Home Office
UK Border Agency

BURMA (MYANMAR)

COUNTRY OF ORIGIN INFORMATION (COI) REPORT

COI Service

2 February 2012

SECURING OUR BORDER CONTROLLING MIGRATION

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Preface

i This Country of Origin Information (COI) Report has been produced by the COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 22 January 2012. The report was issued on 2 February 2012.

ii The Report is compiled wholly from material produced by a wide range of external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The Report aims to provide a compilation of extracts from the source material identified, focusing on the main issues raised in asylum and human rights applications. In some sections where the topics covered arise infrequently in asylum/human rights claims only web links may be provided. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

iv The structure and format of the Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

v The information included in this Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated. Similarly, the absence of information does not necessarily mean that, for example, a particular event or action did not occur.

vi As noted above, the Report is a compilation of extracts produced by a number of information sources. In compiling the Report no attempt has been made to resolve discrepancies between information provided in different source documents though COI Service will bring the discrepancies together and aim to provide a range of sources, where available, to ensure that a balanced picture is presented. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. Reports do not aim to bring consistency of spelling but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term ‘sic’ has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because

they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

viii This Report and the accompanying source material are public documents. All Reports are published on the UKBA website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified are available in electronic form, the relevant weblink has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from COI Service upon request.

ix Reports are published regularly on the top 20 asylum intake countries. Reports on countries outside the top 20 countries may also be produced if there is a particular operational need. UKBA officials also have constant access to an information request service for specific enquiries.

x In producing this Report, COI Service has sought to provide an accurate, up-to-date, balanced and impartial compilation of extracts of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

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INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

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

xii In the course of its work the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at http://icinspector.independent.gov.uk/country-information-reviews/

xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself. The IAGCI can be contacted at:

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Useful news sources for further information

A list of news sources with weblinks is provided below, which may be useful if additional up to date information is required to supplement that provided in this report. The full list of sources used in this Report can be found in Annex E – References to source material.

AlertNet (Thomson Reuters) http://www.alertnet.org/thenews/newsdesk/index.htm?news=all
British Broadcasting Corporation (BBC) http://news.bbc.co.uk
Cable News Network (CNN) http://edition.cnn.com/WORLD/?fbid=i0gUtrVnUAy
United Nations Integrated Regional Information Networks (IRIN) http://www.irinnews.org/
Burma Campaign UK http://www.burmacampaign.org.uk/index.php/news-and-reports/news

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BACKGROUND INFORMATION

1. GEOGRAPHY

1.01 Burma (the Republic of the Union of Myanmar) lies in the north-west region of South East Asia. (Europa World online, accessed 25 November 2011) **[1] (Country Profile)** NB: "Britain's policy is to refer to Burma rather than 'Myanmar'." (Foreign and Commonwealth Office (FCO) Country Profile: Burma, 8 August 2011) **[5a]** Burma is bordered by "... Bangladesh and India to the north-west, by the People's Republic of China and Laos to the north-east and by Thailand to the south-east.... In 2006 the functions of the capital city were transferred from Yangon [Rangoon] to the new administrative centre of Nay Pyi Taw." (Europa World Online, accessed 25 November 2011) **[1] (Country Profile)** Burma covers a total area of 677,000 square kilometres (419,740 square miles). (FCO Country Profile: Burma, 8 August 2011) **[5a]**

1.02 Burma's total population estimates vary between 44 and 59 million. Burma has not had an effective nationwide census in decades, hence the disparity. (David Scott Mathieson, senior researcher for Human Rights Watch, via Open Democracy, 27 May 2011) **[70a]** The FCO Country Profile, updated 8 August 2011, estimated Rangoon's (Yangon) population at approximately 5.8 million and its administrative capital, Naypyitaw, at 200,000. **[5a]**

1.03 As noted in the US Department of State (USSD) Background Note on Burma, dated 3 August 201,1 "The country is divided into seven regions (tain) – Irrawaddy, Bago (Pegu), Magway, Mandalay, Yangon (Rangoon), Sagaing, and Tanintharyi (Tenassarim); seven ethnic states (pyi nay) – Chin State, Kachin State, Kayin (Karen) State, Kayah (Karenni) State, Mon State, Rakhine (Arakan) State, and Shan State; and six self-administered zones/divisions also known as special regions – Naga, Pa Laung, Koka, Pa-O, Danu, Wa; Nay Pyi Taw is administered by the President." **[7c] (Government)**

1.04 The official language is Burmese. (Europa World online, accessed 25 November 2011) **[1] (Country Profile)** There are a number of ethnic minority languages including Shan; various Karen, Karenni and Chin languages; Arakanese; Kachin; Mon; Palaung; Parauk; Wa; and Yangbye. English is widely spoken in areas frequented by tourists. (USSD Background Note, 3 August 2011) **[7c] (People)** According to the Ethnologue website, accessed 8 February 2011, there are over 100 living languages in Burma. **[30a]**

1.05 The principal ethnic groups, as listed in the FCO's Burma Country Profile, updated 8 August 2011, were estimated at "Bamar [Burman] (69%), Shan (8.5%), Karen (6.2%), Rakhine (4.5%), Mon (2.4%), Chin (2.2%), Kachin (1.4%), Karrenni (0.4%), other indigenous (0.1%) and foreign nationalities (including Burmese Indian & Sino Burmese people) 5.3%." **[5a]** These figures should be treated with caution owing to the fact that no recent census has been undertaken (see paragraph 1.02).

1.06 The US Department of State *July-December, 2010 International Religious Freedom Report,* published 13 September 2011, stated for Burma that the majority of the population followed Theravada Buddhism. Whilst "The principal minority religious groups include Christians (primarily Baptists, Roman Catholics, and Anglicans, along with several other small Protestant denominations), Muslims (mostly Sunni), Hindus, and practitioners of traditional Chinese and indigenous religions." **[7b] (Section I)**

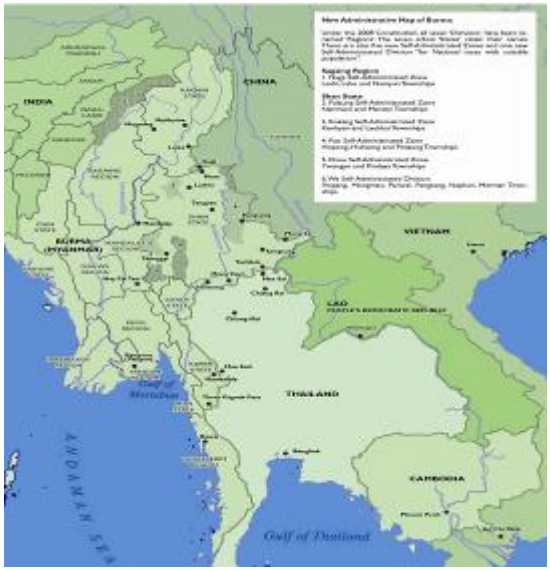
See also Freedom of Religion and Ethnic groups

1.07 The Economist Intelligence Unit, Myanmar Country Profile: Main Report, dated 9 October 2008, noted the following days were observed as public holidays in Burma:

"January 4th (Independence Day); February 12th (Union Day); March 2nd (Peasants' Day); March 27th (Armed Forces' Day); April 13th-17th (Thingyan, New Year); May 1st (Workers' Day); July 19th (Martyrs' Day); November 20th (National Day); December 25th (Christmas Day); plus other holidays, the timing of which depends on lunar sightings" **[46a] (Basic information)**

MAP

1.08 Map of Burma provided by the Transnational Institute, February 2011. **[2a] (p2)**



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2. ECONOMY

2.01 The Foreign and Commonwealth Office (FCO) Country Profile for Burma, last updated 8 August 2011, noted, "As a result of decades of economic mismanagement, and despite substantial natural resources, Burma is one of the world's poorest countries. The economy is unstable and in need of fundamental structural reform. The banking sector is fragile and a small private sector struggles with an unpredictable policy environment and a multitude of market distortions. Inflation is high." **[5a] (Economy)**

2.02 A 2011 estimate of the country's Gross Domestic Product (GDP) was measured at US$ 40.288 billion. (US Department of State (USSD) Background Note, 3 August 2011) **[7c] (Economy)** The unemployment rate was estimated to be 5.7 per cent in 2010. (Central Intelligence Agency (CIA) World Factbook, 20 December 2011) **[6a] (Economy)**

2.03 The USSD Background Note updated 3 August 2011 noted that:

"Despite Burma's growing GDP, the regime's mismanagement of the economy has created a downward economic spiral for the people of Burma. The state remains heavily and inefficiently involved in most parts of the economy, infrastructure has deteriorated, and rule of law does not exist. The majority of Burmese citizens lead a subsistence-level existence with minimal opportunity for economic improvement. Inflation, though

relatively low in 2009, increased in 2010 and shows signs of remaining higher in 2011." **[7c] (Economy)**

2.04 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, published 10 March 2010, following his February 2010 visit, stated:

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

2.05 According to a statement by pro-democracy party, the National League for Democracy (NLD), a new "Special Funds" law allows the country's military chief access to funds without any oversight from parliament. "The fund... can be used by the commander in chief to pay for expenses related to national defense and security." According to the 2011-2012 budget, "...almost one-quarter of the 7.6 trillion kyat ($8.45 billion) national budget will be allocated to defense. Education will get a 4.3 percent share, and health 1.3 percent." (*The Irrawaddy*, 5 March 2011) **[26c]**

2.06 The main industry types were recorded as oil and natural gas, agricultural processing, wood and wood products, cement, construction materials, copper, tin, tungsten, iron, pharmaceuticals, fertilizer, garments, jade and gems. The main agricultural products were rice, pulses, beans, sesame, groundnuts, sugarcane, hardwood, fish and fish products. (CIA World Factbook, 20 December 2011) **[6a] (Economy)**

2.07 The BBC noted in its country profile for Burma, last updated on 12 January 2012, "Key industries have long been controlled by the military, and corruption is rife. The military has also been accused of large-scale trafficking in heroin, of which Burma is a major exporter." **[28a] (Overview)**

See also Corruption

2.08 On wages, the FCO noted in a letter, updated 26 June 2010, originally dated 8 January 2008 that "The average annual wage in Burma remains around 300,000 kyat, which is around the wage of a low-level civil servant. A skilled labourer earns around 350,000 per annum. The poorest casual labourers in rural communities receive as little as 650 kyat per day for casual labour, but in Rangoon, the lowest wage is double that." **[5m]**

See also Employment rights

2.09 *The Nation*, an English-language daily newspaper based in Thailand, reported on 31 August 2011 that "Burma has multiple currency-exchange systems in its one economy. The authorities have fixed the official rate at 6 kyat per US dollar, but this does not reflect the real economic situation and it is impractical for business... The market rate of the kyat is now sitting at 750 per US dollar, appreciating 25 per cent from 1,000 kyat per dollar last year." **[72a]**

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3. HISTORY (INDEPENDENCE (1948) – APRIL 2011)

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

3.02 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011, gave a brief overview on Burma's history since independence from Britain in 1948:

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

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

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

"The largest demonstrations in nearly 20 years broke out in cities across the country in August and September 2007, triggered by a 500 percent fuel-price increase. The 88 Generation Students, a group composed of dissidents active in the 1988 protests, were at the forefront of many of the demonstrations. The protest movement expanded to include thousands of Buddhist monks and nuns, who were encouraged by the general populace. Soldiers, riot police, and members of the paramilitary Union Solidarity and Development Association (USDA) and the Swan Arr Shin militia group responded brutally, killing at least 31 people. The crackdown targeted important religious sites and included the public beating, shooting, and arrest of monks, further delegitimizing the regime in the eyes of many Burmese." **[14a]**

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CONSTITUTIONAL REFERENDUM – 2008

See also: Constitution

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

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

3.04 The same report stated:

"Just eight days after Cyclone Nargis struck, the SPDC [State Peace and Development Council] proceeded with its long-planned nationwide referendum on a new constitution. Its only concession was to delay the vote in some cyclone-affected townships by two weeks despite the fact that, even two weeks later, well over a million cyclone-affected Burmese had still not received any form of assistance. The looming constitutional referendum helps explain the SPDC's politicization of the relief process in the days immediately after the cyclone, with prominent public roles reserved for senior military officials and representatives of trusted GONGOs [government organised non-governmental organisations]." **[39g] (IV. The Constitutional Referendum)**

See also Political affiliation: Political prisoners, and Humanitarian issues: Cyclone Nargis

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NOVEMBER 2010 ELECTIONS

3.05 Human Rights Watch reported in its *World Report 2011* (HRW Report 2011), covering 2010 events, published 24 January 2011, that "In November Burma held long-planned elections. These took place in an atmosphere of intimidation, coercion, and widespread corruption, with laws and regulations strongly favoring military controlled parties." **[39e]**

3.06 A report by the Human Rights Defenders and Promoters Network, dated December 2010, on the elections in Burma, stated, "We have observed and recorded systematic irregularities and cases of fraud, including the forced collection of early votes, bribery, vote buying, threats, intimidation, and biased polling station officials during the pre and post-election periods and on Election Day." **[57a] (p50)**

3.07 The UN Human Rights Council, *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 7 March 2011, stated:

"Prior to the election, the Union Solidarity and Development Association [USDA], a mass organization created by the ruling State Peace and Development Council [SPDC] officials, was transformed into the Union Solidarity and Development Party (USDP), with former Prime Minister Thein Sein as head. USDP won 883 of the 1,154 seats open to the electorate. In the Nationalities Assembly (the upper house), the party took 77 per cent (129) of the elected seats, and in the People's Assembly (the lower house), it won 79 per cent (259) of the elected seats. With the seats reserved for the military (25 per cent of each legislature), USDP and the military bloc will have an overwhelming legislative majority." **[32h] (paragraph 11)**

3.08 The same source added "In the 14 regional and state assemblies, however, the results were mixed. While USDP won almost all the seats in most Burman-dominated central regions, in ethnic areas the party won sizeable blocs but has a majority only in Kayah State. In Chin State, USDP won 29 per cent of seats while the Chin Progressive Party and the Chin National Party each won 21 per cent. In Rakhine State, USDP won 30 per cent of seats while the Rakhine Nationalities Development Party won 38 per cent." **[32h] (paragraph 12)**

3.09 Europa World online, accessed 25 November 2011, recorded the election results:

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

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

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

"CPJ research showed that military authorities censored and controlled election-related news, suspended local-language publications, targeted Internet sites, and jailed exile-run news services' undercover reporters. In October [2010], the government-controlled Union Election Commission announced that it would not allow foreign journalists into the country to cover the elections. Thein Soe, the commission's chairman, justified the ban by noting that international agencies already had local staff based in the country, according to news reports. Bangkok- and Singapore-based foreign journalists told CPJ

they had applied for work visas and been refused, although several reporters were able to enter the country on tourist visas." **[15a]**

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

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

See also Freedom of speech and media

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RELEASE OF AUNG SAN SUU KYI

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

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

3.13 In his progress report on the situation of human rights in Myanmar, dated 7 March 2011, the Special Rapporteur welcomed the fact that the government did not impose any restrictions on Suu Kyi's liberty, and added, "Since her release, Daw Aung San Suu Kyi has been meeting with and speaking to a wide range of interested parties. She has called for dialogue with the military leadership of Myanmar and has pledged to continue to seek national reconciliation in the most constructive way possible." **[32h] (paragraph 20)**

OPENING OF PARLIAMENT

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

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

3.16 The same source added:

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

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

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

See also Political system

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4. RECENT DEVELOPMENTS (MAY 2011 – JANUARY 2012)

4.01 One year on from Burma's national elections, Human Rights Watch (HRW) reported on 3 November 2011:

"Basic rights to freedom of expression, association, and peaceful assembly remain tightly circumscribed in Burma. The government staged two general amnesties of prisoners in 2011. In May and June, a general amnesty included a one-year reduction of all sentences, freeing an estimated 20,000 prisoners. Of these, 77 were believed to be political prisoners. In October, following months of rumors, another amnesty freed more

than 14,000 prisoners. Disappointing widespread expectations of a major release of political prisoners, an estimated 220 political activists, journalists, artists, and other critics of the government were released, including famed comedian Zargana, labor rights activist Su Su Nway, journalist Nay Min, and several members of the National League for Democracy [NLD]. Large numbers of political prisoners remain in Burma's horrid prisons. Officially, the government continues to deny the very existence of political prisoners, although one of President Thein Sein's political advisors, Ko Ko Hlaing, estimated that only 600 prisoners could be deemed political prisoners, and that the October amnesty released nearly half of them." **[39c] (Fundamental Freedoms and Political Prisoners)**

4.02 A further 34 political prisoners were released at the beginning of January, (Assistance Association for Political Prisoners (AAPP) – Burma), 5 January 2012) **[44h]** and again, on 13 January, a number of high-profile dissidents were released amongst 651 prisoners freed in a presidential pardon, including Min Ko Naing, Ko Jimmy and Nilar Thein of 88 Generation Students, Shan nationalist leader U Khun Tun Oo, Buddist monk U Gambira, and five journalists from the Democratic Voice of Burma (DVB). Former Prime Minister, Khin Nyunt, was also freed from house arrest. (BBC News, 13 January 2012) **[28j]**

4.03 The AAPP also provided a list of released political prisoners, updated 4 January 2012. **[44g]**

4.04 Following his release in the May prisoner amnesty after three years' incarceration, Zayar Thaw, prominent hip-hop artist and member of youth activist group, Generation Wave, told the *Democratic Voice of Burma* on 18 May 2011, "Our country is still in a state of regression... Every sector – education, health – is going backwards. The economic system only favours one's close aides and our human living standards are dropping." **[3b]**

See also Political affiliation: Dissident groups: Generation Wave

4.05 Integrated Regional Information Networks (IRIN) reported on 7 November 2011 on Burma's reforms, stating:

"Much of the reaction to reforms introduced since President Thein Sein's inauguration in March 2011 reflects hope that the country can break from a heavy-handed authoritarian past involving human rights abuses that make it the target of economic sanctions. Recent events and reactions include: Opposition leader of the National League for Democracy (NLD), Aung San Suu Kyi, said after a groundbreaking meeting with Thein Sein in the capital, Nay Pyi Taw, on 19 August that she believed he wanted to achieve 'real positive change'. She has been released from house arrest imposed by the previous government." **[49d]**

4.06 On 18 November 2011 BBC News reported that the NLD had decided to register to run in forthcoming parliamentary elections. A party statement said "We unanimously decide that the National League for Democracy (NLD) will register according to party registration laws, and we will take part in the coming by-elections..." The regulation that previously banned NLD leader Aung San Suu Kyi from running has been dropped allowing her to take part in the political process. **[28e]**

4.07 *Reuters* reported on 5 January 2012 that Burma's Election Commission had formally registered the NLD as a political party. By-elections were set for 1 April 2012 and Aung San Suu Kyi planned to run for parliament. **[85a]**

4.08 The UN General Assembly, *Situation of human rights in Myanmar: Report of the Secretary General*, dated 5 August 2011, covering the period from 26 August 2010 to 4 August 2011, noted that:

"Daw Aung San Suu Kyi stated that she and the National League for Democracy did not want to take a negative attitude, but that they remained extremely cautious until there was evidence of meaningful change. In her assessment, the situation had not changed profoundly because the Government was driving for legitimacy through symbols rather than actions. Noting that all three branches of the Government were controlled by the same political party, she expressed concern at the Government's propensity to fill the political space to the exclusion of others. She stressed that there was no reason for further delaying the release of political prisoners or implementing overdue reforms. She observed that any positive developments should be measured against outstanding concerns, including the fact that the Special Rapporteur had not yet been invited back to Myanmar. She reiterated her readiness to respond to any genuine effort by the Government to engage with her and the National League for Democracy." **[32i] (paragraph 70)**

4.09 The same source added:

"Most political parties and civil society organizations took a cautious 'wait and see' attitude towards the Government's capacity to deliver reforms, but welcomed the President's agenda and cautioned that the new Government should not be judged too soon. Of greatest significance to them was the Government's openness to hear different opinions, including through the appointment of independent advisers. They shared the view that, whereas the previous system essentially had one focal point of power, the elections had opened new political space for multiple actors, parties, institutions and agendas to influence governance." **[32i] (paragraph 71)**

See also National League for Democracy (NLD)

4.10 Recent positive changes noted by civil society leaders in the Secretary General's report included "... the lifting of military checkpoints in some areas; the relaxation of media restrictions and censorship; the transfer of import-export licensing to civilian authority; new investment and environmental laws; the abolition of trade monopolies; the development of a poverty-reduction strategy; and Government consultations with business and civil society." **[32i] (paragraph 74)**

4.11 The Assistance Association for Political Prisoners (Burma) (AAPP) stated in its report *The recognition of political prisoners: essential to democratic and national reconciliation process*, dated 9 November 2011, that:

"Although AAPP warmly receives the release of any political prisoner, they mean little in face of draconian laws that heavily circumscribe basic civil and political rights. Indeed, political prisoners face ongoing human rights abuses upon their release. These include:

1. Harassment and arbitrary arrest
2. Denial of education and employment opportunities
3. Discrimination against former political prisoners and their families
4. Social exclusion

"It is nearly impossible for former political prisoners to resume their normal lives outside of the prison walls. Students are barred from enrolling in school and finishing their studies; lawyers and doctors have their licenses revoked; artists are banned from

performing; and former political prisoners are not allowed to hold political office due to their criminal records. For example, Zarganar, famed satirist and charity worker, and Zayar Thaw, musician and human rights activist, have not been allowed to perform since their releases in May and October 2011, respectively.

