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## 2010 Human Rights Report: Burma

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

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Burma, with an estimated population of 56 million, is ruled by a highly authoritarian military regime dominated by the majority ethnic Burman group. The State Peace and Development Council (SPDC), led by Senior General Than Shwe, was the country's de facto government. Military officers wielded the ultimate authority at each level of government. In 1990 prodemocracy parties won more than 80 percent of the seats in a general parliamentary election, but the regime continued to ignore the results. In 2008 the regime held a referendum on its draft constitution and declared the constitution had been approved by 92.48 percent of voters, a figure no independent observers believed was valid. The government held parliamentary elections on November 7, the first elections since 1990. The government-backed Union Solidarity and Development Party (USDP) claimed an overwhelming majority of seats in the national parliament and state/regional assemblies. Democracy activists and the international community widely criticized both the constitutional referendum and the elections process as seriously flawed. Parliament was scheduled to convene on January 31, 2011, with a special joint session of the upper and lower houses to follow within 15 days. The constitution was to go into effect when that joint session was convened. The constitution specifies that the SPDC will continue to rule until a new government is formed.

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, the date her sentence (for allegedly having violated the terms of her confinement) expired.

## **RESPECT FOR HUMAN RIGHTS**

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

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. On February 22, two soldiers beat and killed Aung Cho after a shop owner accused him of stealing. On March 12, seven government soldiers reportedly killed Kyaw Win Maung after a minor street quarrel. On March 21, government soldiers allegedly killed Wai Phyo Aung after he deserted his army battalion two days earlier. Wai Phyo Aung's parents received no compensation, and no investigatory action was reported.

In May government troops reportedly killed two Rohingya attempting to cross the Naff River by boat; the two reportedly were fleeing to Bangladesh. Also in May soldiers killed a teenage boy after a traffic accident in Bago Division; the soldiers involved in the accident reportedly were drunk.

During the year there were reports of killings in connection with conflict in Karen State (see section 1.g.).

There were no developments in the May 2009 killing of army sergeant Myint Soe in Magwe Division during interrogation by military agents.

There were no developments in the November 2009 death of Win Maung, who reportedly died one day after police in Bago Division interrogated him regarding a theft case.

At year's end 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, including the following cases: Maung Chan Kun, Lin Lin Naing, Ko Naing Oo, NLD member Win Shwe, and Ko Ko Win.

The government took no action to investigate or take responsibility for the 2003 attack by government-affiliated forces on an NLD 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.

#### b. Disappearance

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.

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There were reports of disappearances during the year in connection with conflicts in Shan and Karen states (see section 1.g.).

On August 5 two leaders of an ethnic militia group in Shan State, Salang Hkun Myant and Saland Lau Yawng, disappeared after they were summoned to Nay Pyi Taw.

The whereabouts remained unknown of four Arakanese university students arrested in September 2009. Authorities alleged the students were conspiring to plan activities commemorating the 70th anniversary of the death of a prominent Arakanese monk who advocated for independence from British rule.

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. With the exception of Nyan Tun, who was being held at a prison near Pyay, their identities and locations were unknown.

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.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

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 (see section 1.g.).

On April 18, authorities arrested and reportedly tortured an NLD member to prevent him from organizing citizens to boycott the November elections; he was freed later that month.

In May authorities reportedly tortured during interrogation Maung Zeya and his son, Sithu Zeya, for taking photographs at the site where a bomb exploded in April during the annual Thingyan water festival. In June authorities sentenced both to two years in prison; on December 21, Sithu Zeya received an additional eight-year sentence.

In May police reportedly beat and severely injured several youths during interrogation in connection with bombings at the Myitsone dam site near Myitkyina, Kachin State. Police detained a total of 43 youths for two to three weeks before releasing them; however, some remained in detention at year's end.

On July 30, prison guards placed Myo Kyaw Zin, an NLD member, in solitary confinement for one month following his complaints to prison guards about the treatment of political prisoners held in Putao prison in northern Kachin State.

In August there were reports that authorities ruptured the eardrum of NLD member Hyat Aung during interrogation, resulting in hearing loss. He was believed to remain in custody at year's end.

By year's end police had not investigated an April 2009 incident in which thugs assaulted five NLD members, reportedly on orders from the regime, in four separate incidents.

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.

#### Prison and Detention Center Conditions

Prison and labor camp conditions generally were harsh and life threatening. Prison food, clothing, and medical supplies were scarce and of poor quality. Bedding often was inadequate, sometimes consisting of a single mat or wooden platform on the floor. In many cases family members of prisoners, who generally were allowed one or two visits per month, supplemented prisoners' official rations of medicine and basic necessities. According to the Thailand-based Assistance Association for Political Prisoners (Burma) (AAPPB), authorities sent more than 200 political prisoners to remote prisons located hundreds of miles from their families.

The Department of Prisons operated a reported 42 prisons and more than 100 labor camps. 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.

The government denied prisoners adequate medical care, although medical services in prisons partially reflected the poor health care services available to the general population. Collective reports from three dozen prisons indicated hepatitis B and amoebas were the most prevalent medical problems. Prisoners also suffered from various diseases, including malaria, heart disease, high blood pressure, and stomach problems--the result of unhygienic conditions and spoiled food. HIV/AIDS infection rates in prisons reportedly were high due to communal use of syringes for medical injections and sexual abuse by infected prisoners. One former political prisoner, who was released in 2009, claimed the annual budget for medical supplies in the prison where he was incarcerated was 50,000 kyat (approximately \$50). There were no medical doctors or trained health-care professionals on staff at several prisons. Prison officials took common criminals to the local hospital for treatment but were required to seek authorization from higher authorities before allowing political prisoners to

seek medical assistance outside the prison. Political prisoners waited days to receive medical treatment for life-threatening conditions and several months for treatment of chronic and urgent problems.

According to a political prisoner released in 2009, approximately three prisoners per month in one particular prison died due to the conditions. In April and May, eight criminal prisoners reportedly died of illnesses related to a heat wave.

In May political prisoner Ko Kyaw Soe died in Myingyan prison at the age of 39. According to the AAPPB, he was the 144th prisoner since 1998 to die while in the custody of prison authorities as a result of malnutrition, mistreatment, or inadequate medical care.

According to the AAPPB, at least 137 political prisoners were in poor health due to harsh conditions, transfers to remote areas where there were no doctors, and the denial of proper medical care. Several political prisoners complained of inadequate treatment for medical problems, including hepatitis B, heart conditions, back pain, stomach problems, kidney stones, eye diseases, and dental problems.

