

MYANMAR SINCE THE 2nd UPR CYCLE

During the 2nd Universal Periodic Review in 2015, Myanmar received 281 recommendations. 166 were “accepted” and 15 were “noted.”

1. Ratifications and Cooperation with the UN System — Myanmar has ratified four out of nine core international human rights treaties. Following the last UPR Cycle, Myanmar acceded to the International Covenant on Economic, Social and Cultural Rights in 2017. Myanmar has refused cooperation with the UN Special Procedures. No visits have been conducted since the 2nd UPR cycle. Myanmar blocked investigations by the Human Rights Council-mandated Independent International Fact-Finding Mission into alleged human rights violations committed by security forces, and the International Criminal Court’s probe for crimes against humanity including persecution, violence and forced deportation. In a landmark decision in January 2020, the International Court of Justice issued four specific provisional measures and ordered Myanmar to take immediate steps to prevent genocide of the Rohingya minority.

2. Freedom of Religion — Myanmar accepted previous recommendations to end discrimination against all ethnic and religious minorities. However, the government has perpetuated oppressive policies, inciting violence, hate speech and discrimination towards minority groups. The four Race and Religious Protection Laws regulate interfaith marriages, conversion and reproductive practices of minorities. Reports have been made of forced conversions and destruction of religious sites. The National Interfaith Council promotes Buddhism with little representation from other groups.

3. Freedom of Expression and Assembly — Myanmar accepted half the recommendations from the last cycle, but has not implemented them. The National Record and Archive Bill allows the government to keep human rights violations private for up to 30 years. Journalists, activists and artists are often targeted for advocacy and anti-war actions, and are not allowed to assemble. Internet shutdowns are also an issue, with restricted internet access in five townships. Government bodies fail to be transparent and accessible to citizens.

4. Citizenship — During the 2nd UPR Cycle Myanmar accepted a recommendation by France to “accelerate citizenship verification processes so that populations now deprived of identity documents do not remain in an illegal situation.” The government also noted 16 recommendations. Five of them urged Myanmar to review or repeal the 1982 Citizenship Law, which violates Myanmar’s obligations under international law and created conditions that promoted statelessness, in particular for the Muslim minority of Rakhine State.

5. Armed Conflict and Peace — Myanmar previously committed to scale up the national reconciliation process to include women, ethnic groups, refugees and internally displaced persons. However, violent armed conflict has continued between government forces and various ethnic armed groups. The state denies mass human rights violations against ethnic minorities, including extrajudicial killings, shelling, forced labour and sexual violence. Despite Myanmar’s commitments, international aid remains blocked.

RECOMMENDATIONS

1. Ratify the ICCPR, Convention Against Torture, Convention on the Elimination of All Forms of Racial Discrimination, Convention on Enforced Disappearances and Convention on Migrant Workers, following accepted recommendations during the 2nd UPR Cycle.

2. Amend or repeal all laws or provisions that target freedom of expression, including but not limited to the Telecommunications Law, News Media Law, Printing and Publication Law, Peaceful Assembly and Peaceful Procession Law, Privacy Law and penal codes to align them with international human rights standards.

3. Eliminate all forms of restrictions, officially or arbitrarily imposed on all religious expression or customs, especially Muslim and Christian practices both in worship places and at homes.

4. • Repeal and replace the 1982 Citizenship Law in accordance with international human rights law. Eliminate requirements for citizenship that discriminate on the basis of race, religion, ethnicity or any other protected status.

5. Declare a nationwide ceasefire and withdraw all state troops from ethnic areas within the next 12 months. In demilitarization, develop and train the military in acceptable protocols to safeguard the rights of minorities and vulnerable groups.

6. Gender & LGBTI — Myanmar accepted 17 recommendations related to gender equality, rights of women and LGBTIQI people, mostly to reform laws to comply with the Convention on the Elimination of All Forms of Discrimination Against Women. Myanmar also launched a 10-year National Strategic Plan for the Advancement of Women. However gender-based violence, including sexual violence and harassment, is still widespread. The Prevention of Violence Against Women bill, drafted before the 2nd UPR cycle, has not yet been passed into law. Myanmar has also failed to amend laws and undertake necessary judicial reforms to protect the rights of members of the LGBTIQI community. Common human rights violations include discrimination based on sexual orientation, gender identity or expression, domestic and gender-based violence, public and workplace harassment, arbitrary detention, and restrictions on accessing public services including health and education.

7. Human Trafficking — Myanmar accepted recommendations to help prevent and combat human trafficking, migrant smuggling, the sale of children, and to investigate and prosecute perpetrators. New initiatives increased awareness, improved reporting, and provided more timely responses. However, there has been limited improvement, as these programs are inaccessible to vulnerable and at-risk populations in rural communities. There have been few prosecutions, resulting in impunity for perpetrators and a lack of justice for victims. Resources are inadequate to support survivors' social and economic recovery. Human trafficking both abroad and domestically remains rampant especially for forced labor and sexual exploitation.

8. Land — Myanmar passed the National Land Use Policy, Forest Law, Vacant, Fallow and Virgin Land Management Law, Protection of Biodiversity and Protected Area Law, Community Forestry Instructions, Land Acquisition, Resettlement and Rehabilitation Law, and the National Environmental Policy in order to address land concerns. Additionally, the Central Reinvestigation Committee for Confiscated Farmlands and Other Land was formed. But much remains to be done, especially regarding recognizing customary land tenure and redressing land confiscation.

9. Political Prisoners, Arbitrary Detention & Torture — In the last UPR cycle, Myanmar accepted four recommendations and noted the other 23. However the number of incarcerated political prisoners has actually risen, in large part due to new laws that restrict peaceful protest and freedom of speech. There are 647 political prisoners in Myanmar.

10. Anti-Corruption and the Judicial System — In the 2nd UPR Cycle, the government accepted two recommendations from Georgia and Cuba to "accelerate reforms with the aim to guarantee good governance and more vigorously address the issue of corruption." However essential laws needed to support anti-corruption initiatives—such as Whistleblower Protection Laws, Right to Information Laws and Assets Disclosure Laws/Policies—remain unimplemented. In addition, the judiciary is susceptible to coercion by the executive branch and military.

11. Disability Rights — Myanmar accepted the recommendation to ensure education for all persons with disabilities. However, 85% of individuals in this community lack access to formal education, and struggle to fulfill basic needs for food, shelter, clothing and health care. Infrastructure and public services for persons with disabilities are limited. In particular, discrimination and exploitation remain a problem. They also lack targeted vocational or training programs, limiting many to low-skill jobs.

6a. Amend Myanmar Penal Code section 375 to ensure inclusion of same-sex rape and repeal section 377 to decriminalize homosexuality.

6b. Stop the abuse of the Myanmar's 1945 Police Act, to intimidate, humiliate, persecute and violate the fundamental rights of LGBTI individuals and ensure effective legal action against the perpetrators by collaborating with CSOs.

7. Abolish the 2005 Anti-Human Trafficking Laws including its by-laws and enact new laws in consultation with CSOs and other stakeholders to ensure greater accountability for perpetrators and government resources for victims.

8. Amend existing laws and policies that promote the well-being of local ethnic people in accordance with ICESCR, UNDRIP and other UN treaties.

9a. Allow independent international monitoring of prison conditions and implement changes recommended by these bodies.

9b. Provide clear information as to the arrests and charges of political activists.

10. Establish a clear and accessible public complaint mechanism under the ACC and launch informational campaigns to ensure public awareness. Expand ACC branch offices across all states.

11. Ensure accessible materials, classrooms and adaptive learning environments for children with disabilities and opportunities for life-long learning. Develop training and vocational centers to facilitate persons with disabilities to gain advanced technical and professional skills.

LAND ISSUES IN MYANMAR



KEY DEVELOPMENTS

During the 2nd UPR cycle, Myanmar accepted or noted several recommendations related to land rights. These included responding to and redressing land grabbing, developing an effective land registration system, amending laws to prevent businesses from grabbing land, and respecting the rights of Indigenous Peoples (IP's) in accordance with UNDRIP [1].

Since then, Myanmar has passed a series of laws and policies to address land rights concerns, including the National Land Use Policy in 2016, Forest Law in 2018, Vacant, Fallow, and Virgin (VFV) Land Management Law in 2018, Protection of Biodiversity and Protected Area Law in 2018, Community Forestry Instructions in 2019, Land Acquisition, Resettlement, and Rehabilitation Law in 2019, and the National Environmental Policy in 2019.

Additionally, the Central Reinvestigation Committee for Confiscated Farmlands and Other Land was formed and chaired by Vice President U Henry Van Thio to investigate and redress land-grab cases. While these laws and policies have addressed some issues, much remains to be done.



MAIN CHALLENGES AND SUPPORTING FACTS

Customary Land Tenure

Customary land tenure by ethnic minorities and indigenous peoples (IP's) is a widespread practice, but remains undefined by the government with no procedure to register customary land. While the VFV Land Management Law excludes land used under customary tenure from being classified as VFV, without a definition or registration process this exclusion is meaningless [2].

