community in northern Rakhine State and the conduct of the security forces may have amounted to crimes against humanity. The government issued blanket denials that security forces had carried out human rights violations. An investigation commission established by the government in December lacked credibility as it was headed by a former army general and its members included the Chief of Police.

Elsewhere in Rakhine State, the situation remained serious, with Rohingya and other Muslim people facing severe restrictions to their freedom of movement. They were confined to their villages or displacement camps and segregated from other communities. Access to their livelihoods, to health care including life-saving treatment, food security and education were greatly restricted.

Most Rohingya people remained deprived of a nationality. Government efforts to restart a citizenship verification process stalled, with many Rohingya rejecting it because it was based on the discriminatory 1982 Citizenship Law.

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<sup>1</sup> “We are at breaking point”: Rohingya – Persecuted in Myanmar, neglected in Bangladesh ([ASA 15/5362/2016](#))

The government established two committees in an attempt to resolve the situation: the Central Committee on Implementation of Peace, Stability and Development of Rakhine State in May, chaired by Aung San Suu Kyi; and in August, the Advisory Commission on Rakhine State, chaired by former UN Secretary-General Kofi Annan.

### **Freedom of religion and belief**

Discrimination, religious intolerance and anti-Muslim sentiment intensified, particularly following the October attacks in Rakhine State. The authorities failed to take effective action to counter advocacy of religious hatred, or to bring the perpetrators of attacks against religious minorities to justice.

A mob attack in Bago Region in June left one man injured and a mosque and other Muslim-owned buildings destroyed. The Region's Chief Minister told the media that no action would be taken against the suspected perpetrators.<sup>2</sup> In July, a mob attacked a Muslim prayer hall in Hpakant Township, Kachin State, for which five people were arrested but no one was brought to justice by the end of the year.

### **Internal armed conflict**

In August, the new government held the "Union Peace Conference-21<sup>st</sup> Century Panglong", which aimed to move the nationwide peace process forward. It was expected to convene every six months. The Conference was attended by the military, representatives of most ethnic armed groups and the UN Secretary-General.

Despite these efforts, fighting continued in some parts of the country. Between April and September conflict between the Kachin Independence Army and the Myanmar Army escalated with the latter resorting to air strikes and shelling, killing and injuring civilians. During September, fighting erupted in Kayin State when the Border Guard Force and the Myanmar Army clashed with a splinter group from the Democratic Karen Benevolent Army. Further fighting broke out between the Myanmar Army and the Arakan Army in Rakhine State. In November, the Brotherhood of the Northern Alliance, a new coalition of four armed ethnic groups in northern Myanmar, launched co-ordinated attacks on security outposts in Kachin and northern Shan states. The groups said the attacks were in response to ongoing offensives by the Myanmar Army.

Reports of violations of international human rights and humanitarian law in areas of armed conflict persisted. Violations included rape and other crimes of sexual violence, forced labour, arbitrary arrests, torture and other ill-treatment, the use of landmines and recruitment of child soldiers.

The Myanmar Army had discharged 101 children and young adults from its forces by the end of the year.

### **Lack of humanitarian access**

From April, the government increased restrictions on access for UN and other humanitarian agencies and actors to displaced communities in areas not under its control in northern Myanmar.<sup>3</sup> It considered requiring displaced people in these areas to cross internal front lines to receive aid, a move which if implemented would violate international humanitarian law.

In Rakhine State, international humanitarian agencies were required to undergo cumbersome procedures to obtain travel authorization to provide services to vulnerable communities. Following the October attacks in northern Rakhine State, all pre-existing humanitarian services were suspended, affecting over 150,000 people. While services resumed in some areas, an estimated 30,000 internally displaced people (IDPs) had no access to sustained humanitarian aid because of security operations by the end of the year.

### **Refugees and internally displaced persons**

According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), there were over 250,000 IDPs in Myanmar. They included over 100,000 people displaced by fighting in Kachin and northern Shan states and 150,000 people, mostly Rohingya, in Rakhine State.

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<sup>2</sup> Myanmar: Investigate violent destruction of mosque buildings ([News story](#), 24 June)

<sup>3</sup> Myanmar: Lift restrictions immediately on humanitarian aid ([News story](#), 24 October)

Around 100,000 refugees continued to live in nine camps in Thailand. In October, the first pilot voluntary return of 71 people began, supported by the Myanmar and Thailand governments, and UNHCR, the UN refugee agency, and other agencies. Many other refugees remained in Thailand and continued to express fears about returning to Myanmar.

### **Prisoners of conscience**

On 8 April, one week after the new government assumed office, dozens of student protesters detained since March 2015 were released. On 17 April, 83 prisoners, including many prisoners of conscience, were released following a presidential pardon.<sup>4</sup>

Prisoners of conscience remained held, and politically motivated arrests and imprisonment continued. Dozens of people were investigated for “online defamation” under the 2013 Telecommunications Act, a vaguely worded law used increasingly to stifle peaceful criticism of the authorities. In October, Hla Phone was sentenced to two years’ imprisonment for “online defamation” and “incitement” for criticizing the former government and the Myanmar Army on Facebook.

Former prisoners of conscience continued to face a range of problems arising from the effects of their prison conditions and their status as former prisoners including lack of medical and psychological care, access to education and employment opportunities. There were no government programmes providing support and rehabilitation to former prisoners or their families.

