



BURMA (MYANMAR)

COUNTRY OF ORIGIN INFORMATION (COI) REPORT

COI Service

17 June 2011

SECURING OUR BORDER CONTROLLING MIGRATION

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Preface

- i This Country of Origin Information (COI) Report has been produced by the 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 15 May 2011. The 'Latest News' section contains further brief information on events and reports accessed from 16 May to 17 June 2011. The report was issued on 17 June 2011.
- ii The Report is compiled wholly from material produced by a wide range of 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 from the source material identified, focusing on the main issues raised in asylum and human rights applications. In some sections where the topics covered arise infrequently in asylum/human rights claims only web links may be provided. 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 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 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. Similarly, the absence of information does not necessarily mean that, for example, a particular event or action did not occur.
- vi As noted above, the Report is a compilation of extracts produced by a number of information sources. In compiling the Report no attempt has been made to resolve discrepancies between information provided in different source documents though COI Service will bring the discrepancies together and aim to provide a range of sources, where available, to ensure that a balanced picture is presented. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. 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 Report and the accompanying source material are public documents. All Reports are published on the UKBA website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified are available in electronic form, the relevant weblink 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 COI Service upon request.
- ix Reports are published regularly on the top 20 asylum intake countries. Reports on countries outside the top 20 countries may also be produced if there is a particular operational need. UKBA officials also have constant access to an information request service for specific enquiries.
- x In producing this Report, COI Service has sought to provide an accurate, up to date, balanced and impartial compilation of extracts of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

Country of Origin Information Service

UK Border Agency

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Croydon, CR0 9XB

United Kingdom

Email: cois@homeoffice.gsi.gov.uk

Website: <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

- xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's COI material. The IAGCI welcomes feedback on UKBA's COI Reports and other COI material. Information about the IAGCI's work can be found on the Independent Chief Inspector's website at <http://icinspector.independent.gov.uk/country-information-reviews/>
- 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 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://icinspector.independent.gov.uk/country-information-reviews/>
- 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. The IAGCI can be contacted at:

Independent Advisory Group on Country Information

Independent Chief Inspector of the UK Border Agency

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89 Eccleston Square

London, SW1V 1PN

Email: chiefinspectorukba@icinspector.gsi.gov.uk

Website: <http://icinspector.independent.gov.uk/country-information-reviews/>

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Latest News

EVENTS IN BURMA FROM 16 MAY TO 17 JUNE 2011

The Latest News provides a non-exhaustive selection of significant events since 16 May 2011. Further information may also be available from the list of useful sources below.

The Home Office is not responsible for the content of external websites.

16 June Dozens of people in northern Burma have reportedly been killed in clashes between government troops and the Kachin Independence Army. Thousands more are trying to flee across the border after fierce fighting erupted this month around the construction sites of two Chinese-financed dams in the region.

The Guardian

Dozens killed in Burma amid clashes over Chinese dams, 16 June 2011

http://www.guardian.co.uk/world/2011/jun/16/china-burma-hydropower-clashes?CMP=EMCGT_170611&

Date accessed 17 June 2011

15 June Rebels from Kachin State have destroyed several bridges in northern Burma to prevent attacks from the army.

BBC News

Burma clashes: Kachin fighters 'destroy bridges', 15 June 2011

<http://www.bbc.co.uk/news/world-asia-pacific-13784483>

Date accessed 16 June 2011

14 June Unknown militants attacked the Burmese border town, Three Pagodas Pass amid rising ethnic tensions between Karen armed groups and government forces in the area.

The Irrawaddy

Three Pagodas Pass Under Attack, 14 June 2011

http://www.irrawaddy.org/article.php?art_id=21484

Date accessed 15 June 2011

9 June The International Labour Organisation (ILO) in Burma reported an increase in complaints about forced labour, with 506 complaints received since the start of 2010. According to reports, 749 complaints have been received since the ILO's Burma office was established in 2007.

Mizzima News

Forced labour complaints on the rise in Burma, says ILO, 9 June 2011

<http://www.mizzima.com/news/inside-burma/5390-forced-labour-complaints-on-the-rise-in-burma-says-ilo.html>

Date accessed 9 June 2011

9 June An amendment to Burma's strict media laws, due to commence on 10 June, will see greater freedom to a number of media publications by allowing them to go to print without passing censorship boards.

The Irrawaddy

Burmese Journalists Cautious on New Censorship Policy, 9 June 2011

http://www.irrawaddy.org/article.php?art_id=21464

Date accessed 9 June 2011

3 June Amnesty International reported that, as a punishment against hunger striking activists (see news dated 21 May), prisoners were held in solitary confinement between 24 and 26 May in cells designed for military dogs.

Amnesty International

Myanmar prisoners kept in 'dog cells' after protests, 3 June 2011

<http://www.amnesty.org/en/news-and-updates/myanmar-prisoners-kept-%E2%80%98dog-cells%E2%80%99-after-protests-2011-06-03-1>

Date accessed 9 June 2011

2 June Cases of 'bride' trafficking from Burma to China was revealed by the United Nations Inter-Agency Project on Human Trafficking (UNIAP). In 2010, 122 cases of forced marriage were reported by Burma's Ministry of Home Affairs, compared to 104 in 2009.

Integrated Regional Information Networks (IRIN)

Myanmar: Bride trafficking to China unveiled, 2 June 2011

<http://www.irinnews.org/Report.aspx?ReportID=92868>

Date accessed 9 June 2011

25 May The British government expressed concern at the ongoing human rights abuses in Shan State following the broken ceasefire agreement between the Burmese army and the Shan State Army North on 13 March.

Burma Campaign UK

British Government 'Deeply Concerned' About Shan State Situation, 25 May 2011

<http://www.burmacampaign.org.uk/index.php/news-and-reports/news-stories/british-government-deeply-concerned-about-shan-state-situation/16>

Date accessed 9 June 2011

24 May Gay rights activists in Burma claimed that gays and transsexuals are subject to ill-treatment and abuse by the Burmese authorities. They also face discrimination from their community and families. However, more gay couples are seen in public, according to attendees, from Rangoon, of a recent event in Chiang Mai, Thailand.

The Irrawaddy

Burmese Gay Rights Activists Denounce Discrimination, 24 May 2011

http://www.irrawaddy.org/article.php?art_id=21347

Date accessed 24 May 2011

23 May 2011 In a statement by the UN Special Rapporteur for Burma, Tomás Ojea Quintana expressed his concern for ongoing human rights abuses against Burma's ethnic minorities. He also stated that the recent 'amnesty' for prisoners in Burma was "insufficient because most of the prisoners of conscience remain in prison." On positive developments, Mr Quintana noted that questions raised in the first and only sitting of parliament included "the possibility of a cease fire in Kayin State,

the issue of citizenship status of Rohingyas, and whether amnesty would be granted to Shan political prisoners.”

Office of the High Commissioner for Human Rights (OHCHR)

Statement of the Special Rapporteur on the situation of human rights in Myanmar, 23 May 2011

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11046&LangID=E>

Date accessed 24 May 2011

21 May 2011 A group of 22 Burmese political prisoners staged a hunger strike in demand for better prison conditions at Rangoon's Insein jail. The authorities have taken action against the protesting prisoners by putting some in solitary confinement and threatening to move some to more rural prisons.

BBC News

Burma prisoners on hunger strike at Insein jail, 23 May 2011

<http://www.bbc.co.uk/news/world-asia-pacific-13503135>

Date accessed 24 May 2011

18 May 2011 A bomb blast on a train at Sinthay Railway Station near Burma's capital, Naypyidaw, killed at least two people and injured seven others.

The Irrawaddy

Bomb Blast on Train Near Naypyidaw, 18 May 2011

http://www.irrawaddy.org/article.php?art_id=21317

Date accessed 24 May 2011

16 May 2011 President Thein Sein, announced an “amnesty” to all prisoners by either commuting their death sentences to life in prison or reducing their sentences by one year. However, the gesture was seen as a farce when some political prisoners are serving up to 65 years in prison.

Human Rights Watch

Burma: Prisoner ‘amnesty’ mocks pledge to improve rights, 16 May 2011

<http://www.hrw.org/en/news/2011/05/16/burma-prisoner-amnesty-mocks-pledge-improve-rights>

Date accessed 24 May 2011

USEFUL NEWS SOURCES FOR FURTHER INFORMATION

A list of news 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 E – References to source material](#).

AlertNet (Thomson Reuters) <http://www.alertnet.org/thenews/newsdesk/index.htm?news=all>

British Broadcasting Corporation (BBC) <http://news.bbc.co.uk>

Cable News Network (CNN) <http://edition.cnn.com/WORLD/?fbid=i0gUtrVnUAY>

United Nations Integrated Regional Information Networks (IRIN) <http://www.irinnews.org/>

Burma Campaign UK <http://www.burmacampaign.org.uk/index.php/news-and-reports/news>

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REPORTS ON BURMA PUBLISHED OR ACCESSED BETWEEN 16 MAY AND 17 JUNE 2011

The Home Office is not responsible for the content of external websites.

Assistance Association for Political Prisoners (Burma) (AAPP)

Monthly Chronology of Burma's Political Prisoners for May 2011, undated

http://www.aappb.org/Monthly_Chronology_of_Burma_Political_Prisoners_for_May_2011.pdf

Date accessed 9 June 2011

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Background Information

1. GEOGRAPHY

- 1.01 Burma (the Republic of the Union of Myanmar) lies in north-east South East Asia. (Europa World online, accessed 8 February 2011) [1] (Country Profile) NB “Britain’s policy is to refer to Burma rather than ‘Myanmar’.” (Foreign and Commonwealth Office (FCO) Country Profile: Burma, 12 April 2011) [5a] Bordering Burma is “... 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 8 February 2011) [1] (Country Profile) Burma covers a total area of 677,000 square kilometres (419,740 square miles). (FCO Country Profile: Burma, 12 April 2011) [5a]
- 1.02 Burma’s total population is an estimated 52 million. Rangoon’s (Yangon) population is approximately 5.8 million and its administrative capital, Nay Pyi Taw, has a population of 200,000. (FCO Country Profile: Burma, 16 November 2010) [5a] As noted in the US Department of State (USSD) Background Note on Burma, dated 28 July 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 8 February 2011) [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, 28 July 2010) [7c] (People) According to the Ethnologue website, accessed 8 February 2011, there are over 100 living languages in Burma. [30a]
- 1.04 The principal ethnic groups, as listed in the FCO’s Burma Country Profile, updated 12 April 2011, 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 USSD *International Religious Freedom Report 2010*, published 17 November 2010, stated for Burma that the majority of the population followed Theravada Buddhism. Whilst “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.” [7b] (Section I)

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

- 1.06 Europa World online, accessed 8 February 2011, 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

12 The main text of this COI Report contains the most up to date publicly available information as at 15 May 2011. Further brief information on recent events and reports has been provided in the Latest News section to 17 June 2011.

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)

MAP

1.07 Map of Myanmar (Burma) provided by United Nations Cartographic Section, May 2008. [2a]



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2. ECONOMY

- 2.01 The Foreign and Commonwealth Office (FCO) Country Profile for Burma, last updated 12 April 2011, noted “As a result of decades of economic mismanagement, and despite substantial natural resources, Burma is one of the world’s poorest countries. The economy is unstable and in need of fundamental structural reform. The banking sector is fragile and a small private sector struggles with an unpredictable policy environment and a multitude of market distortions. Inflation is high.” [5a] (Economy)
- 2.02 A 2009 estimate of the country’s Gross Domestic Product (GDP) was measured at US\$ 27.55 billion. (US Department of State (USSD) Background Note, 28 July 2010) [7c] (Economy) The unemployment rate was estimated to be 5.7 per cent in 2010. (Central Intelligence Agency (CIA) World Factbook, 4 May 2011) [6a]
- 2.03 The USSD Background Note updated 28 July 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 and inefficiently 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)
- 2.04 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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)
- 2.05 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, 4 May 2011) [6a]
- 2.06 The BBC noted in its country profile for Burma, last updated on 30 March 2011, “Military-run enterprises control key industries, and corruption and severe mismanagement are the hallmarks of a black-market-riven economy.” [28a]
- See also [Corruption](#)
- 2.07 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]

See also [Employment rights](#)

- 2.08 Regarding the current exchange rate, Europa World online, accessed 15 February 2011, stated that “Although the official exchange rate remained at an average of less than six kyats to the US dollar, by May 2008 the unofficial rate was believed to have reached 1,140 kyats to the dollar, before reportedly declining.” [1] (Economic Affairs)
- 2.09 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. HISTORY (INDEPENDENCE (1948) – NOVEMBER 2010)

- 3.01 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’s [Freedom in the World](#) [14a] US Department of State [Background Note](#) [7c] [Foreign and Commonwealth Office Country Profile](#) [5a] and the [Burma Campaign UK](#). [53a]
- 3.02 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011, gave a brief overview on Burma’s history since independence from Britain in 1948:

“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 in 1990 after the National League for Democracy (NLD) won 392 of the 485 parliamentary seats in Burma’s first free elections in three decades. Instead the junta nullified the results and jailed dozens of NLD members, including party leader Daw Aung San Suu Kyi, who spent most of the next two decades in detention. Aung San Suu Kyi was awarded the Nobel Peace Prize in 1991 for her nonviolent struggle for democracy and human rights.

“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 of that year, 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.

“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]

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CONSTITUTIONAL REFERENDUM – 2008

3.03 Human Rights Watch noted in its report *“I want to help my own people” State Control and Civil Society in Burma after Cyclone Nargis*, 28 April 2010, that:

“The draft constitution put to a nationwide referendum in Burma in 2008 was the result of a repressive, 15-year-long process. After an overwhelming victory for the opposition National League for Democracy (NLD) in the 1990 elections, the then-military junta, the State Law and Order Restoration Council (SLORC), refused to allow the NLD to convene the new parliament, the Pyithu Hluttaw (People’s Assembly) or form a new government, and instead formed a National Convention to write a new constitution. Following innumerable delays, the drafting process concluded in 2007 shortly before the September demonstrations led by Buddhist monks. Yet the official version of the draft constitution was only formally released to the public in limited printings in March 2008, two months before the May 2008 referendum. The constitution is replete with repressive provisions including reserved seats for serving military officers (one-quarter in the lower house of parliament, one-third for the upper house), sweeping powers for the Tatmadaw including control over key ministries and immunity from civilian prosecution, and provisions designed to limit basic rights of citizens.” [39g] (IV. The Constitutional Referendum)

3.04 The same report stated:

“Just eight days after Cyclone Nargis struck, the SPDC [State Peace and Development Council] proceeded with its long-planned nationwide referendum on a new constitution. Its only concession was to delay the vote in some cyclone-affected townships by two weeks despite the fact that, even two weeks later, well over a million cyclone-affected Burmese had still not received any form of assistance. The looming constitutional referendum helps explain the SPDC’s politicization of the relief process in the days immediately after the cyclone, with prominent public roles reserved for senior military

officials and representatives of trusted GONGOs [government organised non-governmental organisations].” [39g] (IV. The Constitutional Referendum)

See also sections: [Constitution](#), Political affiliation: [Political prisoners](#), and Humanitarian issues: [Cyclone Nargis](#)

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BUILD UP TO 2010 ELECTIONS

3.05 The Foreign and Commonwealth Office (FCO) Country Profile on Burma, updated 12 April 2011, reported:

“A series of highly restrictive Election Laws were promulgated in early March 2010. The laws have been criticised by domestic and Western sources for precluding free and fair elections. The features that have attracted most criticism include:

- The National Election Commission’s lack of independence
- Restrictions on parties’ financing and campaigning activities
- The barring of political prisoners from founding a political party, from standing as a candidate, or from voting. This excluded Aung San Suu Kyi and the other over 2100 political prisoners from the process.
- The laws explicitly annul the 1990 election results

“The unfairness of these election laws were a major factor in Aung San Suu Kyi and the NLD’s decision not to register to participate in the elections and the party was deregistered and dissolved [sic].” [5a] (Politics)

3.06 The *Freedom in the World Country Report 2011* stated “Though the government formally dissolved the [NLD] party in September [2010], it remained politically active, educating citizens about their right not to vote.” [14a]

3.07 The FCO noted in its *Human Rights and Democracy Report 2010*, dated 31 March 2011, (FCO Report 2010), that the election laws “... perpetuated previous restrictions barring members from Buddhist, Christian, and Hindu religious orders from voting and joining political parties.” [5y] (p144)

See also [Freedom of religion](#)

3.08 The FCO Country Profile, 12 April 2011, noted:

“In total, 47 regional and national parties applied to the Election Commission for registration including an NLD breakaway party, the National Democratic Force. Of these, 42 were approved and five failed to propose enough candidates to satisfy the minimum set by the election laws. The majority of approved parties were ethnic parties. Only two parties had the capability to put up candidates nationwide: the regime’s Union Solidarity and Development Party and the National Unity Party.” [5a] (Politics)

3.09 The *Freedom in the World Country Report 2011* observed:

“Six prodemocracy parties formed a multiethnic ‘Democratic Friendship Group,’ but the opposition remained fractious, weak, and subject to scrutiny and harassment by the authorities. Parties were allowed to campaign within strict limits. They were able to

travel, make radio and television appearances, and distribute publications. However, some campaign materials and speeches were censored; chanting, flag-waving, and marching during rallies was forbidden; and any party planning to hold a gathering outside of its own headquarters was required to seek permission from the government a week in advance, though gatherings occurred.” [14a]

- 3.10 The FCO Report 2010 cited that “Political parties were not permitted to campaign freely or to set out any policies which were critical of the regime in the run-up to the November elections. Campaign regulations issued in June [2010] required parties to request advance permits to give public speeches and banned the use of flags or slogans outside their headquarters. All campaign material, including the content of TV broadcasts, had to be submitted to the state censorship board.” [5y] (p143)
- 3.11 The *Freedom in the World Country Report 2011* noted “In an apparent bid to remove potential obstacles prior to the voting, the authorities continued to arrest and imprison dissidents throughout 2009. More than 300 activists, ranging from political and labor figures to artists and bloggers, received harsh sentences after closed trials, with some prison terms exceeding 100 years.” [14a]

See also [Freedom of speech and media](#)

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4. RECENT DEVELOPMENTS (NOVEMBER 2010 – MARCH 2011)

NOVEMBER 2010 ELECTIONS

- 4.01 Human Rights Watch reported in its *World Report 2011* (HRW Report 2011), covering 2010 events, published 24 January 2011, that “In November Burma held long-planned elections. These took place in an atmosphere of intimidation, coercion, and widespread corruption, with laws and regulations strongly favoring military controlled parties.” [39e]
- 4.02 A report by the Human Rights Defenders and Promoters Network, dated December 2010, on the elections in Burma, stated “We have observed and recorded systematic irregularities and cases of fraud, including the forced collection of early votes, bribery, vote buying, threats, intimidation, and biased polling station officials during the pre and post-election periods and on Election Day.” [57a] (p50)
- 4.03 Jane’s Sentinel Security Assessment noted in its section on Internal Affairs, Myanmar, updated 11 January 2011, that:

“In late April 2010 Myanmar’s Prime Minister Thein Sein formed the USDP [Union and Solidarity Development Party] as a new political party, which is widely regarded as the military’s proxy. The USDP was transformed from the pro-military Union Solidarity and Development Association (USDA), which was the country’s largest social organisation with an alleged membership of 24.6 million. Since 1993 the USDA has been recruited and sponsored by the ruling military government, the State Peace and Development Council (SPDC). Its main purpose until now has been to attract civilian support for the military and its policies, especially at times when it has faced opposition. The newly formed USDP was the SPDC’s vehicle in the 7 November 2010 general election, and with 1,163 registered candidates was the largest competitor. Two days after the election it claimed to have won around 80 per cent of the seats available.” [8a] (Political parties)

- 4.04 The Economist Intelligence Unit (EIU) reported in its Country Report for Burma, dated 1 December 2010, that:

“The USDP secured a landslide victory in the November 7th [2010] elections – the first polls in Myanmar for 20 years. Before the results were announced, USDP officials indicated that the party had won some 80% of the vote, and that turnout had been around 70% – although reports indicate that turnout in many areas was far lower than this... The final results showed that USDP had won 129 of the 168 elected seats in the Nationalities Assembly. The pattern was repeated in the results for the People’s Assembly, in which the USDP won 259 out of 330 elected seats. The other pro-military party, the NUP, suffered a crushing defeat, winning only a handful of seats in the two main assemblies, leaving the USDP as the military’s party of choice. (The NUP was set up by Myanmar’s former strongman, Ne Win, to contest the country’s last election in 1990, which it also lost resoundingly. The party has links to some of the military old guard and to prominent businessmen, but remains deeply unpopular.) In the 14 state and regional assemblies the USDP also won nearly 75% of the contested seats.

“Despite the many obstacles in its way, the National Democratic Force (NDF) – the main pro-democracy party in the absence of the NLD – managed to secure a few seats. The NDF won four seats in the Nationalities Assembly and eight seats in the People’s Assembly. A number of ethnic-minority-based parties also performed relatively well locally. For example, the Rakhine Nationalities Development Party won seven seats in the Nationalities Assembly and nine seats in the People’s Assembly, while the Shan National Democracy Party (SNDP) won 18 seats in the People’s Assembly and three in the Nationalities Assembly. The performance of ethnic-minority parties would have been even stronger had the Election Commission (EC) not cancelled polls in large areas of ethnic-minority-dominated states, affecting some 1.5m people, all in areas where local parties were expected to perform well compared with the USDP. In addition, a number of prominent minority parties and candidates were prevented from standing in the elections.” [46d] (The political scene: The USDP wins by a landslide, amid allegations of poll fraud)

- 4.05 Europa World online, accessed 16 February 2011, recorded the election results:

Party	Seats
Union Solidarity and Development Party	259
Shan Nationalities Democratic Party	18
National Democratic Force	12
National Unity Party	12
Rakhine Nationalities Development Party	9
All Mon Region Democracy Party	3
Pa-O National Organization	3
Chin National Party	2
Chin Progressive Party	2
Phalon-Sawaw Democratic Party	2
Wa Democratic Party	2
Others	6
Appointed members*	110
Total	440

* Military representatives appointed by the Commander-in-Chief of the Defence Services. [1] (Government and politics: Legislature)

- 4.06 The UK-based Burma Liberation Front (BLF) reported on 16 October 2010 that, according to its sources, the Burmese Embassy in London sent invitations to vote in the 2010 elections to only a “handful” of the UK’s Burmese citizens, and only to those with close links to the Embassy and supporters of the military junta. The BLF stated that a secret advance ballot was held at the Burmese Embassy on the 16 October for the scheduled 7 November elections, but that the Embassy failed to notify the majority of expatriates living in the UK. [58a]
- 4.07 Reporting on more election voting outside of Burma, including Japan, Russia, the Philippines and the United States, *Mizzima* news stated on 20 October 2010 that around 10,000 Burmese citizens living in the UK were eligible to vote. [33b]
- 4.08 The BLF added that despite attempts by some Burmese nationals to vote at the Burmese Embassy in London, they were turned away by security staff. [58a]
- 4.09 The BLF also reported that, in protest against only allowing a few “hand-picked” voters, some of its members held a demonstration outside the embassy between 9am and 3pm on 16 October 2010. [58a]
- 4.10 On 7 November 2010, *The Irrawaddy* reported that demonstrations were held across several countries in protest against Burma’s general election. The report noted that one of the largest demonstrations, held in London, included around 700 members from 16 organisations, including ethnic groups. [26e]

See also Political affiliation: [Demonstrations outside of Burma](#)

- 4.11 The Committee to Protect Journalists (CPJ) noted in its report *Attacks on the Press 2010: Burma*, published 15 February 2011, that:

“CPJ research showed that military authorities censored and controlled election-related news, suspended local-language publications, targeted Internet sites, and jailed exile-run news services’ undercover reporters. In October [2010], the government-controlled Union Election Commission announced that it would not allow foreign journalists into the country to cover the elections. Thein Soe, the commission’s chairman, justified the ban by noting that international agencies already had local staff based in the country, according to news reports. Bangkok- and Singapore-based foreign journalists told CPJ they had applied for work visas and been refused, although several reporters were able to enter the country on tourist visas.” [15a]

- 4.12 The Foreign and Commonwealth Office (FCO) *Human Rights and Democracy Report 2010*, dated 31 March 2011, stated that:

“In spite of the deeply flawed nature of the elections, reports suggest that they led to a limited revival in political debate in Burma and a sense that it was safer to talk about politics in public. After her release, national reporting about Aung San Suu Kyi was heavily censored and several newspapers were suspended for publishing her photograph. She was, however, allowed to speak freely about her views to a range of national and international contacts in media, NGO [non governmental organisation] and diplomatic circles.” [5y] (p143)

See also [Freedom of speech and media](#)

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RELEASE OF AUNG SAN SUU KYI

4.13 In its Country Report for Burma, dated 1 December 2010, the EIU reported on the release of opposition leader, Aung San Suu Kyi, on 13 November 2010, six days after the national elections. The report noted:

“Aung San Suu Kyi, the leader of the now defunct National League for Democracy (NLD), has spent more than 15 of the past 21 years under house-arrest or in jail. Her latest period in detention began in 2003, and an initial year of house-arrest was extended six times. She was then given a jail sentence (following an incident in which a US citizen breached the terms of her detention order by breaking into her home) in August 2009, which she was allowed to serve out at home and which expired on November 13th this year. The elections are likely to have been timed to ensure that they were completed before Aung San Suu Kyi’s scheduled release date. The junta would have been reluctant to release the charismatic and popular pre-democracy icon ahead of the polls, even though her party had decided to boycott them on the grounds that they would not be free and fair.” [46d] (The political scene: Aung San Suu Kyi is freed from house-arrest)

4.14 According to some reports, Aung San Suu Kyi’s release, at around 5 pm on 13 November, took place in front of an estimated 10,000 supporters, where she addressed the crowd in a ten-minute speech. (*The Irrawaddy*, 13 November 2010) [26c] Her release was welcomed by many in Burma and across the world, amid calls for the release of the remaining 2,100 political prisoners still being held in Burma. (EIU Country Report, 1 December 2010) [46d] (The political scene: Aung San Suu Kyi is freed from house-arrest)

4.15 The EIU reported in its ViewsWire, dated 5 January 2011, that:

“Despite the euphoria following Aung San Suu Kyi’s release, the pro-democracy movement is operating in a challenging environment. There is limited freedom of assembly and practically no freedom of speech, with all national media heavily censored. The NLD [National League for Democracy] itself is no longer a legal political party, and in late November [2010] the Supreme Court announced that it would not consider an appeal lodged by the NLD challenging the decision to disband the party. (According to the Election Commission, any party that failed to register to take part in the election would lose its legal political status – a ruling that the NLD claims should have applied only to new political parties and not those formed under previous legislation, which has not been repealed.) The NLD leader has sought to manage expectations of what she and her party can achieve. Stating that the NLD alone cannot bring about change, she has urged people to join the pro-democracy movement and take action by themselves.” [46c]

OPENING OF PARLIAMENT

4.16 Burma’s parliament, consisting of 664 members of the upper and lower houses, convened for the first time in two decades on 31 January 2011. The parliament, dominated by supporters of regime leader, General Than Shwe, was held behind closed doors as ordinary Burmese citizens, journalists and diplomats were denied entry. General Shwe Mann, a powerful junta ally, was elected speaker of the lower house. The constitution allows the speaker to approve or deny any motions or questions in the house. (*Financial Times*, 31 January 2011) [55a]