NLD member Naw Ohn Hla--held since October 2009 for offering Buddhist scriptures to monks--complained openly in court during a February 1 hearing about the poor living conditions at Insein Prison. Naw Ohn Hla shared a nine-by-ten-foot cell with nine other inmates. Authorities did not respond to Naw Ohn Hla's complaints.

Shan State Army-North General Hsay Ten, the 74-year-old Shan ethnic politician serving a 106-year prison sentence for taking part in a 2005 meeting with other politicians to discuss the authorities' plans for political transition, suffered from heart problems, diabetes, and cataracts. Authorities repeatedly denied him adequate medical care. Between August 2 and 9, authorities transferred him to three different prisons. He arrived at Sittwe Prison with a dislocated arm due to the heavy shackles placed on him during transport.

Political prisoner Mya Aye, serving a 65-year sentence on a variety of charges, reportedly was not adequately treated for a heart condition. Prison authorities reportedly permitted a general practitioner to treat him but not a specialist.

The heart condition of political prisoner Su Su Nwe, who was moved to Kale prison, continued to deteriorate due to lack of proper treatment.

Comedian/activist Zarganar, serving a 35-year sentence in Kachin State, continued to suffer from hypertension and cardiac problems and did not receive adequate medical care.

On July 16, political prisoner Myo Kyaw Zin, serving a 17-year term, was beaten by criminal prisoners. Authorities put Myo Kyaw Zin into solitary confinement for one month after he reported the incident.

Prisoners and detainees did not have the right to manifest their religious beliefs or practices in public. Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship or to request investigation of credible allegations of inhumane conditions. The government did not investigate or monitor prison and detention center conditions.

The government did not permit media or other independent groups to monitor prison conditions. The government continued to deny the International Committee of the Red Cross (ICRC) unfettered access to prisons. As a result the ICRC could not follow the cases of more than 4,000 detainees, including prisoners of conscience, minors, foreigners, and sick and elderly prisoners. The government limited the ICRC's activities to supporting family visits to detainees and providing physical rehabilitation for landmine victims and other persons with disabilities. There was no ombudsman to serve on behalf of prisoners and detainees.

#### d. Arbitrary Arrest or Detention

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.

#### Role of the Police and Security Apparatus

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.

#### Arrest Procedures and Treatment While in Detention

By law warrants for searches and arrests are required; however, the MSA and police have special authority to conduct searches and make arrests at will. 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.

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.

In January antinarcotics police reportedly assaulted a man whom they accused of being in possession of opium. Authorities found no illegal narcotics when they searched his home but arrested him without charge or providing a reason.

In December 2009 authorities released U Aye Myint, a labor activist from Magwe Region active in land-rights cases for farmers, who was sentenced in September 2009 to two years' imprisonment for threatening to injure a public servant.

During the year the regime continued to hold numerous prodemocracy and human rights activists and several top opposition leaders (see Political Prisoners and Detainees). Other activists wanted by the regime remained in hiding or self-imposed exile.

House arrest, a form of detention, was usually reserved for high-profile political prisoners.

#### Amnesty

In March the government released a foreign human rights activist arrested in September 2009, convicted, and imprisoned on politically motivated charges. He reported mistreatment by prison authorities during his incarceration. On August 22, the government released 170 prisoners, but none were political prisoners.

#### e. Denial of Fair Public Trial

The judiciary is not independent of the government. The SPDC appoints justices to the Supreme Court, which in turn appoints lower-court judges with SPDC approval. These courts adjudicate cases under decrees promulgated by the SPDC that effectively have the force of law. The regime frequently directed verdicts in politically sensitive trials of civilians.

Supreme Court justices and senior officials in the Office of the Attorney General allegedly were most often responsible for passing along and enforcing the orders of the military rulers.

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.

#### Trial Procedures

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 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.

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.

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. The regime often prosecuted political prisoners under such measures as the Emergency Provision Act, Law on Safeguarding the State from the Danger of Subversive Elements, Television and Video Act, Unlawful Associations Act, Electronic Transactions Law, and 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 did to reduce by half NLD leader Aung San Suu Kyi's most recent detention in 2009.

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.

#### Political Prisoners and Detainees

Human rights observers reported there were more than 2,100 "security detainees," including political prisoners, violators of state security laws, and those accused of fostering religious disturbances. Because the government usually charged political detainees with criminal offenses, it denied holding any political prisoners. Despite government assertions, a vast majority of these prisoners were not believed to have engaged in any violence, theft, or other common crimes.

On January 7, Special Branch police arrested monk Ashin Uk Kong Sah after he launched a campaign opposing the election in Mon State. On September 7, he was sentenced for a total of 15 years under the Electronic Transactions Law, Press Act, and section 505(b) of the penal code (inciting public unrest).

On January 14, three NLD members were sentenced to three years with hard labor under the Unlawful Associations Act for allegedly accepting money from an exile group located on the border with Thailand.

In April authorities arrested 12 members of Best Manure, an antigovernment group formed in the wake of the September 2007 monk-led uprising, for distributing pamphlets that encouraged citizens to participate in a campaign demanding the release of Aung San Suu Kyi and all other political prisoners.

In June a district court sentenced monk U Gawthita to seven years' imprisonment for antigovernment activities. He was accused of defaming the Buddhist religion (Sasana) and violating the Unlawful Associations Act.

On January 21, authorities charged eight activists for their roles in the September 2007 monk-led uprising. Authorities arrested the eight men, who included four monks and a schoolteacher, in 2009 during a crackdown that coincided with the two-year anniversary of the event. At year's end the activists remained in detention, awaiting conclusion of their trial.

On February 15, a township court sentenced Naw Ohn Hla, Myint Myint San, Ma Cho, and Cho Cho Lwin to two years in prison. Arrested in October 2009, they were part of the Tuesday Prayer Group, a collection of prodemocracy activists who visited Rangoon's Shwedagon Pagoda every Tuesday to pray for the release of Aung San Suu Kyi and other political prisoners.

At year's end other political activists convicted in 2009 who remained in prison included Ashin Sandimar, Kyaw Zin Min, Wunna Nwe, and Zin Min Shein, all convicted of violating the Explosives Law and Unlawful Associations Act. Another seven--Saw Maung, Aung Moe Lwin, Moe Htet Nay, Tun Lin Aung, Zaw Latt, Naing Win, and Tun Lin Oo--convicted of

violating the Unlawful Association Act, also remained in prison. Ko Tin Htut, sentenced to 15 years' imprisonment for carrying a poster calling for the release of all political prisoners, also remained imprisoned.

Political activists detained in 2008 and convicted in 2009 who remained in prison included Bo Min Yu Ko, sentenced to 104 years' in prison; Kyaw Ko Ko, three years; Tin Min Htut and Nyi Pu, 15 years each; Ye Min Oo, Ye Myat Hein, Kyi Phyu, and Si Thu Maung, five to six and one-half years each; and Aung Kyaw Oo, four and one-half years.