"Most recently, a group of 22 lawyers, 7 doctors, and 7 students who have had their licenses revoked and been dismissed from school due to their status as former political prisoners sent a petition to U Thein Sein and the Myanmar National Human Rights Council in an attempt to have their licenses reinstated and their right to education restored. One of those is U Aung Thein, a prominent NLD lawyer who has represented high profile individuals such as U Gambira, and was sentenced to 4 years imprisonment for contempt of court. According to U Aung Thein, the plight of a former political prisoner 'is like punishing a person twice. We were imprisoned and when we were released lawyers and doctors cannot do their work and students have been dismissed from school. In this era, that should not happen'." **[44f] (p4)**

See also Political prisoners

4.12 The Asian Human Rights Commission (AHRC) observed in its report *The State of Human Rights in Burma in 2011*, published 9 December 2011, that:

"Despite all the talk about new conditions in Burma, much evidence exists to show the contrary. One obvious indicator of worsening conditions in the country since the new government took power, which speaks to the continued hold that the military has on all affairs of any importance, is the resurgence of civil warfare in at least three states, in particular, in the Kachin regions bordering China, resulting in tens of thousands of people being internally displaced. The fighting in Kachin State began in June after a 17-year-old ceasefire broke down, and it has since spread across all parts of the state and has steadily intensified. Reports have emerged of Burma army soldiers gang-raping women and girls, and deliberately killing civilians, including some women already subjected to rape. At time of writing, the number of internally displaced people was reported to be over 40,000, who for the most part are being aided through local efforts, since authorities had blocked attempts by groups based in the country to get access to these people and systematically deliver food, medicines and supplies for shelter. The conditions of these people are particularly dire given the unusually heavy rainfall in 2011." **[43d] (p1)**

4.13 Following its visit to a number of IDP (internally displaced persons) camps along the Sino-Burmese border in September and October 2011, a report by Physicians for Human Rights, *Under siege in Kachin State, Burma,* dated November 2011, suggested that:

"... the incremental political changes in central Burma have not translated into improved livelihoods or improved the human rights situation of ethnic populations living along Burma's frontiers. The government of Burma has announced greater freedoms including unblocking some internet websites and limiting censorship in the press, and releasing Aung San Suu Kyi and a fraction of the other political prisoners in the country. Some in the international community have asserted that political change has come to Burma; however, these changes largely are confined to the urban, primarily ethnic Burman, population. For many of the peoples of Burma facing conflict and abuse, including the Kachin peoples, the brutality of the old regime remains an omnipresent threat." **[59b] (p4)**

See also Ethnic groups

4.14 Reporting on an invitation to Burmese exiles to return to the country, *The Irrawaddy* stated on 18 August 2011:

"Most Burmese exile groups were skeptical about an announcement by President Thein Sein on Wednesday [17 August] that his government would allow dissidents to return to the country, but at least some welcomed the idea as something worth considering.

"In a speech to local businessmen in Napyidaw, Thein Sein said the government would take a 'benevolent attitude' toward exiles who chose to return.

"'We will make reviews to make sure that Myanmar [Burmese] citizens living abroad for some reasons can return home if they have not committed any crimes. And if a Myanmar citizen in a foreign country who committed crimes applies for returning home to serve terms, we will show our benevolent attitude in dealing with his case,' Thein Sein said, according to the state-run newspaper *The New Light of Myanmar* on Thursday.

"However, Thein Sein's speech was 'clearly nothing more than a public relations exercise aimed at improving the image of his regime in the international community,' said prominent activist Khin Ohnmar, who is the coordinator of the Burma Partnership.

"'We will not naïvely believe what the regime says until they prove it with actions. The problem is that the regime sees political activists as having broken the law or committed crimes. They refuse to acknowledge that those nearly 2,000 people in prisons are political prisoners, held for their political beliefs,' she said." **[26l]**

4.15 In an article dated 28 October 2011, *The Irrawaddy* reported on the Burmese government's failure to put in place any policy or procedure that would allow political exiles to feel secure in returning. The report noted, "...most Burmese exiles still have doubts about their ability to safely go back home and very few have actually accepted the invitation and returned." **[26m]**

4.16 The same source added:

"A source close to the Burmese embassy in Bangkok said that exiles wishing to return home have to sign a five-point statement saying that they will: avoid actions and words which can harm the state; avoid writing, talking and lobbying which can harm the stability of the state; avoid contact with illegal organizations; avoid actions that are destructive or harassing; and be loyal to the state and stay within the law.

"In addition, the source said that if any exile who has already requested asylum in any foreign country wants to return home, that person must leave their travel documents and identity card at the embassy, which will provide them with a letter of identity. There is no transparent policy stating whether the exiles who return home will be allowed to travel abroad once again." **[26m]**

4.17 Burma Campaign UK reported in its *Burma Briefing No.15*, dated September 2011, that "Asked about this possible offer [of inviting exiles to return] in an interview with Radio Australia on 30th August, the UN Special Rapporteur on Human Rights in Burma warned exiles they could be arrested if they do return, stating; 'The situation is that those who at this moment may decide to express their opinions against authorities may face the risk to be arrested arbitrarily'." **[53c] (p6)**

4.18 On 11 September 2011, BBC News reported on the return to Burma of three political satarists, known as Thee Lay Thee, who had been living in self- imposed exile in Thailand. The report noted "Three comedians and a dancer flew from Chiang Mai to Rangoon weeks after Burma's new civilian president urged exiles to come home. One of them said there were signs that Burma's military-backed government was taking steps towards democracy." **[28g]**

4.19 *The Irrawaddy* stated on 10 November 2011, following an interview with visiting exile Harn Yawnghwe, that "Contrary to the misgivings that many exiles still have about recent moves toward political reform in Burma, most people he [Harn] spoke to in the country said they were overwhelmingly positive about the situation developing under President Thein Sein's administration." **[26o]**

See also Political affiliation: Demonstrations outside of Burma and Exit and return: Treatment of returned failed asylum seekers and exiles

4.20 The National League for Democracy (NLD) reported on its website on 3 December 2011 that:

"On 2nd December, 2011, the Secretary of State of the United States of America Mrs. Hillary Clinton and team met with NLD General Secretary Daw Aung San Suu Kyi at her residence... Mrs. Clinton and team continued to meet with NLD Central Executive Committee members and Committee Representing People's Parliament (CRPP) members... NLD Vice Chairman U Tin Oo discussed about the current situation that after the meeting between Daw Aung San Suu Kyi and the President U Thein Sein, there were some improvements in Burma's political situation but there are still a lot to be done for reform process. There are still many political prisoners in prisons across the country. It is believed that it is the thing that Mrs. Clinton discussed in Naypyidaw with government... Then CRPP Secretary U Aye Thar Aung discussed that ethnic nationalities wanted cease fire in ethnic areas and resumption of political talk." **[77b]**

4.21 The same source added that "[The] Secretary of State responded that she came to Burma to observe developments in the country by herself and saw some changes. But there are a lot to do more. She thought it was a right decision for the NLD to re-register and contest in the coming elections. She would closely watch any developments in the country and continue to help democratization and development of Burma." **[77b]**

4.22 On 17 November 2011 *The Irrawaddy* reported on the announcement by the Association of South-East Asian Nations (ASEAN) on its unanimous agreement to give Burma the chairmanship of the regional bloc in 2014. **[26e]**

4.23 As reported by the Voice of America on 19 November 2011, United Nations General Secretary Ban ki-Moon expressed support of ASEAN's decision in choosing Burma to chair its meetings whilst encouraging Burma to accelerate the rate of political reform. **[80a]**

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5. CONSTITUTION

5.01 The Australian National University (ANU) Research School of Pacific and Asian Studies website provided a copy of the Constitution of the Republic of the Union of Myanmar, dated September 2008, accessed 2 November 2011. **[47]**

5.02 Jane's recorded in its *Sentinel Security Assessment* for Burma, Internal affairs, date posted 2 December 2011, that the new constitution became effective when parliament convened on 31 January 2011. Jane's noted:

"On 10 May 2008 a constitutional referendum ratified a charter that essentially confirms and legitimises the administrative structures that the army established when it assumed power in 1988. The referendum was held on two occasions, allowing the voters in five townships in the Ayeyarwady Delta and 40 in Yangon Division to vote two weeks after the rest of the country as a result of Cyclone Nargis. Unsurprisingly, the then- junta claimed that the constitution was approved by 92 per cent of the electorate, with nearly 98 per cent participation. The constitution has been nearly 16 years in the making; the constitutional convention, the committee which drafted the charter's basic principles, first met in 1993 following the failure of the now-dissolved opposition National League for Democracy (NLD) to draft a document acceptable to the army after the 1990 elections." **[8a] (Political system: Constitution)**

5.03 Jane's added that:

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

5.04 The Foreign and Commonwealth Office (FCO) Country Profile for Burma, updated 8 August 2011, stated:

"The 2008 Constitution is designed to entrench military rule. 25% of seats in the National Assembly are reserved for the military. And a majority of 75% in the National Assembly is needed to make any change to the Constitution. In the event of a perceived threat to national security, the military retains the power to assume direct executive and judicial control. The Constitution also provides immunity from prosecution for SPDC members for any acts committed while in authority. The clear implication is that they should not be held accountable for any human rights or other abuses." **[5a] (Politics)**

5.05 According to Professor David Williams of the Center for Constitutional Democracy, Indiana University, Bloomington, USA, in his *Analysis of the 2008 SPDC Constitution for Burma*: *The Power of the Burmese Military under the 2008 SPDC Constitution*, undated, accessed 2 November 2011, "… under the Burmese constitution, the Tatmadaw (the Burmese Defense Services) will be truly the lawgiver, not the people elected in 2010." **[73a] (p2)**

5.06 Professor William's analysis added:

"The independent power of the Tatmadaw over ordinary citizens includes the power to impose military discipline on the entire population. Article 20 provides: 'The Defence Services has the right to administer for participation of the entire people in Union security and defence.' In other words, the military may forcibly enlist the whole citizenry into a militia so as to maintain internal 'security.' And, again, the civilian government has no control over the military's operations. After the elections, Burma will be a military dictatorship just as much as now." **[73a] (p2)**

5.07 The same source added:

"Chapter I on Basic Principles, Article 40(c) provides for a very different, alternative process in which the Commander-in-Chief can act at his own discretion: 'If there arises a state of emergency that could cause disintegration of the Union, disintegration of national solidarity and loss of sovereign power or attempts therefore by wrongful forcible means such as insurgency or violence, *the Commander-in-Chief of the Defence Services has the right to take over and exercise State sovereign power in accord with the provisions of this Constitution*.' (emphasis supplied). To be sure, the Tatmadaw may seize power only if 'national solidarity' is threatened, but as already shown, the military has unreviewable authority to decide whether such a threat exists." **[73a] (p3)**

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6. POLITICAL SYSTEM

6.01 Contextualising the political system and human rights conditions in Burma, the UN General Assembly's *Situation of human rights in Myanmar: report of the Secretary General*, dated 14 September 2010, stated:

"There should... be progress in overcoming Myanmar's twin legacies of political deadlock and armed conflict. Myanmar faces the longer-term challenges of reversing two generations of non-democratic rule as well as socio-economic stagnation. Addressing the challenges of national reconciliation, democratization and respect for human rights remain essential responsibilities. In that regard, it is critical to pursue dialogue and cooperation among all stakeholders, as well as greater political, social and economic openness. In order to respond to the expectations of the people, it will be necessary to establish a credible civilian system and shift to greater pluralism and broad-based policymaking. Myanmar will need to invest in civilian governance and promote administrative capacity-building, including by enabling civil society and the private sector to participate more fully in the development of the country." **[32g] (paragraph 63)**

6.02 The US Department of State Background Note, Burma, dated 3 August 2011, stated "Burma remains an authoritarian country dominated by active or former members of the military. The nation is headed by a civilian president and two vice presidents. On paper, power is apportioned between executive, legislative, and judicial branches. The military remains an institution unto itself, and the head of the armed forces retains the right to invoke extraordinary powers including the ability to suspend civil liberties and abrogate parliamentary authority." **[7c] (Government and political conditions)**

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

"Burma is not an electoral democracy. The military junta has long ruled by decree and controlled all executive, legislative, and judicial powers; suppressed nearly all basic rights; and committed human rights abuses with impunity. The junta carefully rigged the electoral framework surrounding the 2010 national elections, which were neither free nor fair. The process of drafting the 2008 constitution, which the elections put into effect, had proceeded intermittently for 15 years, was closely controlled by the military, and excluded key stakeholders. Although the charter establishes a parliament and a civilian president, it also entrenches military dominance, and allows the military to dissolve the civilian government if it determines that the 'disintegration of the Union or national solidarity' is at stake." **[14a]**

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

6.05 Europa World online, accessed 25 November 2011, stated:

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

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

6.07 In its report *Burma's Continuing Human Rights Challenges*, dated 3 November 2011, Human Rights Watch (HRW) reported:

"The new parliamentary structure in Burma has created more space for discussion on previously off-limits issues in the bicameral national assemblies and 14 state and regional assemblies. Previously sensitive issues have been discussed, such as nationality for the ethnic Rohingya Muslim minority, prisoner amnesties, teaching of ethnic languages in the official curriculum in ethnic minority areas, and cross-border trade issues. Yet, questions have to be approved two weeks in advance and the formalistic speeches found in the transcripts show little signs of robust democratic debate. This is certainly a change, but it remains a long way from being a genuinely democratic legislative forum and representative people's house." **[39c] (Parliamentary reform)**

See also Recent developments, Constitution and Political affiliation

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Human Rights

7. INTRODUCTION

7.01 Despite the Burmese government's apparent readiness for political reform, the UN General Assembly's, *Situation of human rights in Myanmar: Report of the Secretary General*, dated 5 August 2011, covering the period from 26 August 2010 to 4 August 2011, noted that Burma "... continues to face the same challenges it has faced for too long: the country's human rights, political, social, economic and humanitarian problems remain serious, deep-seated and long-standing." **[32i] (paragraph 78)**

7.02 Jane's Sentinel Security Assessment noted in its section on Internal Affairs, Myanmar, updated 2 December 2011, that Burma:

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

7.03 However, the UN General Assembly's, *Situation of human rights in Myanmar: Report of the Secretary General*, dated 5 August 2011, covering the period from 26 August 2010 to 4 August 2011, stated, "On 1 and 2 July, for the first time in six years, the International Committee of the Red Cross was permitted to resume visits to inspect prison conditions in three different localities." **[32i] (paragraph 46)**

See also Prison conditions

7.04 The Assistance Association for Political Prisoners (Burma) (AAPP) stated in its report *The recognition of political prisoners: essential to democratic and national reconciliation process*, dated 9 November 2011, that:

"Although AAPP warmly receives the release of any political prisoner, they mean little in face of draconian laws that heavily circumscribe basic civil and political rights. Indeed, political prisoners face ongoing human rights abuses upon their release. These include:

1. Harassment and arbitrary arrest
2. Denial of education and employment opportunities
3. Discrimination against former political prisoners and their families
4. Social exclusion

"It is nearly impossible for former political prisoners to resume their normal lives outside of the prison walls. Students are barred from enrolling in school and finishing their studies; lawyers and doctors have their licenses revoked; artists are banned from performing; and former political prisoners are not allowed to hold political office due to their criminal records. For example, Zarganar, famed satirist and charity worker, and Zayar Thaw, musician and human rights activist, have not been allowed to perform since their releases in May and October 2011, respectively.

"Most recently, a group of 22 lawyers, 7 doctors, and 7 students who have had their licenses revoked and been dismissed from school due to their status as former political

prisoners sent a petition to U Thein Sein and the Myanmar National Human Rights Council in an attempt to have their licenses reinstated and their right to education restored. One of those is U Aung Thein, a prominent NLD lawyer who has represented high profile individuals such as U Gambira, and was sentenced to 4 years imprisonment for contempt of court. According to U Aung Thein, the plight of a former political prisoner 'is like punishing a person twice. We were imprisoned and when we were released lawyers and doctors cannot do their work and students have been dismissed from school. In this era, that should not happen'." **[44f] (p4)**

7.05 The Asian Human Rights Commission (AHRC) observed in its report *The State of Human Rights in Burma in 2011*, published 9 December 2011, that:

"Despite all the talk about new conditions in Burma, much evidence exists to show the contrary. One obvious indicator of worsening conditions in the country since the new government took power, which speaks to the continued hold that the military has on all affairs of any importance, is the resurgence of civil warfare in at least three states, in particular, in the Kachin regions bordering China, resulting in tens of thousands of people being internally displaced. The fighting in Kachin State began in June after a 17-year-old ceasefire broke down, and it has since spread across all parts of the state and has steadily intensified. Reports have emerged of Burma army soldiers gang-raping women and girls, and deliberately killing civilians, including some women already subjected to rape. At time of writing, the number of internally displaced people was reported to be over 40,000, who for the most part are being aided through local efforts, since authorities had blocked attempts by groups based in the country to get access to these people and systematically deliver food, medicines and supplies for shelter. The conditions of these people are particularly dire given the unusually heavy rainfall in 2011." **[43d] (p1)**

7.06 In its *Report on the Human Rights Situation in Burma, January – September 2011*, published 11 November 2011, the Network for Human Rights Documentation – Burma (ND-Burma) stated that, although it welcomed the Burmese Government's move towards change:

"Ongoing fighting in ethnic areas has meant ongoing human rights violations against the ethnic nationalities in conflict areas by the Burma Army, including killings, land confiscation, torture and ill-treatment, and forced relocation, among others. In addition, Burma Army soldiers have committed human rights violations related to mega-development projects and natural resources extraction projects in ethnic areas, including Arakan, Kachin, and Shan States. The Burma Army continues the recruitment and use of child soldiers, in direct violation of international prohibitions on the practice and its own obligations under the Convention on the Rights of the Child (1989)." **[83a] (p2)**

7.07 The ND-Burma report documented a total of 261 cases of human rights violations (HRVs) during its reporting period across 14 states and regions in Burma, including 68 cases of torture, 57 cases of forced labour and 44 cases of confiscation/destruction of property. **[83a] (p5)**

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

"Calls mounted for an international commission of inquiry into serious violations of international law perpetrated by all parties to Burma's ongoing civil conflict. The Burmese military was responsible for ongoing abuses against civilians in conflict areas,

including widespread forced labor, extrajudicial killings, and forced expulsion of the population. Non-state armed ethnic groups have also been implicated in serious abuses such as recruitment of child soldiers, execution of Burmese prisoners of war, and indiscriminate use of anti-personnel landmines around civilian areas." **[39e]**

7.09 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), Burma, published 8 April 2011, noted in its introductory section:

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

"Ethnic armed groups and some cease-fire groups (armed ethnic guerillas) allegedly committed human rights abuses, including forced labor and recruitment of child soldiers.

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

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

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

7.12 The same source added:

"Few areas in conflict zones are completely safe, although certain places are more dangerous than others, depending on the administrative situation. For example, in black

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

See also Security forces and Abuses by non-government armed forces

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

"Forced labour remains widespread in Burma. The International Labour Organization continued to operate a mechanism to allow individuals to raise complaints with the authorities and a number of cases were referred successfully to the authorities. However, concerns remain about the regime's tendency to view complaints as politically motivated. The International Labour Organization's efforts in 2010 were focused on increasing awareness throughout the country of the complaints mechanism, and encouraging the regime to seek out instances of forced labour (including in the military) rather than relying on complainants to come forward." **[5y] (p141)**

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8. SECURITY FORCES

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

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

POLICE

8.02 Jane's *Sentinel Security Assessment*: Myanmar, Security and Foreign Forces, updated 5 January 2012, reported that the police force had a total strength of approximately 93,000 officers with police stations in all major population centres. The same source continued:

"Since March 2011, Lieutenant General Ko Ko heads the Ministry of Home Affairs, which oversees all police units of the Myanmar Police Force (MPF). The MPF is divided

into headquarters, state and division police forces (seven each), special forces, training centres, reserved units and police battalions.

"Other law enforcement agencies under the Ministry of Home Affairs, but independent of the Myanmar Police Force, include the Special Branch which is concerned with 'political' crimes, the Criminal Investigation Department, the Railways Police Department, and the City Development Police Department. Reserved units are assigned to highway patrol and oil field security and are attached to state and divisional police forces." **[8a] (Police; Organisation)**

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

"The police force falls administratively under the Ministry of Home Affairs. Military Security Affairs (MSA) falls under the Ministry of Defense. MSA officers and Police Special Branch (SB) officers were responsible for detaining persons suspected of 'political crimes' perceived to threaten the government.