4.17 The EIU stated in its Country Report dated 2 February 2011 that the new parliament was established under Burma's 2008 constitution, where "...one-quarter of all seats in the new legislatures are set aside for military appointees, and in January [2011] the State Peace and Development Council (SPDC, the ruling military junta) announced the appointment of 388 military representatives to these positions – 110 in the lower house, 56 in the upper house and a total of 222 in the various regional assemblies. The representatives appear to have been drawn primarily from the lower ranks of the armed forces." [46b] (The political scene: Myanmar's new parliament holds its inaugural session)

4.18 The same source added:

"The MPs who belong to opposition political groups took part in the inaugural parliamentary proceedings. Despite their concerns about the junta's manipulation of the elections, the opposition parties that are represented in parliament have chosen not to boycott the proceedings, and instead continue to hope that they will have some influence on the passage of new legislation 'on behalf of the people', as one senior member of the main official opposition party, the National Democratic Force (NDF), has said. However, there are strict parliamentary rules and procedures that will limit the extent to which MPs can raise questions, and the opposition parties have only limited representation. The NDF controls only four seats in the lower house and 12 in the upper house. The Shan Nationalities Democratic Party (SNDP), one of the largest ethnic-minority parties, controls a combined 21 seats in the two national-level houses. In total, there are 17 ethnic-minority parties with at least one seat in parliament." [46b] (The political scene: Myanmar's new parliament holds its inaugural session)

4.19 On 30 March 2011, BBC News reported that, according to state television, Burma's military government was officially dissolved following the swearing-in of the new president of a civilian-led parliament. The report noted:

"Senior General Than Shwe, who has ruled Burma for the last two decades, has given up his last official role as head of Burma's armed forces... 'Altogether 58 new cabinet members including the president, two vice-presidents, officials and ministers were sworn in this morning at the Union Parliament' in Naypyidaw, an official was quoted by the AFP [Agence France Press] news agency as saying. General Min Aung Hlaing has been named the new head of Burma's armed forces. He attended the inauguration of former prime minister Thein Sein – a key Than Shwe ally – as president, an MP at the ceremony told BBC Burmese. The swearing-in of a new parliament completes a transition of power from a military regime to a hybrid administration." [28d]

See also [Political system](#)

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5. CONSTITUTION

5.01 Jane's recorded in its Sentinel Security Assessment for Burma, Internal affairs, date posted 11 January 2011, that the new constitution would come into effect when parliament convened following the 7 November 2010 elections. Jane's noted:

"On 10 May 2008 a constitutional referendum ratified a charter that essentially confirms and legitimises the administrative structures that the army established when it assumed power in 1988. The referendum was held on two occasions, allowing the voters in five townships in the Irrawaddy Delta and 40 in Yangon [Rangoon] Division to vote two

weeks after the rest of the country as a result of Cyclone Nargis. Unsurprisingly, the ruling junta claimed that the constitution was approved by 92 per cent of the electorate, with nearly 98 per cent participation. The constitution has been nearly 16 years in the making; the constitutional convention, the committee which drafted the charter's basic principles, first met in 1993 following the failure of the opposition National League for Democracy (NLD) to draft a document acceptable to the army after the 1990 elections." [8a] (Political system: Constitution)

5.02 Jane's added that:

"The constitution's main innovation is that it provides a limited space for civilian political parties to influence legislation via a new bicameral national legislative assembly (Pyihtaungsu Hluttaw) and 14 state or regional single-chamber legislatures. However, the influence of the military will be pervasive. The executive president, to be chosen by the two chambers of the national legislature, will share power with the commander-in-chief of the armed forces. The latter will appoint 25 per cent of the members of the lower Pyithu Hluttaw (People's Assembly) and upper Amyotha Hluttaw (Nationalities Assembly). While civilian legislators could therefore overrule the military representatives given their greater representation, that would require unanimity on their part and remains improbable." [8a] (Political system: Constitution)

5.03 The Foreign and Commonwealth Office (FCO) Country Profile for Burma, updated 12 April 2011, stated "The 2008 Constitution is designed to entrench military rule. 25% of seats in the National Assembly are reserved for the military. And a majority of 75% in the National Assembly is needed to make any change to the Constitution. In the event of a perceived threat to national security, the military retains the power to assume direct executive and judicial control. The Constitution also provides immunity to SPDC members for past crimes and human rights abuses." [5a] (Politics)

5.04 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]

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6. POLITICAL SYSTEM

6.01 Prior to the 2010 elections Burma was ruled by the military body, the State Peace and Development Council (SPDC). Administrative control was "... 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." (US Department of State Background Note: Burma, 28 July 2010) [7c] (Government and political conditions)

6.02 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011 and covering 2010 events stated that:

"Burma is not an electoral democracy. The military junta has long ruled by decree and controlled all executive, legislative, and judicial powers; suppressed nearly all basic rights; and committed human rights abuses with impunity. The junta carefully rigged the electoral framework surrounding the 2010 national elections, which were neither free

nor fair. The process of drafting the 2008 constitution, which the elections put into effect, had proceeded intermittently for 15 years, was closely controlled by the military, and excluded key stakeholders. Although the charter establishes a parliament and a civilian president, it also entrenches military dominance, and allows the military to dissolve the civilian government if it determines that the 'disintegration of the Union or national solidarity' is at stake." [14a]

6.03 The Economist Intelligence Unit (EIU) reported in its ViewsWire, dated 1 February 2011, that, following the November 2010 elections, "Myanmar's new legislatures include the national-level Amyotha Hluttaw (Nationalities Assembly, the upper house) and Pyithu Hluttaw (People's Assembly, the lower house), together with 14 state- and regional-level assemblies. In theory, the formation of these bodies on January 31st [2011] represents the dawn of a new political era, but the armed forces and their civilian allies dominate all of the new assemblies." [46e]

6.04 Europa World online, accessed 16 February 2011, stated:

"The 2008 Constitution provided for the establishment of a bicameral Pyidaungsu Hluttaw (Union Assembly), comprising the Pyithu Hluttaw, with 440 seats, and the Amyotha Hluttaw (National Assembly), with 224 seats. In both chambers 25% of seats were reserved for appointed representatives of the armed forces. On 7 November 2010 multi-party elections to both chambers of the Pyidaungsu Hluttaw, and to 14 state and regional assemblies, were held for the first time in more than 20 years." [1] (Government and politics: Legislature)

6.05 The same source added "The Amyotha Hluttaw comprises 168 civilian representatives (12 from each of the seven states and seven regions) and 56 military representatives, who are appointed by the Commander-in-Chief of the Defence Services." [1] (Government and politics: Legislature)

See also [Recent developments](#), [Constitution](#) and [Political affiliation](#)

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Human Rights

7. INTRODUCTION

7.01 Jane's Sentinel Security Assessment noted in its section on Internal Affairs, Myanmar, updated 11 January 2011, that Burma:

"... has one of the worst human rights records in the world. Arrests for real or imagined criticism of the government continue and torture and mistreatment are commonplace. Repeated efforts made by international human rights organisations to gain access to political and criminal detainees have been rebuffed. Since 2005, the International Committee of the Red Cross (ICRC) has halted its monitoring of prisons following a government imposed restriction that it be allowed to accompany the ICRC on all visits."
[8a] (Human rights)

See also [Prison conditions](#)

7.02 The Human Rights Watch *World Report 2011* (HRW Report 2011), covering 2010 events and published 24 January 2011, stated:

"Burma's human rights situation remained dire in 2010, even after the country's first multiparty elections in 20 years. The ruling State Peace and Development Council (SPDC) continued to systematically deny all basic freedoms to citizens and sharply constrained political participation. The rights of freedom of expression, association, assembly, and media remained severely curtailed. The government took no significant steps during the year to release more than 2,100 political prisoners being held, except for the November 13 release of Nobel Peace Prize winner Aung San Suu Kyi.

"Calls mounted for an international commission of inquiry into serious violations of international law perpetrated by all parties to Burma's ongoing civil conflict. The Burmese military was responsible for ongoing abuses against civilians in conflict areas, including widespread forced labor, extrajudicial killings, and forced expulsion of the population. Non-state armed ethnic groups have also been implicated in serious abuses such as recruitment of child soldiers, execution of Burmese prisoners of war, and indiscriminate use of anti-personnel landmines around civilian areas." [39e]

7.03 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), Burma, published 8 April 2011, 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 were responsible for extrajudicial killings, custodial deaths, disappearances, rape, and torture. The government detained civic activists indefinitely and without charges. In addition regime-sponsored mass-member organizations engaged in harassment and abuse 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, resulting in deaths, forced relocation, and other serious abuses. 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 (armed ethnic guerillas) allegedly committed human rights abuses, including forced labor and recruitment of child soldiers.

"The government released Aung San Suu Kyi – general secretary of the National League for Democracy (NLD) – from house arrest on November 13 [2010], the date her sentence (for allegedly having violated the terms of her confinement) expired." [7a]

7.04 Amnesty International noted in its *Annual Report 2011: The state of the world's human rights*, published 12 May 2011 and covering 2010 events, that "The army committed human rights violations in connection with oil, gas, mining and hydropower development projects, including forced labour, killings, beatings and land confiscation. The authorities continued to target villagers suspected of opposing or questioning the projects." [12e] (Development-related violations)

7.05 The Thailand-based Human Rights Education Institute of Burma (HREIB) stated in its report *Forgotten Future: Children affected by armed conflict in Burma*, (HREIB Report) dated September 2008, "Tatmadaw [army] troops and members of non-state armed groups continue to scatter landmines, which have caused casualties in 10 out of 14 of Burma's states and divisions. Both groups also employ guerilla warfare tactics in efforts to gain geopolitical control." [64a] (p40)

7.06 The same source added:

"Few areas in conflict zones are completely safe, although certain places are more dangerous than others, depending on the administrative situation. For example, in black areas, which are predominantly controlled by NSAG's [non-state armed groups], Tatmadaw soldiers are given permission to shoot on sight. Nevertheless, some villages in these areas tend to enjoy a degree of protection from local NSAGs and can be comforted by friendly patrols and relative autonomy. Brown areas are hotly disputed and subject to frequent attacks. Villagers in these areas see the most violence and are often forced to flee into the jungle for days and sometimes months at a time. White areas, where the Tatmadaw maintains authority, are least likely to experience fighting, but recurring raids by Tatmadaw soldiers and relocation programs trouble local communities." [64a] (p41)

See also [Security forces](#) and [Abuses by non-government armed forces](#)

7.07 The Foreign and Commonwealth Office (FCO) noted in its *Human Rights and Democracy Report 2010*, dated 31 March 2011, that:

"Forced labour remains widespread in Burma. The International Labour Organization continued to operate a mechanism to allow individuals to raise complaints with the authorities and a number of cases were referred successfully to the authorities. However, concerns remain about the regime's tendency to view complaints as politically motivated. The International Labour Organization's efforts in 2010 were focused on increasing awareness throughout the country of the complaints mechanism, and

encouraging the regime to seek out instances of forced labour (including in the military) rather than relying on complainants to come forward.” [5y] (p141)

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8. SECURITY FORCES

- 8.01 The Thailand-based Human Rights Education Institute of Burma (HREIB) stated in its report *Forgotten Future: Children affected by armed conflict in Burma*, (HREIB Report) dated September 2008:

“Burma has no prevailing external national security threats, yet the SPDC [State Peace and Development Council] has embarked on a relentless campaign to expand the army’s size and capacity. For over a decade Burma’s top military leaders have tried to galvanize the strength of its fighting force, with plans to increase troop numbers to 500,000. As Burma’s economic interests grow, particularly in natural resource extraction, there is a concurrent demand for greater troop accompaniment of infrastructure projects across the country. Larger troop numbers are required to provide protective services and sometimes the actual manual labor for the construction of highways, roads, railways and dams, which may be threatened by armed groups.” [64a] (p50)

POLICE

- 8.02 Jane’s Sentinel Country Risk Assessments; Myanmar, Security and Foreign Forces, updated 5 January 2011, reported that the police force has a total strength of approximately 72,000 officers with police stations in all population centres. The same source continued:

“Major General Maung Oo heads the Ministry of Home Affairs, which oversees all police units. These include the riot police (lon htein), the Special Branch, the Bureau of Special Investigation, the Criminal Investigation Department, and regular divisional police forces. The director general of the police is Brigadier General Khin Yi. The Myanmar Police Force is divided into headquarters, state and division police forces, special forces, training centres, reserved units and police battalions. There are 15 state and divisional police forces including the capital Naypyidaw and three additional state police forces. Nine paramilitary police battalions, called lon htein, are assigned primarily to Yangon, Mandalay, and Rakhine State.

“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] (Police)

- 8.03 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, noted for Burma that:

“The police force falls administratively under the Ministry of Home Affairs. Military Security Affairs (MSA) falls under the Ministry of Defense. MSA officers and Police

Special Branch (SB) officers were 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.

"Impunity was a serious problem. There are no effective legal mechanisms available to investigate security force abuses, and the government took no significant measures to reform the security forces." [7a] (Section 1d)

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ARMED FORCES

- 8.04 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 25 March 2011) [8a] (Armed forces)
- 8.05 The army is the largest of the armed forces with an estimated strength of 300,000 – 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 25 March 2011) [8a] (Army: Deployment, tasks and operations)
- 8.06 The same source added "Morale is generally poor among the enlisted members of the army and desertions are frequent, despite severe penalties for those who are caught. Although largely limited to enlisted personnel in the past, several recent high profile desertions of officers have embarrassed the military and bolstered claims of a secret nuclear programme. Several other high ranking officers have been arrested for leaking military secrets to exiled opposition groups." [8a] (Army: Assessment)
- 8.07 Jane's continued in its section on the army, updated 25 March 2011, 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 but it has been recently stressed in doctrine and training. This is in response to the West's continued criticism of the military government and the progressive imposition of economic sanctions, which has allowed the regime to emphasize the threat of a US invasion. It seems unlikely, however, that forces generated under the People's Warfare strategy would remain unified in the face of foreign invasion given extremely poor morale within the armed forces and the military government's low legitimacy. (Adaptability)
- "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 occasional refresher courses as well as

political indoctrination. However, this system has rarely been tested and has never been tested for an extended period of time.” [8a] (Army: Sustainment)

- 8.08 On changes in military structure following the November 2010 elections, Human Rights Watch reported in its *World Report 2011* (HRW Report 2011), covering 2010 events, published 24 January 2011, that:

“In April [2010] Prime Minister Lt. Gen. Thein Sein and 27 SPDC [State Peace and Development Council] and government cabinet ministers resigned their military commissions and formed the Union Solidarity and Development Party (USDP). In August the USDP absorbed all the assets and infrastructure of the Union Solidarity and Development Association (USDA), a mass-based social welfare movement formed by the military in 1993 with more than 26 million nominal members. The military conducted its biggest reshuffle in years, with scores of senior officers resigning in order to run as USDP candidates.” [39e] (The November 2010 elections)

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OTHER GOVERNMENT FORCES

- 8.09 Jane’s Sentinel Country Risk Assessments: Myanmar, noted in its section on armed forces, updated 25 March 2011, 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] (Assessment)

- 8.10 The Human Rights Foundation of Monland noted in a report by the Women and Child Rights Project (WCRP), *The plight of women and children in Burma*, dated September 2010, that:

“SPDC [State Peace and Development Council] troops in southern Burma have increased its military presence by implementing a local village militia strategy. The regime is forcing the local people into militia units or civilian army (Pyi-Thu-Sit in Burmese) to fight against the armed anti-SPDC groups in southern Mon State and northern Tenasserim Division. The SPDC mandates that every village in Ye township have a militia comprised of villagers. According to WCRP’s findings, the SPDC has also been recruiting village children into these militias in southern Mon State and northern Tenasserim Division. The SPDC military forcibly recruits children from ethnic villages to work as soldiers, guards, look-outs, porters, spies, messengers, human shields, and minesweepers.” [34c] (p3)

See also Children: [Child soldiers](#)

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Intelligence agencies

- 8.11 In its section on security and foreign forces, updated 5 January 2011, Jane's Sentinel Country Risk Assessments: Myanmar, 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] (Intelligence agencies)
- 8.12 MSA officers were, along with Special Branch police officers, responsible "for detaining persons suspected of 'political crimes' perceived to threaten the government." (USSD Report 2010). [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]
- 8.13 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 2010 stated "Security personnel regularly screened private correspondence, telephone calls, and e-mail." [7a] (Section 1f)

HUMAN RIGHTS VIOLATIONS BY GOVERNMENT FORCES

See also [Prison conditions](#)

- 8.14 The HRW Report 2011 stated:

"The Burmese military continues to direct attacks on civilians in ethnic areas, particularly in Karen, Karenni, and Shan states of eastern Burma, and parts of western Burma in China and Arakan states. Tensions increased with ethnic armed groups that had agreed to ceasefires with the government, such as the Kachin Independence Organization (KIO) and the United Wa State Army (UWSA), over the government's plans to transform these militias into Border Guard Force units under direct Burmese army control. By the end of 2010 only five militias had agreed, leaving large groups such as the Kachin, Wa, and Mon facing increased military pressure to transform, partly demobilize, and surrender territory. As a result of increased tensions, parts of 32 townships in Burma-including most of the Wa area on China's border-did not conduct polls in November. There are widespread fears of resumed conflict in 2011 in ethnic areas that have experienced uneasy peace for the past two decades.

"Abuses by the Burmese military against civilians in violation of international humanitarian law include the widespread use of anti-personnel landmines, sexual violence against women and girls, extrajudicial killings, forced labor, torture, beatings, targeting of food production and means of civilian livelihood, and confiscation of land and property. All parties to Burma's conflicts continue to actively recruit and use child soldiers, with the Tatmadaw (state military) continuing to use them even as the SPDC

cooperates with the International Labour Organization (ILO) on demobilizing child soldiers.” [39e] (Ethnic Conflict, Displacement, and Refugees)

- 8.15 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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)

- 8.16 The Thailand-based Human Rights Education Institute of Burma (HREIB) stated in its report *Forgotten Future: Children affected by armed conflict in Burma*, (HREIB Report) dated September 2008:

“The Tatmadaw appears to legitimize rape and other grave forms of sexual abuse. The fact that rape occurs on military bases with the complicity of authorities suggests that an environment of total impunity has been established in conflict areas. High-ranking officers rape children in front of lower ranking officers, thus giving sanction to sexual abuse. Moreover, perpetrators were not prosecuted in any of the documented cases. In fact, attempts to report crimes were ignored by military officials and often dismissed by local authorities, even in cases in which the attackers’ identity was known.” [64a] (p67)

See also Children: [Violence against children](#)

- 8.17 The Assistance Association for Political Prisoners (Burma) (AAPPB) stated in its *2010 Annual Report: Political Prisoners in Burma*, dated 14 January 2011, that:

“The violations committed in the past year [2010] took place within a culture of impunity. Those who commit these abuses do so without fear of repercussions and accountability. The regime has done nothing to address the endemic nature of torture throughout the country and has made no changes in practice or in law to end torture. Victims of torture have no effective mechanism to seek redress and the government denies independent monitors access to prisons. Evidence suggests that police and military officials, operate above the law. Without the rule of law, reform of the judiciary, a review of the Constitution, and other draconian legislation, human rights violations will continue.” [44b] (Conclusion)

- 8.18 The USSD Report 2010 stated “The government punished family members for alleged violations by individuals.” [7a] (Section 1f)

- 8.19 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)

- 8.20 The UN General Assembly, *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 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)

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Arbitrary arrest and detention

- 8.21 The USSD Report 2010 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)

- 8.22 A report by the Assistance Association for Political Prisoners (Burma) (AAPP), *Torture, Political Prisoners And The Un-Rule Of Law: Challenges To Peace, Security And Human Rights In Burma*, dated 14 October 2010, noted

“Military Intelligence search, arrest and interrogate without warrant anyone deemed political, despite provisions in the Burmese Criminal Procedure Code for judicial oversight of arrests and detentions. All former political prisoners interviewed by AAPP were held longer than 48 hours without warrant and without being brought before a judicial authority. Basic rights of due process, including the right to a public trial and to be represented by a defense lawyer, are denied in political cases. In many cases, the accused are kept ignorant of the section of law under which they are charged. There are reported instances where Military Intelligence has passed sentences orally at the time of arrest, before any trial had taken place. The State Protection Law allows for detention without charge or trial for up to five years and is frequently used to extend an already arbitrary and unjust detention.” [44d] (p17-18)

- 8.23 The same source reported “In Burma, there is a well-established pattern of wrongful imprisonment of those who speak out against the regime, with the SPDC blaming political dissidents and democracy activists for crimes they did not commit. This scapegoating [sic] amounts to a serious abuse of the criminal justice system. It prevents a proper investigation and ensures the real perpetrators are not brought to justice.” [44d] (p18)

Torture

- 8.24 The USSD Report 2010 noted that:

“Laws prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. Security forces routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient. As in previous years, authorities took little or no action to investigate the incidents or punish the perpetrators. There were reports of physical abuse, torture, and rape in connection with conflicts in Shan and Karen states.” [7a] (Section 1c)

- 8.25 The USSD Report 2010 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 to electric shocks – during interrogation to extract confessions or to 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.

“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.” [7a] (Section 1c)

- 8.26 The AAPP report, *Torture, Political Prisoners And The Un-Rule Of Law: Challenges To Peace, Security And Human Rights In Burma*, dated 14 October 2010, (AAPP Report October 2010) noted “As well as being a well-established norm of international law, the prohibition of torture is also reflected in Burmese domestic law. The Burmese Penal Code prohibits ‘hurt and grievous hurt’ during interrogation and outlaws the injury of anyone by a public servant. Though such provisions indicate a prohibition of torture, the failure to explicitly define and designate torture as a grave crime, in Burmese law, allows torture to take place more easily.” [44d] (p12)

- 8.27 The Asian Human Rights Commission (AHRC) noted in its report *The State of Human Rights in Burma in 2010*, published on 10 December 2010, that:

“... in Burma the particular problem that complainants face is not only that they have been tortured to confess but also that there are literally no legal and institutional measures to support their complaints or bring action against the alleged torturers. There

is no law to prohibit torture or institutions capable of investigating or prosecuting it. On the contrary, the courts and other parts of the legal system encourage the use of torture in cases like this, because they consistently admit evidence and confessions obtained from investigations in which the police have used torture, and because when accused persons retract their confessions and allege torture in court, the judges reject their allegations on the spurious basis that the defendants have no proof.” [43b] (p12)

8.28 The AAPP Report October 2010 stated:

“Torture during interrogation is committed primarily by the Military Intelligence Service under the Directorate of Defense Services. Interrogations are also conducted by the Bureau of Special Investigations (BSI) and the Myanmar Police Force, one branch of which is the Special Information Force (‘Special Branch’). The BSI and the Myanmar Police Force are accountable to the Minister of Home Affairs.

“The abuses carried out in detention facilities, in Burma, are part of a systematic process where torture is not only accepted but also encouraged. Evidence suggests it has become a cultural norm amongst the military, police and security officials for extracting false confessions, creating a climate of fear and as a punishment. The same methods of torture have been practiced over the past twenty-two years on political prisoners. The prevalence of specific torture methods in prisons all over the country suggests that some form of ‘torture training’ has been provided.” [44d] (p18-19)

8.29 The same source added:

“Nobody can be considered immune from torture, in Burma, although those individuals considered dissidents, or in opposition to the regime are more likely to be targeted. Frequent victims include politicians, union leaders, journalists, human rights defenders and members of ethnic minorities. It is important to note that ordinary civilians with no political or ethnic affiliations are also subjected to torture in normal criminal investigations.

“Torture and cruel and degrading treatment is meted out to all of the prison population, without distinction to age, health, and the special needs of women, children and those with disabilities. In Burma, victims of torture have included children as well as adults. AAPP has documented cases of children as young as 14 years of age being imprisoned and tortured due to their political beliefs. Contrary to international standards and to Burma’s own Jail Manual, children are equally subject to the prisons’ grossly inadequate conditions.” [44d] (p12)

8.30 The AAPP stated:

“Individuals in the first phase of arrest and detention, before they have access to a lawyer, are at greatest risk of torture and other forms of ill-treatment. Incommunicado and secret detention are common practice in Burma and often lasts until a confession is obtained, which can take months and occasionally years. It can cause untold mental suffering for the detainee, as well as their family, and in this respect is a form of psychological torture.

“In Burma, not all interrogation centres have been identified and several secret centers exist. Many political prisoners are kept in government ‘guest houses’ or on military bases which prohibit access to civilians. Both are used, along with torture and other ill-

treatment, to extract confessions from detainees, to punish them or to force them to make undertakings to not criticize the government...” [44d] (p13)

8.31 The AAPP reported that, since 1988, 144 political activists had died in detention due to torture or the denial of food and medical treatment. The report stated “Almost all political prisoners are beaten during interrogation. Some are subject to extreme physical assaults resulting in internal bleeding, unconsciousness and sometimes death. Beatings include being punched in the face, kicked in the head, beaten with rifles, sticks and iron bars.” (p13) The AAPP went on to say “Those who survive the beatings are often left permanently maimed. Injuries sustained from torture include paralysis, partial and full hearing loss, fractures, and brain damage.” [44d] (p14)

8.32 An open letter to the UN Special Rapporteur on torture by the Asian Human Rights Commission (AHRC), 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 AHRC 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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Extra-judicial killings and ‘disappearances’

8.33 The USSD Report 2010 noted “There were reports the government or its agents committed arbitrary or unlawful killings. The government rarely punished officials responsible for the deaths. Government soldiers reportedly killed several individuals in Rakhine State... During the year [2010] there were reports of killings in connection with conflict in Karen state.” [7a] (Section 1a)

8.34 The US Department of State *International Religious Freedom Report 2010* (USSD IRF Report 2010), published 17 November 2010, stated “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 the September 2007 demonstrations. The government did not investigate reports that security forces took large numbers of residents and monks from their homes and monasteries during numerous nighttime raids following the protests.” [7b] (Section II)

8.35 The USSD Report 2010 stated that:

“At year’s end [2010] no officials had been held accountable for the deaths of several persons in the custody of security forces in 2008, including Zawmir Uddin in Rakhine State, a medical worker in Khawzar police station in Mon State, at least 40 inmates at Insein Prison, and a man in Magwe police station.

“The government continued to take 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. The government did not investigate or punish those responsible for custodial deaths in 2007...”

“The government took no action to investigate or take responsibility for the 2003 attack by government-affiliated forces on an NLD [National League for Democracy] convoy led by party leader Aung San Suu Kyi near the village of Depeyin. As many as 70 persons were killed, and the whereabouts of 31 persons who disappeared remained unknown.” [7a] (Section 1a)

8.36 Regarding ‘disappearances’, the USSD Report 2010 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 [2010] in connection with conflicts in Shan and Karen states... During the year seven members of Lin Let Kye (Shining Star), a group formed in 2008 to assist in the Cyclone Nargis relief effort, who disappeared in October 2009 were found serving prison sentences ranging from seven to 14 years for allegedly violating the Unlawful Associations Act. According to a human rights representative, 14 other persons also involved with Nargis relief efforts, including entertainers, writers, and press workers, were arrested in October 2009. Of this group, six had been released and eight remained in prison at year’s end.