Also remaining in prison were members of the Generation 88 Students group sentenced in 2008: Min Ko Naing, Ko Ko Gyi, Kyaw Min Yu, Mya Aye, Aung Thu, Min Zeya, Myo Aung Naing, Nilar Thein, Zeya, Kyaw Kyaw Htwe (Markee), Panneik Tun, and Zaw Zaw Min, each sentenced to 65 years' imprisonment; and Tin Htoo Aung, sentenced to 33 years.

Zaw Thet Htwe, sentenced in 2008 to 19 years under the Electronic Transactions Law, continued to serve his prison term, reduced to 15 years on appeal. Monk U Gambira, sentenced in 2008 to 68 years' imprisonment, also remained in prison.

Human rights activists Myo Min, sentenced to eight years for illegally crossing the border and violating the Unlawful Associations Act, and Myint Aye, sentenced to 28 years for conspiracy to commit bombings, continued to serve their prison terms following their convictions in 2008.

Myanmar Development Committee leader Htin Kyaw, sentenced in 2008 to 12 years' imprisonment, and human rights activists Aung Zaw Oo and Win Maw, sentenced in 2008 to 12 years and two years, respectively, remained in prison. Authorities subsequently charged Win Maw with breaching the Electronic Transactions Law, which could lead to an additional sentence of seven to 15 years. He remained in prison at year's end.

Aung Htun was in Maubin prison, and Aung Kyaw San was in Maisat prison; the whereabouts of both were previously unknown. The whereabouts of Myat Thu remained unknown; human rights observers believed he continued to be detained without charge. The three were detained in 2007-08.

In January authorities released lawyer Pho Phyu, arrested in 2009 for reporting labor rights violations to the International Labor Organization (ILO) on behalf of a group of farmers. On February 13, authorities released NLD Vice Chairman U Tin Oo, imprisoned or under house arrest since the 2003 Depayin incident.

On November 13, the government released Aung San Suu Kyi, general secretary of the NLD, from house arrest. In August 2009 she was convicted on charges of violating the terms of her house arrest and remained confined for an additional 18 months. She had been jailed or under house arrest for more than 15 of the last 21 years.

#### Civil Judicial Procedures and Remedies

Civil judicial procedures and remedies existed in principle, but in practice there was no assurance a complainant would receive a fair hearing.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Land Acquisition Act protects the privacy and security of the home and property. There were no laws protecting correspondence or other communications of citizens. Through its intelligence network and administrative procedures, the government systematically monitored the travel of citizens and closely monitored the activities of those known to be active politically.

Forced entry without a court order is illegal, but the government generally did not respect this law.

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.

Security personnel regularly screened private correspondence, telephone calls, and e-mail.

The government continued to control and monitor closely the licensing and procurement of all two-way electronic communication devices. Possession of an unregistered telephone, fax machine, or computer modem is punishable by imprisonment. Users of unregistered cordless telephones face up to three years in prison and a heavy fine. Use of unregistered radios is also punishable by a fine and imprisonment.

Activists and politicians reported that authorities routinely monitored their movements.

The government reportedly continued its practice of conscripting members of ethnic minorities for service as military porters in Bago Division and in Chin, Karen, Kachin, Kayah, Rakhine, and Shan states (see section 1.g.).

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 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.

The law does not permit private ownership of land; the government can confiscate the land of individuals at any time. Weak private property rights and poor land ownership records facilitated involuntary relocations of persons by the government, especially in rural areas.

In early February authorities ordered approximately 270 Rangoon households, whom it claimed were illegal squatters, to move so the houses could be demolished. Police detained U Tun Yi, a resident affected by the removal, who submitted a letter to request that authorities stop the demolition. Police released him at the end of February.

On May 30, the local government ordered 1,000 civilians from Myitkyina and Waingmaw townships to move from the vicinity of the Myitsone dam project site in Kachin State. Several protested the forced relocation and then fled to the border with China when the regime threatened to arrest them.

There were some reports of forced relocations and demands for forced labor to build infrastructure. While more frequent in rural areas, reports of forced relocation in urban areas also existed. There were numerous reports government troops looted and confiscated property and possessions from forcibly relocated persons or persons who were away from their homes. The practice was more prevalent in Shan, Kayah, and Karen states and in areas of Mon State and Bago Division. The government made no attempts to punish offenders or compensate victims for their losses (see also section 2.d.).

The government routinely confiscated food, cash, and other property from civilians. Military personnel routinely confiscated livestock, fuel, food supplies, money, and other items. Such abuses were widespread.

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.

The government punished family members for alleged violations by individuals.

#### g. Use of Excessive Force and Other Abuses in Internal Conflicts

Ethnic insurgent groups continued to battle the government for autonomy or independence, including the Shan State Army -South; the Karenni National Progressive Party; and the Karen National Union (KNU), through its armed wing, the Karen National Liberation Army (KNLA). Heavy fighting between the government army and a breakaway faction of the Democratic Karen Buddhist Army (DKBA) broke out on the border with Thailand on November 8. In ethnic minority regions, military personnel reportedly killed and raped civilians, shelled villages and burned homes, destroyed food and seized possessions, confiscated land, forced villagers to work on infrastructure projects, and demanded villagers provide food and construction materials for military camps. International NGOs reported similar abuses in Chin State. One NGO also reported that the government restricted humanitarian access to the state and forced farmers to grow jatropha (physic nuts, an inedible castor oil crop) instead of food crops.

The government continued to pressure cease-fire and armed rebel groups to join the government army-dominated Border Guard Force. Tensions remained high, with some cease-fire groups reportedly concerned the army could undertake military action to compel them to join the border force; several small cease-fire groups subsequently agreed to join.

#### Killings

On January 17, two villagers died when two government soldiers, targeting what they believed to be a Karen National Liberation Army stronghold, allegedly burned 13 houses in eastern Bago Division.

On April 19, 15 unknown assailants beat to death a Catholic priest in Pekhone Township, Kayah State, reportedly due to tension between the government army and the Catholic Church regarding land confiscated in 2006.

On May 16, government army soldiers reportedly killed 15-year-old Tin Min Naing in Bago Division after he fled a group of soldiers when faced with their demand that he join the army.

In early December government army soldiers reportedly entered a KNU/KNLA Peace Council (KPC) camp near Myawaddy in Karen State, shot one soldier, and took six others as prisoners. On December 8, villagers found the mutilated bodies of the six prisoners and claimed they had been tortured before being killed. The KPC, which is distinct from the KNU, signed a cease-fire agreement with the government in 2007.