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

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

8.04 NB: The correct name of the security organisation is the Military Affairs Security (MAS), locally known as Sa-Ya-Hpa. (Review by Maung Zarni, dated 31 August 2011, of the Burma Country of Origin Information Report, 17 June 2011, prepared for the Independent Advisory Group on Country Information) **[74a] (p17)**

See subsection: Intelligence agencies

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ARMED FORCES

8.05 The strength of the Burmese armed forces (Tatmadaw) reaches a total of 320,000 personnel with an additional 50,000 reservists. (Jane's *Sentinel Security Assessment*: Myanmar, updated 12 January 2012) **[8a] (Armed forces)**

8.06 The army is the largest of the armed forces with an estimated strength of 300,000 personnel. "The Myanmar Army has traditionally been structured and deployed primarily for internal security operations – both to quell civil dissent in major population centres and to conduct counter-insurgency operations in rural districts against communist guerrillas, ethnic separatists and the armies of narcotics warlords..." However, since 1989 "... greater emphasis is being given to conventional defence roles, including territorial defence. The army has also given higher priority to participation in civil infrastructure development projects, although its frequent use of forced labour has earned it international notoriety." (Jane's *Sentinel Security Assessment*: Myanmar, updated 16 November 2011) **[8a] (Army: Deployment, tasks and operations)**

8.07 The same source added:

"Morale is generally poor among the enlisted members of the army and desertions are frequent, despite severe penalties for those who are caught. Unrest in the ranks has traditionally been met with ruthless suppression across the ranks, but this has led to serious manning problems for the army... The army also lacks popular support, reflecting its perceived role against Myanmar's civilian population and numerous ethnic insurgent groups. In response to these various problems of morale, discipline and desertion, weekly inspections were ordered, with officers warned to report honestly. Battalion commanders were ordered to convene weekly organisational meetings and to respond seriously to any complaints. Although largely limited to enlisted personnel in the past, several recent high profile desertions of officers have embarrassed the military and bolstered claims of a secret nuclear programme. Several other high ranking officers have been arrested for leaking military secrets to exiled opposition groups." **[8a] (Army: Assessment)**

8.08 Jane's continued in its section on the army, updated 16 November 2011, that:

"Senior leadership have long advocated a 'People's Warfare' strategy to defend the country against foreign invasion by engaging in a war of attrition but it has been recently stressed in doctrine and training. This is in response to the West's continued criticism of the military government and the progressive imposition of economic sanctions, which has allowed the regime to emphasize the threat of a US invasion. It seems unlikely, however, that forces generated under the People's Warfare strategy would remain unified in the face of foreign invasion given the extremely poor morale within the armed forces and the military government's low legitimacy." **(Adaptability)**

8.09 Jane's added that in accordance with the People's Warfare doctrine, wives of armed forces personnel, retired servicemen, firemen, police and civil servants could be called into service by the military, although this system had been rarely tested and never for long periods. **[8a] (Army: Sustainment)**

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

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

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OTHER GOVERNMENT FORCES

8.11 Jane's *Sentinel Security Assessment*: Myanmar, noted in its section on Armed Forces, updated 12 January 2012, that:

"Military reserves include government personnel village militias, and members of the Myanmar Red Cross and Fire Brigade, who generally all undergo basic military training. Small arms and platoon-level training has also been given to many members of the

large pro-government Union Solidarity Development Association [now defunct]. The War Veterans Association is also considered part of the national reserve. These forces have not been deployed with regular army units and would probably not add significantly to its fighting capability." **[8a] (Force sustainment)**

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

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

See also Children: Child soldiers

8.13 Civilians were also utilised as informers to the authorities. "The government in Burma uses a vast web of street vendors in urban centers as police informers, informally integrating them into its security networks." (Review by Maung Zarni, dated 31 August 2011, of the Burma Country of Origin Information Report, 17 June 2011, prepared for the Independent Advisory Group on Country Information) **[74a] (p18)**

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Intelligence agencies

8.14 In its section on Security and Foreign Forces, updated 5 January 2012, Jane's *Sentinel Security Assessment*: Myanmar noted that, "Since May 2005, the military's powerful intelligence apparatus is solely under the auspices of the Office of the Chief of Military Affairs Security (OCMAS). Its predecessors were the Directorate of Defence Services Intelligence (DDSI, until late 2001) and the Defence Services Intelligence Bureau (DSIB, until May 2005)." **[8a] (Intelligence agencies)**

8.15 Military Affairs Security (MAS) officers were, along with Special Branch police officers, responsible "for detaining persons suspected of 'political crimes' perceived to threaten the government." (USSD Report 2010). **[7a] (Section 1d)** An Immigration and Refugee Board of Canada Response to Information Request, dated 25 February 2008, observed that the MAS handled the most serious political issues and matters relating to ethnic groups who have agreed a cease-fire with the military regime. **[37b]**

8.16 In an email response dated 5 June 2007, the Foreign and Commonwealth Office (FCO) stated that Burma's military intelligence unit conducted surveillance operations on both members of the general public and individuals. Members of the general public were also used to carry out surveillance operations. The FCO further noted that it was likely that the military intelligence unit would be able to find out if an individual was involved in political activity. **[5f]**

8.17 The USSD Report 2010 stated, "Security personnel regularly screened private correspondence, telephone calls, and e-mail." **[7a] (Section 1f)** However, the FCO noted in its *Human Rights and Democracy Report 2010* (31 March 2011), "In spite of a pervading fear of monitoring by the State, control over the Internet use was weak in practice and Burmese citizens with access to the Internet could easily find a way round restrictions." **[5y] (p143)**

8.18 In contrast to the above, Maung Zarni, reviewer of the June 2011 Burma COI Report, prepared for the Independent Advisory Group on Country Information, dated 31 August 2011, stated that from his own research in 2010 in the Burmese-Thai border town of Mae Sot, Thailand:

"...there are networks of exiles which provide training and material support for Burmese activists from inside Burma, there are sleeper underground cells which organize political activities. And yet these underground activists have been able to go in and out of the country. For instance, the *Democratic Voice of Burma* has been running clandestine media reporting which would be considered subversive and deeply political by the regime, using their own underground networks which they manage from Mae Sot and Chiang Mai, Thailand.

"Similarly, other exile media outlets such as the *Irrawaddy*, and the *Mizzima*, as well as foreign broadcasting programs such as *Radio Free Asia* Burmese Language Service, BBC Burmese, and VOA Burmese Program have their underground stringers who file reports from inside Burmese towns and cities." **[74a] (p19)**

8.19 The same souce added, "Several senior intelligence officials with the Burmese government privately admitted to [Maung Zarni] in person that their service has been unable to identify moles even within their own ranks who leak sensitive information to the exile groups." **[74a] (p19)**

8.20 On the monitoring of private correspondence, telephone calls and email, the Burma Report reviewer stated, "While it is a standard practice for the intelligence services to attempt to monitor electronic and postal communications Burmese intelligence services simply do not have the needed quantity of human intelligence to monitor all electronic communications. One important issue here is the difficulty to ascertain what percentage of total communications the security personnel are able to monitor effectively." **[74a] (p20)**

HUMAN RIGHTS VIOLATIONS BY GOVERNMENT FORCES

See also Prison conditions

8.21 The Human Rights Watch *World Report 2012*, published 22 January 2012, covering 2011 events, stated, "The Burmese military continues to violate international humanitarian law through the use of anti-personnel landmines, extrajudicial killings, forced labor, torture, beatings, and pillaging of property. Sexual violence against women and girls remains a serious problem and perpetrators are rarely brought to justice. The army continues to actively recruit and use child soldiers, even as the government cooperates with the International Labour Organization on demobilizing child soldiers." **[39j] (p302)**

8.22 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 10 March 2010, following his visit in February 2010, stated that:

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

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

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

See also Children: Violence against children and Child soldiers

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

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

8.25 The USSD Report 2010 stated, "The government punished family members for alleged violations by individuals." **[7a] (Section 1f)**

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

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

"IDPs in relocation sites are reportedly subject to regular forced labor and portering, extortion, confiscations of money and property, and violent retaliation for failing to abide

by the demands of SPDC soldiers... In some instances, relocated villagers are forced to serve as human landmine sweepers and made to walk through potentially mined fields in front of Burma Army vehicles and troops. Abuses are committed by soldiers against site residents with impunity." **[29a] (p30)**

Convict and civilian porters

8.27 A joint report by Human Rights Watch and the Karen Human Rights Group (HRW/KHRG Report), dated 12 July 2011, reported on the Burmese army's abusive treatment of convicts, forced to serve as porters under dangerous front-line conditions. The report, *Dead Men Walking: Convict Porters on the Front Lines in Eastern Burma*, detailed abuses against convict porters including summary executions, torture, and the use of the convicts as 'human shields', based on first-hand accounts by escaped convicts. **[39i]**

8.28 The report noted:

"Convict porters are drawn from a range of prisons throughout Burma, from the central Dry Zone, the former capital of Rangoon, and from prisons close to ethnic conflict areas such as Toungoo or Hpa-an in Karen State. The selection of prisoners from a large number of facilities indicates a well-established system of drawing prisoners, typically small groups of 30 to 100 men or so – for portering duties. One consequence of this system is that prison and military officials can reasonably argue that inmates who end up not accounted for have become 'lost in the system' if they perish during portering service." **[39i] (II. Selecting Prisoners for Porter Duty)**

8.29 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 7 March 2011, stated that, "... the use of forced labour by the military continues unabated. Although formal complaints are not received from conflict areas, there are reliable reports on the systematic use of forced labour by the military in such activities as portering, sentry or guard duty and camp ecurity fence construction." **[32h] (paragraph 93)**

8.30 The HRW/KHRG Report stated:

"Porters told Human Rights Watch and the Karen Human Rights Group about specific incidents they witnessed in which Tatmadaw soldiers or officers summarily executed porters. Soldiers usually killed porters for no longer being able to carry the loads, attempting to escape, or having injuries from landmines or from being beaten that rendered them unable to walk. Most of the porters we interviewed said they were repeatedly threatened that they would be killed if they could no longer carry the loads, if they were injured, or if they tried to escape." **[39i] (III. Extrajudicial executions)**

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

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

8.32 The Child Rights Forum of Burma (CRFB) report *The plight of children under military rule in Burma* to the UN Committee on the Rights of the Child (CRC), dated 23 April 2011, noted that:

"The Tatmadaw frequently orders local villagers to serve as unpaid porters for them, carrying weapons, ammunition, supplies and heavy army packs from village to village. Village leaders are often forced to implement the orders given by the Tatmadaw against their will, by ensuring that each household provides a porter, under threat of severe punishment if they fail to comply. If there are not enough adults available for portering – for example, if some are away working on their farms – children are sometimes taken instead." **[86a] (p20)**

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Arbitrary arrest and detention

8.33 The USSD Report 2010 observed that:

"The law does not prohibit arbitrary arrest or detention, and the government routinely employed both practices. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the government regularly used this provision. The 1975 State Protection Law allows authorities to order detention without charge or trial of anyone they believe is performing or might perform any act that endangers the sovereignty and security of the state or public peace and tranquility." **[7a] (Section 1d)**

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

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

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

Torture

8.36 The USSD Report 2010 noted that:

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

8.37 The USSD Report 2010 added further that:

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

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

"The armed forces reportedly used coercive and abusive recruitment methods to procure porters. Persons forced into portering or other labor faced extremely difficult conditions, beatings, rape, lack of food and clean water, and mistreatment that at times resulted in death." **[7a] (Section 1c)**

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

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

"... in Burma the particular problem that complainants face is not only that they have been tortured to confess but also that there are literally no legal and institutional measures to support their complaints or bring action against the alleged torturers. There is no law to prohibit torture or institutions capable of investigating or prosecuting it. On the contrary, the courts and other parts of the legal system encourage the use of torture in cases like this, because they consistently admit evidence and confessions obtained from investigations in which the police have used torture, and because when accused persons retract their confessions and allege torture in court, the judges reject their allegations on the spurious basis that the defendants have no proof." **[43b] (p12)**

8.40 The AAPP Report October 2010 stated:

"Torture during interrogation is committed primarily by the Military Intelligence Service under the Directorate of Defense Services. Interrogations are also conducted by the Bureau of Special Investigations (BSI) and the Myanmar Police Force, one branch of

which is the Special Information Force ('Special Branch'). The BSI and the Myanmar Police Force are accountable to the Minister of Home Affairs.