“According to the UN Working Group on Enforced or Involuntary Disappearances, there were five unresolved disappearance cases at the end of 2009. The whereabouts of persons seized by military units to serve as porters, as well as of prisoners transferred for labor or portering duties, often remained unknown. Family members generally learned of their relatives’ fates only if fellow prisoners survived and later reported information to the families.” [7a] (Section 1b)

AVENUES OF COMPLAINT

8.37 *The Irrawaddy* reported on 15 March 2011 that:

“In 2007, just weeks after the Saffron Revolution against military rule in Burma and in the midst of an army crackdown on monks and other protesters, the Burmese regime established the Myanmar Human Rights Body (MHRB). The MHRB accepts ‘complaints and communications from those whose human rights are reportedly being violated, carrying out necessary investigations and taking proper actions although they are not included in the mandate of the Body,’ according to the Burmese government’s submission to the January Universal Periodic Review (UPR) at the United Nations Human Rights Council in Geneva.

“Asked about the body, National Democratic Front (NDF) Chairman Dr Than Nyein said that ‘the human rights organizations set up by the old government have not done anything’.” [26g]

8.38 The UN General Assembly, *Situation of human rights in Myanmar* (Note by the Secretary General), dated 15 September 2010, covering human rights developments in Burma, (following the UN Human Rights Council [Progress report of the Special Rapporteur on the situation of human rights in Myanmar](#), dated March 2010 [32e]), noted the Burmese government had stated in a letter dated 2 September 2010 that “... a total of 35 seminars and workshops for Government officials and staff from the military,

police and prisons to raise awareness on human rights had been conducted to date. The Government also noted the establishment by the Human Rights Body of an investigation team not only to investigate complaints lodged by citizens but also to take punitive actions against violators.” [32f] (paragraph 86)

8.39 However, the same source stated that the letter did not provide details of “... what legislation authorizes it to undertake the investigative and punitive functions; what procedure is available for citizens to file complaints; whether there are any protection measures for citizens who might file complaints against officials or others in positions of power who could retaliate against them...” [32f] (paragraph 86)

8.40 The same source reported, “...the Government noted that in 2000, it ‘had released a notification to the people through newspapers about citizens’ right to lodge a complaint to respective ministries relating to alleged injustices and grievances that may breach their rights’. According to the Government, many people had lodged complaints of violation of their rights and a mechanism existed to deal with the complaints.” The Special Rapporteur requested further details of this mechanism and any data to accompany it. [32f] (paragraph 86)

8.41 Regarding avenues of redress, the Asian Human Rights Commission (AHRC) noted in its report *The State of Human Rights in Burma in 2010* (AHRC Report 2010), published on 10 December 2010, that:

“There are no effective means for redress to victims of human rights through the courts in Burma, other than in certain types of cases that correspond with state directives, such as under the Anti-Trafficking in Persons Law. In these cases, the courts are effectively performing an administrative function, not a judicial one, by implementing policy that has been written into law. Where law does not correspond with policy, the courts do not enforce it. Consequently, many legitimate complainants are instead themselves made the targets of counter-complaints and prosecution by state agents.” [43b] (p5)

See also [Judiciary](#) and [Trafficking](#)

8.42 The same report added “The lack of legal or judicial avenues for complaint and inquiry into allegations of torture is acknowledged by the fact that complainants in Burma can do no more than submit complaints to the national leadership to request that action be taken against perpetrators. Where these complaints go, who reads them and whether or not any action is ever in fact taken nobody knows.” [43b] (p13)

See also subsection [Torture](#)

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9. MILITARY SERVICE

9.01 The Constitution states in Article 386 of Chapter VIII titled “Citizen, Fundamental Rights and Duties of the Citizens” that “Every citizen has the duty to undergo military training in accord with the provisions of the law and to serve in the Armed Forces to defend the Union.” [47]

9.02 The Central Intelligence Agency (CIA) World Factbook noted in its section on military service age and obligation, updated 1 March 2011, that military service in Burma was

compulsory for men aged between 18 and 45 years and women aged between 18 and 35. Forced conscription of children also occurred. [6b] (Military)

9.03 War Resisters International reported on 2 February 2011 that:

“According to the new law, which will come into force on the day the State Peace and Development Council (the military junta of Burma) enacts it by order, all citizens are eligible for military service: men from 18 to 35 (or to 45 if they are an ‘expert’ [professional occupation]), and women from 18 to 27 (or to 35 for ‘experts’) (article 2). Military service will usually last up to 24 months, or up to 36 months for conscripts serving in a professional capacity (article 3). During a state of emergency, military service lasts up to five years.

“All citizen[s] eligible for military service will be registered by the Ward or village ‘Peace and Development Council’, and will pass on these registrations to the township drafting board.” [56a]

9.04 *The Irrawaddy* reported on 20 January 2011 that a military conscription law requiring two years service, dated 4 November 2010 “...will come into force when proclaimed by the ruling military council, according to an official gazette which was recently circulated.” The report noted:

“Those who fail to report for military service could get three years in prison and those who intentionally avoid conscription through illnesses or inflicting injury on themselves could be imprisoned for up to five years, fined or both, according to the law. Students, government servants, persons serving prison sentences or those who have to take care of elderly parents can postpone their military service, but can be called up at a later date. Members of religious orders, married women or divorcées with children, and disabled persons will be exempted from the draft.” [26d]

9.05 The UN Security Council *Report of the Secretary-General on Children and armed conflict*, dated 23 April 2011, stated that the People’s Military Service Law, stipulating compulsory military service as detailed above, had not yet entered into force, to the knowledge of the country task forces on monitoring and reporting. [4b] (paragraph 116)

9.06 War Resisters International added “In violation of the International Covenant on Civil and Political Rights, the law does not include a right to conscientious objection.” [56a]

9.07 Mizzima news, dated 12 January 2011, provided an unofficial translation of the [People’s Military Service Law](#), dated 4 November 2010. [33c]

See also Children: [Child soldiers](#)

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10. ABUSES BY NON-GOVERNMENT ARMED FORCES

10.01 Jane’s Sentinel Security Assessment noted in its section on non-state armed groups in Burma, updated 5 January 2011, that:

“Myanmar is host to a range of different non-state armed forces representing the wide variety of ethnicities within the country. Not all groups are hostile to the government, and the largest among them, the United Wa State Army (UWSA) is currently largely a

criminal organisation supported by a 20,000-strong paramilitary network, often backing the government. Groups in opposition to the ruling junta are far fewer now than when the State Law and Order Restoration Council (SLORC; now the State Peace and Development Council, SPDC) came to power in 1988. A verbal ceasefire agreed with the Karen National Union (KNU), which maintains an armed wing in the Karen National Liberation Army (KNLA), is fragile and largely defunct given a resurgence of clashes between the government and the group since January 2005. The only other viable insurgent force still raising arms against the government is the Shan State Army-South, which poses little threat to Yangon.

“The situation is unlikely to lead to any further ceasefires in the near future, as a hardline faction led by Senior General Than Shwe continues to strengthen its control over the government. The hardliners have traditionally favoured military action over negotiation, and view the current position held by the government, with few groups in opposition, as a window of opportunity to eliminate the remaining insurgencies and force ceasefire groups to disarm. Following a hiatus in military operations during much of 2010, when the ruling junta sought to prepare the country for elections in early November, it is likely that a concerted campaign against groups that have not agreed to a truce with the government will resume. The military have received, or will shortly do so, additional equipment from China and other sources which indicates that the renewed fighting may be intense.” [8a] (Overview)

- 10.02 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, published 10 March 2010, following his February 2010 visit, stated that “Non-State armed groups have recruited and used children, including through forced recruitment. Although the situation has been well documented by several NGOs [non-governmental organisations], due to the restrictions in access to the border areas the United Nations has been unable to monitor and verify the presence of children in these groups.” [32e] (paragraph 79)

See also Children: [Child soldiers](#)

- 10.03 Jane’s also noted:

“A number of further organisations have agreed ceasefires with Myanmar’s military junta; the government recognises a total of 17. The most prominent of these (beyond the UWSA) are the Kachin Independence Army (KIA), New Democratic Army-Kachin (NDA-K), Myanmar National Democratic Alliance Army (MNDAA), Palaung State Liberation Army (PSLA), and National Democratic Alliance Army (NDAA). The Mon National Liberation Army (MNLA), with about 1,000 men, is based on the Thai border in Mon State. It serves as the armed wing of the New Mon State Party (NMSP), which agreed to a ceasefire in 1995.” [8a] (Smaller ceasefire insurgent groups)

- 10.04 The Human Rights Watch *World Report 2011*, published January 2011, stated for Burma that:

“Tensions increased with ethnic armed groups that had agreed to ceasefires with the government, such as the Kachin Independence Organization (KIO) and the United Wa State Army (UWSA), over the government’s plans to transform these militias into Border Guard Force units under direct Burmese army control. By the end of 2010 only five militias had agreed, leaving large groups such as the Kachin, Wa, and Mon facing increased military pressure to transform, partly demobilize, and surrender territory. As a result of increased tensions, parts of 32 townships in Burma – including most of the Wa

area on China's border-did not conduct polls in November [2010]. There are widespread fears of resumed conflict in 2011 in ethnic areas that have experienced uneasy peace for the past two decades." [39e] (*Ethnic Conflict, Displacement, and Refugees*)

- 10.05 The Foreign and Commonwealth Office (FCO) Country Profile on Burma, updated 12 April 2011, noted "Some militias have become involved in drug and people trafficking. Conflicts have displaced huge numbers of civilians, both within Burma (an estimated 470,000) but also across its borders, into Thailand, China, India and Bangladesh (some 180,000 refugees and over two million migrant workers)." [5a] (*The ethnic minorities and ceasefires*)

See also [Ethnic groups](#)

FORCED CONSCRIPTION

- 10.06 *The Guardian* reported on 7 July 2009 that rebel groups forcibly conscript children. "The United Wa State army, the biggest rebel force, has the largest number. The Kachin Independence army is the only armed group to recruit girls. The SSA [Shan State Army] and the Karen National Liberation army have policies against recruiting children under 18, but do not turn away children who actively seek to join." However, one of the Burma's main rebel groups, the SSA "... has pledged to stop using child soldiers in return for outside aid in an effort to enhance its international credibility." [24a]

See also [Ethnic groups](#) and Children: [Child soldiers](#)

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11. JUDICIARY

ORGANISATION

- 11.01 The USSD *Background Note* on Burma, updated 28 July 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*)

INDEPENDENCE

- 11.02 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, noted that "The judiciary is not independent of the government. The SPDC [State Peace and Development Council] 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 regime frequently directed verdicts in politically sensitive trials of civilians." [7a] (*Section 1e*)
- 11.03 The UN General Assembly, *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 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)

11.04 The USSD Report 2010 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, Television and Video Act, and Law on Safeguarding the State from the Danger of Subversive Elements – as well as the manipulation of the courts for political ends continued to stifle peaceful dissent and deprive citizens of the right to a fair trial. Executive Order 5/96, providing for the arrest of any person deemed a threat to the National Convention (composed of handpicked delegates convened to draft a new constitution) 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)

11.05 The Asian Human Rights Commission (AHRC) noted in its report *The State of Human Rights in Burma in 2010* (AHRC Report 2010), published on 10 December 2010, that the single most pronounced obstacle into the effective intervention into human rights cases in Burma was the absence of an independent judiciary. The report stated that it was “... pointless to make statements calling for a trial to be fair or for an independent inquiry into some violation of rights, because no institutions exist for these things to happen.” [43b] (p16)

11.06 The AHRC reported in a statement dated 23 February 2011 that:

“In an astounding ruling that underscores the extent to which the judiciary in Burma has abdicated its authority in favour of the security services, a Supreme Court justice has ruled that permission or refusal of observers to attend trial hearings held inside prison facilities is not a matter for the presiding judges to decide. The ruling effectively means that judges holding trials inside Burma’s jails have no power over who comes in or goes out of the courtroom, which resides instead with the prison staff.” [43c]

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FAIR TRIAL

11.07 The USSD Report 2010 stated that:

“The 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, courts often did not notify defense attorneys in political cases of the trial start date, leaving them little or no time to prepare. Even when lawyers of political activists were allowed the 15 days to prepare their clients’ cases, they often were not allowed to present arguments on the day the case was tried in court. Instead, in some instances the court sentenced defendants immediately upon entering the courtroom, without arguments. Defense attorneys could call witnesses, cross-examine them, and examine evidence. However, their primary function was not to disprove a client’s guilt, which was usually a foregone conclusion, but rather to bargain with the judge to obtain the shortest possible sentence for the client.

“Political trials normally were not open to family members or the public. NLD [National League for Democracy] members and other prodemocracy activists generally appeared able to retain the counsel of lawyers; 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)

11.08 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)

See also Political affiliation: [Political prisoners](#)

11.09 The AHRC Report 2010 stated that:

“Practically every step in an ordinary criminal case in Burma can be accompanied by payments of one kind or another, which have a profound effect on the already extraordinarily limited avenues that citizens have available to them for redress of wrongs. Payments occur to get a case registered, to get it lodged in court, to get it heard as scheduled, to receive copies of documents, to secure a conviction or acquittal, to get the case accepted on appeal, and so on.” [43b] (p6)

- 11.10 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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)

- 11.11 The USSD Report 2010 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.” [7a] (Section 1e)

See also [Corruption](#)

PENAL CODE AND CODE OF CRIMINAL PROCEDURE

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

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12. ARREST AND DETENTION – LEGAL RIGHTS

- 12.01 The US Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, stated for Burma that “The law permits a court to detain persons without charge for up to two weeks, with the possibility of a second two-week extension. However, authorities frequently and arbitrarily extended detentions beyond this period, sometimes up to a year, without bringing the detainees before a judge or informing persons of the charges against them. The government often held persons under the Emergency Act of 1950, which allows for indefinite detention.” [7a] (Section 1d)

See also Security forces: [Arbitrary arrest and detention](#)

- 12.02 A report by the Assistance Association for Political Prisoners (Burma) (AAPP), *Torture, Political Prisoners And The Un-Rule Of Law: Challenges To Peace, Security And Human Rights In Burma*, dated 14 October 2010, noted “The State Protection Law allows for detention without charge or trial for up to five years and is frequently used to extend an already arbitrary and unjust detention. The judicial system is controlled by the SPDC [State Peace and Development Council] without judicial oversight, transparency or independence. Courts and other legal institutions exist to protect and promote the SPDC, not to provide justice to victims or fairly arbitrate disputes.” [44d] (p18)

12.03 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011 and covering 2010 events, stated “The frequently used Decree 5/96 authorizes prison terms of up to 20 years for aiding activities ‘which adversely affect the national interest.’ Political prisoners are often held incommunicado in pretrial detention, facilitating torture.” [14a]

See also Security forces: [Torture](#)

12.04 The UN General Assembly, *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 August 2009, following a February 2009 visit to the country, 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)

12.05 The USSD Report 2010 noted that “House arrest, a form of detention, was usually reserved for high-profile political prisoners.” [7a] (Section 1d)

12.06 The AAPP *2010 Annual Report: Political prisoners in Burma*, dated 14 January 2011, stated:

“The Junta’s continued pressure on defense lawyers in Burma has led to a diminishing number of lawyers advocating on behalf of political prisoners. Defense lawyers for political prisoners subject themselves to financial risk, as the Junta often pressures these lawyers’ non-political clients to find legal representation elsewhere, which, coupled with the risk of imprisonment and other forms of harassment, dissuades other lawyers from advocating on behalf of political dissidents. Furthermore, many lawyers are disbarred following imprisonment, further reducing the legal support for political prisoners.” [44b] (Lawyers)

12.07 The USSD Report 2010 stated “Bail was commonly offered in criminal cases but 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)

For further information on bail, see also [Corruption](#)

ARREST WARRANTS

44 The main text of this COI Report contains the most up to date publicly available information as at 15 May 2011. Further brief information on recent events and reports has been provided in the Latest News section to 17 June 2011.

- 12.08 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]
- 12.09 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]

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

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13. PRISON CONDITIONS

- 13.01 A report by the Assistance Association for Political Prisoners (Burma) (AAPP), *Torture, Political Prisoners And The Un-Rule Of Law: Challenges To Peace, Security And Human Rights In Burma*, dated 14 October 2010, noted "There are 42 prisons in Burma, 109 labour camps and an unknown number of interrogation centres. The deplorable conditions in these places are well-documented: incommunicado detention, poor diet, and denial of adequate medical attention and torture. The conditions of detention, in Burma, are appalling and arguably qualify as cruel, inhumane and degrading, amounting to torture." [44d] (p4)
- 13.02 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 10 March 2010, stated that "There are 44 prisons in Myanmar and at least 50 labour camps." [32e] (paragraph 20)
- 13.03 The website foreignprisoners.com, accessed 28 April 2011, reported that there were 38 major prisons in Burma, 20 of which housed political prisoners. The website provided a list of ['known' prisons](#) with their locations. [68a] (Burma prison locations)
- 13.04 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), released on 8 April 2011, noted "According to a human rights activist, there were approximately 63,000 male and 8,900 female prisoners. Pretrial detainees were held together with convicted prisoners, but political prisoners were typically held separately from common criminals. Former prisoners complained of being held in aging physical structures that received no maintenance and were infested with rodents, bacteria, and mold." [7a] (Section 1c)
- 13.05 The AAPP report noted:
- "... prison authorities routinely and deliberately aggravate prison conditions and deny medical care to political prisoners, causing a level of suffering, amounting to torture. Malnutrition, poor sanitation and unclean water are serious problems throughout the prison system, posing a major health risk. According to testimonies, political prisoners continue to receive very low quality food from prison authorities; often the food is rotten, half cooked, with stones and insects, resulting in food poisoning and gastric ailments. Many prisoners face starvation." [44d] (p16)
- 13.06 On health care in prison, the AAPP reported:

“Tuberculosis, malaria and HIV are a constant and serious threat in Burma’s prisons, due to overcrowding, lack of hygiene, lack of adequate medical care and exposure to extreme climates. Insein Prison houses about 9,000 to 10,000 inmates but its capacity is about 6,000. Sick and healthy prisoners are routinely mixed together. Inmates rely on shared razor blades, which promotes the transmission of Hepatitis and HIV. Re-using needles is commonplace, with medical staff using the same needle on a number of different prisoners.” [44d] (p17)

13.07 With regards to women in prison the AAPP reported in its *2010 Annual Report: Political Prisoners in Burma*, dated 14 January 2011, that as at 31 December 2010 “... there were at least 174 women detained. This represents a minor decrease of four since the end of 2009, at which time there were 178 female detainees. In Burma’s prisons, the medical, hygiene and nutritional needs of women are not met. While both men and women experience deficiencies in the medical care received in prison, certain deficiencies are discriminatory due to the disproportionate impact they have on women.” [44b] (Women)

13.08 The UN General Assembly, *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 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...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)

13.09 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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)

13.10 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)

- 13.11 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)
- 13.12 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)
- 13.13 The UN General Assembly, *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 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)
- 13.14 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)
- 13.15 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 10 March 2010, 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)

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14. DEATH PENALTY

- 14.01 Burma retains the death penalty for ordinary crimes, including murder, but, according to Amnesty International's undated list of abolitionist and retentionist countries, accessed 22 March 2011, Burma "...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)
- 14.02 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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)
- 14.03 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]

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15. POLITICAL AFFILIATION

- 15.01 A report by the Assistance Association for Political Prisoners (Burma) (AAPP), *Torture, Political Prisoners and The Un-Rule Of Law: Challenges To Peace, Security and Human Rights In Burma*, dated 14 October 2010, noted:
- "Mere association with members, rather than actual membership, of an outlawed group can land someone in considerable trouble. By 1990 there were 93 groups declared unlawful by the State Law and Order Council. Since 1990 four more groups were added to the list: Karen National Union, Democratic Party for a New Society, All Burma Students Democratic Front and most recently the Burma Lawyers' Council. What defines association with an organisation is subjective and routinely used by the authorities in an arbitrary manner." [44d] (p6)
- 15.02 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), released on 8 April 2011, 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... provides for popularly elected legislators to a bicameral parliament; however, it stipulates that 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.” [7a] (Section 3)

15.03 The USSD Report 2010 added:

“Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. The government defines civil servants as employees at or below the director general and managing director levels; according to government claims, ministers are not considered civil servants. In April [2010] the government’s mass mobilization organization – the Union Solidarity and Development Association (USDA) – was transformed into a political party, the Union Solidarity and Development Party (USDP), to contest the November 7 elections. Many of the government’s top leaders, including the prime minister, maintained high-level roles in the USDP. A number of reports indicated that the USDP, and its predecessor USDA, used coercion to compel citizens to join or support the party; state-sector employees were the most susceptible to such pressure. Although students are not prohibited from joining a party, the government reportedly discouraged students from participating in politics.” [7a] (Section 1f)

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FREEDOM OF POLITICAL EXPRESSION

15.04 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)

15.05 The USSD Report 2010 stated “Activists and politicians reported that authorities routinely monitored their movements.” [7a] (Section 1f)

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Political prisoners

See also [Prison conditions](#)

- 15.06 Human Rights Watch noted in its *World Report 2011*, published 24 January 2011, that “The government took no significant steps during the year [2010] to release more than 2,100 political prisoners being held, except for the November 13 release of Nobel Peace Prize winner Aung San Suu Kyi.” [39e]
- 15.07 Amnesty International’s *Annual Report 2011: The state of the world’s human rights*, published 12 May 2011, covering 2010 events, noted that, along with the release of Aung San Suu Kyi, “Thirty-eight political prisoners were released, including NLD [National League for Democracy] spokesperson U Win Htein, released two months after the expiry of his prison sentence, and Deputy NLD Chairperson U Tin Oo, released after seven years of house arrest... Myint Maung and Thura Aung, imprisoned in 2008 and 2009 for helping farmers file legal cases against illegal confiscation of their land, were released in August [2010] after their sentences were reduced on appeal.” [12e] (Political prisoners)
- 15.08 The Assistance Association for Political Prisoners (Burma) (AAPP) noted in its *2010 Annual Report: Political Prisoners in Burma*, dated 14 January 2011, that “In 2010, 53 political prisoners were arrested, 66 activists were sentenced, 61 were released, and 52 prisoners were transferred. At least 59 political prisoners reported new health problems in 2010, bringing the total number of political prisoners in poor health to at least 142, as of 31 December 2010.” [44b] (2010 Trend Analysis)
- 15.09 The AAPP noted on its website, updated 3 May 2011, that there were 2,061 political prisoners in Burma. The [AAPP](#) also listed the names of those detained. [44a]
- 15.10 The AAPP report *Torture, Political Prisoners and The Un-Rule Of Law: Challenges To Peace, Security and Human Rights In Burma*, dated 14 October 2010, noted:

“To understand what it means to be a political prisoner in Burma we need to understand what it means to be political activist or a dissident. The term political activist or dissident lumps together a diverse range of people, as though they were a single, unified, political group. They are not. They do not share a single political ideology. Rather, the dissident community is made up of a variety of people, scattered across the entire country, and more across its borders, some of whom belong to large political parties like the recently disbanded National League for Democracy, some to smaller groups, like Generation Wave an underground youth culture network, and others who work alone. A dissident may be someone who writes an article critical of the government, a monk who overturns their alms bowl at the military’s economic mismanagement, or someone writing a poem about poverty or oppression. What ties these people together is that they engage in activities that the Burmese Junta considers contrary to its policies, and therefore ‘anti-government’, ‘a security threat’, or even ‘terrorism’. In Burma, it does not take much to be ‘political’ or considered a ‘security threat’. Owning a copy of the Universal Declaration of Human Rights can land you with a 5 year prison sentence, as can handing out leaflets for an independent student union. Some political prisoners were not directly involved in politics before their arrest. One former political prisoner reveals the effects of his imprisonment: ‘I never considered myself political before my arrest, but now the regime has made me political through my imprisonment’.” [44d] (p6)

15.11 The same source added “People who are detained or sentenced for the following offences are considered political prisoners in Burma:

Law	Section	Offences	Maximum Term
Penal Code	121, 122(1), 122(2)	Definition of high treason	Death or life imprisonment
	124 ,124(A) and 124 (B)	Misprision of [failing to report] high treason; sedition; advocating over throw of an organ of the Union or of its constituent units by force.	Seven years; life imprisonment; three years
	143 – 146	Unlawful assembly.	Two years
	295, 295(A)	Insulting religion.	Two years
	505(B)	Making a statement or rumour conducive to public mischief	Two years
Unlawful Association Act (1908)	17/1 & 17/2	Membership of an unlawful association; management or promotion (or assisting) of an unlawful association.	Three years ; Five years
State protection Law (1975)	10(a) & 10(b)	Detention of a citizen who is endangering state sovereignty and security without charge or trial; trail [sic]; house arrest.	Five Years, renewable by an additional year
Emergency Provisions Act (1950)	5(d), 5(c), 5(j)	Causing Public alarm; spreading false news; undermining the security of the Union or the restoration of law and order.	Seven years
Electronic Transactions Law (2004)	33(a), 33(b) & 38	Using electronic transactions technology to commit any act detrimental to the security of the State; sending or receiving information relating to secrets of the security of the State: attempting. Conspiring or abetting	Fifteen Years
6/88	5, 6, 7	Prohibition of: forming organizations that are not permitted to register under the Political Parties Registration Law 1988 ; organizations that attempt to incite unrest; membership thereof or aiding and abetting	Five years
6/9 6	3, 4, 5, 6	‘The law protection [of] the peaceful and systematic transfer of state responsibility and the successful performance of the functions of the National Convention against disturbances and oppositions’.	Twenty years
Printers & Publishers Act (1962)	17/20	All printed material must be submitted to the Press Scrutiny Board for vetting prior to publication.	Seven years
Official Secrets Act (1923)	3	Any person who communicates information calculated to be, directly or indirectly, useful to an enemy.	Fourteen years
Television And Video Law (1996)	32(B)	Copying, distributing, hiring or exhibiting etc a video that has not passed censorship.	Three years

[44d] (p7)

See also [Judiciary](#) and Recent developments (November 2010 – March 2011): [Release of Aung San Suu Kyi](#)

15.12 The USSD Report 2010 cited “The penal code allows the government to render excessive sentences against political activists by allowing government prosecutors to charge detainees with multiple violations of archaic or widely ignored laws, such as violating currency laws, publishing materials likely to cause alarm, or spreading rumors. This practice could result in lengthy cumulative sentences.” [7a] (Section 1e)

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FREEDOM OF ASSOCIATION AND ASSEMBLY

15.13 The USSD Report 2010 noted that freedom of assembly was limited by law and that in practice it was severely restricted by the government. The report stated “A long-standing ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although it was not enforced consistently. The regime and its supporters routinely used intimidation, violence, and the power of arrest to disrupt peaceful demonstrations and meetings.” [7a] (Section 2b)

15.14 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011 and covering 2010 events, noted “Unauthorized outdoor gatherings of more than five people are banned. Authorities regularly use force to break up or prevent demonstrations and meetings, most notably during the 2007 protests.” [14a]

15.15 On freedom of association, the USSD Report 2010 added that:

“The Association Law provides for citizens to form associations and organizations; however, the government restricted freedom of association, particularly for 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 that 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 USDP. Few secular, nonprofit organizations existed, and those that did took special care to act in accordance with government policy. Forty-seven political parties applied for permission to form and register under the government’s highly restrictive electoral laws issued in March [2010]; the government ultimately granted permission to 37. The government failed to consider the applications of three parties (all ethnic Kachin) and announced the dissolution of 10 parties, including the NLD, which refused on principle to register under the election laws. The NLD maintained its right to exist as a political party because it was registered under previous electoral legislation; it filed a suit against the government for illegally applying electoral legislation retroactively to deregister the party. In November the Supreme Court declined to admit the party’s appeal of its deregistration; the NLD stated it would pursue one final level of appeal. Authorities and the government’s election commission ensured strict control over the activities of newly registered political parties.” [7a] (Section 2b)