The 2018 VFV Land Management Law

The VFV Law displaced and criminalized people who did not meet the 6-month deadline to register their land. Most of the lands classified as VFV were in ethnic rural areas and up to 10 million people live or rely on this land for their livelihoods [3].



RECOMMENDATIONS

- Amend existing laws and policies that promote the well-being of local ethnic people in accordance with ICESCR, UNDRIP and other UN treaties.
- Abolish the VFV Law and fully recognize customary land tenure rights throughout the country through a new National Land Law.
- Develop the capacity of Forest Department and Land Department staff and ensure they follow and implement the existing laws.
- Redress the land confiscated for the extension of the Permanent Forest Estate, as well as land confiscated by government, military and private sector actors.
- Amend laws that permit the compulsory acquisition of land for use by private businesses so that expropriation is only permitted in cases of necessary, proportionate, and narrowly construed public interest with strong procedural safeguards.
- Solve open cases with the CCRCFOL in a timely and transparent manner.
- Develop a digital map system in order to record customary land tenure.



MAIN CHALLENGES AND SUPPORTING FACTS

The VFV Law stipulated that people had to apply for 30-year concessions to use their own land. If they failed to do so another group was awarded their land and they faced up to two years in prison for trespassing.

30% of Myanmar's land area qualifies as VFV, and three-quarters of it is home to rural ethnic minorities [4].

Land Grabbing

In the month before the deadline to register VFV land, 95% of people living on VFV land had no knowledge of the law [5].

Most rural people do not have written documentation of their land and are at risk of expropriation by the government or private sector [6]. Land grabbing continues at an alarming rate, including 200,000 acres in the Irrawaddy Region alone for industrial and hotel zone projects, railroad projects, mineral extraction, departmental offices and cantonment expansion [7]. Land has also been confiscated by the government

due to the extension of Myanmar's Permanent Forest Estate. In the establishment of this protected area, Free, Prior and Informed Consent (FPIC) was not obtained from local communities, despite multiple laws stipulating its necessity [8].

Unsolved Land Grab Cases

Thousands of cases remain unresolved by the Central Committee for Reviewing Confiscated Farmlands and Other Lands (CCRCFOL), despite the government's claims that all confiscation issues would be resolved within 6 months. The Committee has sought to redress land grabbing by promulgating 47 policies, but these policies are not in accordance with the Farmland Law of 2012 [9].

Over 12,000 land grabbing cases have been filed to the Central Reinvestigation Committee. Roughly, only 20% of these have been resolved.

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1. "Report of the Working Group on the Universal Periodic Review Myanmar." United Nations, 23 Dec. 2015, documents-dds-ny.un.org/doc/UNDOC/GEN/G15/290/35/PDF/G1529035.pdf?OpenElement.
 2. Andersen, K. Ewers (2016). The Recognition of Customary Tenure in Myanmar. MRLG Thematic Study Series #3. Vientiane: Mekong Region Land Governance. https://www.burmalibrary.org/docs23/KEA-2016-MRLG-recognition_of_customary_tenure_in_Myanmar-en-red.pdf
 3. NAMATI & MyJustice Myanmar (2019). Most Farmers Do Not Know about the Vacant, Fallow and Virgin Land Management Law as the Grace Period to Register Closes. https://namati.org/wp-content/uploads/2019/04/VFV-Policy-Brief-ENG_Final_April.pdf
 4. Trivedi, Vivek. "Land Law Threatens to Displace and Criminalize Millions in Myanmar." Namati, 21 June 2019, namati.org/news-stories/land-law-threatens-to-displace-and-criminalize-millions-in-myanmar/.
 5. Goldberg, Jacob. "Nowhere to Go: Myanmar Farmers under Siege from Land Law." News | Al Jazeera, Al Jazeera, 4 Apr. 2019, www.aljazeera.com/news/2019/03/myanmar-farmers-siege-land-law-190328003658355.html.
 6. Rich Weir (2018). Nothing for Our Land: Impact of Land Confiscation on Farmers. Human Rights Watch. <https://www.hrw.org/report/2018/07/17/nothing-our-land/impact-land-confiscation-farmers-myanmar>
 7. SALAI THANT ZIN (2018). President Tells State, Regional Officials to Wrap Up Land-Grab Probes. The Irrawaddy. <https://www.irrawaddy.com/news/burma/president-tells-state-regional-officials-wrap-land-grab-probes.html>
 8. IPs Customary Land Study by POINT (Thandaunggyi Township, Karen state)
 9. Ko Aung Kyaw Kyaw. Challenges of Land Reform Process and Democracy Transition in Myanmar

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POLITICAL PRISONERS, TORTURE AND ARREST IN MYANMAR



KEY DEVELOPMENTS

In the last UPR cycle, Myanmar accepted four recommendations and noted the other 23. This is an improvement from the first UPR cycle, when the government accepted three recommendations and noted 20.

Since then, Myanmar has included political prisoners in the annual presidential prisoner pardon. However, the committee formed to release political prisoners in 2013 has made little progress and excluded civil society organizations from participating in reforms. In addition, the number of incarcerated political prisoners has risen, in large part due to new laws that restrict peaceful protest and freedom of speech [1].

There have been discussions in parliament to abolish the death penalty, as well as to sign and ratify the Convention Against Torture (CAT). However further action must be taken to achieve these ends [2].



TESTIMONY

In June 2012, a victim was tortured at a Myanmar Intelligence office in Myitkyina, Kachin State. He was subsequently accused of associating with the Kachin Independence Army [3].

“Myanmar Intelligence Office agents tortured me for about a week. They insisted that I was a Kachin Independence Army member. I kept on repeating that I wasn't, but they tortured me more. They burned me on the stomach with a hot knife, and poured hot wax from a candle on my face... I have 15 scars on one leg and five scars on the other. They took turns to kick me in the chest... I felt numb from the pain at some point. My vision was blurred because I was beaten repeatedly. They also pushed on my eyeballs for a long time – I felt like they would pop out. I really thought I was going to be killed.”



RECOMMENDATIONS

- Sign and ratify the CAT, ICCPR and their optional protocols.
- Ensure adequate physical and psychological healthcare for all political prisoners during incarceration and on release.
- Allow independent international monitoring of prison conditions and implement changes recommended by these bodies.
- End regulations preventing prisoners from receiving support from family and legal advocates during their imprisonment.
- Provide clear information as to the arrests and charges of political activists.
- Immediately release all prisoners being arbitrarily detained. Relaunch the Joint Committee for Scrutinizing
- Remaining Political Prisoners with CSO involvement.
- Create accountability for officials that engage in torture.
- Abolish the death penalty.



MAIN CHALLENGES AND SUPPORTING FACTS



POLITICAL PRISONERS

There are 647 political prisoners in Myanmar. 141 are awaiting trial in prison, 433 are awaiting trial out of prison and 72 are serving prison sentences [4]. These include activists, journalists and human rights defenders, many of whom do not have access to family or legal counsel.

In addition, 150 people are arrested each day in Myanmar, resulting in substantial prison overcrowding which further exacerbates the inhumane treatment.



ARBITRARY DETENTION

Arbitrary detention has increased dramatically, particularly in areas affected by violence. Large numbers of civilians are regularly held by security forces under implicit or explicit threats of violence requiring they reveal information about the Ethnic Armed Groups (EAGs). When released without charge, they receive no reparations.



TORTURE

Although torture is prohibited by Myanmar's Constitution and domestic laws, existing law is not effectively enforced. Torture is endemic throughout prisons, detention and interrogation centers, and systemically used against political prisoners in both police and military custody.

Reports include physical abuse with iron rods, electrocution, stress positions, water torture and deprivation of sleep, food and water. In 2012 a farmer, Zam Gau, was arrested and murdered in an army detention facility. In addition to physical torture, he was also subjected to psychological torture, kept in solitary confinement, and forced to dig his own grave [5].

Last year there were reports of 42 individuals tortured, and ten deaths in police custody. 15 torture reports have been made in military custody in Arakan, although the true number is suspected to be higher.

There is no accountability for torture victims, nor do families of victims receive any reparations. Few cases reach the judicial system, as victims are frequently threatened, bought off, or sued for defamation when they speak out. Investigations are rarely conducted and lack independence.

[1] Linda Lakhdhir (2019). Dashed Hopes: The Criminalization of Peaceful Expression in Myanmar. Human Rights Watch. <https://www.hrw.org/report/2019/01/31/dashed-hopes/criminalization-peaceful-expression-myanmar>

[2] The Burma-Myanmar UPR Forum (2015). Information on the Status of the Human Rights Situation in Myanmar. The Burma-Myanmar UPR Forum. https://www.upr-info.org/sites/default/files/general-document/pdf/upr_advocacy_factsheets_-_myanmar2015.pdf

[3] UNOCHR (2018) Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar. Human Rights Council. https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_CRP.2.pdf

[4] Assistance Association for Political Prisoners (Burma) <https://aappb.org>

[5] Fortify Rights (2014). "I Thought They Would Kill Me" Ending Wartime Torture in Northern Myanmar. https://www.fortifyrights.org/downloads/Fortify%20Rights_Myanmar_9_June_2014.pdf

MYANMAR'S COOPERATION WITH INTERNATIONAL HUMAN RIGHTS MECHANISMS



KEY DEVELOPMENTS

- Of the nine core international human rights treaties, Myanmar has ratified four.
- Following the 2nd UPR cycle, the International Covenant on Economic, Social and Cultural Rights (ICESCR) was ratified in 2017, followed by the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC) in September 2019.
- Although Myanmar has accepted recommendations for the ratification of the International Covenant on Civil and Political Rights (ICCPR) during the 2nd UPR Cycle, it has yet to ratify the treaty.