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

8.41 The same source added:

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

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

8.42 The AAPP stated:

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

"In Burma, not all interrogation centres have been identified and several secret centers exist. Many political prisoners are kept in government 'guest houses' or on military bases which prohibit access to civilians. Both are used, along with torture and other ill-treatment, to extract confessions from detainees, to punish them or to force them to make undertakings to not criticize the government..." **[44d] (p13)**

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

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

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

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Extra-judicial killings and 'disappearances'

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

8.46 The USSD Report 2010 added that:

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

"The government continued to take no action to investigate or punish those responsible for extrajudicial killings of at least 30 persons during the regime's violent suppression of peaceful prodemocracy demonstrations in 2007. The government did not investigate or punish those responsible for custodial deaths in 2007...

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

8.47 Regarding 'disappearances', the USSD Report 2010 observed that:

"Private citizens and political activists continued to 'disappear' for periods ranging from several hours to several weeks or more. Such disappearances generally were attributed to authorities who detained individuals for questioning without informing family members and to the army's practice of seizing private citizens for portering or related duties, often without notifying family members. Military forces routinely ignored requests by family members for information. There were reports of disappearances during the year [2010] in connection with conflicts in Shan and Karen states... During the year seven members of Lin Let Kye (Shining Star), a group formed in 2008 to assist in the Cyclone Nargis relief effort, who disappeared in October 2009 were found serving prison sentences ranging from seven to 14 years for allegedly violating the Unlawful Associations Act. According to a human rights representative, 14 other persons also involved with Nargis relief efforts, including entertainers, writers, and press workers, were arrested in

October 2009. Of this group, six had been released and eight remained in prison at year's end.

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

See also Ethnic groups

AVENUES OF COMPLAINT

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

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

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

8.49 The UN General Assembly's, *Situation of human rights in Myanmar: Note by the Secretary General*, dated 15 September 2010, covering human rights developments in Burma (following the UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar,* dated March 2010 **[32e]**), noted that the Burmese government had stated in a letter dated 2 September 2010 that, "... a total of 35 seminars and workshops for Government officials and staff from the military, police and prisons to raise awareness on human rights had been conducted to date. The Government also noted the establishment by the Human Rights Body of an investigation team not only to investigate complaints lodged by citizens but also to take punitive actions against violators." **[32f] (paragraph 86)**

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

8.51 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General, Report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 16 September 2011, covering human rights developments in Myanmar since the Special Rapporteur's fourth report to the Council in March 2011, noted that the Special Rapporteur was informed that:

"... the Myanmar Human Rights Body, under the chairmanship of the Minister for Home Affairs, had established a team to investigate human rights violations whenever they were lodged by citizens and to take punitive actions against violators. He notes, however, that the Myanmar Human Rights Body does not operate under any legislation but under the terms of Notification 53/2007, which sets out in three paragraphs the body's composition and broad terms of reference: to examine and make proposals on work related to the United Nations and international human rights; to examine and make proposals on the establishment of a human rights commission in Myanmar; and to set up working groups as necessary. No reference is made to any investigative capacity or complaints receiving mechanism." **[32j] (paragraph 76)**

8.52 The same source noted that the Myanmar National Human Rights Commission was established on 6 September 2011 and stated that it:

"...is composed of 15 members, the majority of whom are former Government officials. There are many questions about the role and functioning of such an institution and whether it would comply, in terms of independence and effectiveness, with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles), which were welcomed by the General Assembly in its resolution 48/134. In this respect, the Special Rapporteur notes that an independent, credible and effective institution that complies with the Paris Principles could be an important mechanism for receiving complaints and investigating violations, thereby playing a central role in human rights promotion and protection in the country." **[32j] (paragraph 78)**

8.53 Regarding the establishment of the Myanmar National Human Rights Commission, the Asian Human Rights Commission (AHRC) noted in its report *The State of Human Rights in Burma in 2011* (AHRC Report 2011), published on 9 December 2011, that:

"From interviews of the body's chairman with media outlets, it would appear that the body upon receiving complaints will do no more than look into them itself – the extent to which it can do this is extremely doubtful, given that it does not have any significant budget or personnel with which to conduct inquiries, let alone a mandate to do so independent of other agencies – and then submit its findings to the government departments concerned. Given that government officials in Burma have, along with the members of the commission itself, a track record of denial of wrongdoing but also the capacity to respond vigorously to any such complaints with counter-complaints as well as with extra-legal measures to silence complaint, the new commission gives little cause for enthusiasm." **[43d] (p11)**

8.54 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary General*, dated 15 September 2010, reported, "...the Government noted that in 2000, it 'had released a notification to the people through newspapers about citizens' right to lodge a complaint to respective ministries relating to alleged injustices and grievances that may breach their rights'. According to the Government, many people had lodged complaints of violation of their rights and a mechanism existed to deal with the complaints." The Special Rapporteur requested further details of this mechanism and any data to accompany it. **[32f] (paragraph 86)**

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9. MILITARY SERVICE

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

9.02 The Central Intelligence Agency (CIA) World Factbook, updated 20 December 2011, noted that military service in Burma was compulsory for men aged between 18 and 45 years and women aged between 18 and 35. Forced conscription of children also occurred. **[6a] (Military)**

9.03 War Resisters International reported on 2 February 2011 that:

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

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

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

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

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

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

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

See also Children: Child soldiers

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10. ABUSES BY NON-GOVERNMENT ARMED FORCES

10.01 Jane's *Sentinel Security Assessment* noted in its section on Non-State Armed Groups in Burma, updated 10 January 2012, that:

"Notwithstanding the serious risk of political violence, Myanmar's biggest security problem stems from the country's frayed ethnic relations. Resentment against the two-thirds Burman majority's dominance runs deep within many of the 130 other ethnic groups. The country's borders were imposed by British colonial rulers, and conflict at the fringes has been a permanent feature of its recent history. Since independence, numerous armed ethnic minority groups of varying strength and ability were formed - some comprising only a few dozen fighters, others, like the United Wa State Army (UWSA), comprising several thousand active troops. Apart from the UWSA, the strength of armed ethnic insurgencies has however generally waned during past decades.

"While numerous armed ethnic minority groups have signed ceasefires with the former military government over the past two decades, the mandatory Border Guard Force (BGF) programme in which the government sought to transform ethnic militias into centrally-administered forces had been refused by most major groups, which increased the risk that more widespread armed struggle could ensue. The refusals effectively meant an end to ceasefires, and a return of the groups to illegal status. Several armed groups, including the Karen National Liberation Army (KNLA), and the Shan State Army-South (SSA-S) as well as several smaller ethnic groups in eastern Myanmar have remained active over the past decades." **[8a] (Overview)**

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

See also Children: Child soldiers

10.03 On 24 March 2011, Human Rights Watch (HRW) reported on the UN Special Rapporteur's call for a Commission of Inquiry into human rights violations committed by both Burma's armed forces and non-state armed groups. In its report *Burma: Q & A on an International Commission of Inquiry*, HRW noted:

"Some non-state armed groups involved in Burma's armed conflicts have been implicated in serious violations of the laws of war, including forcible recruitment and use of child soldiers, forced displacement of the population, torture, ill-treatment and summary executions of captured Tatmadaw personnel, sexual violence against women and girls, and widespread use of anti-personnel mines in civilian areas. The recruitment of child soldiers and the use of anti-personnel mines by non-state armed groups in Burma have been well-documented, but allegations of other laws of war violations have not been well researched." **[39h] (What abuses have been committed by non-state armed groups?)**

10.04 Jane's also noted:

"There are several smaller armed ethnic minority groups that have fought against the government over the past decades, or whose ceasefire agreements have come to an

end due to their refusal to sign up to the centre's mandatory BGF programme. Smaller active groups include the Chin National Army (CNA, active at the Indian border), the Arakan Army (AA), the National Liberation Army (PNL-A), the Wa National Army (WNA), the Lahu Democratic Union (LDU), the Palaung State Liberation Army (PSLA), and the National Democratic Alliance Army - Eastern Shan State (NDAA-ESS)." **[8a] (Smaller ceasefire insurgent groups)**

10.05 The Human Rights Watch *World Report 2012*, published 22 January 2012, stated for Burma that:

"Fighting between government forces and ethnic armed groups spread in Burma during 2011, as many longstanding ceasefire agreements unraveled. In Karen State, eastern Burma, a breakaway faction of the Democratic Karen Buddhist Army (DKBA) took up arms following the November 2010 elections. Intensified fighting along the border forced an estimated 20,000 refugees into Thailand.

"Most DKBA soldiers refused to complete their transformation into Burmese army-controlled Border Guard Force units and ended their 16-year ceasefire. In March the Burmese army attacked the Shan State Army-North, breaking a ceasefire reached in 1989, as the Shan army resisted pressure to demobilize and form a government-controlled people's militia. Fighting in northern Shan State displaced an estimated 30,000 civilians.

"In June fighting broke out between Burma's second largest opposition armed group, the Kachin Independence Army (KIA), and the Burmese army in northern Burma near the Chinese border, ending a ceasefire signed in 1994. Local women's rights groups reported high levels of sexual violence with more than 35 women and girls raped in the first two months of the fighting alone. Over 30,000 civilians were internally displaced, fleeing Burmese army abuses such as forced labor, extrajudicial killings, and indiscriminate fire, with several thousand seeking refuge in China." **[39j] (p302)**

10.06 The ceasefire between the Kachin Independence Army (KIA – the KIO's armed wing) and the Burmese government was broken on 9 June 2011 after a 17-year ceasefire "...spurred on by the KIA's refusal to accept the regime's demand that they transform into a Border Guard Force, as well as the KIA's strategic control of areas with lucrative Chinese hydropower projects..." (KWAT Report, October 2011) **[76a] (p5)**

10.07 Ceasefire agreements have since been signed with five groups: the United Wa State Army; Mong La Special Area-4; the Restoration Council of the Shan State / Shan State Army; and the Chin National Front. (*Mizzima*, 11 January 2011) **[33g]**

10.08 BBC News reported on 12 January 2012 that a ceasefire agreement had been signed between the Burmese government and the Karen National Union (KNU). **[28i]**

10.09 The Foreign and Commonwealth Office (FCO) Country Profile on Burma, updated 8 August 2011, noted, "Some militias have become involved in drug and people trafficking. Conflicts have displaced huge numbers of civilians, both within Burma (an estimated 470,000) but also across its borders, into Thailand, China, India and Bangladesh (some 180,000 refugees and over two million migrant workers)." **[5a] (The ethnic minorities and ceasefires)**

See also Ethnic groups

FORCED CONSCRIPTION

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

See also Ethnic groups and Children: Child soldiers

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11. JUDICIARY

ORGANISATION

11.01 The USSD *Background Note* on Burma, updated 3 August 2011, observed, "The legal system is based on a British-era system and headed by a Supreme Court seated in Nay Pyi Taw. Under the former military government known as the State Peace and Development Council (SPDC), the judiciary clearly was not independent; it is unclear how much autonomy the judiciary will have under the 2010-elected Parliament and nominally civilian executive branch." **[7c] (Government)**