See also Recent developments (November 2010 – March 2011): [November 2010 elections](#)

15.16 The Thailand-based Human Rights Education Institute of Burma (HREIB) stated in its report *Forgotten Future: Children affected by armed conflict in Burma*, (HREIB Report) dated September 2008:

“The SPDC’s Unlawful Association Act is often invoked to punish civilians and grassroots organizations that provide vital humanitarian support to communities in conflict areas. The law states that anyone found supporting politically dissident groups are considered enemies of the State and should be punished accordingly. The law itself serves as a deterrent function by inciting fear in individuals and communities. In fact, some village leaders are reluctant to accept much needed assistance from certain aid organizations because of the potential consequences of receiving aid.” [64a] (p82)

Demonstrations outside of Burma

- 15.17 In a letter dated 4 February 2011, a Foreign and Commonwealth Office (FCO) official at the British Embassy in Rangoon responded to the UK Border Agency's query on Burmese nationals attending demonstrations outside of Burma, which stated "... the Embassy staff are not personally aware of any individuals who have returned to Burma and been arrested for their activism in the UK. Our assessment is that it would be rally leaders or individuals who also have histories inside Burma who would be particularly at risk." [5w]
- 15.18 In a letter to the Country of Origin Information Service, updated 26 June 2010, originally dated 1 August 2008, the Foreign and Commonwealth Office (FCO) stated:
- "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]
- 15.19 The FCO letter dated 4 February 2011 continued:
- "1) A national's participation in demonstrations outside the Burmese Embassy is very likely to be recorded and we strongly believe these records are sent to the Burmese [sic] immigration authorities [sic] in Burma.
- "2) Burmese national[s] who regularly participate in such demonstrations are very likely to have been photographed and identified by the Burmese authorities
- "3) If such a person is returned, and there are additional factors that would trigger the attention of the Burmese authorities, there is a real risk of persecution, imprisonment, and possibly ill [sic] treatment on return." [5w]
- 15.20 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]

15.21 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... and that monitors human rights cases in Myanmar... 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]

15.22 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).” [37a]

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OPPOSITION GROUPS AND POLITICAL ACTIVISTS

15.23 The Assistance Association for Political Prisoners (Burma) (AAPP) noted in its report *Silencing Dissent: The ongoing imprisonment of Burma’s political activists In the lead up to the 2010 elections*, dated November 2010, that:

“The referendum in May 2008 for the 2008 Constitution set the stage for what would happen to those who messed with the regime’s plans for ‘democratisation’. Following the announcement of the Referendum, on 19 February 2008, the SPDC passed Referendum Law 1/2008, criminalizing ‘distributing papers, using posters or disturbing voting’, punishable by a jail term of up to three years. This law was used as a deterrent to stop people from campaigning for a ‘no’ vote or a boycott of the referendum. Pro-democracy activists took part in a Vote No campaign, despite intimidation and harassment.” [44e] (Consequences of dissent)

For further information on the Constitutional Referendum, see [History](#) (Independence (1948) – November 2010)

National League for Democracy (NLD)

15.24 Jane’s Sentinel Security Assessment for Burma noted in its section on Internal Affairs, updated 11 January 2011, that “The NLD was established on 28 September 1988. Led by Aung San Suu Kyi, it quickly emerged as the most important political player in opposition to the military government... The NLD won a landslide victory in the 1990 elections but was never allowed to take office.” [8a] (Political parties)

15.25 Aung San Suu Kyi was released from her 15 years of house arrest on 13 November 2010, six days after the national elections. (EIU Country Report: Burma, 1 December 2010) [46d] (The political scene: Aung San Suu Kyi is freed from house-arrest)

15.26 Jane's noted:

"Until May 2010, Myanmar's opposition movement has largely been centred on the NLD. However, the NLD's Central Executive Committee's strategic decision not to re-register for the general election on 7 November 2010, as a protest against a raft of restrictive electoral laws, led to the party's forced dissolution the day after the 6 May deadline (as stipulated under the Political Parties Registration Law). The election law, published in early March 2010, would have required the party to prevent and remove anyone convicted of a crime from joining the party, including Aung San Suu Kyi and a large number of other NLD members held in detention for their political beliefs. It would have also required the party to accept the military-drawn 2008 draft constitution and depart from its long-standing demand that the SPDC recognise the 1990 election result." [8a] (Political parties)

15.27 The Economist Intelligence Unit (EIU) reported on 2 February 2011 that:

"The NLD has, technically, lost its status as a legal political party, following its decision to boycott the November [2010] election. According to the Election Commission, parties that did not register to take part in the poll subsequently lost their legal political status. The NLD challenged this in the courts, launching another appeal to the High Court in December to attempt to secure legal status after a first appeal had been rejected. However, on January 28th [2011] the Special Appellate Court in the capital, Naypyidaw, determined that the NLD would remain an 'unlawful association'. For the time being, the SPDC [State Peace and Development Council] appears to be allowing the NLD to operate as a de facto legal party, as the main NLD office has remained open, and party meetings and gatherings have been taking place. However, the junta holds all the cards, and it can crack down on the party – and if it wishes, detain Aung San Suu Kyi – at any time." [46b] (The political scene: The NLD fails to regain legal status)

15.28 The Assistance Association for Political Prisoners (Burma) (AAPP) reported in its *2010 Annual Report: Political Prisoners in Burma*, dated 14 January 2011, that as at 31 December 2010 there were "... 399 members of the National League for Democracy detained inside Burma's prisons. This represents a decrease of 31 in comparison to the end of 2009, at which time 430 NLD members were detained. Despite a few positive developments, most notably the release of high profile members; party leader, Daw Aung Sun Suu Kyi, in November, U Win Htein, in July and Vice Chairman, U Tin Oo, in February, 2010 witnessed the NLD disband[ed] as a result of undemocratic electoral laws." [44b] (National League for Democracy)

See also Recent developments (November 2010 – March 2011): [Release of Aung San Suu Kyi](#)

National Democratic Force (NDF)

15.29 A report by the International Crisis Group (ICG), *Myanmar's Post-Election Landscape*, dated 7 March 2011, stated "The NDF was formed by some senior NLD leaders who disagreed with that party's decision to boycott the election." [36a] (p2)

15.30 Jane's Sentinel Security Assessment for Burma noted in its section on Internal Affairs, updated 11 January 2011, that:

“The NDF was formed in early 2010 by former members of the NLD, after it was dissolved. Led by Than Nyein, it pursues a policy platform which attempts to resolve Myanmar's problems by focusing on constitutional issues that sideline ethnic minorities and prevent democratic rule, while also campaigning for human rights. The NDF disagreed with Aung San Suu Kyi's recommendation to boycott the 7 November 2010 polls and decided to make the most of the limited political space that was available to it. However, after the polls the NDF alleged electoral fraud and voter intimidation and is now protesting the results.” [8a] (Political parties)

15.31 The Australian Broadcasting Corporation (ABC) News reported on 30 December 2010 that the National Democratic Force “...won 16 seats in the election after fielding 161 candidates but has complained of widespread fraud by the junta-backed party, which has claimed an overwhelming victory.” [10a]

See also Recent developments (November 2010 – March 2011): [November 2010 elections](#) and [Annex B: Political organisations](#)

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DISSIDENT GROUPS

15.32 Reporting on the pre-election period, the Assistance Association for Political Prisoners (Burma) (AAPP) noted in its report *Silencing Dissent: The ongoing imprisonment of Burma's political activists In the lead up to the 2010 elections*, dated November 2010, that “Despite the risks, brave individuals are campaigning against the elections. In the pre-election period stickers and leaflets appeared in Rangoon and Mandalay urging potential voters to boycott the election. This campaign was reportedly organized by the All Burma Federation of Students Union (ABFSU), the 88 Generation Students Group and Generation Wave, a youth culture network. All of these groups currently have a number of members in prison...” [44e] (Campaigning against 2010 elections)

See also Recent developments (November 2010 – March 2011): [November 2010 elections](#)

All Burma Federation of Student Unions (ABFSU)

15.33 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]

15.34 The International Federation for Human Rights (FIDH) *Observatory for the Protection of Human Rights Defenders Annual Report 2010*, released on 18 June 2009, stated in its section on Burma that the ABFSU was the largest national students union and was outlawed by the military regime. [31a] (p234)

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All Burma Monks Alliance (ABMA)

15.35 As reported by *The Irrawaddy* on 12 January 2010, the All Burma Monks Alliance led the 2007 Saffron Revolution and "... is a leading opposition group with members in exile and within Burma." [26b]

15.36 Human Rights Watch (HRW) stated in its report *Burma's Forgotten Prisoners*, dated 16 September 2009, that U Gambira, one of the main leaders of the All Burma Monks Alliance, was:

"... one of the most visible and outspoken young monks who led the [2007] demonstrations and a key organizer, switching his time between Rangoon and Mandalay to avoid the authorities. Following the crackdown, he went underground. After more than a month in hiding, U Gambira was arrested in Mandalay on November 4, 2007. The authorities had arrested his brother Aung Kyaw Kyaw a few weeks earlier to force U Gambira to surrender, a form of collective punishment..."

"The young monk was charged with ten offenses for his role in leading the monk's alliance... In November 2008, a court sentenced U Gambira to 68 years in prison, 12 of them with hard labor. His brother Aung Ko Ko Lwin received 20 years in prison for hiding him and was sent to Kyaukpyu prison in Arakan state, and his brother-in-law Moe Htet Hlyan was also jailed for helping him while on the run, and is now in Moulmein prison in Mon state.

"In May 2009, U Gambira was transferred to an even more remote facility at Kale in Sagaing Division. He is said to be in deteriorating health. The authorities have refused family members permission to visit him. His 68-year sentence was reduced by five years in June 2009." [39f] (Harsh prison conditions)

15.37 In its list of political prisoners, updated 3 March 2011, the Assistance Association for Political Prisoners (Burma – AAPP) recorded that U Gambira was still imprisoned, along with 225 monks. [44a]

See also Judiciary: [Fair trial](#) and Freedom of religion: [Buddhism](#)

88 Generation Students

15.38 The HRW report *Burma's Forgotten Prisoners*, dated 16 September 2009, stated that the 88 Generation Students was formed in 2005 by a group of former student leaders from the 1988 uprising. [39f] (The 88 Generation Students)

15.39 The Economist Intelligence Unit (EIU) noted in its Country Profile for Burma, dated 9 October 2008, that the 88 Generation Students "... 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." [46a] (88 Generation group)

15.40 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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 the group were serving 65 year prison sentences. [32e] (paragraph 55)

- 15.41 The Assistance Association for Political Prisoners (Burma) (AAPP) noted in its report *Silencing Dissent: The ongoing imprisonment of Burma’s political activists In the lead up to the 2010 elections*, dated November 2010, that:

“In February [2010] it was reported that Min Ko Naing and Ko Ko Gyi [of 88 Generation Students] were offered the choice of release from prison, on the condition that they publicly accept the junta’s election process, they refused and instead, hold fast to the ‘Maubin Declaration’ – an accord they reached in Maubin Prison in 2008. It states the 88 Generation Student group will not support an election without the unconditional release of all political prisoners and unless the regime engages in an inclusive dialogue between all the political stakeholders. The regime shows no sign of such engagement and in fact repeatedly denies the very existence of political prisoners arguing that there are only criminals in Burma’s prisons.” [44e] (Interrogation of political prisoners on the elections)

- 15.42 The AAPP list of political prisoners, updated 3 March 2011, recorded 38 members of 88 Generation Students as imprisoned along with a further 275 students. [44a]

Generation Wave

- 15.43 In its Political Prisoner Profile of activist Zayar Thaw, last updated on 29 June 2009, the Assistance Association for Political Prisoners (Burma) (AAPP) 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]

- 15.44 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)

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16. FREEDOM OF SPEECH AND MEDIA

- 16.01 The US Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, stated that in Burma “The government severely and systematically restricted freedom of speech and press. Authorities arrested, detained, convicted, and imprisoned citizens for expressing political opinions critical of the government and for distributing or possessing publications in which opposition opinions were expressed. Security services also monitored and harassed persons believed to hold antigovernment opinions.” [7a] (Section 2a)

- 16.02 The same source added “The government continued to use force or intimidation to prohibit all public speech or planned events critical of the regime by all persons. The government pursued this policy consistently with few exceptions. In contrast with 2009, the government did not ban ceremonies commemorating Human Rights Day. However, human rights activists reported that local authorities sought reprisal against the owner of a teashop who hosted a ceremony at his home in Pyay.” [7a] (Section 2a)
- 16.03 The Foreign and Commonwealth Office (FCO) noted in its *Human Rights and Democracy Report 2010*, dated 31 March 2011, that:
- “The media in Burma continued to be subject to significant censorship in 2010. All publications are required by law to be submitted to the Press Scrutiny and Registration Board for approval. Journalists continue to exercise self-censorship, aware that they otherwise risk imprisonment or having their licences revoked or suspended. The activities of bloggers were closely monitored and the 2004 Electronic Transactions Law allowed the government to imprison those disseminating information deemed critical of the regime. In spite of a pervading fear of monitoring by the state, control over internet use was weak in practice and Burmese citizens with access to the internet could usually find a way round the restrictions. Facebook and other social networking facilities were accessible.” [5y] (p142)
- 16.04 The BBC reported in its country profile for Burma, last updated 30 March 2011, 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. Output is dominated by formulaic reports on the official and religious rituals 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. The BBC, Voice of America, US-backed Radio Free Asia and Norway-based opposition station Democratic Voice of Burma target listeners in Burma.
- “Well-off Burmese have access to some international TV and a limited number of international publications.” [28a]

- 16.05 The Committee to Protect Journalists (CPJ) stated in its report *Attacks on the Press 2010: Burma*, published 15 February 2011, regarding the run-up to the November 2010 elections, that:

“On September 14 [2010], the Union Election Commission issued a notice that restricted the topics that candidates could address while speaking over state-controlled radio and television. Forbidden subjects were broadly defined as any speech that ‘harmed security, the rule of law, and community peace.’ Candidates were also barred from discussing policies or making any media statements that ‘tarnished’ the image of the state or armed forces.” [15a]

- 16.06 The CPJ also noted “Authorities tightened already strict censorship guidelines for print publications, which have long been forced to publish on a weekly basis to allow time for

state censors to approve their copy. The government's censorship arm suspended 10 local publications for the extensive coverage they gave to Aung San Suu Kyi's release, the Burma Media Association reported in November [2010]." [15a]

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INTERNET USAGE

16.07 The Freedom House report *Freedom on the Net 2011*, published 18 April 2011, stated that, in Burma:

"The new constitution... does not guarantee internet freedom. It simply states that every citizen may exercise the rights 'to express and publish their convictions and opinions' if they are 'not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility, or public order and morality'... Under Section 33 of the Electronic Transactions Law, internet users face prison terms of 7 to 15 years, and possible fines for 'any act detrimental to' – and specifically 'receiving or sending and distributing any information relating to' – state security, law and order, community peace and tranquility, national solidarity, the national economy, or national culture." [14c] (p9)

16.08 The same source added:

"The government blocks political websites and media sites run by the Burmese exile community that are critical of the regime and its activities. The government attempts to block most sites containing words it considers suspicious, such as 'Burma,' 'drugs,' 'military government,' 'democracy,' 'student movement,' '8888' (a reference to the protest movement that began on August, 8, 1988), and 'human rights.' YTP [Yatanarpon Teleport, a government-run web portal] blocks almost all Burmese exile and foreign Burmese-language media outlets and blogs, as well as the sites of dozens of foreign newspapers and television networks. It also blocks the websites of international human rights groups." [14c] (p6)

16.09 Different sources recorded different numbers of Internet users within Burma, although dates varied. As stated in its Burma country profile, dated 30 March 2011, the BBC stated "There were 108,900 internet users by September 2009 (InternetWorldStats). Access is tightly controlled and further hampered by poor telecoms and an unreliable power supply. RSF [Reporters sans Frontières] calls Burma a 'black hole' whose system 'increasingly resembles an intranet'." [28a]

16.10 Reporters sans Frontières (RSF) stated in its report *Internet Enemies 2011 – Burma*, dated 11 March 2011, that there were 300,000 internet users in Burma, and:

"The regime is enforcing harsh and widespread Internet censorship. The Burmese firewall restricts users to an intranet purged of any anti-government content. Blocked websites include exiled Burmese media, proxies and other censorship circumvention tools, certain international media, and blogs and sites offering scholarships abroad... only 118 of the country's 12,284 IP addresses are not blocked by the regime and have access to the World Wide Web." [16a]

16.11 The *Freedom on the Net 2011* report stated that "According to the International Telecommunication Union, there were 110,000 internet users as of 2009, amounting to

0.2 percent of the population. MPT [Myanmar Post and Telecommunications] reports that there are 400,000 internet users in Burma.” [14c] (p2)

16.12 The same source added, however, that “The price of a private internet connection is prohibitively expensive in a country where an estimated 32 percent of the population lives below the poverty line, though there is significant regional variation.” [14c] (p2)

16.13 The *Freedom on the Net 2011* report stated:

“The junta sporadically blocks access to Yahoo! Mail, MSN Mail, Gmail, the video-sharing site YouTube, the messaging feature of the social-networking site Facebook, Google’s Blogspot, and the microblogging service Twitter... (p4) In many cybercafés, the staff can view the screens of customers, allowing them to detect any attempts at circumvention [software tools that allow internet users to circumvent the restrictions being imposed on their internet connection], which they are encouraged by the authorities to do. However, most staff members offer proxy addresses as a way to attract and retain customers.” [14c] (p5)

16.14 The report added that by 2010 there were 520 registered cybercafés, mainly located in a few major cities. [14c] (p2)

16.15 The USSD Report 2010 stated that “While the government rarely charged persons explicitly for expressing political, religious, or dissenting views in electronic forums, including e-mail, it often charged persons suspected of such activities with other crimes.” [7a] (Section 2a)

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JOURNALISTS

16.16 The CPJ stated in its report *Attacks on the Press 2010: Burma*, that, as of 1 December 2010, 13 journalists were imprisoned in Burma, the fourth highest number in the world. The report noted “The junta increasingly used the harsh Electronics Act – which broadly bans unauthorized use of electronic media, including the Internet, to send information outside the country – to suppress and intimidate reporters who worked for foreign or exile-run news organizations. Because Burma’s local media operate under strict state censorship, exile-run and other foreign media filled the news gap with critical reporting and comment.” [15a]

16.17 The Assistance Association of Political Prisoners (Burma) (AAPP) reported in its *2010 Annual Report: Political Prisoners in Burma*, dated 14 January 2010, that as at 31 December 2010 “Journalists, bloggers and writers continue to face intense suppression and censorship in Burma. As of 31 December 2010, 42 media activists were detained in Burma’s prisons. This represents an increase of 1 since the end of 2009, at which time 41 media activists were imprisoned in Burma.” [44b] (Journalist, Bloggers & Writers)

16.18 The USSD Report 2010 noted that some of those imprisoned were serving sentences of up to 35 years. [7a] (Section 2a)

See also Political affiliation: [Political prisoners](#)

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17. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

- 17.01 The Foreign and Commonwealth Office (FCO) *Human Rights and Democracy Report 2010*, dated 31 March 2011, stated that:

“In the absence of basic state service provision, a small but energetic civil society has emerged. Networks of organisations with common goals have developed and are building a role for civil society advocacy at local and national levels. Civil society groups have encouraged the establishment of governance structures and democratic norms at community level. In 2010, civil society groups worked with the Burmese government to report to the UN Universal Periodic Review of human rights in Burma, and helped draft a National Action Plan for the Advancement of Women. They also worked at local level to enable international and local aid programmes to support communities in need. They played a key role in building awareness of citizens’ rights in the election process; facilitated mediation efforts and local protection strategies in ethnic and conflict areas; and promoted awareness of the social and environmental impact of major infrastructure projects. The Burmese government’s relationship with civil society representatives continued to be complex. They viewed some NGOs [non-governmental organisations] as threatening, but worked with others to develop national strategies in certain areas, for example, on women’s advancement and HIV/AIDs.” [5y] (p147)

See also sections on [Political affiliation](#), [Women](#), [Ethnic groups](#) and [Medical issues](#)

- 17.02 The US Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, 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. More than 60 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, frequent interrogation of citizens concerning contacts with foreigners, restrictions on the freedom of expression and association of citizens, and practice of arresting citizens who passed information about government human rights abuses to foreigners obstructed efforts to investigate such 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 and 2009, although SB [Special Branch] police monitored many visits. The work of the Tripartite Core Group – composed of the UN, the Association of South East Asian Nations, and the government – formed to address Cyclone Nargis-related matters, ended in July [2010]. In August a senior government official declared the recovery period over, and the government announced more restrictive policies regarding NGO travel and activities in cyclone-affected areas. 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. The government reportedly asked some personnel of international organizations to go on leave outside the country and not to return until after the elections. Employees of these international organizations reported difficulty getting the government to approve long-term visas. 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)

- 17.03 The Human Rights Foundation of Monland noted in a report by the Women and Child Rights Project (WCRP), *Nowhere else to go: An examination of sexual trafficking and related human rights abuses in Southern Burma*, dated August 2009, that:

“Inside Burma, many accessible Non-governmental organizations (NGOs) and support networks are deeply connected to, if not inseparable from, the military government. For this reason, women know that if they are to report the illegal behavior of any member of the police or army, they are essentially asking their interlocutor to condemn other members of their cohort, or someone oftentimes with deep connections, rather than to punish the girl for her accusation or even arrest her for taking part in the illegal sexual activities or in the act of trafficking.” [34d] (p20)

- 17.04 The Thailand-based Human Rights Education Institute of Burma (HREIB) stated in its report *Forgotten Future: Children affected by armed conflict in Burma*, (HREIB Report) dated September 2008, stated:

“The situation in Burma’s remote regions continues to degenerate as the regime maintains its restrictions on humanitarian aid agencies. Nevertheless, a number of organizations have emerged to improve conditions. These small organizations deliver desperately needed supplies and services to conflict-affected communities and internally displaced people. However, they must work under immense pressure, often in secret and in haste. They are reduced to providing care this way because of the severe consequences they face if they are caught, which include arrest, ill treatment and unlawful killing. Reports of medics being shot at, as if enemy combatants, are common.” [64a] (p84)

- 17.05 The HREIB Report added that violence towards aid workers could be attributed to both government and non-government forces, preventing them from reaching certain communities and internally displaced persons. [64a] (p87)

- 17.06 The Assistance Association of Political Prisoners (Burma) (AAPP) *2010 Annual Report: Political prisoners in Burma*, dated 14 January 2011, stated:

“The Junta’s continued pressure on defense lawyers in Burma has led to a diminishing number of lawyers advocating on behalf of political prisoners. Defense lawyers for political prisoners subject themselves to financial risk, as the Junta often pressures these lawyers’ non-political clients to find legal representation elsewhere, which, coupled with the risk of imprisonment and other forms of harassment, dissuades other lawyers from advocating on behalf of political dissidents. Furthermore, many lawyers are disbarred following imprisonment, further reducing the legal support for political prisoners.” [44b] (Lawyers)

See also [Arrest and detention – legal rights](#)

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18. CORRUPTION

- 18.01 In its 2010 Corruption Perceptions Index (CPI), released 26 October 2010, Transparency International ranked Burma (Myanmar) 176th in the world corruption ranking, out of 178 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]
- 18.02 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011 and covering 2010 events, noted “In a system that lacks transparency and accountability, corruption and economic mismanagement are rampant at both the national and local levels... The SPDC’s [State Peace and Development Council] arbitrary economic policies, such as an official fixed exchange rate that grossly overvalues the kyat, facilitate corruption through erroneous bookkeeping.” [14a]
- 18.03 The US Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, 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)
- 18.04 The same source added that:
- “Police corruption was a serious problem. Police typically required victims to pay substantial sums for crime investigations and routinely extorted money from the civilian population. Public officials were not subject to financial disclosure laws. The government did not provide access to most official documents, and there is no law allowing for it. Most government data, even routine economic statistics, were classified or tightly controlled. Government policymaking was not transparent, with decision making confined to the top layers of government, and new government policies rarely were published or explained openly.” [7a] (Section 4)
- 18.05 The report further noted “Pervasive corruption further served to undermine the impartiality of the justice system.” [7a] (Section 1e)
- 18.06 The Asian Human Rights Commission (AHRC) noted in its report *The State of Human Rights in Burma in 2010*, published on 10 December 2010, that:
- “Practically every step in an ordinary criminal case in Burma can be accompanied by payments of one kind or another, which have a profound effect on the already extraordinarily limited avenues that citizens have available to them for redress of wrongs. Payments occur to get a case registered, to get it lodged in court, to get it

heard as scheduled, to receive copies of documents, to secure a conviction or acquittal, to get the case accepted on appeal, and so on.” [43b] (p6)

18.07 The same source noted:

“One of the ways in which the institutionalisation of corruption can be identified in Burma is through the standardization of its practices. For instance, fairly standard amounts are paid for certain services, such as the 30 per cent commission from police-nominated lawyers back to the police, and fixed payments per time per person to deliver food to a detainee. Another feature is the itemization of payments. Thus, it is reportedly common for appeal judges to receive payment per annum for imposition or reduction of a sentence. The appellant in a case before the Supreme Court, the plaintiff, paid a judge the equivalent of USD 10,000 to get his opponent imprisoned for five years, calculated not as a lump sum but at the rate of USD2000/year of imprisonment.” [43b] (p8)

18.08 The report also added, with regards to bail, that:

“Among the most important parts of the profit-making process in Burma’s legal system is the granting of bail... The police will initially lodge – or threaten to lodge – a non-bailable charge against the accused. In some cases an accused may be able to negotiate with the police to switch to a bailable charge... Where a detainee cannot get the police to alter the charge, the matter goes to the prosecutor. The prosecutor, or law officer, is responsible for lodging the charge in court. If the accused is able to negotiate effectively with the prosecutor, through his lawyer, then the prosecutor will agree to lodge a bailable offence in court. Whether the decision to lodge a bailable offence is made by the police or by the prosecutor, the judge makes the final decision on whether to finally grant bail or not.” [43b] (p7-8)

See also Judiciary: [Fair trial](#) and [Arrest and detention – legal rights](#)

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19. 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

- 19.01 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011 and covering 2010 events, stated, for Burma, that “The 2008 constitution provides for freedom of religion. It distinguishes Buddhism as the majority religion but also recognizes Christianity, Islam, Hinduism, and animism, though the government shows a preference for Theravada Buddhism.” [14a]
- 19.02 The Foreign and Commonwealth Office (FCO) observed in its *Human Rights and Democracy Report 2010*, dated 31 March 2011, that:

“Burma is a predominantly Buddhist country and the government promotes Buddhism over other religions. However, restrictions on freedom of expression and assembly imposed limits on the religious activities of all faiths, including Buddhists, Muslims and Christians. Surveillance of the Burmese Buddhist community and individuals, which began following the involvement of Buddhist monks in the protests against rising fuel

and food prices in 2007, the so-called Saffron Revolution, continued in 2010. Many monks who were arrested in 2007 remain in prison.” [5y] (p143-144)

- 19.03 The US Commission on International Religious Freedom *Annual Report 2011* (USCIRF Report 2011), published 28 April 2011 and covering the period 1 April 2010 to 31 March 2011, recommended that Burma be designated a “country of particular concern” (CPC), as it has done since 1999, due to its ongoing violations against religious freedom. The report noted:

“Religious freedom violations affect every religious group in Burma. Buddhist monks who participated in the 2007 peaceful demonstrations were killed, beaten, arrested, forced to do hard labor in prison, and defrocked. 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. Muslims routinely experience strict controls on a wide range of religious activities, as well as government-sponsored societal violence. The Rohingya minority in particular are subject to pervasive discrimination and a relocation program that has produced thousands of refugees. In ethnic minority areas, where low-intensity conflict has been waged for decades, the Burmese military forcibly promotes Buddhism and seeks to control the growth of Protestantism through intimidation and harassment of religious groups. A 2009 law essentially bans independent ‘house church’ religious venues, and Protestant religious leaders in Rangoon have been pressured to sign pledges to stop meeting.” [9a] (p34)

- 19.04 The US Department of State reported in its *International Religious Freedom Report 2010* (USSD IRF Report 2010), covering events from 1 July 2009 to 30 June 2010, published 17 November 2010, that:

“There was no change in the government’s limited degree of respect for religious freedom during the reporting period. Religious activities and organizations were subject to restrictions on freedom of expression, association, and assembly. The government continued to monitor meetings and activities of virtually all organizations, including religious organizations, and required religious groups to seek permission from authorities before holding any large public event. The government continued to systematically restrict Buddhist clergy efforts to promote human rights and political freedom. Many of the Buddhist monks arrested in the violent crackdown that followed prodemocracy demonstrations in September 2007, including prominent activist monk U Gambira, remained in prison serving long sentences. The government also actively promoted Theravada Buddhism over other religions, particularly among ethnic minorities. Christian and Islamic groups continued to struggle to obtain permission to repair places of worship or build new ones. The regime continued to closely monitor Muslim activities. Restrictions on worship for other non-Buddhist minority groups also continued. Although there were no new reports of forced conversions of non-Buddhists, authorities in some cases influenced placement of orphans and homeless youth, preferring Buddhist monasteries to Christian orphanages in an apparent effort to prevent Christian groups’ or missionaries’ influence. Adherence or conversion to Buddhism was an unwritten prerequisite for promotion to senior government and military ranks. All senior level officers of the ruling State Peace and Development Council (SPDC) and the armed forces are Buddhists.” [7b]

- 19.05 The report added “During the reporting period [1 July 2009 to 30 June 2010], social tensions continued between the Buddhist majority and the Christian and Muslim

minorities. Widespread prejudice existed against citizens of South Asian origin, many of whom are Muslims. The government continued to refuse to recognize the Muslim Rohingya ethnic minority as citizens and imposed restrictions on their movement and marriage.” [7b]

- 19.06 The same source reported “Although the country has no official state religion, the government continued to show a preference for Theravada Buddhism through official propaganda and state support, including donations to monasteries and pagodas, encouragement of education at Buddhist monastic schools, and support for Buddhist missionary activities. In practice promotions to senior positions within the military and civil service were reserved for Buddhists.” [7b] (Section II)
- 19.07 The USSD IRF Report 2010 also noted “There continued to be credible reports from various regions that government officials compelled persons, Buddhists and non-Buddhists alike, especially in rural areas, to contribute money, food, or materials to state-sponsored projects to build, renovate, or maintain Buddhist religious shrines or monuments. The government denied that it used coercion and called these contributions ‘voluntary donations’ consistent with Buddhist ideas of earning merit.” [7b] (Section II)
- 19.08 The USSD IRF Report 2010 stated “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, and Deepa Vali.” [7b] (Section II)

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DEMOGRAPHY

- 19.09 The USSD IRF Report 2010 noted that:

“The country has an area of 261,970 square miles. The Human Development Report under the United Nations Development Program (UNDP) and the International Monetary Fund estimate the country’s population to be 50 million. 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; Buddhist nuns are fewer in number. 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 underestimated the non-Buddhist proportion of the population. Independent researchers placed the Muslim population at between 6 and 10 percent. A small Jewish community in Rangoon has a synagogue but no resident rabbi.” [7b] (Section I)

- 19.10 The same source noted:

“The country is ethnically diverse, with some correlation between ethnicity and religion. Theravada Buddhism is the dominant religion among the majority Burman ethnic group and also among the Shan, Arakanese, and Mon ethnic minorities. Christianity is

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

CONSTITUTION AND LEGISLATION

19.11 The USSD IRF Report 2010 stated:

“Highly authoritarian military regimes have ruled the country since 1962. The current military government, the SPDC, has governed without a constitution or legislature since 1988, although in a 2008 referendum that most observers believe was fundamentally flawed, the SPDC engineered a 92 percent approval rating for a new constitution that is slated to take effect after a parliament is seated following November 2010 elections. Since independence in 1948, many ethnic minority areas have served as bases for armed resistance against the government. Despite cease-fire agreements with many armed ethnic groups after 1989, Shan, Karen, and Karenni insurgencies have continued. The government has tended to view religious freedom in the context of potential threats to national unity or central authority.

“Most adherents of government-recognized religious groups generally were allowed to worship as they chose; however, the government imposed restrictions on certain religious activities and frequently limited religious freedom. Antidiscrimination laws do not apply to ethnic groups not formally recognized under the 1982 Citizenship Law, such as the Muslim Rohingyas in northern Rakhine State.

“In addition the constitution forbids the ‘abuse of religion for political purposes.’ The law criminalizes the ‘defamation’ of religion for political purposes. The regime commonly employed nonreligious laws to target those involved in religious and political activism, including the Electronic Transactions Act, Immigration Act, and Unlawful Associations Act.

“The law bars members of religious orders from running for public office. Laws published in March 2010 in preparation for November 7 [2010] elections also barred members from Buddhist, Christian, and Hindu religious orders (such as priests, monks, and nuns) from voting and joining political parties, as did laws for past elections. The new laws do not mention Muslims.” [7b] (Section II)

19.12 The same source stated “Religious organizations were not required to register with the government, but if the religious organization wanted to engage in certain activities (religious education, etc), it must get government permission.” [7b] (Section II)

19.13 The report also noted:

“Citizens and permanent residents were required to carry government issued National Registration Cards (NRCs) that often indicated religious affiliation and ethnicity. There appeared to be no consistent criteria governing whether a person’s religion was indicated on the card. Citizens also were required to indicate their religion on certain official application forms for documents such as passports, although passports themselves do not indicate the bearer’s religion. Members of many ethnic and religious minorities faced problems obtaining NRCs, Muslims even more than others.” [7b] (Section II)

See also Citizenship and nationality: [Identity cards](#)

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BUDDHISM

19.14 The USSD IRF Report 2010 stated:

“The government restricted 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 were 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 were indirectly elected by monks.

“The Ministry of Religious Affairs’ Department for the Perpetuation and Propagation of the Sasana oversees the government’s relations with Buddhist monks and schools. The government continued to fund two state Sangha universities in Rangoon and Mandalay that trained Buddhist monks under the purview of the SMNC. The state-funded International Theravada Buddhist Missionary University in Rangoon, which opened in 1998, has a stated purpose ‘to share the country’s knowledge of Buddhism with the people of the world.’

“Buddhist doctrine remained part of the state-mandated curriculum in all government-run elementary schools. Students at these schools could opt out of instruction in Buddhism and sometimes did, but all were required to recite a Buddhist prayer daily. Some schools or teachers may allow Muslim students to leave the classroom during this recitation, but there did not appear to be a centrally mandated exemption for non-Buddhist students.” [7b] (Section II)

19.15 The same source noted:

“The government continued its efforts to control the Buddhist clergy (Sangha). It tried Sangha members for ‘activities inconsistent with and detrimental to Buddhism’ and imposed on the Sangha a code of conduct enforced by criminal penalties. The government arrested and imprisoned politically active Buddhist monks. In prison monks were defrocked and treated as laypersons. In general they were not allowed to shave their heads and were not given food compatible with the monastic code. They were often beaten and forced to do hard labor.

“The government also subjected the Sangha to special restrictions on freedom of expression and association. Members of the Sangha were not allowed to preach

sermons pertaining to politics. Religious lectures could not contain any words, phrases, or stories reflecting political views. The regime told Sangha members to distance themselves from politics, political parties, or members of political parties. The government prohibited any organization of the Sangha other than the nine monastic orders that fall under the authority of the State Clergy Coordination Committee. The government prohibited all clergy from being members of any political party and electoral law bars them from voting in the elections planned for November 7, 2010.” [7b] (Section II)

- 19.16 The USCIRF Report 2011 concurred with the USSD IRF Report 2010 with regards to restrictions on Buddhist activities and stated “There may be as many as 100 monks and novices in prison for activities that preceded the 2007 public demonstrations.” Reporting on the September 2007 pro-democracy “monk-led” protests, the USCIRF Report 2011 added:

“At least 30 deaths were reported, although some experts say the actual number was much higher. At least 4,000 people, an unknown portion of whom were monks, were arrested during the crackdown, and between 500 and 1,000 were believed to remain in detention months later. Many of the detained reportedly have been mistreated or tortured. Given the lack of transparency in Burma, it is difficult to determine how many people remain in prison or are missing. A recent NGO [non governmental organisation] report claims that 252 monks were still in prison for their roles in the 2007 protests. In addition, since the crackdown, hundreds of Buddhist monks have fled to Thailand seeking asylum. They have reported torture, forced defrocking, hard labor, and other deprivations during detention.” [9a] (p35)

- 19.17 The same source continued:

“In the immediate aftermath of the 2007 protests, the military raided 52 monasteries, detained many monks, and arrested those perceived to be the leaders of the demonstrations. These monks were then tortured, forcibly defrocked, and forced to return to their villages. Several monasteries remain closed or are functioning in a more limited capacity, including Rangoon’s Ngwe Kyar Yan monastery, to which only about 50 of the original 180 monks in residence have been permitted to return. Government authorities continue to monitor closely monasteries viewed as focal points of the protests 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] (p35-36)

- 19.18 The Assistance Association for Political Prisoners (Burma) (AAPP) recorded on its website, updated 3 May 2011, that 225 monks were imprisoned in Burma. [44a]

See also Political affiliation: [Political prisoners](#)

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CHRISTIANS

- 19.19 The USCIRF Report 2011 stated:

“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 some 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 often denied or secured through bribes. In Chin areas, permission for ceremonies on religious holidays must be submitted months in advance, though Protestants report that they are often granted permission for these events.” [9a] (p38)

19.20 The USSD IRF Report 2010 cited that:

“Government authorities continued to prohibit Christian clergy from proselytizing in some areas. Christian groups reported that authorities sometimes refused residency permits for Christian ministers attempting to move to new townships; they indicated this was not a widespread practice, but depended on the individual community and local authority. Nonetheless, Christian groups reported that church membership increased, even in predominantly Buddhist regions.” [7b] (Section II)

19.21 The same report added:

“Christian groups continued to have trouble obtaining permission to buy land or build new churches in most regions. In some cases authorities refused because they claimed the churches did not possess property deeds, but access to land title was extremely difficult due to the complex land law and because the government holds title to most land. In some areas permission to repair existing places of worship was easier to acquire. In Chin State authorities have not granted permission to build a new church since 2003.” [7b] (Section II)

19.22 The USCIRF Report 2011 cited that:

“There are credible reports that government and military authorities continue efforts actively to promote Buddhism among the Chin and Naga ethnic minorities as part of its pacification program. Refugees continue to claim that government officials encourage conversion through promises of economic assistance or denial of government services, although reportedly such incidents have decreased in recent years. Chin families who agree to convert to Buddhism were offered monetary and material incentives, as well as exemption from forced labor. Burmese Buddhist soldiers are also offered financial and career incentives to marry and convert Chin Christian women. Naga Christian refugees leaving Burma report that members of the army, together with Buddhist monks, closed churches in their villages and attempted to force adherents to convert to Buddhism.” [9a] (p38)

19.23 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)

19.24 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)

19.25 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

19.26 The USCIRF Report 2011 stated:

"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. 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. Approximately 800,000 Rohingya live in Burma, primarily in Rakhine state.” [9a] (p36)

- 19.27 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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)

- 19.28 The UN General Assembly, *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 August 2009, stated 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)

- 19.29 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)

- 19.30 The USSD IRF Report 2010 stated:

“Muslims across the country, as well as ethnic Chinese and Indians, often were required to obtain permission from township authorities to leave their hometowns. Authorities generally did not grant permission to Rohingya or other Muslims living in Rakhine to travel for any purpose; however, permission was sometimes obtained through bribery. Muslims in other regions were granted more freedom to travel, but still faced restrictions. Muslims residing in Rangoon could visit beach resort areas in Thandwe, Rakhine state, but could not return to Rangoon without the signature of the Regional Military Commander. Muslims residing outside Rakhine state often were barred from return travel to their homes if they visited parts of Rakhine state.

“Muslims in Rakhine state, particularly those of the Rohingya minority group, continued to experience the severest forms of legal, economic, educational, and social discrimination. The government denied citizenship status to Rohingyas, claiming that their ancestors did not reside in the country at the start of British colonial rule, as the 1982 citizenship law required. The Rohingya asserted that their presence in the area predates the British arrival by several centuries.” [7b] (Section II)

19.31 The same source added:

“It remained extremely difficult for Muslims to acquire permission to build new, or repair existing, mosques, although internal renovations were allowed in some cases. Historic mosques in Mawlamyine, Mon State and Sittwe, Rakhine State, as well as other areas, continued to deteriorate because authorities would not allow routine maintenance. A number of restrictions were in place on the construction or renovation of mosques and religious schools in northern Rakhine State. In some parts of Rakhine State, authorities cordoned off mosques and forbade Muslims to worship in them. Border security forces continued to conduct arbitrary ‘inspections’ of mosques in northern Rakhine State, demanding that mosque officials show permits to operate the mosques.” [7b] (Section II)

19.32 The USCIRF Report 2011 noted:

“Police often restricted the number of Muslims who could gather in one place. In some places, Muslims were only allowed to gather for worship and religious training during major Muslim holidays. Police and border guards also continue inspections of Muslim mosques in Rakhine state; if a mosque cannot show a valid building permit, the venue is ordered closed or destroyed. The government has, in recent years, ordered the destructions of mosques, religious centers, and schools. During the reporting period [1 April 2010 to 31 March 2011], 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.

“As many as ten Muslim community leaders in Rakhine State continue to be detained on unspecified charges. Reports indicate that the group was arrested by the government to forestall a Muslim political organization, though NGOs and international media report that the group was meeting to document human rights and religious freedom abuses among the Rohingya ethnic minority community.” [9a] (p37)

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20. ETHNIC GROUPS

Religion and ethnicity are closely connected in Burma, and users are recommended to read this section in conjunction with [Freedom of religion](#).

20.01 The Foreign and Commonwealth Office (FCO) stated in its *Human Rights and Democracy Report 2010*, dated 31 March 2011, (FCO Report 2010), that:

“Burma has a diverse population with around two-thirds of the people considered to be Burman and the other third belonging to one of the many ethnic groups of Burma. Since

independence, the government has promoted a pro-Burman, pro-Buddhist approach in its policies, and many ethnic minorities have felt that their culture, language and land were under threat from 'Burmanisation'. There were reports of land confiscation, the promotion of education in Burmese rather than local languages, restrictions on religious practices, and the authorities' control over cultural practices such as the Kachin New Year. In conflict areas, there were reports of rape, forced labour, multiple taxation and child military recruitment." [5y] (p145)

- 20.02 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, 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 in Rakhine State were discriminated against because of their ethnicity. Most faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages" [7a] (Section 6)

- 20.03 The Amnesty International (AI) *Annual Report 2011: The state of the world's human rights*, published 12 May 2011 and covering 2010 events, noted that the Burmese government "...continued to repress ethnic minorities protesting in relation to the elections as well as those who peacefully opposed the impact of development and infrastructure projects on the environment. Authorities also persecuted ethnic minorities for their real or suspected support of armed groups." The report gave some accounts of individuals from ethnic minority groups who had suffered various forms of repression by the authorities. [12e] (Repression of ethnic minority activists)

- 20.04 The official website of the Human Rights Foundation of Monland, Rehmonnya.org, reported on 12 March 2011, that:

"According to the new constitution, Burma is divided into 7 Burman dominated Divisions and another 7 ethnic States for Kachin, Karen, Chin, Shan, Karenni, Mon, and Arakanese areas with some special ethnic regions for the Wa and others. Although the recent military regime pretended to form an ethnic Union of Burma, a real union would provide equal rights to all ethnic nationalities in the country... The military regime and the Burmese Army have operated intensive military operations against these ethnic minorities and committed gross human rights violations on a daily basis. Thousands of ethnic people have had to flee from their homes." [34b]

- 20.05 In an in-depth report, dated 18 February 2010, on Burma's refugees, the United Nations Integrated Regional Information Networks (IRIN), 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]

20.06 Amnesty International (AI) stated in its report *The repression of ethnic minority activists in Myanmar*, dated 16 February 2010 (AI Report of February 2010), that:

“Although between 60 and 65% of Myanmar’s 50 million people are ethnic Burmans, Burmans comprise the vast majority of the strongly centralised Myanmar government and army. Burmans speak a Sino-Tibetan language, which is the official language of Myanmar and is widely spoken throughout the country. Most Burmans are Theravada Buddhists. They live in all parts of the country but predominantly inhabit Myanmar’s central river valley areas in its seven central divisions.” [12c] (p14)

20.07 The same source reported:

“Ethnic minorities therefore make up approximately 35-40% of the country’s population, including people of Chinese and Indian ethnicities, who comprise an estimated 3% and 2% of the population, respectively. According to the government, there are at least 135 different ethnic nationalities in Myanmar, but the exact number is difficult to conclusively determine. For example the government emphasizes a debatable difference between S’gaw Karen and Pa’o Karen, and asserts that there are 54 different Chin tribes, mostly based on small differences in locations and dialects. One ethnic leader told Amnesty International that ‘sometimes being just one mountain away’ makes one a different ethnicity, and that if the true measure was in fact differences in dialect, ‘then even 135 would almost certainly be too low a number’.” [12c] (p15)

20.08 The [Burma Human Rights Yearbook 2008](#), published in November 2009 by the Human Rights Documentation Unit (HRDU), the research and documentation department of Burma’s government in exile, the National Coalition Government of the Union of Burma (NCGUB), provided an official list of ethnic minority groups in Burma. The report noted, however, that “... while this is the official list, some ethnic minorities, such as the Rohingya and the Kuki, for instance, have been deliberately omitted from this list as they are not recognised by the junta as being native to Burma as they are not provided with citizenship.” [51a] (p862)

20.09 The US Commission on International Religious Freedom *Annual Report 2011* (USCIRF Report 2011), published 28 April 2011 and covering the period 1 April 2010 to 31 March 2011, stated:

“Over the past five years, the Burmese military has expanded operations against ethnic minority militias in parts of eastern Burma, reportedly destroying schools, hospitals, religious sites, and homes, and killing civilians. According to the Asian Human Rights Commission and the Shan Women’s Human Rights Network, ethnic minority women are particularly vulnerable as the Burmese military encourages or condones rape by its soldiers as an instrument of war. New refugees have entered India and Thailand, where they face squalid conditions and possible forced relocation. According to international media and NGO [non governmental organisation] reports, an estimated 100,000 Chin Christians fled to India during the past year, in hopes of escaping persecution. In early January 2010, international NGOs reported that more than 2,000 Karen villagers were forced to flee following attacks by the Burmese Army.” [9a] (p38)

20.10 Human Rights Watch noted in its *World Report 2010*, published 24 January 2011, that:

“The Burmese military continues to direct attacks on civilians in ethnic areas, particularly in Karen, Karenni, and Shan states of eastern Burma, and parts of western Burma in China and Arakan states. Tensions increased with ethnic armed groups that had agreed

to ceasefires with the government, such as the Kachin Independence Organization (KIO) and the United Wa State Army (UWSA), over the government's plans to transform these militias into Border Guard Force units under direct Burmese army control. By the end of 2010 only five militias had agreed, leaving large groups such as the Kachin, Wa, and Mon facing increased military pressure to transform, partly demobilize, and surrender territory. As a result of increased tensions, parts of 32 townships in Burma—including most of the Wa area on China's border—did not conduct polls in November [2010]. There are widespread fears of resumed conflict in 2011 in ethnic areas that have experienced uneasy peace for the past two decades.” [39e] (Ethnic Conflict, Displacement, and Refugees)

- 20.11 The UN General Assembly, *Situation of human rights in Myanmar* (Note by the Secretary General), dated 15 September 2010 covering human rights developments in Burma, (following the UN Human Rights Council [Progress report of the Special Rapporteur on the situation of human rights in Myanmar](#), dated March 2010 [32e]), stated with regards to ethnic minorities:

“The Special Rapporteur is deeply troubled by not only the lack of progress in resolving conflict in the ethnic areas but what appear to be increasing tensions along the border. Many groups have documented the ongoing human rights violations in eastern Myanmar, with the presence of the military leading to vulnerability of the civilian population. In areas of ongoing conflict, military patrols target civilians, most likely as a means of undermining the opposition, while land confiscation and extortion may result from the military's ‘self-reliance’ policy by which regional commanders meet basic logistical needs locally.” [32f] (paragraph 48)

- 20.12 The Foreign and Commonwealth Office (FCO) Country Profile on Burma, updated 12 April 2011, stated:

“Armed conflict against the central military government continues in several areas of the country, although since 1989, the government has negotiated ceasefire arrangements with several armed groups. These include 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. Despite some success in ceasefire negotiations, insurgencies have continued in several border areas and ceasefire forces have maintained their arms.” [5a] (The ethnic minorities and ceasefires)

See also [Abuses by non-government armed forces](#)

- 20.13 The AI Report of February 2010 on ethnic minority activists stated:

“Some minorities’ ethnic identity in Myanmar is closely related to their association with a religion other than the majority Buddhism; this generally means Islam for most Rohingya, and Christianity for many Chin, Kachin, and Karen. The authorities view the various social organizations with suspicion, and subject their members to discrimination and harassment. This happens everywhere in Myanmar, not least among its ethnic minorities.” [12c] (p43)

See also [Freedom of religion](#)

20.14 The Assistance Association for Political Prisoners (Burma) (AAPP) reported in its *2010 Annual Report: Political Prisoners in Burma*, dated 14 January 2010, that as at 31 December 2010 "... there were at least 225 ethnic nationality political prisoners detained in Burma's prisons. This represents an increase of 17 from the end of 2009, at which time there were 208 ethnic nationality detainees. Ethnic minority activists and politicians routinely face extensive surveillance, harassment, discrimination, arbitrary arrest, torture and imprisonment, 2010 was no exception." [44b] (Ethnic nationalities)

See also [Prison conditions](#) and Political affiliation: [Political prisoners](#)

20.15 The FCO Report 2010 stated "A number of ethnic parties participated in the elections, mainly in the regional parliaments. They intend to take up their seats in the hope that they will be able to promote ethnic agendas, while acknowledging that the election process was not free or fair." [5y] (p145)

See also Recent developments (November 2010 – March 2011): [November 2010 elections](#)

20.16 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] The [Burma Human Rights Yearbook 2008](#) provided extensive information on human rights abuses against ethnic minorities in Burma, along with details of the different armed ethnic groups. [51a] (Chapter 18: Ethnic minority rights)

20.17 Information on the internal displacement of citizens caused by the internal conflict in the predominantly ethnic minority states can be found in the Thai Burma Border Consortium's (TBBC) report [Protracted Displacement and Chronic Poverty In Eastern Burma / Myanmar](#), dated 28 October 2010 [23a] and the Internal Displacement Monitoring Centre's (IDMC) report [Myanmar: Increasing displacement as fighting resumes in the east – A profile of the internal displacement situation](#), dated 29 January 2010. [35a]

See also [Internally displaced persons](#)

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CHIN (ZOMI)

20.18 The AI Report of February 2010 on ethnic minority activists reported:

"The Chin (also known as the Zomi) live mostly in the isolated mountainous region of northwest Myanmar, Chin State. An estimated 80-90% of the Chin population is Christian, although some are Theravada Buddhists. There are at least six major Chin tribal groups speaking at least 20 different mutually unintelligible dialects. The Chin National League for Democracy (CNLD) and the Zomi National Congress (ZNC) won three and two seats, respectively, in the 1990 elections, and though both were later banned by the authorities, they still work with the NLD [National League for Democracy] and seek to represent the Chin." [12c] (p15)

20.19 The Human Rights Watch report ["We are like forgotten people" The Chin People of Burma: Unsafe in Burma, Unprotected in India](#), dated 27 January 2009, provided accounts of a wide range of human rights abuses against the Chin carried out by the Burmese army and government officials, including forced labour, arbitrary arrests and

detention, torture, religious repression and other restrictions on fundamental freedoms. [39d]

- 20.20 In its report [*Life Under the Junta: Evidence of Crimes Against Humanity in Burma's Chin State*](#), dated January 2011, Physicians for Human Rights (PHR), an independent, non-profit organization that uses medical and scientific expertise to investigate human rights violations, documented abuses including hundreds of cases of forced labour, forced conscription into military service, beatings, torture, intimidation, rape of women, children and men by soldiers, killings, disappearances, and persecution based on Chin ethnicity or Christian faith. [59a]

KACHIN (JINGHPAW)

- 20.21 The AI Report of February 2010 on ethnic minority activists reported:

“The Kachin (also known as Jinghpaw) are concentrated in Kachin State in the far north of Myanmar. The majority are Christians, although some Kachin are Theravada Buddhists. The Jinghpaw language is spoken by a majority of Kachins, although other languages are also spoken among them. Two major political bodies seek to represent the Kachin: The Kachin Independence Organization (KIO), with formal control over some functions of local government, and the Kachin State National Congress for Democracy (KSNCD), which won three parliamentary seats in the 1990 elections.” [12c] (p15)

- 20.22 Christian Solidarity Worldwide (CSW) stated in its fact-finding mission report [*Visit to Kachin State*](#), dated 1 May 2009, that:

“In Kachin State, the regime continues to perpetrate human rights violations, despite a ceasefire with the Kachin Independence Organisation (KIO) and its armed wing the Kachin Independence Army (KIA) since 1994. Although there is currently no armed conflict, rape, forced labour, land confiscation and religious discrimination remain significant problems. While the Kachin can enjoy comparative peace, and do not suffer mass destruction of villages and displacement of civilians on the scale of eastern Burma, they continue to experience discrimination and abuse. In SPDC [State Peace and Development Council]-controlled areas, for example, children are not allowed to learn in their own language, but must study in Burmese. There is also reportedly an agenda to impose Buddhism on Kachin students, requiring them to recite Buddhist scriptures, even though the Kachin are 90 per cent Christian. In addition, environmental degradation, drug addiction and human trafficking are major social challenges with which the regime is directly or indirectly associated.” [13b] (Executive summary)

- 20.23 The CSW report documented a number of abuses to the predominantly Christian Kachin people and concluded that severe oppression by the military regime continued. [13b]

SHAN

- 20.24 The AI Report of February 2010 on ethnic minority activists reported:

“The Shan live primarily in Shan State, in the east of the country bordering China, Laos and Thailand. There are smaller groups of Shan living in Mandalay Division in the centre of the country, in Kayin State in eastern Myanmar, and in Kachin State. Most Shan people follow Theravada Buddhism and are part of the pan Tai family, which also includes most of the populations of Thailand and Laos. The Shan National League for