There were no developments in the June 2009 incident in which government army soldiers from Light Infantry Battalion 205 in Hpa An District reportedly raped and killed two Karen girls.

There were no reported developments regarding the government army's forcible relocation in August 2009 of hundreds of villagers in three townships in Shan State. During the forced relocation, authorities reportedly beat and killed villagers; others sought safety by hiding in the jungle.

There were no reported developments in the September 2009 incident in which police officers in Shan State reportedly raped and killed a 14-year-old girl and allegedly arrested, detained, and tortured seven persons, including some of those who found her body. Police allegedly threatened the victims' relatives to prevent the perpetrators from being tried.

According to the most recent data available, up to 100 persons were killed and 500 injured by land mines during the year.

In 2008 there were unverified reports of deaths and injuries caused by security forces using civilians to clear land mines, particularly in Karen State, where the army continued attacks against ethnic villages. UN Special Rapporteur on Human Rights for Burma Tomas Ojea Quintana cited similar reports in his March 10 report on the country.

#### Disappearance

There were reports of disappearances during government army attacks in Shan and Karen states. Observers believed that many persons were killed and others fled to the border.

#### Physical Abuse, Punishment, and Torture

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.

In contrast with 2009, during the year the government army in Chin State reportedly stopped the practice of forcing villagers to construct fences in an army camp and transport army supplies.

There were no reports the government investigated or otherwise attempted to identify and punish those responsible for numerous acts of killing, injury, and destruction committed against Karen or other ethnic communities.

#### Child Soldiers

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.

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

The ILO and the UN Children's Fund were the only international bodies in the country with a mandate to address the problem of child soldiers. The ILO reported there were 201 complaints of cases of child-soldier recruitment during the year. The government cooperated with the ILO to return 73 underage recruits--40 from complaints received in the year and 33 from 2009 cases. There were no reports of harassment of persons who complained about child-soldier cases.

By year's end the ILO had received 331 complaints of underage recruitment since it began monitoring the problem in 2007. In response the military discharged 142 underage recruits and returned them to their families; 120 other cases were in process towards discharge. According to the ILO, commercial brokers or military personnel abducted the majority of recruits. The ILO reported that the Ministry of Home Affairs generally responded favorably once the ILO filed a complaint on behalf of a family member. The government occasionally investigated and at times prosecuted the soldiers and brokers involved. In 2009 an army captain received a one-year sentence to a civilian prison and dismissal from the army for his role in child soldier recruitment; however, most military perpetrators, if punished at all, received one to three months in a

military prison with hard labor, loss of 12 months' seniority for pension and promotion rights, salary deductions, and a reprimand. The chances of sanction of any type remained limited if the perpetrator was in the military. The number of child soldiers recruited likely far outnumbered the ones released. There were no reports of prosecutions against identified civilian brokers.

Ethnic militias denied the existence of child soldiers in their ranks, although their existence was widely reported.

According to Human Rights Watch, government forces and various armed insurgent groups continued widespread and systematic forced recruitment of child soldiers.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Other Conflict-related Abuses

In Shan and Karen states, military forces displaced civilians from their traditional villages--which often were burned to the ground--and moved them into settlements tightly controlled by government troops in strategic areas. In other cases villagers driven from their homes fled into the forest, frequently in heavily mined areas, without adequate food, security, or basic medical care.

Between July 18 and 20, according to a human rights group, more than 1,000 Karen residents from 10 villages were displaced as government troops mounted offensives against the Karen National Liberation Army.

On July 23, the government army attacked with mortars and then burned 50 homes, a school, and a church in Tha Dah Der, a Christian village in northern Karen State. More than 600 villagers fled into the jungle on the border with Thailand; only 350 had returned at year's end. In addition 300 persons from two neighboring villages--Tha Kaw To Baw and Ti Mu Der--also fled. According to observers, all persons from the two latter villages returned to their homes, which were not attacked.

On November 8, fighting between the government army and a breakaway faction of the DKBA near Myawaddy in Karen State forced thousands of civilians to flee their homes. According to some reports, more than 20,000 refugees crossed the border into Thailand, although sources indicated that most returned to their homes shortly thereafter. Fighting continued sporadically through year's end.

Forced relocations generated large migrations to neighboring countries or to parts of the country not controlled by the government (see section 2.d.).

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

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.

On March 17, the SPDC announced that political parties must seek government approval before publishing party materials or broadcasting any programs. The same directive subjected electoral publications to the 1962 Printers and Publishers Registration Act, under which disseminating information that criticizes the government or disturbs the peace is punishable by up to seven years in prison.

On April 17, authorities arrested and reportedly tortured during interrogation former political prisoner Maung Zeya and his son, Sithu Zeya, for taking photographs at the sites where three bombs exploded during the annual Thingyan water festival. The court initially sentenced each to two years in prison, although additional charges were pending. Authorities sentenced Sithu Zeya to an additional eight years on December 21.

Privately owned media existed, but the government's Press Scrutiny and Registration Division tightly controlled all media and publications and took action against any attempt to provide independent interpretation or comment on news. The Ministry of Information issued licenses to private media publishers as long as the media printed government-approved material. The Press Scrutiny Board suspended the licenses of newspapers that printed items it deemed objectionable. Government agents or supporters held an estimated one-third of private media licenses.

Government scrutiny of the press increased after officials announced that elections would be held on November 7. In June the government-controlled Union Election Commission (UEC) released guidelines prohibiting political party publication of anything that criticized the military, government, or civil service personnel. That same month the editor of a local weekly journal complained the censor board cut information about the visit of foreign government officials. Also in June another journal cancelled publication of an issue after suffering heavy cuts by the censorship board, which approved only four of the 20 pages it submitted.

In July the censor board suspended the weekly newspaper *The Voice* for two weeks for publishing an article that allegedly "misquoted" provisions of the 2008 constitution. Soon thereafter the censor board issued a directive to newspapers calling for the "correct and complete quoting of the constitution, electoral laws, and its rules." In a separate incident, another journal, *Flower News Weekly*, dropped a legal issues section of the newspaper and issued a "correction" after being pressured by authorities.

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.

The law prohibits the publication or distribution of any printed material without obtaining prior approval from the government. The government controlled content in all print publications, and it owned and controlled all domestic radio and television broadcasting facilities. The official print and broadcast media were propaganda organs of the government and did not report opposing views except to criticize them. The Ministry of Information's Press Scrutiny and Registration Division censored all private publications, including books. The censorship process for books can take several months or several years.

Reporters were subject to arrest, harassment, intimidation, and violence by the authorities and supporters of the regime.