COOPERATION WITH UN BODIES AND MECHANISMS

Myanmar has refused cooperation with the UN Special Procedures and no visits have been conducted since the 2nd UPR cycle [1]. In December 2017 it accused UN Special Rapporteur, Ms. Yanghee Lee, of bias and barred her from returning to the country [2].

In March 2017, the Human Rights Council (HRC) authorized a three-member Independent International Fact-Finding Mission (IIFM) to investigate the alleged human rights violations of security forces [4]. Although the government blocked the IIFM, the team visited refugee camps in Thailand and Bangladesh, conducting intensive interviews with survivors. This information was handed over to the Independent Investigative Mechanism for Myanmar (IIMM) for possible future criminal prosecution [5].

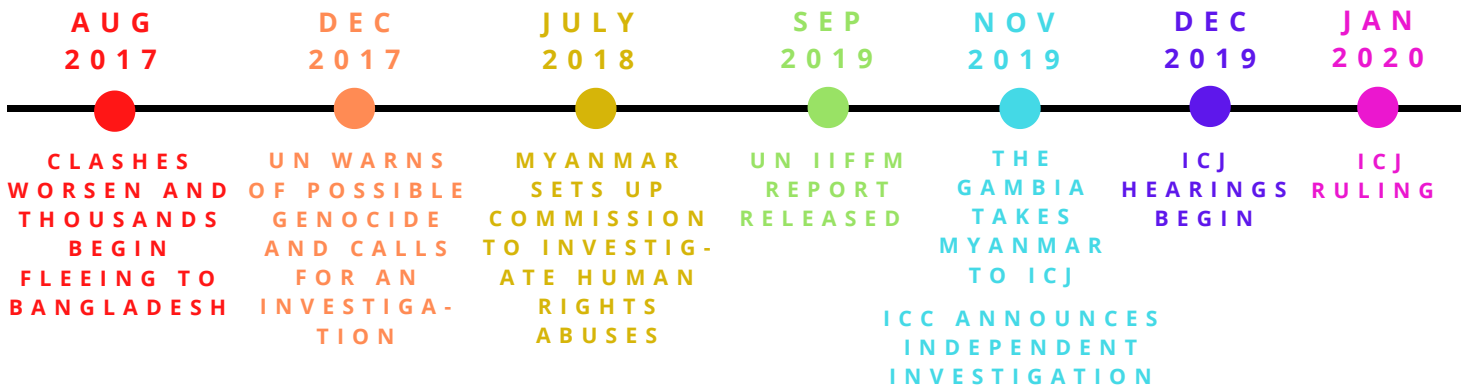


RECOMMENDATIONS

- Ratify the International Covenant on Civil and Political Rights (ICCPR), Convention Against Torture (CAT), Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on Enforced Disappearances (CED) and Convention on Migrant Workers (CMW), following accepted recommendations during the 2nd UPR Cycle.
- Cooperate fully with UN Human Rights Bodies and Mechanisms, in particular resuming full cooperation with the Special Rapporteur on Myanmar, following accepted recommendations during the 2nd UPR Cycle.
- Create and support a multistakeholder task force to monitor compliance with the ICJ mandate to take all possible measures to prevent genocide.
- Cooperate fully in the ongoing investigation of the ICC to ensure justice for all alleged victims



INTERNATIONAL COURTS



In a landmark decision in January 2020, the International Court of Justice (ICJ) issued four specific provisional measures and ordered Myanmar to take immediate steps to prevent genocide of the Rohingya minority [6]. The Gambia, on behalf of the Organization of Islamic Countries (OIC), alleged that Myanmar violated the 1961 Genocide Convention in two waves of attacks against the Rohingya in 2016-17. The government, conceding the possibility of war crimes and crimes against humanity, denied the existence of the specific intent required for genocide and has set up its own Independent Commission of Enquiry (ICOE) [7].

In November 2019, the International Criminal Court (ICC), after receiving views on behalf of hundreds of thousands of alleged victims authorized a probe of the country for crimes against humanity including persecution, violence and forced deportation [8]. Myanmar is not party to the ICC, but jurisdiction is established through the ongoing cross-border situation with Bangladesh (State Party to ICC, 1999) [9]. Myanmar has rejected the probe and is unlikely to cooperate with investigations. The ICC has no power to enforce its rulings and only State parties are obligated to cooperate [10].

[1] UNOCHR (2020). Country visits of Special Procedures of the Human Rights Council since 1998. <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&lang=en>

[2] UNOCHR (2018). End of Mission Statement by Special Rapporteur on the situation of Human Rights in Myanmar. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22619&LangID=E>

[3] UNOCHA (2018). Myanmar Humanitarian Brief, September 2018. UNOCHA. <https://reliefweb.int/report/myanmar/myanmar-humanitarian-brief-september-2018>. Accessed Feb 8th.

[4] UNOCHR (2019) Detailed Findings of the Independent International Fact-Finding Mission on Myanmar. Human Rights Council. <https://www.ohchr.org/en/hrbodies/hrc/myanmarffm/pages/index.aspx>

[5] Ibid

[6] International Court of Justice (2020). Summary of the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar). <https://www.icj-cij.org/files/case-related/178/178-20200123-SUM-01-00-EN.pdf>

[7] BBC (2020). Myanmar Rohingya: Government Rejects ICJ Ruling. BBC. <https://www.bbc.com/news/world-asia-51229796>

[8] International Criminal Court (2019). ICC judges authorize opening an investigation into the situation in Bangladesh/Myanmar. International Criminal Court. <https://www.icc-cpi.int/Pages/item.aspx?name=pr1495>

[9] UN (2019). ICC green-lights probes into violent crimes against Rohingya. UN News. <https://news.un.org/en/story/2019/11/1051451>

[10] Al-Jazeera News (2019). Myanmar rejects ICC probe into alleged crimes against Rohingya. Al-Jazeera News <https://www.aljazeera.com/news/2019/11/myanmar-rejects-icc-probe-alleged-crimes-rohingya-191115180754984.html>

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ARMED CONFLICT AND PEACE IN MYANMAR



KEY DEVELOPMENTS

Despite commitments under the Nationwide Ceasefire Agreement (NCA), clashes between the Tatmadaw and Ethnic Armed Groups (EAG) continue. Monitoring reports show an increase in conflict, with non-signatories reporting an intensification of military attacks [1].

Ongoing conflict and restricted humanitarian aid have resulted in mass displacement [2]. UN Office for Coordination of Humanitarian Affairs (OCHA) estimates over 241,000 Internally Displaced Persons (IDPs) in Rakhine, Kachin, Shan and Kayin States with an exodus of over 725,000 people to Bangladesh [3].



TESTIMONY

In two separate incidents in 2017 in Nyaunglebin District (Bago Region), an 8-year-old girl was held hostage and murdered and a male villager was shot and killed by Tatmadaw soldiers [4].

The villagers have reported mounting fear and insecurity.



In the past, we did not have fences around our houses but we lived freely without any danger from an outside attack. Now villagers are frightened [by this event]. Villagers are really frightened since the girl was killed in front of them. Now the whole village is in panic. Villagers do not dare to go out at night time.



RECOMMENDATIONS

- Declare a nationwide ceasefire and withdraw all state troops from ethnic areas within the next 12 months. In demilitarization, develop and train the military in acceptable protocols to safeguard the rights of minorities and vulnerable groups.
- Demonstrate good faith towards an inclusive political peace process, ensuring meaningful participation of CSOs by allocating seats for CSO delegates at the Union Peace Conference and integrating their inputs into ongoing political dialogues.
- End impunity for human rights violations by undertaking independent and transparent investigations into allegations of abuses by government soldiers in civilian courts.
- Immediately ratify the Mine Ban Treaty, cease the production and use of landmines, and hold meaningful consultations with all relevant actors to initiate mine clearance activities.
- Implement commitments made under the Declaration of Commitment to End Sexual Violence in Conflict endorsed by the government in 2014; allow an independent international investigation into crimes of sexual violence committed in conflict, especially against girls and women, and persons with disabilities, ensuring legal penalties against the perpetrators irrespective of their institutional affiliation.
- Immediately lift restrictions and provide open access to international relief, aid and humanitarian agencies and UN bodies and ensure safety of their workers



MAIN CHALLENGES AND SUPPORTING FACTS

NON-CEASEFIRE AREAS

Reports of human rights violations are often met with state denial and mockery of victims. As per the findings of the Independent International Fact-Finding Mission, the state investigative committee refuses to acknowledge the widespread rape of Rohingya women by declaring them “dirty,” and therefore “unattractive” to Buddhist men or soldiers [5].