Democracy (SNLD), which seeks to represent the Shan, was the second most successful party in the 1990 elections after the NLD, winning 23 seats. The Party Chair, Khun Htun Oo, is presently serving a 93-year prison sentence and is in poor health.” [12c] (p16)

- 20.25 The [Shan Human Rights Foundation \(SHRF\)](#) reported in its Newsletter dated January 2011 on the continuing human rights violations that occurred against the people living in Shan State, including extrajudicial killing, rape, beating and torture, arbitrary arrest and detention, and forced disappearance. [60a] The SHRF provided monthly newsletters which recorded accounts of human rights abuses allegedly committed by government forces.
- 20.26 On 14 August 2009 Human Rights Watch (HRW) reported on the displacement of over 10,000 ethnic Shan civilians following attacks against them by the Burmese army (Tatmadaw). The report noted that “Burmese army forces have been responsible for deliberate attacks on civilians, summary executions, rape, torture, destruction and forced relocation of villages, and use of child soldiers and forced labor.” [39c]

KAREN AND KARENNI (RED KAREN OR KAYAH)

- 20.27 The AI Report of February 2010 on ethnic minority activists reported:

“The Karenni (also known as the Red Karen or the Kayah) are found in Kayah State in the east of Myanmar bordering Thailand. Christianity and animism are their predominant religions. While there are many languages spoken in Kayah State, the Karenni language is spoken among different communities as a common language. The armed opposition group, the Karenni National Progressive Party (KNPP), has splintered several times since its founding in 1957, but still seeks to be representative of the Karenni.” [12c] (p16)

- 20.28 The same source reported:

“The Karen ethnic minority is concentrated in the east of the country primarily in Kayin State, with lesser numbers in Kayah State, the southern part of Shan State, and the Ayerawaddy [Irrawaddy] Division. Buddhists, Christians and followers of animist religions exist amongst the Karen. There are three main Karen languages, all part of the Sino-Tibetan family but not mutually intelligible. The Karen National Union (KNU) has sought to represent the Karen since 1947.” [12c] (p16)

- 20.29 Further information on human rights abuses carried out against the Karenni and Karen tribes can be found in the Human Rights Watch report [“They Came and Destroyed Our Village Again: The Plight of Internally Displaced Persons in Karen State”](#), dated 10 June 2005. [39b]

MON

- 20.30 The AI Report of February 2010 on ethnic minority activists reported:

“The Mon are largely found in Mon State in southeast Myanmar, but smaller populations live in Ayerawaddy [Irrawaddy] Division and along the Myanmar-Thailand border. They helped spread Theravada Buddhism throughout the region. The Mon language was once widely spoken in the south of the country but is presently spoken by less than one

million people. The Mon National Democratic Front (MNDF), which won five seats in the 1990 elections, was banned in 1992 but still continues to operate.” [12c] (p16)

- 20.31 Information on human rights violations against the people of Mon State can be found in the Human Rights Foundation of Monland’s Monthly Report [“I Will Never Go Back.” Human Rights Abuses in Mon State and Tenasserim Division](#), dated 31 May 2009 [34e] and Amnesty International’s [The repression of ethnic minority activists in Myanmar](#), dated 16 February 2010. [12c]

See also [Abuses by non-government armed forces](#)

ROHINGYA

- 20.32 The FCO Report 2010 noted that:

“The treatment of the Rohingya Muslims in Northern Rakhine state in 2010 remained of particular concern. The Rohingya continued to face restrictions on their freedom of movement and related restrictions on finding employment and the right to marry. The authorities continued to refuse to issue birth certificates to Muslim children, denying them citizenship which has led to further discrimination in access to health services, education and employment. The resulting hardship has caused the migration of thousands of Rohingya refugees across the border to Bangladesh, and from there to other countries in the region.” [5y] (p145)

- 20.33 The US Department of State *International Religious Freedom Report 2010* (USSD IRF Report 2010) covering events from 1 July 2009 to 30 June 2010, published 17 November 2010, stated:

“Although essentially treated as illegal foreigners, Rohingya were not issued Foreigner Registration Cards (FRCs). Since they also were not generally eligible for NRCs [National Registration Cards], Rohingya have been commonly referred to as ‘stateless.’ The government continued a program with the United Nations High Commissioner for Refugees (UNHCR) that issued Temporary Registration Cards (TRCs) to stateless persons in northern Rakhine State, the majority of whom are Rohingyas. UNHCR worked with approximately 750,000 residents of Rakhine state who do not hold citizenship in the country. At the end of the reporting period, the government estimated that 85 percent of eligible residents (637,500 stateless persons) over the age of 10 possessed TRCs. Without citizenship status Rohingyas did not have access to secondary education in state-run schools.” [7b] (Section II)

- 20.34 In its report *Rohingya: Burma’s Forgotten Minority*, dated 18 December 2008, Refugees International stated:

“Official Burmese government policy on the Rohingya is repressive. The Rohingya need authorization to leave their villages and are not allowed to travel beyond Northern Rakhine State. They need official permission to marry and must pay exorbitant taxes on births and deaths. Religious freedom is restricted, and the Rohingya have been prohibited from maintaining or repairing crumbling religious buildings. Though accurate statistics are impossible to come by inside Burma, experts agree that conditions in Northern Rakhine State are among the worst in the country. Rohingya refugees commonly cite land seizures, forced labor, arbitrary arrests, and extortion as the principal reasons for flight. Once a Rohingya leaves his or her village without

permission, he or she is removed from official residency lists, and can be subject to arrest if found.” [61a]

20.35 Human Rights Watch reported on 21 February 2011 that “Burmese authorities have systematically persecuted the Rohingya, a Muslim minority, for more than 30 years. Government and military authorities in Arakan state regularly apply severe restrictions on Rohingya’s freedom of movement, assembly and association, levy demands for forced labor, engage in religious persecution, and confiscate land and resources.” [39a]

20.36 Further information on the Rohingya can be found in the Amnesty International report [Myanmar, The Rohingya Minority: Fundamental rights denied](#), dated May 2004. [12a]

See also [Internally displaced persons \(IDPs\)](#)

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21. LESBIAN, GAY AND BISEXUAL (LGB) PERSONS

For the position of transgender persons see [Transgender persons](#) below

LEGAL RIGHTS

21.01 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, 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 6)

21.02 The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), accessed 1 February 2011, 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]

21.03 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]

21.04 Utopia, an internet resource for gay and lesbians in Asia, reported in its undated Country listing on Myanmar/Burma, accessed 12 April 2011, that:

“The largest ‘gay’ festival in all of Asia is held yearly at Taungbyone, about 20k north of Mandalay. It is held [in] the last part of Aug[ust] for six days up to and including the full moon. Thousands of people from all over Myanmar gather to celebrate the Taungbyone nats (spirit mediums). All the gays from all over Myanmar go up. Hundreds of gay Thai cross over to attend, too. While Taungbyone is religious by nature, it is in fact largely gay. Almost all nats in Myanmar are gay. Also many faux nats show up just to join in the party. For six days people dance, eat, and drink. The area is covered with food tables and shop stalls. Roving dance groups perform day and night. The atmosphere reflects that of Carnival in Brazil or in the Caribbean. During these days you can do what you feel, not what you have to do during the rest of the year. For this reason many males ‘come out’ during these six days.” [67a] (Taungbyone)

- 21.05 The Burma profile page, undated, accessed 15 March 2011, of the website 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’.” [54a]

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TREATMENT BY, AND ATTITUDE OF, STATE AUTHORITIES

- 21.06 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’.” [3a]
- 21.07 Purple Dragon, which claimed to be Asia’s largest and oldest tour company for gay travellers to ten countries in Asia, accessed 16 March 2011, 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)

SOCIETAL TREATMENT AND ATTITUDES

- 21.08 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]

21.09 Agence France-Presse (AFP) reported in an article dated 16 April 2011 that “A repressive mix of totalitarian politics, religious views and reserved social mores has kept many gay people in the closet in Myanmar, formerly known as Burma. Gay men have developed their own language as a ‘gaylingual’ code to both signify and conceal their sexuality, said Tin Soe, who now works on HIV/AIDs prevention in Yangon.” [69a]

21.10 The article continued:

“Homosexuality is often linked to local religious beliefs about karma in Myanmar, Tin Soe said... Traditionally, the only area where non-heterosexuality has been openly embraced is the realm of ‘nat’ or spirit worship, a form of animism that is intertwined with Myanmar’s Buddhist beliefs. Flamboyant and effeminate spirit mediums take centre stage at popular ‘nat’ festivals throughout the year, but their acceptance here has also served to reinforce certain stereotypes of gay people in Myanmar.

“Same-sex relations are technically criminalised by a colonial penal code, and while this is no longer strictly enforced, activists say it is still used by authorities to discriminate and extort. ‘They use it as an excuse to make money and harass people but they don’t bring the cases to court,’ said Aung Myo Min, an openly gay Myanmar exile and director of the Human Rights Education Institute of Burma, based in Thailand. He said there were numerous instances of sexual violence and humiliation of gay people in public. ‘Many cases are not reported because the victims keep silent out of shame and fear of repercussions’.” [69a]

21.11 AFP added “While lesbianism is also largely hidden in Myanmar, Aung Myo Min said it was more acceptable to the militarised and macho culture, in which many fail to differentiate between homosexual and transgender people.” [69a]

21.12 Purple Dragon noted 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](#))

The sources consulted provided no specific information on the position of lesbian or bisexual women. For the position of women generally see [Women](#) below.

Further articles on LGB persons may be found on the [Globalgayz](#) website. [54a]

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22. TRANSGENDER PERSONS

22.01 The Burma profile page, undated, accessed 15 March 2011, of the website [globalgayz.com](#), observed that:

“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'." [54a]

- 22.02 Purple Dragon, which claimed to be Asia's largest and oldest tour company for gay travellers to ten countries in Asia, accessed 16 March 2011, 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." [17] (*Gay life in Myanmar*)

The sources consulted provided no specific information on the position of transgender persons in Burma. Further articles on transgender persons may be found on the [Globalgayz](#) website. [54a]

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23. DISABILITY

- 23.01 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, stated that in Burma:

"There is no law providing for equal treatment before the law and for general protection against discrimination, including discrimination against persons with disabilities. Under the constitution all citizens have the right to education and health care. The government did not actively discriminate against persons with disabilities in employment, access to healthcare, education, or the provision of other state services or other areas, 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*)

- 23.02 The Human Rights Foundation of Monland, 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.” [34a] (paragraphs VI -VII)

- 23.03 The same report noted that education for disabled children was limited. [34a] (paragraph VIII)
- 25.04 The International Committee of the Red Cross (ICRC) reported in its *Annual Report 2009: Myanmar*, that “Physically disabled people continued to receive treatment at the Hpa-an Orthopaedic Rehabilitation Centre run by the Myanmar Red Cross Society with ICRC support.” [40a] (p209)

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24. WOMEN

OVERVIEW

- 24.01 The *Burma Human Rights Yearbook 2008*, published in November 2009 by the Human Rights Documentation Unit (HRDU), the research and documentation department of Burma’s government in exile, the National Coalition Government of the Union of Burma (NCGUB), stated:

“The SPDC [State Peace and Development Council] states that women in Burma enjoy full rights from the moment they are born and often point to the relatively autonomous role they claim women in Burma have traditionally enjoyed in any discussions on the rights of women. However, traditional patriarchal notions about women’s proper role in society have helped foster a climate that effectively obstructs any advancement towards women’s rights and gender equality. Women’s abilities are seen as limited, and their activities therefore curtailed. In addition, recent history has all but destroyed the collective capacity of Burmese women to attain real equality.” [51a] (p787)

- 24.02 The Foreign and Commonwealth Office (FCO) cited in its *Human Rights and Democracy Report 2010*, dated 31 March 2011, that:

“Women’s participation in public life, such as village meetings, continued to be very low, as was their participation in, and access to, social networks. Although the Burmese government has stated its commitment to the Millennium Development Goals and while Burma was on track to meet some gender inequality goals such as school enrolment for girls, women were routinely excluded from decision-making bodies. Gender-based violence perpetrated by the military continued to be of particular concern, especially in ethnic minority areas on the border affected by conflict.

“A National Action Plan for the Advancement of Women was developed through a collaborative process between civil society organisations, international NGOs [non governmental organisations] and the Ministry for Social Welfare, with the aim of securing the approval of the new government in 2011.” [5y] (p144)

- 24.03 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]

24.04 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]

LEGAL RIGHTS

24.05 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, 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)

24.06 The *Burma Human Rights Yearbook 2008* stated that although mothers were legally entitled to 26 weeks of maternity benefits, in practice, maternity leave was rarely granted or enforced. [51a] (p787)

24.07 Reporting on an interview with Thin Thin Aung, from the Women's League of Burma, dated 23 October 2010, Mizzima news quoted her as saying that the new constitution gave "... no provisions guaranteeing gender equality. Moreover, there are specific provisions that discriminate against women in education and job opportunities." [33a]

24.08 Article 352 of the Constitution states "The Union shall, upon specified qualifications being fulfilled, in appointing or assigning duties to civil service personnel, not discriminate for or against any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, and sex. However, nothing in this Section shall prevent appointment of men to the positions that are suitable for men only." [47]

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POLITICAL RIGHTS

24.09 The USSD Report 2010 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)

24.10 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011 and covering 2010 events stated that "In the 2010 elections, only 114 out of 3,000 candidates were women." [14a]

24.11 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)

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SOCIAL AND ECONOMIC RIGHTS

24.12 The USSD Report 2010 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)

24.13 The USSD Report 2010 added:

“There were no registered, independent women’s rights organizations, although there were several groups with some relationship to the government. The MAAF [government-affiliated Myanmar Women’s Affairs Federation] was the leading ‘nongovernmental’ women’s organization. The Myanmar Maternal and Child Welfare Association, another government-controlled agency, provided basic health 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 entrepreneurs’ association enjoyed good relations with the government and was allowed to conduct its activities to support women in business.” [7a] (Section 6)

24.14 The *Burma Human Rights Yearbook 2008* reported that prostitution was prohibited by law and carried a three-year prison term. However, the report added that the prevalence of prostitution had grown in larger cities, border towns and in townships near to mining, large infrastructure and forestry industry locations. It was noted that:

“There are also a number of bonded prostitution rackets operating in Burma. It is reported that many brothels operate with the consent of police or military officials, who receive large payments of so-called protection money from the brothel owners or are run by military personnel themselves. Women working on the streets are forced to bribe police officers in order to escape arrest. In relative terms, prostitution is financially lucrative, but the profession comes with grave physical safety and health risks. HIV/AIDS is prevalent among prostitutes who find it difficult to insist on condom-use when they cannot afford to lose any customers, and rape and sexual assaults are common.” [51a] (p801)

See also subsection: [Violence against women](#)

24.15 The Social Institutions and Gender Index (SIGI), accessed 16 March 2011, 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)

24.16 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 (MWAFF) 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)

24.17 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 to [sic] not conflict with the CEDAW.” [27a] (p13)

24.18 The USSD Report 2010 stated “Marriages between female citizens and foreigners are banned, and the government ordered local attorneys not to be witnesses to such marriages; however, the ban was not widely enforced.” [7a] (Section 1f)

24.19 The United Nations Integrated Regional Information Networks (IRIN) noted in an article dated 10 March 2010 that abortion was illegal in Burma. [49a]

24.20 With regards to having children, the USSD Report 2010 observed that:

“Couples and individuals had the right to decide the number, spacing, and timing of children. The government has pronatalist policies but allows for government and private-sector clinicians to provide contraceptives under the banner of ‘birth spacing. There was a significant unmet need for family planning, and the most commonly reported barrier to accessing family planning services was cost and availability. Reproductive health services, including the availability of contraceptives, generally were limited to private clinics. Health authorities heavily regulated distribution of contraceptives. Community health workers were only allowed to advise on condoms. A client must be seen by a midwife to get injectables or oral contraceptive pills.” [7a] (Section 6)

See also subsection: [Women’s health](#), and [Medical issues](#)

24.21 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)

24.22 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 MAAF, 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)

- 24.23 The website [Online Women in Politics](#), an online network of women in politics, governance and transformative leadership in the Asia Pacific region, accessed 16 March 2011, reported in its section on Burma, undated, that “...women remained underrepresented in most traditional male occupations, and women continued to be barred effectively from a few professions, including the military officer corps... Women do not receive consistently equal pay for equal work. Women legally were entitled to receive up to 26 weeks of maternity benefits; however, in practice these benefits often were not accorded to women.” [63a] (Women in Myanmar)

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VIOLENCE AGAINST WOMEN

- 24.24 The USSD Report 2010 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 (including spousal rape), although there are laws related to committing bodily harm against another person. The related prison terms range from one year to life, in addition to possible fines.

“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. Punishment for men in these cases typically was a fine but no imprisonment. The government-affiliated Myanmar Women’s Affairs Federation (MWAFF) – 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 MWAFF was controlled by wives of regime leaders, police usually investigated cases referred to them by the group.” [7a] (Section 6)

- 24.25 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 sexual 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)

- 24.26 The USSD Report 2010 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)

24.27 A Mizzima news interview with Thin Thin Aung from the Women's League of Burma, dated 23 October 2010, quoted her as saying:

"Many women in Burma are suffering from oppression, discrimination, sexual harassment and sexual violence and it is rampant across the country. I find two reasons when I analyze the cases. The root cause of these violations is the growing militarism in Burma since the military took power in 1962 and the military culture that has developed since then. The second reason regards cultural and traditional practices followed by all ethnic races across the country that discriminate against women. Speaking to the first reason, torture and persecution against people are being committed by authorities in many areas in Burma. Under these circumstances, the security scenario has worsened and women are suffering from various types of oppression." [33a]

24.28 The [International Tribunal on Crimes Against Women of Burma](#), held on 2 March 2010, by the Nobel Women's Initiative in collaboration with the Women's League of Burma, reported:

"Ethnic minority women and girls are particularly subject to widespread and systematic sexual violence by Burmese soldiers, including rape, torture and sexual slavery as a means of terrorizing and subjugating the ethnic minorities.

"Many women across Burma experience sexual violence and sexualized torture, including rape, in conjunction with other civil and political violations, such as arbitrary arrest and detention.

"Many women are also routinely subject to rape and other sexual violence and torture while being forced by the military to perform compulsory labour, including portering." [62a] (p7)

24.29 The same source recorded the accounts of twelve Burmese women who had suffered human rights abuses, including sexual violence, civil and political violations, and social, economic and cultural violations, at the hands of the military junta. [62a] (p10-13)

24.30 The USSD Report 2010 noted "The Thailand-based Karen Women's Organization documented approximately 4,000 cases of abuse against women in Karen State over the past few years. The abuses included rape, killings, torture, and forced labor in more than 190 villages by government troops from more than 40 army battalions. NGOs and international organizations continued to report numerous sexual assaults by soldiers throughout the rest of the country." [7a] (Section 1g)

24.31 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)

- 24.32 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 10 March 2010, 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)

See also [Ethnic groups](#)

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WOMEN’S HEALTH

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

“While the health of the whole population is adversely affected by the regime’s policies, women and children bear the brunt of the collapse of the health system. The policies of the military junta, ranging from widespread impoverishment of the population, migration, and lack of access to healthcare, have and continue to lead to preventable deaths of women and children. According to the UNIFEM [United Nations Development Fund for Women] Publication Gender Profile in the Conflict in Myanmar, poor nutrition and health care facilities have caused women in Myanmar to suffer from a high rate of maternal mortality, approximately 517 per 100,000 live births, and their children suffer from an extremely high rate of moderate malnutrition and preventable diseases.” [27a] (p43)

- 24.34 The same report added:

“... the situation is even more dire in conflict zones of eastern Burma, where official investment in health, especially reproductive health, is essentially non-existent and abuses against the predominantly non-Burman population rife, including the systematic rape of women and girls. In eastern Burma, only 4% of births are attended by skilled birth attendants, far lower than the official figure of 57% of the rest of the country... 1 in 12 women will, in the course of her lifetime, lose her life as a result of pregnancy-related causes, a figure far worse than Burma’s national figure of 1 in 75, already the worst in the region. (For comparison, this figure in neighboring Thailand is 1 in 900). This figure from eastern Burma is more comparable to countries such as Rwanda, Somalia, and Democratic Republic of the Congo. These deaths are mainly preventable, a result of post-partum hemorrhage, unsafe abortion, and obstructed delivery. Further, high fertility rates, reflecting lack of access to reproductive technologies, as well as the high

prevalence of conditions such as malnutrition and anemia, increase the risk that women die unnecessarily as a result of their pregnancies.” [27a] (p44)

- 24.35 The Women’s League of Burma report noted that abortion is illegal in Burma and as a result of this “... women turn to dangerous methods to terminate their pregnancy. The UNFPA [United Nations Population Fund] estimates that one in three pregnancies in Burma ends in abortion, with approximately 750,000 abortions being carried out each year, or about 2,000 abortions per day. It is estimated that the consequences of unsafe abortion account for around 50 per cent of maternal deaths. This number is likely to be much higher in ethnic and rural areas where women rely solely on traditional medicines and traditional doctors.” [27a] (p45)

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25. CHILDREN

OVERVIEW

- 25.01 The Foreign and Commonwealth Office (FCO) stated in its *Human Rights and Democracy Report 2010*, dated 31 March 2011, that:

“In 2010, many children in Burma continued to receive inadequate education, health care or social protection. On average, one in 10 children dies before the age of five and few more than 50% finish primary education. The use of child soldiers continued to be a problem in the Burmese military and in some armed ethnic groups. Many children work, largely owing to poverty. This is despite the UN Convention on the Rights of the Child being one of only two UN human rights conventions ratified by Burma. The Burmese authorities continued to allow UNICEF [United Nations Children’s Fund] and a number of NGOs [non governmental organisations], such as Save the Children, to operate large programmes in Burma.” [5y] (p144)

- 25.02 A report by Partners Relief & Development and Free Burma Rangers, *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)

- 25.03 The United Nations Children’s Fund (UNICEF) country website for Burma (Myanmar), accessed 16 March 2011, noted in its section *Children in Myanmar*, undated, that:

“Today in Myanmar, some inroads are being made in advancing children’s rights and improving the provision of basic social services for children. Nevertheless, disparities remain pronounced throughout the country, with children and women in remote areas often being particularly underserved.

“While progress has been made in improving children’s health through child immunization and nutrition initiatives, Myanmar [sic] continues to have high infant and under-five mortality rates, with 50% of all child deaths attributable to preventable causes. One in three children under five years of age are still malnourished, and youth are particularly vulnerable to HIV/AIDS.” [19a]

See also sub-section: [Health and welfare](#) and [Medical issues](#)

Basic legal information

25.04 The following gives an overview of Burma’s minimum age requirements:

- Under the 1993 Child Law, a child is anyone under the age of 16 and a youth is anyone over 16 years and below 18 years. (Burma Lawyers’ Council, The Child Law, 14 July 1993) [45c]
- Voting age: 18 years old. (Central Intelligence Agency (CIA) World Factbook, 4 May 2011) [6a]
- Minimum age for employment: 13 years old; however the law was not enforced. (US Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011) [7a] (Section 7d)
- Compulsory recruitment age for the military: 18 years old; however children were forcibly recruited into the army. (CIA World Factbook, 4 May 2011) [6a]
- Criminal age of responsibility: 7 years old. (Burma Lawyers’ Council, The Child Law, 14 July 1993) [45c]
- Marriage: no minimum age for boys; girls of 14 years old require parental consent. (Committee on the Rights of the Child – Concluding observations, 30 June 2004) [32b]

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LEGAL RIGHTS

25.05 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)

25.06 The USSD Report 2010 noted that according to the Burma Citizenship Law, citizenship is derived through parents, both of whom must be nationals of the country. [7a] (Section 6)

See also [Citizenship and nationality](#)

VIOLENCE AGAINST CHILDREN

25.07 The USSD Report 2010 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. The 1993 Child Law contains many provisions to protect children from abuse, sale, and other types of exploitation. The punishment for violators is up to two years' imprisonment or a fine of up to 10,000 kyat (\$10)." [7a] (Section 6)

25.08 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, 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)

25.09 The Thailand-based Human Rights Education Institute of Burma (HREIB) stated in its report *Forgotten Future: Children affected by armed conflict in Burma*, (HREIB Report) dated September 2008:

"Throughout Burma's long and protracted civil war children have been and continue to be victims of violent attacks perpetrated by members of the Tatmadaw and various NSAGs [non-state armed groups]; they are unlawfully killed during village raids and are casualties of indiscriminate landmines and explosive remnants of war (ERW). While documenting human rights violations, HREIB researchers found a range of circumstances in which children were killed or maimed. In some cases children were directly targeted, accused of supporting rebel groups. In other cases children were caught in the crossfire during active combat between the Tatmadaw (or allied groups) and opposition forces." [64a] (p14)

25.10 The same source noted:

"Increased militarization in ethnic minority and rural areas has led to rape and other forms of sexual abuse against children. Despite the challenges many documenters face, several women's rights organizations have released reports over the past few years recording the extent to which children have been sexually abused in Burma's conflict zones. Documented crimes include: attempted rape, rape, gang rape, and sexual assault. In some cases victims were also killed after suffering grave sexual abuse. In other cases children were forced to witness their mothers and sisters being raped and abused. Although the documented cases focus on incidences involving young girls, sexual violence is a problem that affects boys as well; unfortunately, such incidences are rarely reported and/or documented.