On January 29, the Rangoon Special Court at Insein Prison sentenced reporter Ngwe Soe Lin to 13 years' imprisonment for attempting to smuggle information to the exile media.

Twelve persons, including staff members from *The Voice*, *Foreign Affairs*, *Pyi Myanmar*, and *Kandarawaddy* journals, were arrested in October 2009 but were released approximately one month later.

At year's end approximately 40 journalists were in prison, some serving sentences of up to 35 years. Freelance journalist Zaw Tun, sentenced to two years in prison in June 2009 for allegedly obstructing the work of an official, remained in prison. Sein Win Maung, office manager of *Myanmar Nation* magazine convicted in 2008 for violating the Printers and

Publishers Act, continued serving a seven-year sentence. Myat Swe and his father, Thein Swe, co-owners of the English- and Burmese-language weekly newspaper *Myanmar Times*, reportedly remained in prison.

Poet Saw Wai, arrested in 2008, was freed on May 26.

The media practiced self-censorship due to fear of government reprisal. Publications generally did not report on sensitive economic and political topics or local tragedies if they might give a poor impression of governance.

Imported publications remained subject to predistribution censorship by state censorship boards, and possession or distribution of publications not approved by the censorship boards was a serious offense. The government also restricted the importation of foreign news periodicals.

A few foreign news agencies were present but, except for some Chinese, had no expatriates based in the country. Foreign news agency bureau chiefs were rarely permitted to enter on journalist visas.

In March police arrested and expelled a CNN reporter shortly after he arrived in Nay Pyi Taw to cover the annual Armed Forces Day celebration. Officials gave no explanation. The reporter had previously been deported while he was in the country reporting on Cyclone Nargis in 2008.

Due to widespread poverty, limited literacy, and poor infrastructure, radio and television remained the primary media of mass communication. News periodicals rarely circulated outside of urban areas. The government and government cronies continued to monopolize and control the content of the seven privately owned FM radio stations and one government-run shortwave radio station. Foreign radio broadcasts, such as those of Radio Free Asia, Voice of America, the BBC, and Democratic Voice of Burma, remained the principal sources of uncensored information.

The government continued to monopolize and control all domestic television broadcasting. It offered five public channels--four controlled by the Ministry of Information (MRTV, MRTV-3, MRTV-4, and Myanmar International) and one controlled by the armed forces (Myawaddy). The general population was allowed to register satellite television receivers for a fee, although it remained far too expensive for the majority of persons.

The 1996 Television and Video Act makes it a criminal offense--punishable by up to three years in prison--to publish, distribute, or possess a videotape not approved by a state censorship board. The government continued to crack down on uncensored foreign videotapes and digital videodiscs, although pirated copies remained widely available on the street.

#### Internet Freedom

No laws or regulations exist regarding monitoring Internet communications or establishing penalties for the exercise of freedom of expression via the Internet. However, the government monitored Internet communications and blocked Web sites so individuals could not freely engage in such activities. The Electronic Transactions Law prohibits Internet users from posting information that may undermine the interests and security of the state.

The government increased its control of the Internet in advance of the November elections. There were reports the government sought to centralize network management in Yadanabon Cyber City (Mandalay Region) to make it easier for authorities to monitor electronic communications. Some domestic Internet service providers reportedly obtained censorship and surveillance equipment. There were also reports that government authorities pressured private Internet cafe owners in Rangoon to install closed-circuit television cameras and increase staffing to monitor patrons and Internet usage. Authorities reportedly claimed these new measures were enacted in response to several thwarted bomb attacks at Internet cafes in November, although the government provided no evidence of such planned attacks.

Internet access and usage was extremely limited, due to government restrictions and lack of infrastructure. According to the International Telecommunication Union, in 2008 0.2 percent of inhabitants used the Internet, mostly in cybercafes in cities.

Authorities frequently blocked access to Web sites attracting many users or to large attachments related to political issues. E-mail messages sometimes took several days to arrive in a receiver's inbox, often with attachments deleted. Citizens believed this was due to the regime's censorship of e-mail.

The government banned most Web sites critical of the regime and its activities. Authorities also blocked access to some popular, free e-mail services, social networking sites, and blogs as well as to other Internet messaging services.

The government attempted to block most Web sites containing words it considered suspicious, such as Burma, drugs, military government, democracy, student movement, 8888, and human rights. Users could sometimes reach the home pages of Democratic Voice of Burma and BBC's Burma service, but they could not access most articles on the sites. Occasionally the government mistakenly blocked educational or other sites when its software detected censored words.

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.

On January 7, a court found Win Naing Kyaw, a former military officer, guilty of violating the Electronic Transactions Law. He was allegedly involved in leaking photographs of a ranking government official's visit to North Korea to a Web site run by Burmese journalists living in exile.

Nay Phone Latt (Nay Myo Kyaw), Internet blogger and owner of three Internet cafes sentenced in 2008 to 20 years and six months, remained in prison.

#### Academic Freedom and Cultural Events

The government restricted academic freedom. University teachers and professors, most of them state employees, were subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. Teachers could not discuss politics at work, join or support political parties, or engage in political activity, and they had to obtain advance approval for meetings with foreigners. The government closely monitored curricula and censored course content. Like all other state employees, professors and teachers were required to join the USDA. However, election laws released during the year prohibited government employees, including teachers, from joining political parties. While these government employees did not join the political party successor of the USDA, the USDP, the government still pressured them to vote for USDP candidates. Foreigners were not permitted to visit university campuses without prior approval or attend any meetings involving students, including graduation ceremonies.

To limit the possibility of student unrest, some years ago the government placed undergraduate campuses in remote areas, warned teachers and students that disturbances would be dealt with severely, and kept most on-campus dormitories closed. Many students opted to use self-study or private tutoring.

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.

The government monitored most cultural events.

#### b. Freedom of Peaceful Assembly and Association

### Freedom of Assembly

The law limits freedom of assembly, and the government severely restricted it in practice. 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.

### Freedom of Association

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; 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.

### c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

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 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.

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.

The government permitted foreign diplomats and foreign UN employees based in Rangoon to travel outside of Rangoon to designated tourist sites without prior permission but with prior notice; all other travel required advance permission and was sometimes denied.

According to the UNHCR in Rangoon, approximately 120,000 Burmese refugees lived in camps in Thailand. The regime allowed the UNHCR limited access to monitor the potential areas of return to assess conditions for the voluntary return of the refugees and internally displaced persons, leading UNHCR officials to determine that conditions remained unsuitable for their return.

Approximately 21,000 Rohingya lived as legally registered refugees in camps in southeastern Bangladesh, and some NGOs estimated as many as 500,000 others, who were not registered by either Burmese or Bangladeshi authorities, lived outside the camps and in the border area. Neither Bangladesh nor Burma claimed the stateless Rohingya refugees as citizens.