Other offences include arbitrary arrest, torture, extrajudicial killings, shelling, forced labour and sexual violence [6]. Satellite evidence shows entire villages in northern Rakhine being destroyed while nearby villages remain intact [7].

Violations, including blockage of aid, are generally borne by ethnic minority civilians, and usually perpetrated by state security forces, although there is evidence of violations by the EAGs. Most violations go unreported due to fear and distrust of authorities. Despite a general lack of accountability, there have been a few cases of low-ranking government soldiers facing criminal justice [8].

In a 2017 incident in Muse District (Shan State), a 29-year-old Ta’ang man was forced to act as a guide before being killed by a soldier. The victim’s family was reportedly threatened and paid 800,000 kyat (≈ 600USD) not to pursue a legal recourse.

CEASEFIRE AREAS

Despite the NCA, civilian areas continue to be heavily militarised as the Tatmadaw strengthen and expand their bases, resulting in exploitation, destruction of property, loss of livelihood, and death [9].

In April 2016, Tatmadaw soldiers entered a KNU controlled area in Kawkareik Township (Dooطلا District) without permission. Fearing attack, Tatmadaw soldiers used villagers as human shields.

New IDP campsites continue to be developed in as people are unable to return home. Additional concerns raised by communities include landmines, military trainings near civilian areas and destruction of property. A woman who was brutally raped by two Tatmadaw soldiers on her tea farm in Nhamsan Township (Shan State) in May 2019 is still struggling to access justice [10].

[1] BNI online (2018). Tatmadaw attacked SSPP/SSA-N over 500 times since the signing of the union-level ceasefire. <https://www.bnionline.net/en/news/tatmadaw-attacked-ssppssa-n-over-500-times-signing-union-level-ceasefire>
[2] UNOCHA (2018). Myanmar Humanitarian Brief, September 2018. UNOCHA. <https://reliefweb.int/report/myanmar/myanmar-humanitarian-brief-september-2018>. Accessed Feb 8th
[3] UNOCHA (2018). Myanmar Humanitarian Brief, September 2018. UNOCHA. <https://reliefweb.int/report/myanmar/myanmar-humanitarian-brief-september-2018>. Accessed Feb 8th.
[4] Karen Human Rights Group (2017). Two separate killing incidents committed by Tatmadaw soldiers in Shwegyin Township, Nyaunglebin District (March and May 2017). <http://khrgh.org/2017/09/17-4-nb1/two-separate-killing-incidents-committed-tatmadaw-soldiers-shwegyin-township>
[5] International Court of Justice (2019). Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar). International Court of Justice. <https://www.icj-cij.org/files/case-related/178/178-20191210-ORA-01-00-BI.pdf>
[6] Ibid
[7] Ibid
[8] Shoon Naing, Simon Lewis (2019). Exclusive: Myanmar soldiers jailed for Rohingya killings freed after less than a year. Reuters. <https://www.reuters.com/article/us-myanmar-rohingya-soldiers-exclusive/exclusive-myanmar-soldiers-jailed-for-rohingya-killings-freed-after-less-than-a-year-idUSKCN1SX007>
[9] Karen Human Rights Group (2017) Dooطلا Situation Update: Kawkareik Township and Noh T’Kaw Township, April to May 2016 <https://khrgh.org/2017/03/16-57-s1/dooطلا-situation-update-kawkareik-township-and-noh-tkaw-township-april-may-2016>
[10] LAWI WENG (2019). Ta’ang Rape Victim Claims Attackers Army Soldiers. The Irrawaddy. <https://www.irrawaddy.com/news/ethnic-issues/taang-rape-victim-claims-attackers-army-soldiers.html>

CITIZENSHIP IN MYANMAR



KEY DEVELOPMENTS

During the 2nd UPR Cycle Myanmar accepted a recommendation by France to "accelerate citizenship verification processes so that populations now deprived of identity documents do not remain in an illegal situation."

The government also noted 16 recommendations, five of which urged Myanmar to review or repeal the 1982 Citizenship Law. The law, passed by a military government, grants full citizenship to only members of eight ethnic groups [1]. It violates Myanmar's obligations under international law and created conditions that promoted statelessness, in particular for the Muslim minority of Rakhine State [2].

The government has yet to address the law, although they made strides to improve documentation. by establishing mobile teams to issue birth certificates. They also instituted a Ministry of Immigration and Human Resources in each state and upgraded to a digital identity documentation system. However, these services are primarily accessible only to the majority Buddhist population.



TESTIMONY

Mayyu Ali was born and raised in Rakhine. After violence erupted in August 2017, his family, along with 700,000 other Rohingya, were forced to cross the Naf river and seek refuge in Bangladesh [3].

“The horrors we witnessed along the way were unforgettable: gang rapes, mass killings, babies thrown into the flames, and our homes burnt to the ground... The few among my fellow refugees who have dared to return have been detained and confined to decrepit state-run camps. The Rohingya continue to be denied citizenship and are forced to apply for so-called National Verification Cards that only institutionalise our legal limbo.”



RECOMMENDATIONS

- Repeal and replace the 1982 Citizenship Law in accordance with international human rights law. Eliminate requirements for citizenship that discriminate on the basis of race, religion, ethnicity or any other protected status.
- Confer citizenship and issue birth certificates to every child born in Myanmar to reduce statelessness.
- Apply constitutional anti-discrimination measures to all ethnic groups, and ensure access to human rights and fundamental freedoms for all persons, such as freedom of movement and right to education.
- Introduce anti-corruption measures and provide anti-discrimination awareness and training to immigration officers and staff.
- Reform citizenship verification processes for populations deprived of identity documents.
- Provide interpreters and translations of written decisions subject to administrative and judicial review.
- Issue National Identification Cards to every citizen without delay or discrimination based on ethnicity, race, gender, religion and/or other social status.



MAIN CHALLENGES AND SUPPORTING FACTS



DISCRIMINATION AND SEGREGATION

The issue of citizenship goes far beyond the arbitrary denial of legal status, and has led to the denial of economic, social and cultural rights of minority groups, especially Rohingya Muslims [4]. Because they are considered illegal immigrants, their access to social services, education, humanitarian aid and their movement outside of Rakhine State has closely been restricted.

600,000 Rohingya are estimated to remain in Rakhine. They are stateless because of the citizenship law [6]

They also face other discriminatory policies and practices, tightly controlling almost every aspect of their private lives. This includes restrictions related to marriage, the number of children they are allowed to have, and the building and repair of houses [5].



DOCUMENTATION

Marginalized groups, especially religious and ethnic minorities and persons with disabilities, struggle to obtain fundamental identity documents such as passports due to discrimination and inconsistent regulations and practices. Even

Minorities are referred to as "mixed blood" in their citizenship paperwork

within the same family, citizenship status may vary depending on an issuing officer's discretion. Religious and ethnic minorities are sometimes forced to lie about their heritage, and self-identify as originating from countries like India, Pakistan and Bangladesh.

Minorities experience prolonged processing delays, unnecessary paperwork and fees, and often verbal rejections. Ethnic minorities who struggle with language barriers and may not be able to maintain their original names, as most bureaucrats only speak Burmese.

[1] International Commission of Jurists (2019). Citizenship and Human Rights in Myanmar: Why Law Reform is Urgent and Possible. International Commission of Jurists. <https://www.icj.org/wp-content/uploads/2019/06/Myanmar-Citizenship-law-reform-Advocacy-Analysis-Brief-2019-ENG.pdf>
[2] UNOCHR (2018) Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar. Human Rights Council. https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_CRP.2.pdf
[3] Mayyu Ali (2018). Exiled Rohingya like me still have no hope of going home. Financial Times. <https://www.ft.com/content/9dcec598-a5fa-11e8-a1b6-f368d365bf0e>
[4] UNOCHR (2018) Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar. Human Rights Council. https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_CRP.2.pdf
[5] IBID
[6] UNOCHR (2019) Detailed Findings of the Independent International Fact-Finding Mission on Myanmar. Human Rights Council. <https://undocs.org/A/HRC/42/50>

DISABILITY RIGHTS IN MYANMAR



KEY DEVELOPMENTS

As a signatory to the Convention on the Rights of the Persons with Disabilities (CRPD), Myanmar is in the process of developing its Persons with Disabilities Law and by-laws, with various federal, regional and local associations. Although Myanmar accepted previous UPR cycle's recommendation to ensure education for all persons with disabilities, little progress has been made and most people with disabilities still struggle for basic needs including food, shelter, clothing and health care.

Notwithstanding a disability cash allowance introduced in 2014, most public services for people with disabilities are limited. Current infrastructure their mobility and access to public services and transport. About 85% of persons with disabilities lack access to formal education. They are also less likely to be employed as most face discrimination at the hands of employers and business owners. There are no targeted vocational or training programs, which often limits them to low-skill jobs.