"Victims are denied their legal right to justice because a culture of impunity continues to be cultivated in Burma. Members of the Tatmadaw and non-state armed groups who perpetrate acts of rape and other forms of sexual violence are rarely prosecuted for these abuses. Laws and policies, which purport to protect the rights of young children in Burma, are futile if they are not backed with the political will of the government to enforce them." [64a] (p15)

See also [Abuses by non-government forces](#)

25.11 The Human Rights Foundation of Monland noted in a report by the Women and Child Rights Project (WCRP), *The plight of women and children in Burma*, dated September 2010, that:

“Children are forced to work on innumerable projects under harsh conditions and without pay. These include the building of army barracks, police stations, roads and state schools, clearing land, breaking and carrying rocks and many other tasks. ‘Special’ projects often require the entire village to work. Expensive fines must be paid if a villager fails to report for work. Wealthier families can sometimes bribe officials and gain exemptions, but for the vast majority of villagers, there is no choice but to send a family member to work.” [34c] (p4)

25.12 On the abduction of children, the HREIB Report stated “Children continue to be abducted because of the ongoing armed conflict in Burma. They are taken and forced to become child soldiers, porters, hard laborers, and sex slaves, mostly for Tatmadaw soldiers and commanders. They are seized from both markets and transit hubs in urban areas and from community farms and schools in rural areas.” [64a] (p16)

See also subsection: [Child soldiers](#), and Abuses by non-government armed forces: [Forced conscription](#)

CHILDCARE AND PROTECTION

25.13 The USSD Report 2010 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)

25.14 The UNICEF country website for Burma (Myanmar), accessed 16 March 2011, noted in its section *Children in Myanmar*, undated, that “Many children are employed in factories, teashops and other business enterprises where they work long hours under arduous conditions, for very little pay. Other children take to the streets to beg, some run afoul of the law, and others are conscripted despite national laws prohibiting this practice. Many of these children are vulnerable to trafficking, and many trafficked children and women are forced to work in the commercial sex industry.” [19a]

See also [Trafficking](#)

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CHILD SOLDIERS

25.15 The USSD Report 2010 observed:

“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. Authorities routinely falsified the enlistment papers of

those under age 18. According to the Office of the UN High Commissioner for Refugees (UNHCR), the army recruited children as young as 10 years old. Credible sources indicated the number of child soldiers may have risen to 12,000, although accurate statistics were difficult to obtain.” [7a] (Section 1g)

See also [Military service](#)

- 25.16 The Human Rights Education Institute of Burma (HREIB) stated in its report *Forgotten Future: Children affected by armed conflict in Burma*, (HREIB Report) dated September 2008, stated “Evidence that the Tatmadaw [army] forcibly recruits large numbers of children below the age of 18 is supported by first hand accounts from former child soldiers themselves, many of whom have testified that the majority of new recruits are children.” [64a] (p50)
- 25.17 The UN Security Council *Report of the Secretary-General on Children and armed conflict*, dated 23 April 2011, covering the period January to December 2010, stated:
- “In 2010, the [Burmese] Government shared details of a number of new military instructions issued on the prevention of underage recruitment and granted greater access to UNICEF, on behalf of the country task forces on monitoring and reporting, to recruitment units to observe recruitment procedures. This did not extend to military training schools or operational units. During these visits, greater rigour in the screening process was observed. The rejection of prospective recruits due to invalid age verification documentation or to the fact that they were underage was also observed.” [4b] (paragraph 41)
- 25.18 The same report stated that “Although these steps reflected positive progress in terms of prevention and discharge and cooperation with the country task forces on monitoring and reporting, the Government had yet to draw up a plan to systematically identify and separate children being used by the Tatmadaw Kyi, and the discharge of children continued to be undertaken on an ad hoc basis as a response to complaints.” [4b] (paragraph 43)
- 25.19 The same source added that common patterns of recruitment into the Government military units of the Tatmadaw Kyi included the targeting of:
- “...working and unaccompanied children from the streets, railway stations or other public places, although the majority of children were recruited from their homes or villages. Most cases of recruitment were of children between 15 to 17 years of age, and the majority were from Yangon division. Children continue to be persuaded or duped by relatives (working in the Tatmadaw), soldiers (to earn a promotion or other incentives) and other brokers to join the Tatmadaw. The majority of children interviewed after discharge stated that the recruiter had not requested for the age of the child, or had falsified the age of the child upon recruitment.” [4b] (paragraph 106)
- 25.20 The US Department of State *Trafficking in Persons Report 2010*, published 14 June 2010, noted in its section on Burma that:
- “The recruitment of children into the army is a criminal offense under Penal Code Section 374, which could result in imprisonment for up to one year, or a fine, or both. In December 2009, the Burmese military reported that it dismissed a captain from the military via court martial and sentenced him to one year imprisonment in a civilian jail for child soldier recruitment – the first ever criminal conviction of a military official involved in child soldier recruitment. In the same case, an additional two privates were sentenced

to three months' and one month military imprisonment, respectively. Burmese law enforcement officials generally were not able to investigate or prosecute cases of military perpetrated forced labor or child soldier recruitment absent assent from high-ranking military officers." [7d]

25.21 The UN Security Council *Report of the Secretary-General on Children and armed conflict in Myanmar*, dated 1 June 2009, 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)

25.22 The HREIB Report stated:

"Children on the frontlines of Burma's civil war are exposed to war crimes and other crimes against humanity such as rape, torture, arbitrary executions, theft and arson. Often, child soldiers are forced [to] commit crimes themselves, against civilians accused of supporting rebel groups... When child soldiers are not engaged in active combat, they are obliged to dig trenches, patrol villages, and perform domestic duties at their commanders' homes. Away from their families and friends for the first time, they experience both loneliness and depression... Many child soldiers are prohibited from contacting their friends and family or even returning home on leave. In addition to being exposed to conditions that lead to devastating emotional trauma, child soldiers are also exposed to diseases and illnesses like malaria, dysentery, and diarrhea [sic]." [64a] (p55)

25.23 The UN Security Council *Report of the Secretary-General on Children and armed conflict*, dated 23 April 2011, noted for Burma that:

"According to official reports made available by the Ministry of Foreign Affairs, 110 child soldiers (all male) were released from the Tatmadaw Kyi through Government mechanisms during the year [2010] (bringing the total of child soldiers notified as discharged to the country task forces on monitoring and reporting since 2006 to 383). Of the 110 child soldiers, 40 were released in response to complaints lodged under the supplementary understanding complaints mechanism for the elimination of forced labour of the International Labour Organization (ILO). In 2010, 184 children received reintegration support from UNICEF, Save the Children, World Vision and other child protection partners, in support of the Ministry of Social Welfare, Relief and Resettlement." [4b] (paragraph 40)

25.24 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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)

25.25 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)

25.26 The HREIB Report noted on desertion that:

"Many children choose to desert from the Tatmadaw. Although desertion may lead to freedom from the army, children must take many risks into consideration before they

decide to flee; risks include arrest, detention, and even torture. There is no formal disarmament, demobilization and reintegration (DDR) program for child soldiers in Burma and few opportunities outside the country. In fact, children who express a desire to leave military service are often scolded and told that if they wish to leave, they must find one or two recruits to replace them. Moreover, children have to take their families' future into consideration because officers may target and punish them.

"Child soldiers who flee the army have few prospects in civilian life and have to abandon the small safety net that rations from the military provide. Often alone in unfamiliar territory, deserters have few choices. They can try to make their way back home, they can try to start a new life in a new city in Burma, they can flee to IDP [internally displaced people] camps along the border, or they can emigrate to bordering countries. If they choose to try and make it back to their homes they risk arrest. If they make it to the border areas, they face an uncertain future in IDP camps with slim chances of reuniting with their family. If they make it to another country, they face a host of other problems." [64a] (p56)

- 25.27 On the recruitment of children by non-state armed groups (NSAGs), the HREIB Report noted:

"Though many, if not most, non-state armed groups have children in their ranks, it is difficult to address the issue of underage recruitment because access to these groups is limited. Moreover, NSAGs are not included in international policy making decisions and so many do not feel obligated to adhere to agreements found in UN conventions and treaties... Children who join NSAGs usually do so for vastly different reasons than children who join the Tatmadaw. Many children who voluntarily enlist with opposition groups resent the Tatmadaw and are determined to take revenge against soldiers who attacked their villages. Others, however, are recruited to fill quotas in groups that fight alongside the Tatmadaw. Some recruits are dejected youth who have few options at home and seek a sense of belonging in a group." [64a] (p57)

- 25.28 The *Report of the Secretary-General on Children and armed conflict*, dated 23 April 2011, implicated the Democratic Karen Buddhist Army (DKBA), the Kachin Independence Army (KIA), the Karen National Liberation Army (KNLA), the Karen National Union-Karen National Liberation Army Peace Council, the Karenni army, the Shan State Army-South (SSA-S), and the United Wa State Army (UWSA) as recruiters of child soldiers. [4b] (paragraphs 107-110)

See also [Military service and Abuses by non-government armed forces: Forced conscription](#)

EDUCATION

- 25.29 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011, stated that in Burma "Academic freedom is severely limited. Teachers are subject to restrictions on freedom of expression and are held accountable for the political activities of their students. Since the 1988 student prodemocracy demonstrations, the junta has sporadically closed universities and relocated many campuses to relatively isolated areas to disperse the student population." [14a]
- 25.30 The USSD Report 2010 noted that in Burma "By law education is compulsory, free, and universal through the fourth standard (approximately age 10). However, the government continued to allocate minimal resources to public education, and schools routinely

charged informal fees. Rates of school attendance were low, largely due to economic hardship.” [7a] (Section 6)

- 25.31 The UNICEF country website for Burma (Myanmar), accessed 16 March 2011, noted in its section *Children in Myanmar*, undated, that:

“Today, primary school enrollment rates are high, and more schools are being constructed. However, less than half of all children in Myanmar currently complete primary school. Many school expenses must be borne by students’ families, presenting an insurmountable financial obstacle for many impoverished [sic] households. Classroom facilities are often poor and under-equipped, and attrition rates among teachers are high due to low pay, poor working conditions and long separations from their families.” [19a]

- 25.32 The Human Rights Education Institute of Burma (HREIB) report of September 2008 stated:

“Burma’s education system is also in tatters due to long-standing neglect. Like the healthcare system, government expenditures are extremely low, accounting for just 1.3 percent of the GDP [gross domestic product]. Most children who enroll in school do not make it past the 5th grade; in fact, 57 percent of the children living in Burma do not complete primary school. However, despite ostensibly universal education policies, the number of children attending school in conflict-affected areas is much lower than in the rest of the country. Estimates figure that just 10 percent of school age children residing in Shan, Karenni and Karen states are in school, while even lesser numbers of children are able to access education in areas such as Arakan State and Wa areas of Shan State.

“Indeed, the situation in war-ravaged regions is worse. In many villages there are no schools, and children have no choices. According to Refugees International, only 3 percent of children reach high school in some conflict areas. They cannot afford to leave their communities to study in other villages, nor do they have the resources to recruit help from others. The regime’s ambivalence toward improving education, especially in conflict-affected areas, is rooted in discrimination and exclusion inherent in the SPDC’s [State Peace and Development Council] laws and policies. The SPDC forbids students in ethnic minority areas to study in their own language placing minority children at a severe disadvantage.” [64a] (p29)

- 25.33 The USSD Report 2010 stated “The government tightly controlled the limited number of private academic institutions and their curricula. Similar controls extended to Buddhist monastery-based schools, Christian seminaries, and Muslim madrassahs. In contrast with 2009, there were no reports that the government suppressed private tutoring.” [7a] (Section 2a)

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HEALTH AND WELFARE

- 25.34 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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)

- 25.35 The Human Rights Education Institute of Burma (HREIB) report of September 2008 stated:

"Health expenditures in Burma are considerably low, hovering around 0.5% of the total GDP; the Burma Campaign UK estimated in 2007 that the Burmese government spends an equivalent of 37 cents per person per year on healthcare... The country also suffers from a paucity of healthcare professionals available to attend to the urgent needs of its widely malnourished and ailing population. In 2007, the World Health Organization reported that for every 10,000 people in Burma there are only three doctors, four nurses, 0.3 dentists, and 0.4 lab technicians. Only 68% of newborn babies are delivered by qualified medical personnel. One in ten children in Burma don't live to see their fifth birthday." [64a] (p28)

- 25.36 The same source noted:

"There are few functioning hospitals and clinics to provide vaccinations making children dangerously susceptible to the diseases plaguing Burma. Pregnant women are often forced to give birth in unsanitary and hazardous conditions without the assistance of a qualified medical professional, putting both their own lives and the lives of their babies at risk. The number of children maimed by explosive ordnances are subject to further suffering when the risks of infection, excessive bleeding, and pain left untreated are exacerbated due to a lack of acceptable healthcare facilities. Children suffering from malnutrition, dehydration, diarrhea [sic] and other easily treatable health conditions are faced with the looming prospect of premature and senseless deaths." [64a] (p17)

See also [Medical issues](#) and Women: [Women's health](#)

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26. TRAFFICKING

- 26.01 The International Tribunal on Crimes Against Women of Burma, held on 2 March 2010, by the Nobel Women's Initiative in collaboration with the Women's League of Burma, reported "Over 200,000 women and girls have been trafficked from Burma to other countries in the region, particularly China, according to the National Coalition Government of the Union of Burma (NCGUB). Generally, women facing extreme poverty, lack of education or economic survival opportunities for themselves and their families are at highest risk of being trafficked." [62a] (p7)
- 26.02 The US Department of State *Trafficking in Persons Report 2010*, (USSD TiP Report 2010) published 14 June 2010, noted in its section on Burma that:

"Burma is a source country for men, women, and children who are subjected to trafficking in persons, specifically forced labor and for women and children in forced prostitution in other countries... Burma's internal trafficking remains the most serious concern. The military engages in the unlawful conscription of child soldiers, and continues to be the main perpetrator of forced labor inside Burma. The direct government and military use of forced or compulsory labor remains a widespread and

serious problem, particularly targeting members of ethnic minority groups. Military and civilian officials systematically used men, women, and children for forced labor for the development of infrastructure and state-run agricultural and commercial ventures, as well as forced portering for the military. Those living in areas with the highest military presence, including remote border areas populated by ethnic groups, are most at risk for forced labor.” [7d] (Burma)

26.03 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)

26.04 The USSD TiP Report 2010 noted that:

“The regime made efforts to protect repatriated victims of cross-border sex trafficking to China and Thailand, though it exhibited no discernible efforts to protect victims of internal trafficking and transnational labor trafficking... Burma made limited efforts to prevent international trafficking in persons over the last year, and made few discernible efforts to prevent the more prevalent internal trafficking, particularly forced labor and child conscription by regime officials and ethnic armed groups. The government continued awareness campaigns using billboards, flyers, and videos during the reporting period and state-run television aired a documentary on human trafficking produced by the MTV Exit Campaign. The Burmese government reported forming three new anti-trafficking units in 2009, and reported a 40 percent overall increase in spending on prevention efforts. During the reporting period, the government signed Memoranda of Understanding with China and Thailand on trafficking in persons.” [7d]

See also Children: [Child Soldiers](#)

26.05 The same source added:

“While forced labor is widely considered to be the most serious trafficking problem in Burma, authorities reported that most trafficking cases investigated and prosecuted involved women and girls subjected to forced marriage or intended to be subjected to forced marriage. The Burmese regime rules arbitrarily through its unilaterally imposed laws, but rule of law is absent, as is an independent judiciary that would respect trafficking victims’ rights. The Burmese regime reported investigating 155 cases of trafficking, prosecuting 410 individuals, and convicting 88 offenders in 2009, an increase from 342 reported prosecutions in 2008; however, these statistics included 12 cases of abduction for adoption, which are not considered ‘trafficking’ by international standards. Additionally, court proceedings are not open and lack due process for defendants. While the Burmese regime has in the past been known to conflate irregular migration with trafficking, leading to the punishment of consensual emigrants and those who assist them to emigrate, the police reported some efforts to exclude smuggling cases from

human trafficking figures during the reporting period, and improved their transparency in handling cases.

“Nevertheless, limited capacity and training of the police coupled with a lack of transparency in the justice system make it uncertain whether all trafficking statistics provided by authorities were indeed for trafficking cases. Corruption and lack of accountability remains pervasive in Burma, affecting all aspects of society.” [7d]

See also [Judiciary](#) and [Corruption](#)

- 26.06 Further information on the trafficking of women and children in Burma can be found in the Human Rights Foundation of Monland report by the Women and Child Rights Project (WCRP), [*Nowhere else to go: An examination of sexual trafficking and related human rights abuses in Southern Burma*](#), dated August 2009. [34d]

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27. MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

- 27.01 The Human Rights Education Institute of Burma (HREIB) report of September 2008 stated:

“Health expenditures in Burma are considerably low, hovering around 0.5% of the total GDP [Gross Domestic Product]; the Burma Campaign UK estimated in 2007 that the Burmese government spends an equivalent of 37 cents per person per year on healthcare... The country also suffers from a paucity of healthcare professionals available to attend to the urgent needs of its widely malnourished and ailing population. In 2007, the World Health Organization reported that for every 10,000 people in Burma there are only three doctors, four nurses, 0.3 dentists, and 0.4 lab technicians. Only 68% of newborn babies are delivered by qualified medical personnel. One in ten children in Burma don’t live to see their fifth birthday.” [64a] (p28)

- 27.02 The same source noted:

“There are few functioning hospitals and clinics to provide vaccinations making children dangerously susceptible to the diseases plaguing Burma. Pregnant women are often forced to give birth in unsanitary and hazardous conditions without the assistance of a qualified medical professional, putting both their own lives and the lives of their babies at risk. The number of children maimed by explosive ordnances are subject to further suffering when the risks of infection, excessive bleeding, and pain left untreated are exacerbated due to a lack of acceptable healthcare facilities. Children suffering from malnutrition, dehydration, diarrhea [sic] and other easily treatable health conditions are faced with the looming prospect of premature and senseless deaths.” [64a] (p17)

- 27.03 *The Irrawaddy* reported on 8 October 2009 that “A ministry official said the ratio of hospital beds to population is 62 beds per 100,000 people. The government has a goal of 75 beds per 100,000 people in 2010...” [26f]

- 27.04 The same article stated:

“Overall, Burmese citizens struggle to cope with medical costs, even at public facilities, and those who can afford government medical services complain of poor service and a lack of equipment and medicine. A Rangoon resident said, ‘If you are hospitalized, you have to buy cotton and gauze for yourself. The public hospitals provide nothing for you. There are some written slogans in the hospital such as ‘sharing cost for health care.’ You don’t get anything free in a public hospital. Every person in Burma knows that is [the] real situation.’” [26f]

- 27.05 The *Burma Human Rights Yearbook 2008*, published in November 2009 by the Human Rights Documentation Unit (HRDU), the research and documentation department of Burma’s government in exile, the National Coalition Government of the Union of Burma (NCGUB), stated:

“While the SPDC [State Peace and Development Council] claims to have improved healthcare facilities throughout the country, the reality is somewhat different. Though new clinics have been built in various different ethnic and rural areas, for instance in parts of Karen State, they are often the result of the forced and uncompensated labour of the local population. Moreover, once built, many village clinics stand unused as they are often left unstaffed and provided with no supplies... Meanwhile in urban areas, public hospitals are underfunded, fraught by corruption and are often unable to treat the most seriously ill. Many of the private clinics that could treat these patients are not only expensive but also often turn away patients they fear may die in the interest of protecting their reputations, even if these patients were able to pay. This was reported to have occurred in parts of Mon State in February 2008.” [51a] (p509)

See also [Corruption](#)

- 27.06 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...” [29a] (p34)

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HIV/AIDS – ANTI-RETROVIRAL TREATMENT

- 27.07 Médecins Sans Frontières (MSF) stated in its *Activity Report 2009*, published 27 July 2010, that in Burma:

“HIV/AIDS kills thousands of people every year in Myanmar because so little antiretroviral therapy (ART) is available. As many as 76,000 people are living with HIV, but only 20,000 people receive treatment, mostly from MSF. In Shan, Kachin and Rakhine states and in Yangon, the country’s largest city, MSF runs 17 HIV clinics, nine health centres and more than 30 malaria field posts. MSF also provides TB and HIV treatment and general healthcare programmes in both the rural and urban parts of the Dawei and Myiek districts in the south of the country. The programmes offer help to 700,000 people and target in particular more vulnerable people such as migrant workers and fishermen in the area. Last year [2009], MSF supplied more than 14,300 people with ART.” [41a] (p49)

- 27.08 The HRDU *Burma Human Rights Yearbook 2008* reported that, in 2007:

“... the SPDC provided care to only 1,800 and spent only US\$200,000 to combat the HIV/AIDS crisis, despite the need to spend an estimated US\$18 million just to treat those currently in need of ARTs. As a result of this extreme lack of funding, many patients must wait for a significant amount of time before receiving any form of treatment, while others die tragically while still waiting. In October 2008, it was reported that at one clinic in Rangoon, as many as 50 patients were seen queuing each morning in the hope of getting access to free ARTs. However, according to one doctor working at the clinic, only ten percent of patients ever receive ARTs; the remaining 90 percent die before they get the chance.” [51a] (p513)

27.09 The US Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, stated that “Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.” [7a] (Section 6)

27.10 However, the same source added “There existed discrimination against HIV-positive patients, although HIV activists reported that awareness campaigns helped to reduce discrimination and stigma. Some persons reportedly were reluctant to visit clinics that treat HIV/AIDS patients for fear of being suspected of having the disease.” [7a] (Section 6)

MENTAL HEALTH

27.11 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.” [25a] (p328, *Mental Health Facilities*)

27.12 The same source added:

“NGOs [non governmental organisations] 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.” [25a] (p329, *Programmes for Special Population*)

27.13 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. [25a] (p329, *Therapeutic Drugs*)

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28. HUMANITARIAN ISSUES

28.01 On 25 March 2011 British Broadcasting Corporation (BBC) News reported on a magnitude-6.8 earthquake that struck north-eastern Burma on the 24 March. The article stated that at least 75 people were reported to have been killed when the quake struck near the Lao and Thai borders. The report noted “The town of Tachileik and surrounding villages in Shan state appear to have borne the brunt of the earthquake.” [28c]

28.02 Reporting on the quake, *The Irrawaddy* stated on 28 March 2011 that:

“Hundreds of earthquake victims who were hospitalized in Tachilek on Saturday [26 March] had disappeared by Sunday, in what sources say was a Burmese government effort to downplay damage from the magnitude 7.0 tremor. On Saturday, reporters from *The Irrawaddy* visited the Tachilek Hospital and saw that it was overwhelmed by hundreds of earthquake victims, many of them forced to stay out in the open air. Hospital staff estimated at the time that about 700 patients were being treated.

“Reporters from *The Irrawaddy* returned to the hospital on Sunday [27 March], but saw no patients outside of the hospital building and only normal patients inside in numbers that totalled much fewer than the day before... Local residents said that earthquake victims were moved away from the hospital [by the authorities] after journalists visited and sent out reports, photos and video footage of the earthquake damage and casualties.” [26j]

28.03 *The Irrawaddy* added:

“Local sources said at least 200 people in the hardest-hit villages in Shan State, including the town of Tarlay, lost their life [sic]. About 30 people died in Mong Linn alone, said local residents, and drinking water, medicine, clothes and blankets were urgently needed...

“Meanwhile, hundreds of earthquake victims living in isolated Shan State villages such as Chakuni that are within areas controlled by ethnic armed groups have not yet received much needed drinking water, food, clothing, medicine or aid from government and nongovernmental organizations, said local residents... Other hard-hit areas are Yankin, Pakha, Pohalay and Bathala, all in Shan State.” [26j]

CYCLONE GIRI – OCTOBER 2010

28.04 Travel Advice for Burma, provided by the Foreign and Commonwealth Office (FCO), updated 1 March 2011, reported that “Cyclone Giri struck Burma on 22 October 2010, causing extensive damage in Burma’s Northern Rakhine state near Sittwe, with estimates of over 250,000 people being affected.” [5x] (Natural disasters)

28.05 In its Situation Report no. 4, dated 29 October 2010, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), noted that:

“According to the Government of the Republic of the Union of Myanmar, Myebon, Pauktaw, Kyaukpyu and Minbya are amongst the seven townships most affected by Cyclone GIRI, with Kyuntharyar (in Myebon) and East Phayonkar Island in Pauktaw Township most severely impacted.

“The Government confirmed that 45 people deaths have been recorded to date, while at least 10 remain missing and 49 injured. According to Government figures, 70,975 people remain homeless and at least 15,000 houses were completely destroyed, with a total of approximately 200,000 people affected. Approximately 17,500 acres of agricultural lands were also destroyed, while a large number of dykes were damaged. A total of 279 primary schools, 24 middle schools and 15 high schools were also either damaged or destroyed.” [42a]

CYCLONE NARGIS – MAY 2008

28.06 Human Rights Watch (HRW) stated in its report *“I want to help my own people” State Control and Civil Society in Burma after Cyclone Nargis*, dated 28 April 2010, that:

“Cyclone Nargis struck southern Burma on May 2-3, 2008, killing at least 140,000 people and bringing devastation to an estimated 2.4 million people in the Irrawaddy Delta and the former capital, Rangoon. The Burmese military government’s initial reaction to the cyclone shocked the world: instead of immediately allowing international humanitarian assistance to be delivered to survivors, as did countries affected by the 2004 Indian Ocean tsunami, the ruling State Peace and Development Council (SPDC) prevented both foreign disaster relief workers and urgently needed relief supplies from entering the delta during the crucial first weeks after the cyclone.

“The military government blocked large-scale international relief efforts by delaying the issuance of visas to aid workers, prohibiting foreign helicopters and boats from making deliveries to support the relief operation, obstructing travel by aid agencies to affected areas, and preventing local and international media from freely reporting from the disaster area. Rather than prioritizing the lives and well-being of the affected population, the military government’s actions were dictated by hostility to the international community, participation in the diversion of aid, and an obsession with holding a manipulated referendum on a long-delayed constitution.” [39g] (Summary)

28.07 The United Nations Integrated Regional Information Networks (IRIN) reported on 3 May 2011 that thousands of people still required shelter and assistance three years after Cyclone Nargis struck. The report noted:

“The UN Human Settlements Programme (UN-HABITAT) estimates some 375,000 people (75,000 households) need housing across the south, 36 months after the worst natural disaster to strike the Southeast Asian nation. A recent survey by the UN International Strategy for Disaster Reduction (ISDR) reported that at least 62 percent of households in the delta still live in shelters that are not disaster resistant... just 175,000 households have received any kind of assistance from the UN, government or NGOs [non governmental organisations], including 65,000 fully constructed units, with the rest receiving repair assistance in the range of \$80 to \$120 per family. According to UN-HABITAT, more funding is needed for the shelter sector, with the minimum cost of a disaster-resilient shelter about \$600. A \$300 shelter lasts for two monsoon seasons, one costing \$600 for seven to nine years and a \$1,000 shelter for 10 to 12 years.” [49c]

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29. FREEDOM OF MOVEMENT

29.01 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, stated for Burma that:

“There are no laws explicitly protecting freedom of movement within the country, foreign travel, emigration, and repatriation. However, there are regional- and local-level orders, directives, and instructions restricting freedom of movement. The government did not fully cooperate with the UNHCR [United Nations High Commissioner for Refugees] and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

“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 strict 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 Rohingya, especially in Buthidaung, Kyauktaw, Maungdaw, and Rathedaung townships along the border with Bangladesh. Muslim youths 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.” [7a] (Section 2d)

See also [Exit and return](#), [Freedom of religion](#), [Ethnic groups](#), and [Internally displaced persons \(IDPs\)](#)

29.02 The same report noted:

“The law requires that persons who intend to spend the night at a place other than their registered domicile must inform local Peace and Development Council authorities in advance. Any household that hosts a person not domiciled there must maintain a guest list and submit it to authorities. Ward-level officials continued unannounced nighttime checks of residences for unregistered visitors. In contrast with 2009, there were no reports that the government required family photographs. Previously, authorities in Rangoon Division sporadically required households to have ‘family photographs’ taken for government agents to use when conducting nighttime checks of residences.” [7a] (Section 1f)

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30. INTERNALLY DISPLACED PERSONS (IDPs)

30.01 In its report *Myanmar: Increasing displacement as fighting resumes in the east – A profile of the internal displacement situation*, dated 29 January 2010, the Internal Displacement Monitoring Centre (IDMC) noted that, as estimated at November 2009:

- “The scale of internal displacement, especially in government-controlled areas of Myanmar, remains unknown due to the political sensitivities of the government;
- Estimates of the total number of internally displaced persons in Myanmar vary between one and four million;
- Displacement is believed to be widespread with close to half a million people displaced internally on the eastern border alone over the last decade;
- A million people are estimated to have become internally displaced across Myanmar over the past decade;
- An estimated three million people have been forced to migrate within and outside of Myanmar due to conflict, persecution, human rights violations and repressive government measures.” [35a] (p110)

30.02 The Thai Burma Border Consortium (TBBC) stated in its report *Protracted Displacement and Chronic Poverty In Eastern Burma / Myanmar*, dated 28 October 2010, that:

“... at least 73,000 people were forced to leave their homes in eastern Burma between August 2009 and July 2010. The highest rates of displacement were reported in northern Karen areas, where over 26,000 villagers were forced from their homes by Burmese Army artillery attacks against civilians and by forced eviction orders. More than 8,000 villagers in southern Mon areas also fled from their homes as a result of instability and conflict induced by the Border Guard Force conversion orders and by forced relocations.