There are no provisions for forced exile or restrictions on emigration. 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. The government often revoked passports for political reasons.

#### Internally Displaced Persons (IDPs)

According to the UNHCR, there were at least 451,000 IDPs in the country as of December, although accurate figures were difficult to determine due to poor access to affected areas. According to several international organizations, there were believed to be several million IDPs, but exact estimates were impossible due to lack of international access to certain areas of the country. Most international attention continued to focus on the eastern region, where conflict and repressive government policies displaced hundreds of thousands in the past decade within partial reach of international assistance, according to international relief and monitoring organizations. The UNHCR estimated there were 450,000 IDPs throughout the country at year's end. The Thai-Burma Border Consortium estimated at least 470,000 IDPs in the east, of whom 231,000 were in temporary settlements in areas administered by ethnic nationalities, 111,000 were in hiding in remote areas, and 128,000 had followed SPDC eviction orders and moved to designated relocation sites. The Karen, Shan, Rohingya, and Kayah were the most affected groups. The main causes of internal displacement were army offensives against ethnic opposition groups, forced relocation and labor, and recruitment of child soldiers. The government provided little or no protection or assistance to IDPs, many of whom were forcibly resettled under dangerous conditions. Authorities

denied humanitarian organizations access to many IDPs in eastern regions along the Thai border on security grounds. IDPs in these areas regularly suffered hardships as a result of fighting between government army and insurgent groups, according to credible observers along the border. In addition both government army and insurgent groups frequently raped female IDPs, according to these observers. Karen IDPs in these areas have remained displaced for a number of years.

According to NGOs, internal conflict in Karen State displaced more than 20,000 persons during the year. Heavy fighting broke out near Myawaddy on November 8 and continued sporadically at year's end. Persons in the area reported that many individuals crossed the border into Thailand daily but returned to their homes at night when fighting calmed down (see section 1.g.).

The UN estimated that more than 100,000 persons remained homeless after Cyclone Giri struck Rakhine State in September. The UN Human Settlements Program reported in June that more than 100,000 families in the Irrawaddy Delta remained without adequate shelter following Cyclone Nargis in 2008.

#### Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol. The law does not provide for the granting of asylum or refugee status, and the government did not grant such status. The government has not established a system for providing protection to refugees. In practice the government did not provide protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The UNHCR continued to negotiate for permission to work with what the government termed "communities that are affected by displacement." Despite the 2007 expiration of the memorandum of understanding (MOU) between the government and the UNHCR, the government continued to allow the UNHCR to provide humanitarian assistance to Rohingya in northern Rakhine State, whom the government does not recognize as citizens.

A separate MOU permitted the UNHCR to work with implementing partners in the southeast region, including parts of Karen and Mon states and Tanintharyi Division. Under the MOU, authorities permitted UNHCR foreign personnel to monitor their project activities in the region.

#### Stateless Persons

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.

According to the UNHCR, there were approximately 724,000 legally stateless persons, mostly Rohingya, residing in northern Rakhine State near the border with Bangladesh. The government does not recognize the existence of the Rohingya ethnicity and claims the Muslim residents of northern Rakhine State are the descendents of illegal immigrants from Bangladesh who moved into the country during British colonial rule. The government consistently denied citizenship to most Rohingya on the grounds their ancestors did not reside in the country for one year prior to the start of British colonial rule in 1824, as required by the highly restrictive citizenship law. Only Rohingya who were able to prove long familial links to the country were eligible to apply for naturalization.

Rohingya experienced severe legal, economic, and social discrimination. The government required them to receive prior approval for travel outside their village tract of residence, limited their access to higher education, and prohibited them from working as civil servants, including as doctors, nurses, or teachers. Authorities required Rohingya to obtain official permission for marriages.

The government claimed it continued a program originally supported by the UNHCR to issue Temporary Registration Cards (TRCs) to stateless persons in Rakhine State. However, for years the UNHCR has not been able to obtain statistics from the government on the issuance of TRCs in northern Rakhine State, where the majority of Rohingya live.

In previous years Rohingya without temporary identification cards did not have the right to vote in the constitutional referendum. However, in late July and August organizers of the progovernment USDP and ward authorities in various parts of the country reportedly offered national registration cards (NRCs) to individuals in exchange for joining the USDP. The government requires citizens over the age of 18 to produce NRCs when they travel, enroll in universities, and vote. There also were reports that Deputy Minister for Home Affairs (MOHA) Brigadier General Phone Swe (retired) went to Rakhine State in July to issue citizenship scrutiny cards (CSCs), which serve a similar role as NRCs in that they prove citizenship and allow access to services, to Muslims who agreed to join the USDP. However, after some Muslims joined the USDP, MOHA reportedly reneged, instead issuing a TRC, which does not serve as proof of citizenship. To get the more useful CSC, authorities reportedly told Muslims they must pay a bribe of up to 250,000 kyat (\$250) to local immigration authorities.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

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

The 2008 constitution--not yet in force at year's end--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. Additionally, by the constitution's own terms, the SPDC will continue to "exercise state sovereignty" until the parliament is convened, which was scheduled for January 31, 2011.

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

In April and August, senior-level military officers, including all supraregional and regional commanders, reportedly retired from the military to prepare to contest the November 7 elections. The prime minister, who previously held the rank of general in the army, and others retained their cabinet positions. In late August there was a massive reshuffle of top military positions. Many senior generals retired from the military, with other generals assuming those commands. Than Shwe and some others remained on active duty in the military and retained their senior government positions.

### Elections and Political Participation

The country held its first election in 20 years on November 7. Electoral laws, published on March 8, are based on the flawed 2008 constitution. Under the laws political parties were required to compete under highly restrictive conditions that

limited campaign activities, imposed relatively high candidate fees, and gave unusually broad powers to a government-appointed UEC to control the activities of political parties and their members.

In early August the UEC announced there would be 330 township-based constituencies of the lower house (People's Parliament), 168 constituencies of the upper house (National Parliament), and 665 constituencies of the regional/state parliaments. One-quarter of all national and regional parliamentary seats were reserved for military appointees. All levels of parliament were scheduled to convene on January 31, 2011. A joint session of the upper and lower houses--the Union Assembly--was to convene within 15 days of that date. In addition the upper and lower houses each were to select a vice president, the military members of both the upper and lower houses would select a third vice president, and the entire bicameral parliament would select the president from among the three vice presidents. The constitution provides for the military to take over the government should the president, who must have a military background, judge the security situation to be unstable.