TESTIMONY



The lives of children with intellectual disability are like boats without an oar; they can propel or steer to nowhere, they can float along the stream or flow with the tide. If they are faced with large waves, they can't help but sink. Only if they're tied to other boats with oars can they be steered to shore."

----The mother of a disabled Burmese child



RECOMMENDATIONS

- Redesign public spaces and places of public service provision to ensure accessibility for persons with disabilities, including transport, police stations and religious site.
- Establish laws to mandate workplaces to prevent discrimination, create inclusive workspaces and encourage them to employ more persons with disabilities.
- Ensure accessible materials, classrooms and adaptive learning environments for children with disabilities and opportunities for life-long learning. Develop training and vocational centers to facilitate persons with disabilities to gain advanced technical and professional skills.
- Provide free health care for persons with severe disabilities and introduce provisions for their education, safety and rehabilitation in the social welfare system.



MAIN CHALLENGES AND SUPPORTING FACTS

STRUGGLE FOR BASIC NEEDS

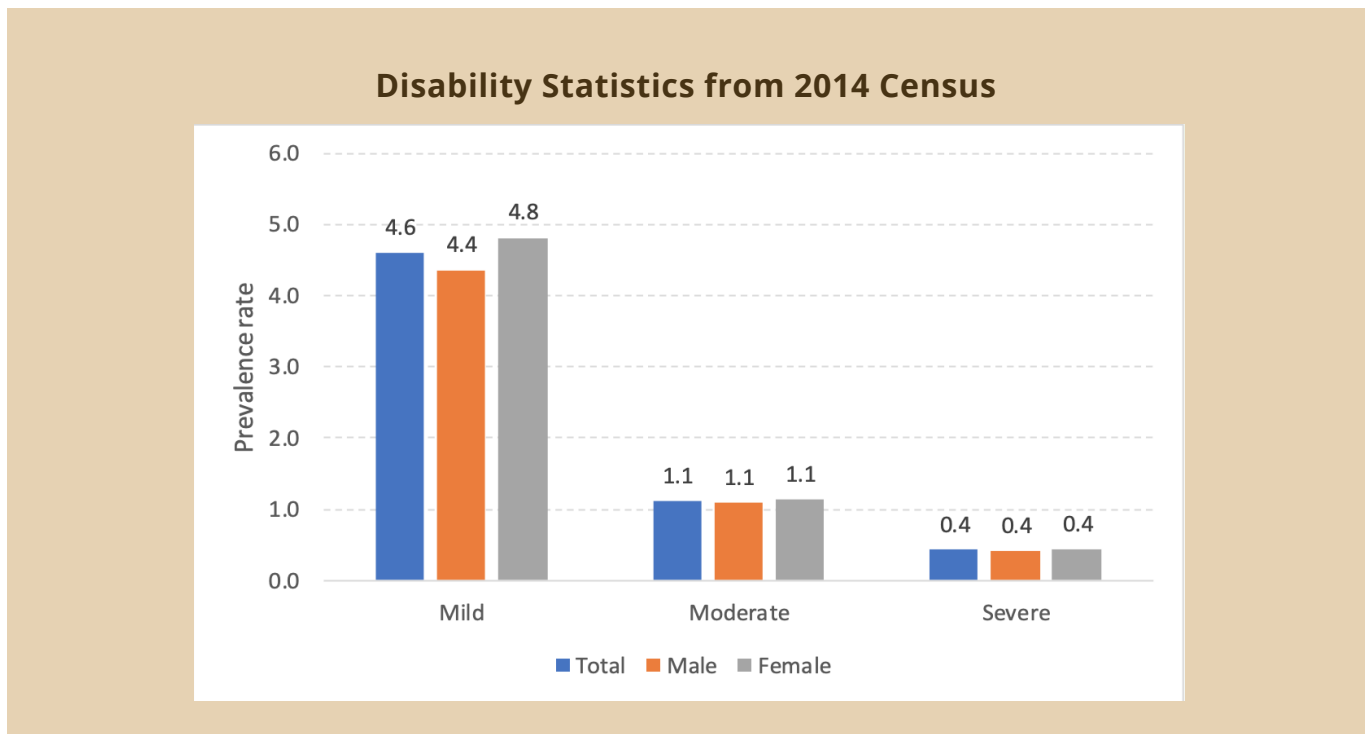
Although Myanmar accepted previous UPR cycle’s recommendation to ensure education for all persons with disabilities, little progress has been made and most people with disabilities still struggle for basic needs including food, shelter, clothing and health care.

LIMITED PUBLIC SERVICE

Notwithstanding a disability cash allowance introduced in 2014[1], most public services for people with disabilities are limited. Current infrastructure limits their mobility and access to public services and transport[2].

LACK OF SELF-DEVELOPING OPPORTUNITY

Most people with disabilities (about 85%) lack access to formal education. They are also less likely to be employed[3] as most face discrimination at the hands of employers and business owners. There are no targeted vocational or training programs, which often limits them to low-skill jobs[4].



[1] Help Age International (2018). Disability and ageing in Myanmar. Help Age International https://www.lift-fund.org/sites/ift-fund.org/files/Policy_brief_eng/Disability%20and%20Ageing%20Myanmar_Briefing.pdf
 [2] HTI KE NANDA WIN (2017). Disabled people suffer from neglect, despite existing laws. Myanmar Times. <https://www.mmtimes.com/news/disabled-people-suffer-neglect-despite-existing-laws.html>
 [3] The Republic of the Union of Myanmar (2014). Policy Brief on Disability. The Republic of the Union of Myanmar. https://myanmar.unfpa.org/sites/default/files/pub-pdf/policy%20brief%20and%20infographics_Disability.pdf
 [4] Salai Vanni Bawi (2012). Understanding the Challenges of Disability in Myanmar. Internships Asia and Hussman Foundation. https://www.burmalibrary.org/docs13/Understanding_the_Challenges_of_Disability_in_Myanmar-red.pdf

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GENDER AND LGBTI+ ISSUES IN MYANMAR



KEY DEVELOPMENTS

Following the 2nd UPR cycle, Myanmar accepted 17 recommendations related to gender equality and the rights of women and lesbian, gay, bisexual, transgender and intersex (LGBTI) people, most of which call for reforming national laws to comply with Myanmar's CEDAW obligations.

Although Myanmar has launched its 10-year National Strategic Plan for the Advancement of Women (NSPAW) [1], gender-based violence, including sexual violence and harassment, remains widespread, perpetuated by a culture of silence, fear and impunity. Despite the government's promotion of NSPAW, there is little budget allocation or political will for implementation.

The Prevention of Violence Against Women bill, drafted before the last UPR cycle, is still waiting for passage into law. Public awareness of the issue is low and data is largely non-existent.

Myanmar has also failed to amend laws and undertake the necessary judicial reforms to protect the rights of its LGBTI community. Human rights violations are common, and include discrimination based on sexual orientation, gender identity or expression, domestic and gender-based violence, public and workplace harassment, arbitrary detention, and restrictions on public services such as health and education.



TESTIMONY

From "Girls Bear the Shame," a briefing paper from the Women's League of Burma [2]:

"In Eastern Rangoon, a grandmother came home to find a neighbor raping her granddaughter. The grandmother went to the police to report the crime, but the officer threatened that they could be criminally charged for making false statements if there was no evidence of the rape. Subsequently the grandmother learned that the neighbor's family had already paid the police not to accept their complaint. As a result, the grandmother and her granddaughter fled the township out of fear of further repercussions."



RECOMMENDATIONS

- Ensure the NSPAW is operationalized at all levels, with a sufficient allocated budget and effective monitoring and evaluation mechanisms.
- Address inequalities in political representation, decision-making authority, economic and leadership opportunities through awareness-raising campaigns, training for government officials, developing gender-sensitive policies and temporary special measures such as quotas.
- Pass and accelerate implementation of a fortified, comprehensive Prevention of Violence Against Women law in line with international human rights standards.
- Fund and develop initiatives for women who experience abuse such as crisis shelters linked to well-trained police, health care workers, legal service providers and social workers.
- Repeal the laws that are restrictive of women's human rights such as 2015 Protection of Race and Religion Laws, and discriminatory clauses in the 2008 Constitution.
- Introduce constitutional amendments for non-discrimination and protection of LGBTI rights in private and public life.
- Amend Myanmar Penal Code section 375 to ensure inclusion of same-sex rape and repeal section 377 to decriminalize homosexuality.
- Stop the abuse of the Myanmar's 1945 Police Act, to intimidate, humiliate, persecute and violate the fundamental rights of LGBTI individuals and ensure effective legal action against the perpetrators by collaborating with CSOs.
- Provide awareness-raising programs/campaigns on issues related to discriminatory norms and practices based on sexual orientation and gender identity or expression, targeting law enforcement officials, public servants, education institutions and other social institutions.
- Provide quality and affordable healthcare including sexual, reproductive, and mental health services to LGBTI individuals and victims of gender-based violence.