“TBBC’s partner agencies have documented the destruction, forced relocation or abandonment of more than 3,600 civilian settlements in eastern Burma since 1996, including 113 villages and hiding sites during the past year. Coercive practices by armed forces have also undermined livelihoods and contributed to at least 446,000 people being internally displaced in the rural areas of eastern Burma at the end of 2010. As this conservative estimate only covers 37 townships and discounts urban areas, it is likely that well over half a million internally displaced persons remain in eastern Burma.” [23a] (p3)

30.03 Amnesty International gave some accounts of the forced displacement of ethnic minority groups in Burma, in its *Annual Report 2011: The state of the world’s human rights*, published 12 May 2011 and covering 2010 events. [12e] (Forced displacement)

30.04 The Human Rights Watch (HRW) *World Report 2011*, dated 24 January 2011, stated “Approximately half-a-million people are internally displaced due to conflict in eastern Burma, with more than 140,000 refugees in camps in Thailand. In Bangladesh, there are 28,000 Rohingya refugees in official camps, and another 200,000 live in makeshift settlements or mixed in with the local population around border areas. Millions of Burmese migrant workers, refugees, and asylum seekers live in Thailand, India, Bangladesh, Malaysia, and Singapore.” [39e] (Ethnic Conflict, Displacement, and Refugees)

30.05 The US Commission on International Religious Freedom *Annual Report 2011* (USCIRF Report 2011), published 28 April 2011 and covering the period 1 April 2010 to 31 March 2011, noted, with regards to Rohingya refugees living in camps, that “They often live in squalid conditions and face discrimination, trafficking, and other hardships. They also have faced forced repatriation to Burma from Bangladesh, and Thailand has pushed the boats of Rohingya asylum seekers back out to sea.” [9a] (p37)

See also Freedom of Religion: [Muslims](#) and Ethnic groups: [Rohingya](#)

31. CITIZENSHIP AND NATIONALITY

31.01 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, 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 Muslim Rohingya fared the worst, with nearly all Rohingya denied any benefits of citizenship.” [7a] (Section 2d)

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

31.02 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, 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)

31.03 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]

31.04 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]

31.05 The United Nations High Commissioner for Refugee’s (UNHCR) Refworld, accessed 21 March 2011, provided an unofficial translation of the [Burma Citizenship Law, 15 October 1982](#). [11a]

IDENTITY CARDS

31.06 The Thai Burma Border Consortium (TBBC) reported in October 2005 that:

“By Burmese law, all adult citizens should be issued with national registration identity cards while all babies born in hospitals should be registered. Identity cards are essential to purchase tickets for long-distance travel, pass checkpoints for local travel and for further education, while birth registration cards can at least vouch for a person’s identity. Legal insecurity amongst internally displaced and conflict affected populations in eastern Burma is reflected by half of respondents possessing neither an identity nor birth registration card. 44% of the surveyed population have an identity card, but this proportion drops to just 12% amongst those civilians in hiding.” [23b]

31.07 The USSD IRF Report 2010 noted:

“Citizens and permanent residents were required to carry government issued National Registration Cards (NRCs) that often indicated religious affiliation and ethnicity. There appeared to be no consistent criteria governing whether a person’s religion was indicated on the card. Citizens also were required to indicate their religion on certain official application forms for documents such as passports, although passports themselves do not indicate the bearer’s religion. Members of many ethnic and religious minorities faced problems obtaining NRCs, Muslims even more than others.” [7b] (Section II)

31.08 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):

“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 [an] 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]

- 31.09 A Foreign and Commonwealth Official (FCO) official at the British Embassy in Burma stated, with regards to a certificate of identity, in a letter dated 2 February 2011, that “On the first, the Embassy’s understanding is that a certificate of identity is a Burmese passport issued by Embassies if a Myanmar/Burmese citizen loses their passport. It is a low quality coloured A4 sized paper with photo and is different from the normal ID card. ID cards are much smaller, laminated cards, and are required by every Myanmar citizen over the age of 12 if they want to travel even within Burma.” [5o]

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32. FORGED AND FRAUDULENTLY OBTAINED OFFICIAL DOCUMENTS

- 32.01 The United States Department of State (USSD) listed, in its Burma Reciprocity Schedule, accessed 1 February 2011, 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

- 32.02 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]

- 32.03 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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33. EXIT AND RETURN

33.01 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

33.02 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, 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 less than 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 (\$400).

“The government regularly declined to issue passports to former political prisoners, activists, and some local staff of foreign embassies. College graduates who obtain a passport (except for certain government employees) are 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)

33.03 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]

33.04 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 subsection: Passport issuance and Departure ('D') forms

- 33.05 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

- 33.06 The Immigration and Refugee Board of Canada (IRB) noted in a Response to Information Request dated 15 May 2007 that, according to the Burmese Ministry of Home Affairs website, 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 applying, a “national scrutinization card” and “family members’ registration list” must be provided in all cases. For business passports applicants must produce company documents and relevant licenses; those applying for an employment passport must produce an “appointment letter from abroad”. [37d]
- 33.07 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. [5l]
- 33.08 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]
- 33.09 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]
- 33.10 In its Response to Information Request dated 17 May 2007 the IRB reported that the Ministry of Home Affairs website noted:
- “...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 Myanmar citizenship and become a citizen of another country, ‘the invitation letter must be endorsed by the Myanmar embassy concerned’. If the applicant is a civil servant, he or she must provide proof of leave.” [37d]
- 33.11 The same source stated that all those seeking a passport must submit their application in person; however an exception was made to those who are “old” or in poor health, in which case they may send a person to submit the application on their behalf. [37d]

- 33.12 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. [51] [Costs were approximate as of 11 January 2008]
- 33.13 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)
- 33.14 The IRB stated that according to the Burmese Home Affairs website the passport application is subject to security clearance and took an estimated 45 days to issue. [37d]
- 33.15 The *Burma Human Rights Yearbook 2008*, published in November 2009 by the Human Rights Documentation Unit (HRDU), the research and documentation department of Burma's government in exile, the National Coalition Government of the Union of Burma (NCGUB), stated “Despite the high costs associated with obtaining a passport, as of October 2008, the Burmese passport office, located in Pansodan St in central Rangoon, was processing between 8-10,000 passports per month, with an average waiting time of around 40 days. [51a] (p635)
- 33.16 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)
- 33.17 The USSD Report 2010 observed that passports were often revoked by the authorities for political reasons. [7a] (Section 2d) The same report added “The government regularly declined to issue passports to former political prisoners, activists, and some local staff of foreign embassies. College graduates who obtain a passport (except for certain government employees) are 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 2b)

33.18 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." [51]

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ENTERING BURMA

33.19 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. [51] 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. [51]

33.20 The HRDU *Burma Human Rights Yearbook 2008* stated that, in accordance with the regulations given in the Burma Passport Act (2) and the Burma Immigration (Emergency Provisions Act) (2), "...anyone who has left the country without a passport and is caught returning can be imprisoned for up to 5 years." [51a] (p636)

33.21 A Foreign and Commonwealth Official (FCO) official at the British Embassy in Burma stated, with regards to a certificate of identity, in a letter dated 2 February 2011, that:

"A person holding a certificate of identity will be able to travel (e.g. buy plane tickets etc) to Burma. On arrival they are likely to be subjected to questioning from immigration authorities over the lack of passport. This could include being taken to an interrogation centre, where practices such as sleep and food deprivation are known to have occurred, although not necessarily. If no evidence of past crimes or political activity is found, then no action will be taken.

"A person with only a Myanmar ID card would not be able to buy plane tickets etc. If they arrived at Yangon airport they would certainly be held for questioning, as above, and, even if no charges were held against him/her, they would not be permitted to hold a passport again in the future (unless they have connections/give sufficient bribes etc). Questions would be asked about how they had left Burma in the first place. If found to have exited illegally, they could be charged under the illegal immigration law, and subject to a prison sentence." [50]

33.22 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]

See also subsection: [Failed asylum seekers](#)

33.23 Regarding an individual's 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)

33.24 The USSD Report 2010 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)

FAILED ASYLUM SEEKERS

33.25 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... and that monitors human rights cases in Myanmar... 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 [United Nations High Commissioner for Refugees] 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]

33.26 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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34. EMPLOYMENT RIGHTS

34.01 In its report *The Global State of Worker's Rights*, dated 31 August 2010, Freedom House rated Burma as “very repressive”. The report noted:

“Burma’s military junta regularly violates workers’ rights and represses union activity. Independent trade unions, collective bargaining, and strikes are illegal, and labor activists are routinely arrested. Several labor activists are serving decades-long prison terms. Some public-sector workers and ordinary citizens are compelled to join the Union Solidarity and Development Association (USDA), a government-controlled mass organization.

“Membership in domestic and international unions is effectively prohibited. The junta designated the Federation of Trade Unions-Burma (FTUB) as a terrorist organization in 2006 and continues to criminalize contact with the group. The government has also outlawed the Seafarers’ Union of Burma (SUB), an affiliate of the FTUB, and prevents seafaring workers from joining the International Transport Workers’ Federation.

“While Burmese labor law forbids strikes, local protests by employees at large factories do occur. They are usually resolved without government involvement and sometimes result in higher wages.

“Despite the ban on collective bargaining, some worker-management negotiations take place through Workers’ Supervision Committees (WSC) in government-designated industrial zones. Composed of four workers and chaired by the factory owner, WSCs meet monthly to discuss grievances. The worker representatives are usually chosen by

management. If a dispute cannot be settled at the factory level, township-level labor authorities and possibly the Ministry of Labor will intervene.

“International observers have confirmed that the government and military still use forced labor, despite having banned the practice in 2000. The junta typically targets ethnic minorities for work on roads or military infrastructure projects. The International Labour Organization attempts to eliminate forced labor through monitoring and the investigation of complaints, which it carries out in conjunction with the government through a Supplementary Understanding Agreement (extended in 2009).” [14b] (p14)

34.02 The US Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, stated for Burma that:

“The law prescribes a five-day, 35-hour workweek for employees in the public sector and a six-day, 44-hour workweek for private sector employees, with overtime paid for additional work. Factory workers at state-owned enterprises must work 44 to 48 hours per week, depending on the type of factory. The law also allows for a 24-hour rest period per week, and workers are permitted 21 paid holidays per year; however, in practice such provisions benefited only a small portion of the labor force, since most workers were engaged in rural agriculture or the informal sector. The laws were generally enforced in the government sector, but there were frequent violations by private enterprises. There were reports that workers at garment factories near Rangoon were forced to work long hours without receiving overtime pay and were dismissed for being absent from work for more than three days due to sickness.” [7a] (Section 7e)

34.03 With regards to wages, the USSD Report 2010 added:

“Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The Ministry of Finance and Revenue sets the minimum wage. It was not clear what methodology or process it uses. The minimum monthly wage for salaried public employees remained on par with the market monthly wage of 30,000 to 45,000 kyat (\$30 to \$45) for what was in effect an eight-hour workday. The rate for day laborers was 1,000 kyat (\$1) per day. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned by senior officials provided a worker and family with a decent standard of living. Low real wages in the public sector fostered widespread corruption and absenteeism. In the private sector, urban laborers performing unskilled work earned 1,000 to 3,000 kyat (\$1 to \$3) per day, while rural agricultural workers generally earned less. Skilled workers in the private sector tended to earn somewhat more than rural agricultural workers and urban laborers; for example, a skilled factory worker earned 30,000 to 50,000 kyat (\$30 to \$50) per month, according to private-sector employers.” [7a] (Section 7e)

See also [Economy](#)

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Annex A

CHRONOLOGY OF MAJOR EVENTS

Reproduced from the [BBC Timeline](#), last updated 30 March 2011 [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.

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. National League for Democracy (NLD) leader Aung San Suu Kyi, the daughter of Aung San, is put under house arrest.

Thwarted elections

1990 Opposition 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.

Improving border relations

- 2001** 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

- 2004** 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.
- 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

2007 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 protestors.

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.

2008 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

2009 May – The European Union (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.

NLD votes to boycott polls. Splinter party – National Democratic Front (NDF) – later gains legal status and plans to compete in polls.

October – Government changes country’s flag, national anthem and official name.

Staged election**2010**

November – Main military-backed party, the Union Solidarity and Development Party (USDP), claims resounding victory in first election for 20 years. Opposition groups allege widespread fraud and the election is widely condemned as a sham. The junta says the election marks the transition from military rule to a civilian democracy.

A week after the election, Aung San Suu Kyi – who had been prevented from taking part – is released from house arrest.

2011

January – Government authorises internet connection for Aung San Suu Kyi.

March – Thein Sein is sworn in as president of a new, nominally civilian government. [28b]

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Annex B

POLITICAL ORGANISATIONS (LISTED ALPHABETICALLY)

Chin National Party

The Irrawaddy reported on 7 April 2010 that the Chin National Party, led by Zo Zem (aka) Zin Kyne Paw, and with constituencies in Chin State and other Chin-populated areas “Views the 2010 election as a political exit from the current deadlock.” Its aim was “To prioritize the development of the ethnic nationalities to achieve peace and development in the country. The party believes in the necessity of building national peace among all stakeholders. The basic political agenda of the party is to fulfill the welfare of the people through democracy.” [26h]

Democratic Party

Jane’s Sentinel Security Assessment, updated 11 January 2011, noted:

“Founded by U Thu Wai, the Democratic Party (Myanmar)’s leadership consists mainly of the sons and daughters of key figures of past democratically elected governments, including Daw Than Than Nu (daughter of former prime minister U Nu), Daw Nay Yee Ba Swe and Nay Phoo Ba Swe (daughter and son of former prime minister U Ba Swe), as well as the daughter of former deputy prime minister I Kyaw Nyien, Daw Cho Cho Kyaw Nyien... After contesting the 7 November 2010 polls, the party protested the results, arguing that the election was rigged by the junta.” [8a] (Internal Affairs: Political parties)

Democracy and Peace Party

Led by “Aung Than (a high court attorney who was the joint-secretary of the League for Democracy and Peace central think tank committee. In the 1990 election, he contested as an LDP candidate representing Pabedan Township.), *The Irrawaddy* stated on 7 April 2010 that “The Party will implement an open market system with free trade competition to help move away from state capitalism. In order to solve the issue of poverty in society, the party will initiate a Micro-Finance Society among the rural population by forming an Association for the Promotion of the People’s Social and Economic Life at the village level.” [26h]

Kayin People’s Party (KPP)

The Irrawaddy noted on 7 April 2010 that the leaders of the nationwide KPP were “Saw Htun Myint Aung and Dr. Saw Simon Tha (a physician who acted as a negotiator during peace talks between the Karen National Union rebel group and the military government). He is also the current chairman of the Rangoon-based Karen Development Committee.” The Party’s aim was “To reform political, economic and governance systems, to work for the people to achieve all the rights prescribed by the 2008 Constitution and to bring fairness to social and economic systems.” [26h]

National Democratic Force (NDF)

Jane’s noted:

“The NDF was formed in early 2010 by former members of the NLD, after it was dissolved. Led by Than Nyein, it pursues a policy platform which attempts to resolve Myanmar’s problems by focusing on constitutional issues that sideline ethnic minorities and prevent democratic rule, while also campaigning for human rights. The NDF disagreed with Aung San Suu Kyi’s recommendation to boycott the 7 November 2010 polls and decided to make the most of the limited political space that was available to it. However, after the polls the NDF alleged electoral fraud and voter intimidation and is now protesting the results.” [8a] (Internal Affairs: Political parties)

National League for Democracy (NLD)

Jane's noted:

"The NLD was established on 28 September 1988. Led by Aung San Suu Kyi, it quickly emerged as the most important political player in opposition to the military government... The NLD won a landslide victory in the 1990 elections but was never allowed to take office.

"Until May 2010, Myanmar's opposition movement has largely been centred on the NLD. However, the NLD's Central Executive Committee's strategic decision not to re-register for the general election on 7 November 2010, as a protest against a raft of restrictive electoral laws, led to the party's forced dissolution the day after the 6 May deadline (as stipulated under the Political Parties Registration Law). The election law, published in early March 2010, would have required the party to prevent and remove anyone convicted of a crime from joining the party, including Aung San Suu Kyi and a large number of other NLD members held in detention for their political beliefs. It would have also required the party to accept the military-drawn 2008 draft constitution and depart from its long-standing demand that the SPDC recognise the 1990 election result.

"Aung San Suu Kyi was released from house arrest in November 2010 days after elections were held." [8a] (Internal Affairs: Political parties)

National Political Alliance

As noted by *The Irrawaddy*, dated 7 April 2010, the leader was:

"Tin Tun Maung (an elected-member of parliament from the National League for Democracy in the 1990 election. When the NLD boycotted the junta-organized National Convention in 1995, he opposed the NLD's decision and continued to attend the convention. Consequently, he was expelled as a member of the NLD.) The party set three primary goals to contest the election: To gain peace, democracy and the higher living standard of the people. The party will encourage citizens to accumulate wealth through the expansion of the private sector in the economy and will ensure the equal distribution of wealth among the citizens by adopting laws and regulations. The party will effectively exercise the checks and balances system provided by the Constitution." [26h]

National Unity Party (NUP)

Jane's reported:

"Founded by former members of the Burma Socialist Programme Party (BSPP), the NUP is widely regarded as another proxy for the military junta. The NUP contested the 1990 election, and suffered a major defeat against the National League for Democracy, although the results were never acknowledged by the ruling junta. While the NUP largely disappeared from the public eye over the next two decades, it re-emerged to run in the 7 November 2010 general election, registering a total of 993 candidates. The NUP is likely to emerge as the second largest party after the USDP in the Pyidaungsu Hluttaw [National Parliament], although it is unlikely to account for more than 10 per cent of seats." [8a] (Internal Affairs: Political parties)

New Era People's Party

As noted by *The Irrawaddy*, dated 7 April 2010, the party was led by "Htun Aung Kyaw (secretary of the Unity and Development Party, which contested in the 1990 election, although it did not win any seats. The party was disbanded by the junta in 1992. Htun Aung Kyaw was the personal secretary of Thakhin Soe, the former leader of the Burmese Communist Party (Red

Flag). Party principles are based on scientific reasoning, knowledge and theory, rather than blind faiths and unsystematic analysis.” [26h]

Shan Nationalities Democratic Party (SNDP)

The Irrawaddy noted on 7 April 2010 that the leader of the SNDP was “Sai Eik Paung (a former leader of Shan National League for Democracy (SNLD), which won 23 seats in Shan State in the 1990 election but decided not to re-register and contest the election. SNLD leader Khun Htun Oo is currently detained in prison and serving a prison sentence of nearly one hundred years.)” The Party was nationwide but targeted Shan-populated areas. Its aim was “To work to maintain the literature, culture and tradition of the ethnic nationalities. The party will avoid confrontation and opposition in politics and instead, seek opportunities for productive and positive results in the viable framework.” [26h]

Peace and Diversity Party (PDP)

The Irrawaddy noted on 7 April 2010 that the leaders of the PDP were Nyo Min Lwin and Nay Myo Wai with the aim of “Humanist Democratic Nationalism (to avoid practicing a political ideology based on a particular class or nationalism based on race, race or religion). Will support democracy and a government elected by the people.” [26h]

Union of Myanmar Federation of National Politics

The party leader was “Aye Lwin (formerly a student involved in the 1988 democratic uprising and an ex-political prisoner.)” with an aim “To promote freedom, democracy and the human rights of the people; to enhance the role of civilians in politics; and to encourage market economy, free competition and foreign investments.” (*The Irrawaddy*, 7 April 2010) [26h]

United Solidarity and Development Party (USDP)

Jane’s noted that in April 2010:

“The USDP was transformed from the pro-military Union Solidarity and Development Association (USDA), which was the country’s largest social organisation with an alleged membership of 24.6 million. Since 1993 the USDA has been recruited and sponsored by the ruling military government, the State Peace and Development Council (SPDC). Its main purpose until now has been to attract civilian support for the military and its policies, especially at times when it has faced opposition. The newly formed USDP was the SPDC’s vehicle in the 7 November 2010 general election, and with 1,163 registered candidates was the largest competitor. Two days after the election it claimed to have won around 80 per cent of the seats available.” [8a] (Internal Affairs: Political parties)

Wonthanu NLD (The Union of Myanmar)

A regional party with the Leaders Htay Aung and Nan Shwe Kyar. *The Irrawaddy*, dated 7 April 2010 noted that the Party’s aim was “To achieve the party’s goal of ‘the unity of all the nationalities,’ it will practice democratic principles: to build a free, fair market economy to revitalize [sic] the national economy; to build a modern education system to catch up with the world; to prioritize the free national health care system without discrimination across the country. Priority will be given to the health care of mothers and children for the betterment of the new generation.” [26h]

88 Generation Student Youths (Union of Myanmar)

The Irrawaddy, dated 7 April 2010 noted the leader as “Ye Tun (formerly a student involved in the 1988 democratic uprising and an ex-political prisoner, Ye Tun is the younger brother of Aye Lwin, the leader of the Union of Myanmar Federation of National Politics.)” with an aim “To modernize the systems of the nation in areas such as politics, economy, defense, legislature,

governance, justice, mass media, education, health, land, finance and environmental conservation. To develop the languages, literature and culture of the ethnic nationalities and to encourage the formation of civil society organizations.” [26h]

[NB: not to be confused with the dissident student group 88 Generation Students – see Political affiliation – [Dissident groups](#)]

The Irrawaddy, dated 7 April 2010, also listed the other political parties who applied to contest the election:

“Pa-O National Organization (PNO)
Union Democratic Party
Taaung (Palaung) National Party
Wa Democratic Party
Mro or Khami National Solidarity Organization (MKNSO)
Lahu National Development Party
Phalon Sawaw Democratic Party
Chin Progressive Party
Kayan National Party
National Democratic Party for Development
The Rakhine State National Force of Myanmar
The ‘Wa’ National Unity Party
The Inn National Development Party
Kokang Democracy and Unity Party
All Mon Region Democracy Party
United Democratic Party
Rakhine Nationals Development Party (RNDP)
Ethnic National Development Party (ENDP)
Khami National Development Party
Kaman National Progressive Party
Unity and Democracy Party of Kachin State (UDPKS)
National Development and Peace Party
Kayin State Democracy and Development Party.” [26h]

Further information on political parties registered to contest the November 2010 elections can also be found at [Altsean-Burma](#). [65a]

See Recent developments (November 2010 – March 2011): [November 2010 elections](#) for election results.

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Annex C

PROMINENT PEOPLE

President	Thein Sein (former Prime Minister)
Vice-Presidents	Lieutenant-General Tin Aung Myint Oo and Sai Mauk Kham
	(Economist Intelligence Unit, 1 March 2011) [46f]
Minister of Border Affairs	Hla Min (Maj. Gen)
Minister of Defence	Ko Ko (Lt. Gen)
Minister of Agriculture, Fishery & Livestock	Thein Htike (Ex-Lt. Gen)
Minister of Science & Technology	Thein Htay (Maj. Gen)
Minister of Immigration & Social	Soe Maung (Ex-Lt. Gen)
Minister of Sports	Aye Myint (Ex-Brig. Gen)
Minister of Finance & Planning	Hla Tun (Ex-Maj. Gen)
Minister of Foreign Affairs	Wunna Maung Lwin (Ex-Col)
Minister of Health	Dr Pe Thet Khin
Minister of Railways	Aung Min (Ex-Maj. Gen)
Minister of Home Affairs	Khin Yee (Ex-Brig. Gen)
Minister of Hotel & Tourism	Myint Hlaing (Ex-Lt. Gen)
Minister of Religious Affairs	Thura U Myint Maung (Ex-Brig. Gen)
Minister of Commerce	Tin Naing Thein (Brig. Gen)
Minister of Education	Dr Mya Aye
Minister of Economic Development	Win Myint
Minister of Transport	Nyan Htun Aung (Ex-Col) (Air Force)
	(Network Myanmar, undated) [66a]

PROMINENT PEOPLE OUTSIDE OF THE GOVERNMENT

Aung San Suu Kyi

Born in 1945 and leader of the National League for Democracy (NLD) following its inception in 1988, Aung San Suu Kyi symbolises the struggle of Burma's people to be free. She has spent more than 15 years of the last 21 years in detention, most of it under house arrest. She was released from her current third period of detention on 13 November 2010. (Burma Campaign UK, A biography of Aung San Suu Kyi, undated) [53b]

See also Recent developments (November 2010 – March 2011): [Release of Aung San Suu Kyi](#) and Political affiliation: [National League for Democracy \(NLD\)](#)

Khun Htun Oo

Chairman of the Shan Nationalities League for Democracy (SNLD) and currently serving 95 years in prison for treason, setting up an illegal group and violation of the 5/96 Law prohibiting people from criticizing the Constitution. Suffering from ill health worsened by lack of exercise and appropriate medical treatment. (Assistance Association of Political Prisoners (Burma) (AAPP), 2010 Annual Report, 14 January 2011) [44b]

Zargana

“... one of Burma’s most famous comedians and actors, is a long-time opponent of military rule who has in recent years become a high-profile activist and relief worker, assisting many sick and impoverished Burmese who have been further marginalized by the military’s self-serving development policies.” (Human Rights Watch (HRW), *Burma’s Forgotten Prisoners*, 16 September 2009) [39f] (Secret trials of political prisoners in late 2008)

U Gambira

“...a young Buddhist monk who played a key role in the 2007 demonstrations, emblematic of widespread discontent among young people over declining living standards and repressive military rule.” (HRW, *Burma’s Forgotten Prisoners*, 16 September 2009) [39f] (Secret trials of political prisoners in late 2008) U Gambira is serving 63 years in prison, suffering from malaria and receiving insufficient medication for the disease. (AAPP, 2010 Annual Report, 14 January 2011) [44b]

Su Su Nway

“... a woman from Burma’s rural heartland, challenged Burmese authorities in 2005 when she protested being forced to build a road in her town and was thrown in prison for it. She has since become one of the most bold and outspoken labor activists in the country.” (HRW, *Burma’s Forgotten Prisoners*, 16 September 2009) [39f] (Secret trials of political prisoners in late 2008) Su Su Nway is now serving eight and a half years in a prison 1,600 km from her family home. (Amnesty International, 8 November 2010) [12f]

Min Ko Naing

Born in 1962, former chairman of the All Burma Federation of Student Unions (ABFSU) and a leading member of the 88 Generation Students, Min Ko Naing spent between 1989 and 2004 in prison for participating in the student-led uprising of 1988. He was rearrested in 2007 for his part in the Saffron Revolution and given a 65 year sentence in a remote prison in Shan State. His family claims he is suffering from ill health. (*The Irrawaddy*, 18 October 2010) [26i]

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

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Annex D

LIST OF ABBREVIATIONS

AHRC	Asian Human Rights Commission
AI	Amnesty International
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
CSW	Christian Solidarity Worldwide
EU	European Union
FCO	Foreign and Commonwealth Office (UK)
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRDU	Human Rights Documentation Unit
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IDMC	Internal Displacement Monitoring Centre
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
MSF	Médecins sans Frontières
NGO	Non Governmental Organisation
NLD	National League for Democracy
NSAG	Non-State Armed Group
OCHA	Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the High Commissioner for Human Rights
PHR	Physicians for Human Rights
RSF	Reporters sans Frontières
SDPC	State Peace and Development Council
STD	Sexually Transmitted Disease
TB	Tuberculosis
TBBC	Thai Burma Border Consortium
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
USSD	United States Department of State
WHO	World Health Organization

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