After announcing the election date, the government gave registered political parties approximately two weeks' notice to submit names of their candidates. Many political parties complained that the government's short notice did not provide them sufficient time to find candidates and identify constituencies in which they would contest seats.

Individual members of some prodemocratic opposition parties used their own money to conduct campaign activities because restrictive laws made it difficult for candidates to raise money legally. The registration fee of 500,000 kyat (\$500) per candidate was well above the means of the average citizen.

The leader of one prodemocracy opposition party resigned in protest because he believed the elections would not be free and fair. Other parties, including the NLD, opted not to participate in the elections from the beginning. Parties accused the UEC of forwarding their party membership lists to SB police, who then visited party members at their homes on instruction from high-level SPDC officials. The SB reportedly requested members' biographies and two passport-size photographs.

The UEC did not approve the registration of three ethnic Kachin political parties, reportedly because of past ties to the Kachin Independence Army cease-fire group, which had refused to integrate into the government army-dominated Border Guard Force. In September the UEC announced elections would not be held in some ethnic areas, reportedly because of tensions over Border Guard Force problems.

The government-backed USDP, headed by the prime minister, drew upon the resources of the government and government-affiliated businesses and reportedly bribed, coerced, and intimidated citizens into signing up for membership. It fielded candidates in nearly all constituencies. The USDP began its unofficial election campaign in late 2009, earlier than any other parties were permitted to engage in campaign activity.

The constitution specifies the SPDC will continue to "exercise state sovereignty" and "carry out...all the functions of the parliament" until the new parliament is convened. According to senior government officials, the SPDC would disband after the new government was in place.

The government maintained tight control over the operations of political parties and political opponents' rights to organize and publicize their views. Persons who opposed the government were subjected to imprisonment, violence, and harassment, including members of parties campaigning in the elections, despite assurances from the government that the process would be free and fair.

On September 14, the government declared that the NLD and all other parties that did not reregister according to SPDC-issued electoral laws ceased to exist as political entities.

In the November elections, the government-backed USDP, whose candidates included cabinet ministers and other high-ranking government and military officials, won approximately 77 percent of all seats, with a reported 77 percent voter turnout. There were widespread complaints by prodemocratic and ethnic political parties of election fraud, especially around the use of highly suspect "advance votes" by the USDP. Some ethnic political parties fared well at the regional level. It was unclear what policy role the newly elected parliament would play.

Ethnic cease-fire groups--many of which have agreements with the government--were threatened with military action unless they agreed to come under control of the military through its Border Guard Force and agreed to participate in the elections.

No women were in the senior ranks of political leadership. Members of certain minority groups were denied a role in government and politics. There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court.

#### Section 4 Official Corruption and Government Transparency

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.

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.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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 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. 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.

On February 15-19, UN Special Rapporteur on Human Rights for Burma Tomas Ojea Quintana visited the country. He met with several political prisoners at Insein Prison (Rangoon), Butheedaung Prison (Rakhine State), and Sittwe Prison (Rakhine State). He also met with representatives from several progovernment cease-fire groups in Rangoon and with government officials in Nay Pyi Taw. Quintana concluded there persisted a pattern of gross and systematic human rights violations that had continued for many years involving government officials in the military and judiciary at all levels.

The government generally was resistant to attempts by senior UN officials to visit the country.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The SPDC continued to rule by decree and was not bound by any constitutional or statutory provisions concerning discrimination based on race, gender, disability, language, or social status.

##### Women

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.

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 (MWWAF)--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 MWWAF was controlled by wives of regime leaders, police usually investigated cases referred to them by the group.

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.

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. With an acute shortage of midwives, this impeded access and prevalence. According to data gathered by the UN in Rangoon, the estimated maternal mortality ratio in the year was 240 per 100,000 live births. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

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. 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.

There were no registered, independent women's rights organizations, although there were several groups with some relationship to the government. The MAAF 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.

#### Children

By law citizenship is derived through parents, both of whom must be nationals of the country. In major cities (e.g., Rangoon and Mandalay), birth registration was not a problem for most Burmese who sought it. In these larger cities, births must be registered to qualify for basic public services and obtain national identification cards. In smaller towns and villages, birth registration was often informal, sometimes just the village midwife recording births in a notebook; however, it was unclear what the midwife did with that information. Access to public services in such remote communities often was not a problem, since the government provided little service to these areas. The only exception to the examples above was the Rohingya community, where birth registration was a significant problem (see section 2.d.).

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

There are laws prohibiting child abuse, but they were neither adequate nor enforced. The government 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).

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.

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.

The mortality rate of internally displaced children in conflict areas was significantly higher than in the rest of the country. In addition such children had few learning resources.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

#### Anti-Semitism

There was one synagogue in Rangoon serving a small Jewish congregation. There were no reports of anti-Semitic acts.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

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.

#### National/Racial/Ethnic Minorities

Ethnic minorities constitute approximately 30 to 40 percent of the population, and the seven ethnic states make up approximately 60 percent of the national territory. 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 (see section 1.g.).

Rohingya Muslims in Rakhine State were discriminated against because of their ethnicity. Most faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages (see section 2.d.).

Ethnic minority groups generally used their own languages at home. However, throughout all parts of the country controlled by the government, including ethnic minority areas, Burmese remained the mandatory language of instruction in state schools, and teaching in local languages was not offered. Even in ethnic minority areas, most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages.

The government continued to resettle groups of ethnic Burmans in various ethnic minority areas. During the year the government reportedly resettled groups of ethnic Burmans in Maungdaw and Butheedaung townships in Rakhine State, giving them farmland confiscated from Rohingya residents.

During the year there were several reports of ethnic villages being displaced for economic development, such as the Myitsone Dam project in Kachin State.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

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.

#### Other Societal Violence or Discrimination

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.

#### Section 7 Worker Rights

##### a. The Right of Association

The law permits workers to form trade unions with the prior consent of the government; however, no free trade unions existed in the country. Domestic and internationally affiliated unions are not allowed, nor is individual membership in unions.

The government maintained its 2006 ruling criminalizing contact with the Federation of Trade Unions--Burma (FTUB), claiming it was a "terrorist group."

The government forbids seafarers who found work on foreign vessels through the Seafarers Employment Control Division from having contact with the Seafarers' Union of Burma--affiliated with the government-banned FTUB--or the International Transport Workers' Federation.

In June an individual active in assisting victims of forced labor applied to form a trade union but was warned by police he would be arrested if he persisted in forming "an illegal organization." The individual did not pursue the application and remained free at year's end.