### **Freedoms of expression, association and peaceful assembly**

The new government initiated a review of certain repressive laws, and repealed the 1975 State Protection Act and the 1950 Emergency Provisions Act which had been used to imprison peaceful critics of former governments. However, other repressive laws remained, leaving human rights defenders at risk of arrest and imprisonment for their peaceful activities.<sup>5</sup> The legal reform process lacked transparency and Parliament failed to consult adequately with civil society and legal experts. Proposed amendments to the 2012 Peaceful Assembly and Peaceful Procession Act fell far short of requirements under international human rights law and standards.<sup>6</sup> A draft privacy and security bill contained multiple provisions which, if adopted, could arbitrarily restrict the right to freedom of expression, and other rights.

Human rights defenders, lawyers and journalists continued to face intimidation, harassment and surveillance by the authorities. They reported being followed; photographed when attending events and meetings; late-night inspections of their homes and offices; and harassment of family members. Women human rights defenders were particularly vulnerable to sexual harassment and intimidation.

### **Corporate accountability**

In October, Parliament adopted a new Investment Law. However, there were no provisions protecting people against forced eviction or from the impact of pollution caused by business.

In May, protests resumed at the Letpadaung mine following an announcement that it had started producing copper. Two protest leaders were subsequently charged with criminal offences and faced a maximum of four years’ imprisonment. The Letpadaung project had a long history of causing forced eviction and violent repression of protests against the mine although no one had been held to account.

In October, the Ministry of Industry renewed the operating licence of the Moe Gyo acid factory which processes copper for the Letpadaung and S&K mines. The licence was renewed despite serious concerns that the health of villagers living nearby was adversely affected; and despite a decision by the Salyingyi municipal authorities not to renew the factory’s licence pending an assessment of its health and environmental impact.

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<sup>4</sup> Myanmar: Continue efforts to release all remaining prisoners of conscience ([ASA 16/3981/2016](#))

<sup>5</sup> New expression meets old repression: Ending the cycle of political arrests and imprisonment in Myanmar ([ASA 16/3430/2016](#))

<sup>6</sup> Myanmar: Open letter on amending the Peaceful Assembly and Peaceful Procession Act ([ASA 16/4024/2016](#))

## **Death penalty**

No executions were carried out although courts continued to impose death sentences. In January, then President Thein Sein commuted the death sentences of 77 prisoners to life imprisonment. In October, Parliament repealed the 1950 Emergency Provisions Act which allowed for the death penalty. The death penalty remained under other laws.

## **Lack of accountability**

The institutional and legislative framework maintained obstacles to holding perpetrators of human rights violations to account, and delivering justice, truth and reparations to victims and their families. Most perpetrators of past and current human rights violations continued to evade justice.

In January, just days before it was dissolved, Parliament adopted the Former Presidents Security Law, which could grant immunity to former presidents for crimes committed while they were in office, including for crimes against humanity, war crimes and other crimes under international law.<sup>7</sup>

In July, the army made a rare public admission of wrongdoing when it announced that seven soldiers had killed five villagers in northern Shan State and that a court-martial was underway. They were sentenced to five years in prison with hard labour in September. While a step forward for military transparency, the case also highlighted the need for reform in the military and civilian justice systems. Under the 2008 Constitution, the military retains control over its own judicial processes, including when allegations of human rights violations are involved.

The Myanmar National Human Rights Commission remained ineffectual in responding to reports of human rights violations and lacked independence. In October, four Commissioners resigned after the media reported that they had negotiated a financial settlement in a case involving child forced labour and ill-treatment.

## **International scrutiny**

For the first time in 25 years, the UN General Assembly did not adopt a resolution on Myanmar after the EU decided not to propose a draft text. None of the key human rights recommendations in previous resolutions had been fully implemented.<sup>8</sup>

The UN Special Rapporteur on the situation of human rights in Myanmar made two official visits to the country. While her access improved, she reported ongoing surveillance and harassment of civil society members she met. She also reported finding a recording device placed by a government official during a community meeting in Rakhine State.

In March, the UN Human Rights Council adopted the outcome of the UN Universal Periodic Review (UPR) process on Myanmar. Although Myanmar accepted over half of the recommendations, it rejected key recommendations on the rights to freedom of expression, of association and of peaceful assembly, and the situation of the Rohingya.<sup>9</sup> In July, the UN Committee on the Elimination of Discrimination against Women raised concerns about discriminatory laws, barriers to justice for women and girls, and their under-representation in the peace process.<sup>10</sup>

There was still no agreement to establish an Office of the UN High Commissioner for Human Rights in Myanmar.

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<sup>7</sup> Myanmar: Scrap or amend new law that could grant immunity to former president ([News story](#), 28 January)

<sup>8</sup> Myanmar: Why a UNGA resolution is still needed ([ASA 16/4745/2016](#))

<sup>9</sup> Myanmar: Amnesty International calls on Myanmar to protect the rights of Rohingya and to release all prisoners of conscience ([ASA 16/3670/2016](#))

<sup>10</sup> Myanmar: Briefing to the UN Committee on the Elimination of Discrimination against Women ([ASA 16/4240/2016](#))