INDEPENDENCE

11.02 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General, Report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 16 September 2011, covering human rights developments in Myanmar since the Special Rapporteur's fourth report to the Council in March 2011, noted:

"The Special Rapporteur observes that the judiciary's capacity, independence and impartiality remain outstanding issues in Myanmar. The Special Rapporteur notes that there do not appear to be any major Structural transformations within the judiciary. The new Chief Justice was formerly one of the justices on the Supreme Court, and the new Attorney General was previously a Deputy Attorney General, with no further information on new appointments to the courts." **[32j] (paragraph 19)**

11.03 The Asian Human Rights Commission (AHRC) noted in its report *The State of Human Rights in Burma in 2011* (AHRC Report 2011), published on 9 December 2011, that:

"Despite the political changes of the year and associated fanfare, the judiciary in Burma remains inert, tied to the executive, and incapable of performing even basic functions for the defence of human rights. Since the start of the year, structural changes to the judiciary under the 2008 Constitution have not materialized in any meaningful way. On the contrary, the courts continue to be as closed and obscured from public view as before, perhaps even more so. For instance, at time of writing still no biographies or details have been made known publicly of the new Supreme Court justices, among whom three are believed to have come from the armed forces, two others from the civil administration. Legal professionals have doubts about the background and abilities of these persons, yet they too have no detailed knowledge about them, let alone the opportunity to discuss such matters." **[43d] (p9)**

11.04 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 August 2009, following a February 2009 visit to the country by the Special Rapporteur, noted that:

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

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

11.05 The USSD Report 2010 further stated:

"The government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system remain formally in place, the court system and its operation were seriously flawed, particularly in the handling of political cases. The misuse of blanket laws – including the Emergency Provisions Act, Unlawful Associations Act, Habitual Offenders Act, Electronic Transactions Law, Television and Video Act, and Law on Safeguarding the State from the Danger of Subversive Elements – as well as the manipulation of the courts for political ends continued to stifle peaceful dissent and deprive citizens of the right to a fair trial. Executive Order 5/96, providing for the arrest of any person deemed a threat to the National Convention (composed of handpicked delegates convened to draft a new constitution) and the 'roadmap to democracy,' effectively suppressed open debate among citizens. Pervasive corruption further served to undermine the impartiality of the justice system." **[7a] (Section 1e)**

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

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

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FAIR TRIAL

11.07 The USSD Report 2010 stated that:

"The law provides for the right to a fair trial, but it also grants broad exceptions, in effect allowing the regime to violate these rights at will. In common criminal cases, the court generally respected some basic due process rights, whereas there was a fundamental lack of due process in most politically sensitive cases.

"Defendants do not enjoy a presumption of innocence. Juries are not used in trials. Defendants have the right to be present at their trials. In political cases defendants were rarely given timely access to an attorney. By law the government is not obligated to provide an attorney at public expense except in death penalty cases. Defendants and their attorneys were given access to government-held evidence relevant to their cases only after charges were made and when the case was put before the court.

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

"Political trials normally were not open to family members or the public. NLD [National League for Democracy] members and other prodemocracy activists generally appeared able to retain the counsel of lawyers; however, lawyers were not always given the opportunity to mount a proper defense. They often were denied adequate access to their clients before trial, were not informed when trials would begin, and occasionally were not allowed to attend their clients' trials. Reliable reports indicated senior government authorities dictated verdicts in political cases, regardless of the evidence or the law." **[7a] (Section 1e)**

11.08 The same source noted:

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

"The government routinely extended prison sentences under the Law Safeguarding the State from the Dangers of Subversive Elements. The minister of home affairs has the right to extend unilaterally a prison sentence by two months on six separate occasions, for a total extension of up to one year. SPDC Chairman Senior General Than Shwe can unilaterally extend or shorten a period of detention, as he has with detained opposition leader Aung San Suu Kyi.

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

11.09 The UN General Assembly's *Situation of human rights in Myanmar Note by the Secretary-General, Report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 16 September 2011, stated:

"Concerns regarding the functioning of the judiciary also remain. The Special Rapporteur continues to receive information of criminal cases being heard behind closed doors. In one case, the family of former army captain, Nay Myo Zin, was barred from the closed court inside Insein prison, on 2 June 2011. Nay Myo Zin, who left the army in 2005 and then volunteered for a blood donor group headed by a member of the National League for Democracy, had been charged under the Electronics Act. During the proceedings, judges heard a statement from Deputy Police Commander, Swe Linn, who had conducted the search at his house, in early April 2011, and found a document in his e-mail inbox entitled 'National Reconciliation'. On 26 August 2011, he was sentenced to 10 years in prison. According to reports, he appears to have been subjected to torture resulting in shattered lower vertebrae and a broken rib, which led to his attending court on a hospital stretcher. His requests for external hospitalization have also been reportedly denied. **(paragraph 20)**

"Another concern regarding fair trials is the access to counsel. During the Special Rapporteur's meeting with Daw Aung San Suu Kyi and the Executive Committee of the National League for Democracy, he was informed of the problem of the arbitrary revocation of licences of lawyers who defend prisoners of conscience. The Special Rapporteur urges the Government to reconsider these revocations and to guarantee the effective right to counsel and to allow lawyers to practise their profession freely." **[32j] (paragraph 21)**

See also Political affiliation: Political prisoners

11.10 The AHRC Report 2011 stated that:

"Legal professionals say that the amount of corruption in the system is growing exponentially, as the costs of living rise and more and more judges and lawyers look to whatever opportunities they can to make as much money as they can. In some courts, lawyers estimate that up to 70 per cent of cases are decided in part or whole through the payment of money.

"Nor is this a question of one person or another in the system requiring payment: from studies that the AHRC has undertaken into the mechanics of corruption in Burma, payments are made at all stages in the legal process and to all officials, from the arresting and investigating police, to court clerks, prosecutors, judges and others. Sometimes the payments are routine and petty, such as to meet a detainee in police custody and give food or medicine; at other times they are substantial and determining, such as to effect a specific outcome to a case – be it acquittal or conviction, reduction or increase of sentence or otherwise." **[43d] (p10)**

11.11 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, published on 10 March 2010 following his February 2010 visit, stated that:

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

11.12 The USSD Report 2010 noted that, "Persons complained they were not informed of the arrests of family members in a timely manner, not told their whereabouts, and often denied the right to see them and attend court hearings." **[7a] (Section 1e)**

See also Corruption

PENAL CODE AND CODE OF CRIMINAL PROCEDURE

11.13 The Burma Lawyers' Council, accessed 18 May 2010, provided access to the text of Burma's Penal Code **[45a]** and the Code of Criminal Procedure. **[45b]**

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12. ARREST AND DETENTION – LEGAL RIGHTS

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

See also Security forces: Arbitrary arrest and detention

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

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

See also Security forces: Torture

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

"In terms of procedures, the law requires that the arrestee is brought before a judge within 24 hours. However, people are often detained without charges, sometimes without ever being brought before a judge, and are sometimes released without explanation. Tin Myo Win, Daw Aung San Suu Kyi's doctor, was arrested on 6 May 2009 and released on 16 May without any explanation from the authorities for his

detention. Also in April 2009, five members of the Federation of Trade Unions of Burma were arrested and subsequently released without explanation.

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

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

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

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

12.07 The USSD Report 2010 stated, "Bail was commonly offered in criminal cases but rarely allowed for political prisoners. The government regularly refused detainees the right to consult a lawyer and occasionally imprisoned or detained lawyers. The government continued to use incommunicado detention and often failed to inform detainees' relatives of detentions until much later." **[7a] (Section 1d)**

For further information on bail, see also Corruption

ARREST WARRANTS

12.08 Arrest warrants can be issued by the courts to the police within a matter of hours in order to make an arrest. (FCO letter, dated 20 October 2008) **[5e]** It was possible that an arrest warrant could be left with a family member of the person named on the warrant in that person's absence. (FCO email, 27 February 2008) **[5c]**

12.09 A Burmese police officer, consulted by the FCO, stated that warrants would normally only be issued in Burmese. However, the police officer said that, although he had no personal experience of such, if the warrant was for a foreigner a court could possibly issue the papers in English, as well as providing a Burmese version. (FCO email, 5 September 2007) **[5d]**

See also Forged and fraudulently obtained official documents

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13. PRISON CONDITIONS

See also Political prisoners

13.01 Different sources gave conflicting numbers of prisons and labour camps in Burma:

13.02 A joint report by Human Rights Watch (HRW) and the Karen Human Rights Group (KHRG), *Dead Men Walking: Convict Porters on the Front Lines in Eastern Burma*, dated 12 July 2011, stated:

"There are currently 42 prisons and 45 labor camps in Burma under control of the Corrections Department. Prisons are divided into three different classes: Class A prisons are equivalent to maximum security, Class B are medium security facilities, and Class C prisons are for petty offenders or those serving short sentences. Political prisoners are usually sent to Class A prisons. Serious offenders or those committing further offenses in prison are sent to labor camps, which include gravel production, agricultural service, road building, and specially designated porter camps which are little different from standard labor camps, but from which convicts are drawn on a regular basis." **[39i] (II. From Prison to Conflict Zone)**

13.03 The Assistance Association for Political Prisoners (Burma) (AAPP) stated in its report *The recognition of political prisoners: essential to democratic and national reconciliation process*, dated 9 November 2011, that, "In Burma's prison system there are three categories of prisoners: special; ordinary; and criminal. The separation of these categories is murky at best, and political prisoners generally fall under both the special and ordinary categories." **[44f] (p2)**

13.04 A report by the Assistance Association for Political Prisoners (Burma) (AAPP), *Torture, Political Prisoners And The Un-Rule Of Law: Challenges To Peace, Security And Human Rights In Burma*, dated 14 October 2010, noted, "There are 42 prisons in Burma, 109 labour camps and an unknown number of interrogation centres. The deplorable conditions in these places are well-documented: incommunicado detention, poor diet, and denial of adequate medical attention and torture. The conditions of detention, in Burma, are appalling and arguably qualify as cruel, inhumane and degrading, amounting to torture." **[44d] (p4)**

13.05 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 10 March 2010, stated that, "There are 44 prisons in Myanmar and at least 50 labour camps." **[32e] (paragraph 20)**

13.06 The website foreignprisoners.com, accessed 28 April 2011, reported that there were 38 major prisons in Burma, 20 of which housed political prisoners. The website provided a list of 'known' prisons with their locations. **[68a] (Burma prison locations)**

13.07 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), released on 8 April 2011, noted, "According to a human rights activist, there were approximately 63,000 male and 8,900 female prisoners. Pretrial detainees were held together with convicted prisoners, but political prisoners were typically held separately from common criminals. Former prisoners complained of being held in aging physical structures that received no maintenance and were infested with rodents, bacteria, and mold." **[7a] (Section 1c)**

13.08 The AAPP report noted:

"... prison authorities routinely and deliberately aggravate prison conditions and deny medical care to political prisoners, causing a level of suffering, amounting to torture. Malnutrition, poor sanitation and unclean water are serious problems throughout the prison system, posing a major health risk. According to testimonies, political prisoners continue to receive very low quality food from prison authorities; often the food is rotten, half cooked, with stones and insects, resulting in food poisoning and gastric ailments. Many prisoners face starvation." **[44d] (p16)**

13.09 On health care in prison, the AAPP reported:

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

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

13.11 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 August 2009, noted that:

"The Special Rapporteur has received alarming reports on the health conditions of some 136 prisoners who do not receive proper medical treatment or medication... Most prisoners of conscience rely on their families for medication and food supplies. More than 600 prisoners have been reported to have been transferred to remote prisons far from their family houses. This makes it more difficult, sometimes impossible, for the families to ensure regular visits. This not only affects the morale of the prisoners and their families, but it also has physical consequences for the prisoners not receiving their regular medication. The Special Rapporteur has received information that even the medicine prescribed by prison doctors is sold to the inmates. Those who do not have the financial capacity to pay for the medicine are of course at risk of never recovering from their health problems.