Several FTUB leaders and labor activists were freed in 2009 after serving long-term sentences, including FTUB Central Executive Committee members Myo Aung Thant, U Thein Aung, Kyi Thein, and Chaw Su Hlaing. However, the whereabouts of Khin Maung Win, Ma Khin Mar Soe, Ma Thein Thein Aye, U Aung Moe Tin Oo, U Tin Hla, and 10 FTUB organizers in the Bago area were unknown at year's end.

Six labor activists--Thurein Aung, Kyaw Kyaw, Wai Lin (Wai Aung), Nyi Nyi Zaw, Kyaw Win (Wanna), and Myo Min--arrested in connection with a labor rights seminar in Rangoon and sentenced in 2007 to 20 to 28 years' imprisonment for sedition remained in prison. Labor activists Kan Mint and Nyunt Win, arrested and tried in 2008 on a number of charges, including links with exiled groups and sedition, were sentenced to 11 and one-half years' and 10 years' imprisonment in December 2008, respectively. At year's end five of the six labor activists remained in prison; the whereabouts of Khin Maung Cho, arrested in 2008, were unknown.

Labor activists reported at the International Labor Conference that 32 labor activists, including eight FTUB female members, remained imprisoned.

Although the law prohibits labor strikes, a number of strikes took place at privately owned factories in Rangoon area industrial zones during the year. These were all of short duration, lasting less than a day on average. By all reports these were prompted by workers seeking wage increases or other benefits. In each case the strike was ended through a negotiated settlement. The government closely monitored the strikes but did not use force to end them and appeared to have played a role in mediating between labor and factory management.

#### b. The Right to Organize and Bargain Collectively

Although the 2008 constitution provides that workers have a right to organize and have workers' representatives, the government generally does not allow workers to organize or bargain collectively. However, workers' supervision committees existed at factories in some government-designated industrial zones to address grievances. When a dispute cannot be resolved at the factory level, it is referred to a township committee chaired by the township chairman. The township committee attempts to resolve the problem through negotiation or, if necessary, arbitration. During the period a dispute is before the supervision committee process, the workers are required to continue their work, and demonstrations are prohibited.

There are no export processing zones; however, there are special military-owned industrial parks. Labor laws are applicable in all industrial zones and across all industries, but they were not always enforced.

#### c. Prohibition of Forced or Compulsory Labor

The SPDC Supplementary Order 2004 and Ministry of Home Affairs Order 1/99 prohibit forced or compulsory labor (except as a criminal punishment); however, there were reports that such practices occurred. The law provides for the punishment of persons who impose forced labor on others. However, government and military use of forced or compulsory labor remained a widespread and serious problem, particularly targeting members of ethnic minority groups. Throughout the country international observers verified that the government routinely forced citizens to work on roads, construction, and other maintenance projects. Citizens also were forced to work in military-owned industrial zones.

The ILO continued to receive and investigate forced labor complaints. During the year the ILO received 201 complaints of cases of child-soldier recruitment, an increase from 86 cases in 2009. Since the ILO began monitoring underage

recruitment in 2007, it has received 331 complaints. At year's end a total of 142 underage recruits had returned to their families, and 120 cases were being processed for discharge. A further 60 cases were under review, while nine lacked sufficient evidence to advance.

The ILO reported one complaint in 2009 of internal trafficking of 100 boys ages 13 to 15 for forced labor at a horticultural plantation. The boy who reported the case was initially abducted in Rangoon Division and taken to the plantation. According to the ILO, the boy escaped the plantation during the year and was home with his family; at year's end the status of the other boys was unknown.

The government's use of forced labor in support of military garrisons or military operations remained serious in ethnic or religious minority regions.

On January 2, SPDC soldiers demanded that 30 villagers from Klaw Mi Der in Karen State retrieve rations from an SPDC base. The soldiers forced 10 women and 20 men to make the two-hour round trip journey on foot; they were not compensated for their work. On January 12, government soldiers ordered villagers to porter rations for eight hours, according to the Karen Human Rights Group. On February 9, light infantry battalions forced 30 male villagers to porter rations six hours in Karen State.

In May in Rangoon, the government reportedly forced some villagers to work on a road construction project for six days. Each person who refused had to pay a fine of 2,000 kyat (\$2) per day.

In June there were reports that 40 villagers were forced to act as security for a camp of 180 government soldiers searching for Arakan Liberation Army members and six government army defectors. The villagers also had to carry the soldiers' uniforms, backpacks, ammunition, and other equipment.

Authorities continued to use forced labor countrywide to maintain existing civil infrastructure, including transportation and irrigation facilities. Authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations.

During the year the government released most Magwe farmers sentenced to hard labor in October 2009 on charges of trespassing after returning to land confiscated by the government; however, an ILO facilitator and another individual connected with the case remained in prison at year's end.

Although the government took steps to address forced labor, it remained widespread. In February the government agreed to extend the Supplementary Understanding of 2007 with the ILO, an agreement under which the ILO receives forced-labor complaints, the government investigates such complaints, and the government works with the ILO to engage in awareness-raising activities. The government willingly participated in some joint investigations of forced-labor cases; however, the ILO reported rare instances of persons who had filed complaints later being charged under the Official Secrets Acts.

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law sets a minimum age of 13 for the employment of children. The 1993 Child Law provides for the protection of children in the workplace by classifying children ages 14 to 17 as youths and allowing them to engage in light duties. Light duties are not defined, however, and in practice the Child Law was not enforced. Child labor was prevalent and highly visible. In cities child workers were found mostly in the food-processing, street-vending, refuse-collecting, and light-manufacturing industries and as restaurant and teashop attendants. In rural areas children routinely worked in family agricultural activities.

Forced labor, including child forced labor, is illegal under Order 199. Nonetheless, the government army continued to recruit and use child soldiers. Ethnic armed groups and some cease-fire groups also allegedly recruited child soldiers (see section 1.g.).

According to media reports, a child soldier who was illegally recruited by an army officer in 2007 at the age of 14 was officially discharged from the army in June with the help of ILO. The child reported that officers and older soldiers bullied and beat child soldiers, would not allow them to receive medical treatment, and put them on the front lines during battles. Following battle, child soldiers were required to do chores and were not permitted to rest.

The Ministry of Social Welfare is broadly responsible for enforcing laws and regulations against forced labor, and the Ministry of Labor enforced the law in industrial zones. The UN Children's Fund continued to work with the Ministry of Labor to facilitate several interagency meetings and workshops on the protection of children.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### e. Acceptable Conditions of Work

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.

A surplus of labor, a poor economy, and the lack of protection by the government continued to foster substandard conditions for workers. 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.

Numerous health and safety regulations exist, but the government did not enforce them. Although the law permits workers to remove themselves from hazardous conditions, many could not expect to retain their jobs if they did so and accepted unfavorable working conditions as preferable to unemployment.

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