MAIN CHALLENGES AND SUPPORTING FACTS



WOMEN'S RIGHTS

Patriarchal cultural values related to women's roles and responsibilities still shape familial relationships, contribute to the gendered division of labor and limit women's participation in decision making at all levels. Buddhist nationalism continues to pose risks to the achievement of human rights for women. The "Protection of Race and Religion Laws" [3] passed in 2015 restrict women's reproductive rights and complicate choice of marriage based on religion. The current lack of measures to achieve gender equality in the 2008 Constitution and other domestic legislation is concerning [4].

For years, women in Myanmar have been powerful civil society leaders and advocates for:

Reconciliation & democratic transition Reform & good governance

Comprehensive Peace Legislation that protects women's rights

There remains a lack of government action with regard to women's rights in conflict areas and at the regional and state level, a lack of government action aimed at the inclusion of women in key decision-making positions at the national level, and a lack of representation for women from ethnic minorities.



LGBTI RIGHTS

Myanmar has failed to amend and to undertake necessary judicial reforms to protect the rights of its LGBTI community. There is no non-discrimination clause for LGBTI persons in the 2008 Constitution. As a result, human rights violations against the community are common and include discrimination based on sexual orientation, gender identity or expression (SOGIE), domestic and gender-based violence, public and workplace harassment, and restrictions on accessing public services such as health and education.

LGBTI persons experience homophobic social attitudes and are subjected to unrestrained policing, arbitrary arrest and detention under the Penal Code (which criminalizes homosexuality) [5] and the 1949 Suppression of Prostitution Act [6] amongst others. They suffer from neglect and have limited psychosocial support, which can lead to poor mental health and increased rates of suicide.

[1] Myanmar National Committee for Women Affairs (2013). National Strategic Plan for Advancement of Women (2013-2022). Government of Myanmar. https://myanmar.unfpa.org/sites/default/files/pub-pdf/NSPAW2013-2022_0.pdf
[2]: Women's League of Burma (2017). Girls Bear the Shame: Impediments to Justice for Girl Children who have Experienced Sexual Violence in Burma. https://progressivevoicemyanmar.org/wp-content/uploads/2017/11/GirlsBeartheShame_WLBBriefingPaper_Eng.pdf
[3] Global Legal Monitor (2015). Four Race and Religion Protection Laws Adopted. Library of Congress. <https://www.loc.gov/law/foreign-news/article/burma-four-race-and-religion-protection-laws-adopted/>
[4] Government of Myanmar. 2008 Constitution of Myanmar. https://www.constituteproject.org/constitution/Myanmar_2008.pdf?lang=en
[5] Government of Myanmar. Myanmar Penal Code, Section 377. https://www.burmalibrary.org/docs6/MYANMAR_PENAL_CODE-corr.1.pdf
[6] Institute of Development Studies. Sexuality, Poverty and Law Programme: Sex Work Law - Myanmar. <http://spl.ids.ac.uk/sexworklaw/countries>

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HUMAN TRAFFICKING IN MYANMAR



KEY DEVELOPMENTS

In response to the 2nd UPR cycle, Myanmar accepted recommendations to step up efforts to prevent and combat human trafficking, migrant smuggling and the sale of children, and to investigate and prosecute traffickers and smugglers. New initiatives aimed to increase awareness, improve reporting, and provide timely responses.

Despite these efforts, there has been limited improvement, as awareness-raising and reporting mechanisms remain inaccessible to the most vulnerable and at-risk populations in rural communities. There have been few prosecutions, resulting in impunity for perpetrators and a lack of justice for victims. There are also inadequate resources to support survivors' social and economic recovery.

Human trafficking, especially for forced labor and sexual exploitation, remains rampant both domestically and abroad [1]. Traffickers take advantage of the instability of the country and the vulnerability of the people to coerce women, men and children into trafficking.



TESTIMONY

Seng Moon's family fled fighting in Kachin State and wound up struggling to survive in an IDP camp. When Seng Moon was 16, her sister-in-law said she knew of a job as a cook in China's neighboring Yunnan province. Seng Moon did not want to go, but the promised wage was far more than she could make living in the IDP camp. In the car, Seng Moon's sister-in-law drugged her, and she woke up in China.

"My sister-in-law left me at the home. ...The family took me to a room. In that room I was tied up. ...They locked the door—for one or two months.... Each time when the Chinese man brought me meals, he raped me...After two months, they dragged me out of the room. The father of the Chinese man said, "Here is your husband. Now you are a married couple. Be nice to each other and build a happy family." [2]



RECOMMENDATIONS

- Abolish the 2005 Anti-Human Trafficking Law including its by-laws and enact new laws in consultation with CSOs and other stakeholders to ensure greater accountability for perpetrators and government resources for victims.
- Pursue legal actions against traffickers and ensure that perpetrators at all levels are brought to justice.
- Invest in and implement policies that focus on the care and protection of survivors, focusing on safety, physical and mental health, education, access to decent work, and restitution.
- Strengthen complaint mechanisms within Myanmar and at overseas embassies/consulates to register human trafficking violations, accessible to all, regardless of circumstances and legal status.
- Expand awareness-raising programs on human trafficking and available resources for those seeking assistance, especially for rural and marginalized populations and in educational institutions.
- Protect the rights of migrant workers through negotiations with countries of destination and by developing comprehensive Memorandums of Understanding. Ensure equal opportunity for all labor official posts, especially the post of labor attaché.



MAIN CHALLENGES AND SUPPORTING FACTS

TRAFFICKING FOR FORCED LABOR

People trafficked for forced labor in raft fishery experience physically intensive and dangerous conditions, in violation of international labor norms and standards [3]. Workers experience violence from supervisors who force more intensive work, and from tensions that emerge among men trapped on rafts for eight months under precarious living conditions. Workers die from sickness, suicide, and storms. In the raft fishery in Pyapon, Ayeyarwady, 276 workers were reported missing, killed, or dead as a result of illness during the 2017–2018 fishing season – a rate of one death per day [4].



TRAFFICKING FOR SEXUAL EXPLOITATION

Girls and women are disproportionately affected by human trafficking, especially for sexual exploitation [5]. There are high rates of trafficking in urban centers like Yangon, and in conflict-affected areas like Kachin State and Shan State. Cases of selling female victims as brides and for forced pregnancy have increased dramatically due to high demand in China [6]. There is insufficient cooperation between Myanmar and China to address this issue [7]. Sex trafficking has devastating consequences for trafficked individuals, who may suffer from long-lasting physical and psychological trauma, disease, drug addiction, malnutrition and social ostracism [8].

Despite Myanmar's commitments under the Palermo Protocol, many forms of human trafficking remain common, including trafficking of workers on fishing boats and domestic workers, and trafficking for sexual exploitation, including the sale of brides and prostitution at casinos and karaoke bars.



LACK OF JUSTICE AND SUPPORT FOR SURVIVORS

Because traffickers are highly mobile, often fleeing abroad, it is difficult to prosecute cases, resulting in impunity for perpetrators, and a lack of justice for the victims. Although the 2005 Anti-Trafficking in Persons Law states that the maximum penalty for trafficking is imprisonment for life [9], there have only been a few prosecutions.

There are also inadequate resources to support survivors' social and economic recovery. The government only offers repatriation of survivors, and lacks consideration for the victims' human rights, physical and emotional security.

[1] Max Greenwood (2018). US moves Myanmar to list of worst human trafficking offenders. The Hill.<https://thehill.com/policy/international/394685-us-moves-myanmar-to-list-of-worst-human-trafficking-offenders>

[2] Human Rights Watch (2019). "Give Us a Baby and We'll Let You Go": Trafficking of Kachin "Brides" from Myanmar to China.<https://www.hrw.org/report/2019/03/21/give-us-baby-and-well-let-you-go/trafficking-kachin-brides-myanmar-china>

[2] Zaw Zaw Htwe (2019). Myanmar Rights Commission to Probe Fishery Slave Claims. The Irrawaddy.<https://www.irrawaddy.com/news/burma/myanmar-rights-commission-probe-fishery-slave-claims.html>

[3] Soe Soe Tun (2018). Leopard Hells of hell are still burning above the sea of Burma. BBC News.<https://www.bbc.com/burmese/in-depth-45691571>

[4] UN Women (2019). Tackling human trafficking in Myanmar. UN Women.<https://www.unwomen.org/en/news/stories/2019/1/feature-tackling-human-trafficking-in-myanmar>

[5] Human Rights Watch (2019). "Give Us a Baby and We'll Let You Go": Trafficking of Kachin "Brides" from Myanmar to China. Human Rights Watch. <https://www.hrw.org/report/2019/03/21/give-us-baby-and-well-let-you-go/trafficking-kachin-brides-myanmar-china>

[6] Heather Bar (2019). China's Bride Trafficking Problem. The Diplomat. <https://thediplomat.com/2019/10/chinas-bride-trafficking-problem/>

[7] Sarah Gonzalez Bocinski (2017). The Economic Drivers and Consequences of Sex Trafficking in the United States. Institute for Women's Policy Research. <https://iwpr.org/publications/economic-drivers-consequences-sex-trafficking-united-states/>

[8] The State Peace and Development Council (2005). The Anti Trafficking in Persons Law. Government of Myanmar. https://www.burmalibrary.org/docs15/2005-SPDC_Law2005-05-Anti_Trafficking_in_Persons_Law-en.pdf

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FREEDOM OF EXPRESSION, FREEDOM OF ASSEMBLY AND PRESS FREEDOM IN MYANMAR



KEY DEVELOPMENTS

Myanmar only accepted half of the 18 recommendations related to Freedom of Expression, Freedom of Assembly and Press Freedom in the 2nd UPR cycle and among those, it has failed to implement many.

This includes the recommendations on the rights of citizens and journalists which have been under increased threat. Among the most alarming was the continued prosecution of journalists and the implementation of the National Record and Archive Bill that allows the government to keep human rights violations private for up to thirty years.

Freedom of expression and assembly continue to be largely stifled and heavily monitored. Activists and artists have been prosecuted for their actions to advocate for better government actions and anti-war demonstrations. Efforts to strengthen expression and assembly rights, such as the Ministry of Transport and Communications Social Media Monitoring team and in-person literacy or human rights training, have failed to be transparent and accessible to citizens.

Internet shutdowns persist with five townships currently facing internet restrictions in the Chin and Rakhine States.



RECOMMENDATIONS

- Amend or repeal all laws or provisions that target freedom of expression, including but not limited to the Telecommunications Law, News Media Law, Printing and Publication Law, Peaceful Assembly and Peaceful Procession Law, Privacy Law and penal codes to align them with international human rights standards
- Free prisoners and journalists who are on trial under these restrictive laws, and immediately cease the silencing of political activists, peaceful protesters and human rights defenders vis-a-vis the criminal justice system or by threats, harassment and intimidation
- Decriminalize defamation in accordance with international standards
- Develop policy for digital rights and literacy through public awareness and monitoring of hate speech inciting hatred, defamation, violence etc., in consultation with relevant CSOs
- Immediately restore internet access to affected townships, and prohibit future shutdowns, which affect economic growth and risk the lives of citizens, especially during conflict



MAIN CHALLENGES AND SUPPORTING FACTS

JOURNALIST PROSECUTION

In 2018, two Reuters journalists named Wa Lone and Kyaw Soe Oo were arrested and sentenced to seven years in prison under colonial law Burma Official Secrets Act (1923) for covering the massacre of Rohingya people in Inn Din village in Rakhine State [2].

There are cases, as recent as March 2020, of journalists being prosecuted in violation of the Right to Information Law. Not only has the government failed to adapt this law but journalists still face risks of being faced with charges, including defamation [1]. The suppression of media is further illustrated by the introduction of the National Record and Archive Bill which allows the government to keep sensitive records of human rights violations from the public for up to thirty years [3].

DIGITAL SUPPRESSION

Internet shutdowns and digital surveillance continue to prevail as threats to the rights of citizens. The Privacy Law passed in 2017 was meant to protect the privacy and security of citizens from online monitoring by Myanmar's police force but has yet to be properly implemented. The first person to be prosecuted under the law was a political activist in the Thahton township who was accused of criticizing the Chief Minister of Mon State on Facebook [5].

In June 2019, the Myanmar government ordered an internet shutdown in nine townships of Chin and Rakhine States. Though the government lifted the ban for five townships, internet access is still restricted in Ponna Kyun, Kyauk Taw, Mrauk Oo and Min Pyar townships [4].

PEACEFUL ASSEMBLY

There have been numerous lawsuits filed by the Myanmar military and government against ethnic activists for organizing anti-war rallies, assembly and demonstrations across the country especially in Kachin State and Rakhine State [6].

[1] Poppy McPherson (2019). More than 500 days in prison: For journalists jailed in Myanmar, a long fight for freedom. Reuters.<https://www.reuters.com/article/us-myanmar-journalists-case/more-than-500-days-in-prison-for-journalists-jailed-in-myanmar-a-long-fight-for-freedom-idUSKCN1SD062>

[2] IBID

[3] Thompson Chau (2019). Public Access to Info: Planned Archives Law Alarms Civil Society. MyanmarTimes. <https://www.mmtimes.com/news/public-access-info-planned-archives-law-alarms-civil-society.html>

[4] Human Rights Watch (2019). Myanmar: Internet Shutdown Risks Lives. Human Rights Watch.<https://www.hrw.org/news/2019/06/28/myanmar-internet-shutdown-risks-lives>

[5] NYAN SOE WIN (2018). Netizen Sued After Criticizing Mon State Chief Minister on Facebook. The Irrawaddy. <https://www.irrawaddy.com/news/burma/netizen-sued-criticizing-mon-state-chief-minister-facebook.html>

[6] BBC News (2019). Peacock Generation: Satirical poets jailed in Myanmar. BBC News.<https://www.bbc.com/news/world-asia-50238031>

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FREEDOM OF RELIGION AND BELIEF IN MYANMAR



KEY DEVELOPMENTS

Myanmar had accepted the previous UPR's recommendations to end discrimination against all ethnic and religious minorities. Yet, it continues to perpetuate oppressive policies which incite violence, hate speech and discrimination towards minority groups. The four Race and Freedom of Religious Laws regulate interfaith marriages, conversion and reproductive practices of certain groups.

Reports have been made of forced conversions and destruction of religious sites, which are sometimes transformed into military bunkers. Nationalist groups are known to disrupt religious gatherings. The National Interfaith Council primarily engages in promotion of Buddhism with little representation from other groups.



TESTIMONY

"These mosques were shut down unnecessarily in the first place," said Wunna Shwe, joint-secretary of the Islamic Religious Affairs Council Myanmar. "Now that there is stability in the country, they need to be reopened as soon as possible."

"I emphasized that there is no religious freedom in the country. However, it was not focused solely on the Christian community, but the religious community as a whole throughout the country," said Kachin Baptist Convention (KBC) President Rev. Dr. Hkalam Samson.



RECOMMENDATIONS

- Eliminate all forms of restrictions, officially or arbitrarily imposed on all religious expression or customs, especially Muslim and Christian practices both in worship places and at homes.
- Prevent the destruction of worship places and religious sites as accepted during the 2nd UPR Cycle. Introduce legal standards and transparency measures for the verification of donated land, renovation of demolished worship places, and the re-opening of closed worship sites for all religions without discrimination.
- Provide fair compensation and grant permission to renovate and rebuild any religious sites and places of worship destroyed by state and non-state armed actors.
- Institute a civic education curriculum, beginning at primary levels, to promote inter-religious understanding and tolerance.
- Reform the National Interfaith Council in coordination with CSOs to ensure equal representation and opportunities for all religious minorities within the government.



MAIN CHALLENGES AND SUPPORTING FACTS

BUDDHIST NATIONALIST MOVEMENTS

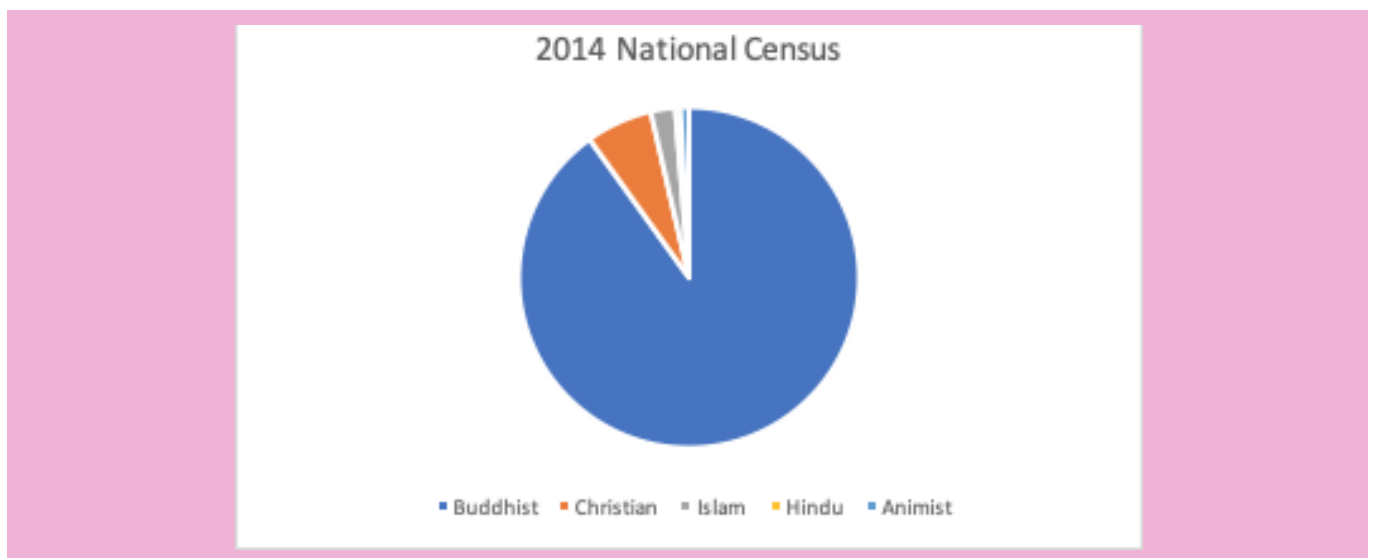
Since 2012, Myanmar has witnessed the rise of Buddhist nationalist movements that limit religious freedom and target religious minorities, particularly Muslims and Christians[1]. According to the 2014 National Census, the Buddhist population is 89.8%, Christian 6.3%, Islam 2.3%, Hindu 0.5%, and Animist 0.8% respectively.

DISCRIMINATION AGAINST MINORITIES

Although Myanmar accepted previous UPR recommendations to end discrimination against all ethnic and religious minorities, it continues to perpetuate a range of oppressive policies that incite violence, hate speech and discrimination of minorities. The four Race and Freedom of Religious Laws[2] regulate interfaith marriages, conversion and reproductive practices of certain groups. Minorities face systemic discrimination based on their ethnic and religious status, and this discrimination has rendered many stateless, particularly in Rakhine State.

LACK OF PLACES OF WORSHIP

Over the past two years the government and Ethnic Armed Groups (EAGs) have allowed the re-opening of worship sites, but they are a small fraction of those shut down. In a move 'to build unity', last year the military chief made a series of donations to various ethnic communities, though it is viewed with skepticism by some locals.



[1] Main Report: Volume 2-C, Religion, Myanmar Census 2014

Sources: 1) Govt publishes data on Population of Religious Groups, Aung, S. Yamin, 21 July 2016, The Irrawaddy, <https://www.irrawaddy.com/news/burma/govt-publishes-data-on-populations-of-religious-groups.html>

2) Facts and Details (2014). RELIGION AND RELIGIOUS REPRESSION IN MYANMAR. Facts and Details. http://factsanddetails.com/southeast-asia/Myanmar/sub5_5c/entry-3033.html#chapter-3

[2] These Laws include:

The Religious Conversion Bill stipulating that anyone who wants to convert to a different faith will have to apply through a state-governed body, in clear violation of the right to choose one's own religion.

The Buddhist Women's Special Marriage Bill regulates the marriage of Buddhist women with men from another religion.

The Population Control Healthcare Bill establishes a 36-month "birth spacing" interval for women between child births, though it is unclear whether or how women who violate the law would be punished.

The Monogamy Bill criminalizes polygamy and extra-marital relations.

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ANTI-CORRUPTION & THE JUDICIAL SYSTEM IN MYANMAR



KEY DEVELOPMENTS

In the 2nd UPR Cycle, the government accepted two recommendations from Georgia and Cuba to "accelerate reforms with the aim to guarantee good governance and more vigorously address the issue of corruption." However, despite government commitments [1], corruption and bribery continue to pose significant challenges. Essential laws needed to support anti-corruption initiatives—such as Whistleblower Protection Laws, Right to Information Laws and Assets Disclosure Laws/Policies—remain unimplemented.

In addition, the judiciary has limited independence and is closely linked with the executive branch and military [2]. There are limited mechanisms to ensure the good conduct of judges, particularly at the lower court levels [3]. This overlap with the executive has created an imbalance of power and makes the judiciary highly susceptible to pressure and coercion [4].



TESTIMONY

Extortion and bribes are commonplace, and have a significant economic impact on minority communities. One interviewee from Maungdaw Township stated [5]:

“ When my father was arrested, my mother used to pay the military to get him released. He would stay in detention for various lengths of time, depending on how fast my mother would pay. The amount would vary greatly, and my mother would borrow money from others to pay the bribe. Then, my father had to work to pay back this money. They would arrest him without giving any reason. When we asked why he was arrested, the response was that we were Muslims, we were 'Kalar'. ”



RECOMMENDATIONS

- Establish mechanisms for regular, transparent, and independent monitoring of court proceedings by experts in domestic and international fair trial standards.
- Establish a clear and accessible public complaint mechanism under the ACC and launch informational campaigns to ensure public awareness. Expand ACC branch offices across all states.
- Allow CSOs to work closely with the judicial sector and participate in judicial system reform.
- Ensure legal protection of whistleblowers exposing corruption practices.
- Amend the Constitution to ensure the independence of the judiciary from the executive and the legislature under the Five Year Judicial Strategic Plan.

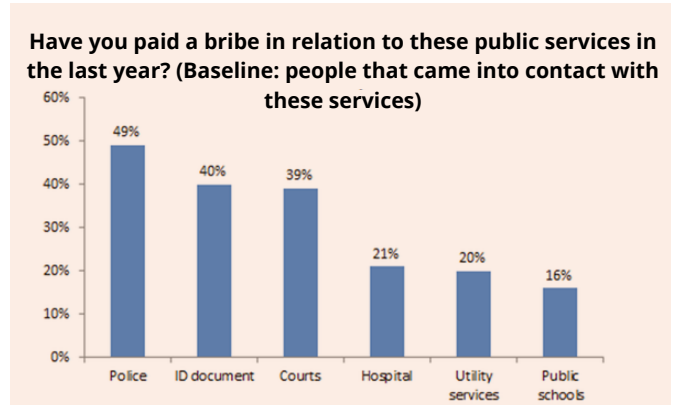


MAIN CHALLENGES AND SUPPORTING FACTS



ANTI-CORRUPTION

Despite modifications to the Anti-Corruption Law in 2013, public awareness and participation in anti-corruption measures remains low. The process of filing bribery complaints is unclear and people have limited knowledge and access to relevant channels [6].



A March 2017 survey by the anti-corruption nonprofit, Transparency International (TI) highlighted corruption from the perspective of ordinary citizens. They interviewed 1,224 households selected to be representative of the country as a whole [7].



JUDICIAL SYSTEM

Military involvement in legal processes is common [8]. The Supreme Court claimed it assessed its independence and accessibility under the five year judicial strategic plan released in 2018 [10]. However progress is yet to be demonstrated.

Although the Anti-Corruption Commission (ACC) has made significant efforts, pursuing high profile cases [11] and extending its mandate to private transactions [12], frustration remains due to government inaction in corruption-related issues. This includes the fact that government officials involved in corruption cases are able to avoid legal consequences. There is also a general lack of transparency and accountability regarding the Corruption Prevention Units (CPUs) and their efforts.

[1] Myanmar has ratification of the United Nation Convention against Corruption (UNCAC) in 2012, and voluntarily participates in the Implementation Review Mechanism.

[2] Melissa Crouch (2017). Judicial Power in Myanmar and the Challenge of Judicial Independence. Asia Pacific Judiciaries. <https://www.cambridge.org/core/books/asiapacific-judiciaries/judicial-power-in-myanmar-and-the-challenge-of-judicial-independence/C910BB543419DDCDDAB23DC23655E859/core-reader>

[3] International Commission of Jurists (2014). Myanmar: Independence and impartiality; Judicial integrity and accountability. International Commission of Jurists. <https://www.icj.org/cijl/countryprofiles/myanmar-introduction/judges/independence-and-impartiality-judicial-integrity-and-accountability>

[4] Ibid

[5] UNOCHR (2018) Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar. Human Rights Council. https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_CRP.2.pdf

[6] HTET NAING ZAW (2018). Anti-Corruption Commission Encourages Public to File Complaints. The Irrawaddy. <https://www.irrawaddy.com/news/burma/anti-corruption-commission-encourages-public-file-complaints.html>

[7] Transparency International. 2017. People and Corruption: Asia-Pacific. Global Anti-corruption Barometer

[8] The current Chief Justice of Myanmar, Htun Htun Oo is a former military captain https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2923962

[9] Mong Palatino (2015). Myanmar's Ribbon Movements Challenge Militarization. The Diplomat. <https://thediplomat.com/2015/10/myanmars-ribbon-movements-challenge-militarization/>

[10] NYEIN ZAW LIN (2018). Judiciary to assess its independence, try to make system more people-friendly. Myanmar Times. <https://www.mmtimes.com/news/judiciary-assess-its-independence-try-make-system-more-people-friendly.html>

[11] . HEIN KO SOE (2018). Minister's house reportedly searched, as ACC examines 18 cases. Frontier Myanmar. <https://frontiermyanmar.net/en/ministers-house-reportedly-searched-as-acc-examines-18-cases>. 2. SITHU AUNG MYINT (2019). A round of applause for the Anti-Corruption Commission. Frontier Myanmar. <https://frontiermyanmar.net/en/a-round-of-applause-for-the-anti-corruption-commission>

[12] Sher Hann Chua and Nwe Oo (2018). Myanmar: Continuing the Fight against Corruption. Global Investigations Review. <https://globalinvestigationsreview.com/benchmarking/the-asia-pacific-investigations-review-2019/1174615/myanmar-continuing-the-fight-against-corruption>

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