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

13.12 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 10 March 2010, stated that reports continued to be received "... on the alarmingly high number of deaths in prison. While official statistics have not been made available, it appears that both prisoners of

conscience and regular prisoners are subject to conditions that lead to death." **[32e] (paragraph 24)**

13.13 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 16 September 2011, noted that:

"In Insein prison, the Special Rapporteur met with seven prisoners of conscience: Aung Thein, Tin Min Htut, Ma Khin Khin Nu, Phyo Wai Aung, Win Zaw Naing, Sithu Zeya and Nyi Nyi Tun. He heard disturbing testimonies of prolonged sleep and food deprivation during interrogation, beatings, and the burning of bodily parts, including genital organs. He heard accounts of prisoners being confined in cells normally used for prison dogs, as a means of punishment. As in his previous meetings with prisoners, he was told of inadequate access to medical care, where prisoners had to pay for medication at their own cost." **[32j] (paragraph 48)**

13.14 The Foreign and Commonwealth Office (FCO) *Human Rights Annual Report 2009*, published 17 March 2010, stated that, "A number of prisoners... were moved between late 2008 and early 2009 from Insein prison to prisons in remote border areas where conditions are harsh. This relocation is a deliberate policy designed to isolate prisoners of conscience from their families and supporters. Some family members must now travel for up to five days to provide the food, medicine and support without which many prisoners would struggle to survive." **[5b] (p92)**

13.15 The International Committee of the Red Cross (ICRC) reported in its *Annual Report 2010*, published May 2011, that, "Detainees had not received ICRC visits, aimed at assessing their treatment and living conditions, since December 2005, as the authorities would no longer allow the organization to carry out visits in accordance with its standard procedures. Nonetheless, 673 detainees benefited from ICRC-supported visits from their families, often in remote areas of the country." **[40a] (p245)**

13.16 However, the UN General Assembly's *Situation of human rights in Myanmar: Report of the Secretary General*, dated 5 August 2011, covering the period from 26 August 2010 to 4 August 2011, stated, "On 1 and 2 July, for the first time in six years, the International Committee of the Red Cross was permitted to resume visits to inspect prison conditions in three different localities." **[32i] (paragraph 46)**

13.17 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 16 September 2011, stated that, "The Special Rapporteur remains concerned about the conditions of detention and the treatment of prisoners. He notes continuing allegations of torture and ill treatment during interrogation, the use of prisoners as porters for the military or 'human shields', and the transfer of prisoners to prisons in remote areas where they are unable to receive family visits or packages of essential medicine and supplemental food." **[32j] (Paragraph 46)**

See also Convict porters

13.18 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 August 2009, stated that:

"... while visiting the dispensary and talking at random with the inmates at Insein prison in February 2009, the Special Rapporteur discovered a shackled prisoner who had tried to run away from forced labour in a military compound in Kayin State. The prison authorities admitted having some 30 to 40 shackled prisoners in Insein. In some prisons, prison governors run the premises and treat prisoners as they wish, with no

respect for existing rules and regulations. Urgent attention from higher authorities is required to ensure effective oversight and accountability." **[32c] (Paragraphs 30-31)**

13.19 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 10 March 2010, stated that:

"… [He] was allowed to visit three prisons — Sittwe, Buthidaung and Insein — where he met with 14 prisoners of conscience and one former child soldier. While serious concerns on prison conditions remain, such as inadequate water and food rations and extortion by prison staff, the Special Rapporteur understands that the conditions in both Buthidaung and Insein had improved over the past few months. The Special Rapporteur would like to encourage the authorities to continue these efforts throughout the prison system. He invites the authorities to address effectively the requests of prisoners who staged hunger strikes in Insein and in Buthidaung in February 2010 for better food and health care as well as for reading and writing material." **[32e] (paragraph 19)**

13.20 The AAPP reported on 5 January 2012 on a prisoner amnesty signed by President Thein Sein on 2 January, reducing prison terms. The report stated, "Those prisoners serving more than 30 year sentences have had their sentences deducted to up to 30 years; prisoners with 20 to 30 year terms are now serving up to 20 years; and prisoners with less than 20 years will experience a one fourth deduction in their sentences." **[44h]**

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14. DEATH PENALTY

14.01 Burma retains the death penalty for ordinary crimes, including murder, but, according to Amnesty International's undated list of abolitionist and retentionist countries, accessed 22 March 2011, Burma "...can be considered abolitionist in practice in that they have not executed anyone during the past 10 years and are believed to have a policy or established practice of not carrying out executions." **[12b] (Abolitionist in practice)**

14.02 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, published 10 March 2010 following his February 2010 visit, noted, "While the Special Rapporteur again commends the Government for the effective moratorium on the use of death penalty, he regrets that lower courts continue to hand down death sentences." **[32e] (paragraph 40)**

14.03 Radio Free Asia (RFA) reported on 8 January 2010 that:

"A Burmese court has sentenced a government employee and a retired army officer to death for leaking secret details of a government visit to North Korea in 2008, according to reporters based in Burma's former capital, Rangoon. The men, retired Major Win Naing Kyaw and Foreign Ministry employee Thura Kyaw, were convicted of distributing photographs of a secret network of military tunnels along with a report containing evidence of high-level contacts with North Korea, raising international fears that Burma could be developing nuclear weapons...A leading lawyer in Burma who asked not to be named said he doubts the death sentences will be carried out, noting that more than 200 people have been on death row in Burma since 1988 and that none has been executed." **[18a]**

14.04 On 5 January 2012, the Assistance Association for Political Prisoners (AAPP) – Burma reported that, on 2 January 2012, President Thein Sein signed an amnesty order authorising the commution of death sentences to life and a reduction in prison terms. **[44h]**

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15. POLITICAL AFFILIATION

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

"Mere association with members, rather than actual membership, of an outlawed group can land someone in considerable trouble. By 1990 there were 93 groups declared unlawful by the State Law and Order Council. Since 1990 four more groups were added to the list: Karen National Union, Democratic Party for a New Society, All Burma Students Democratic Front and most recently the Burma Lawyers' Council. What defines association with an organisation is subjective and routinely used by the authorities in an arbitrary manner." **[44d] (p6)**

15.02 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), released on 8 April 2011, noted:

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

"The 2008 constitution… provides for popularly elected legislators to a bicameral parliament; however, it stipulates that at least 25 percent of the seats must be reserved for military members appointed by the uniformed commander in chief of Defense Services. It also bars many persons from office who had not resided in the country for at least 10 consecutive years prior to election, had prior misconduct the regime deemed disqualifying, accepted assistance from a foreign government, or were entitled to citizenship of a foreign nation." **[7a] (Section 3)**

15.03 The USSD Report 2010 added:

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

FREEDOM OF POLITICAL EXPRESSION

15.04 In its report *Burma's Continuing Human Rights Challenges*, dated 3 November 2011, Human Rights Watch (HRW) reported:

"In late October [2011] the Political Party Registration law was amended in parliament, removing restrictions on candidates with prior prison convictions from contesting elections. The clause stating parties must 'preserve and protect' the 2008 Constitution was removed, and now parties must 'respect the Constitution, law and order.' In addition, the requirement that any party contesting elections must have contested a minimum of three seats in the previous general election was dropped." **[39c] (Political party registration and elections)**

15.05 *Reuters* reported on 5 January 2012 that Burma's Election Commission had formally registered the NLD as a political party. By-elections were set for 1 April 2012 and Aung San Suu Kyi planned to run for parliament. **[85a]**

15.06 In its ViewsWire, dated 14 December 2011, the Economist Intelligence Unit (EIU) stated that in the EIU's view:

"Although many members of the opposition remain deeply sceptical about the fairness of local elections, some are cautiously optimistic that a limited form of multiparty politics will be allowed to take root. A total of 40 seats in the Pyithu Hluttaw (People's Assembly, the 440-seat lower house of parliament) will be contested at the by-elections. But even if the NLD wins all of them, the legislature will still be dominated by the military-aligned Union Solidarity and Development Party (USDP), which currently holds 259 parliamentary seats, and members of the military, who under the 2008 constitution are allocated 110 seats." **[46c]**

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

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

15.08 The USSD Report 2010 stated, "Activists and politicians reported that authorities routinely monitored their movements." **[7a] (Section 1f)**

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Political prisoners

See also Prison conditions

15.09 The Assistance Association for Political Prisoners (Burma) (AAPP) stated in its report *The recognition of political prisoners: essential to democratic and national reconciliation process*, dated 9 November 2011, that:

"The exact number of political prisoners in Burma has been hotly disputed over the past few months. It comes as no surprise that members of the U Thein Sein regime, such as the Presidential Advisor and Foreign Minister, dispute the numbers of political prisoners, saying estimates of political prisoners are inflated and erroneous. The burden of proof rests on the U Thein Sein regime, not the opposition, and calls for the regime to publicly disclose its prisoner lists along with evidence proving the status of each political detainee. AAPP will do the same once the verification process is complete." **[44f] (p1)**

15.10 Amnesty International's *Annual Report 2011: The state of the world's human rights*, published 12 May 2011, covering 2010 events, noted that, along with the release of Aung San Suu Kyi, "Thirty-eight political prisoners were released, including NLD [National League for Democracy] spokesperson U Win Htein, released two months after the expiry of his prison sentence, and Deputy NLD Chairperson U Tin Oo, released after seven years of house arrest... Myint Maung and Thura Aung, imprisoned in 2008 and 2009 for helping farmers file legal cases against illegal confiscation of their land, were released in August [2010] after their sentences were reduced on appeal." **[12e] (Political prisoners)**

15.11 One year on from Burma's national elections, Human Rights Watch (HRW) reported on 3 November 2011:

"Basic rights to freedom of expression, association, and peaceful assembly remain tightly circumscribed in Burma. The government staged two general amnesties of prisoners in 2011. In May and June, a general amnesty included a one-year reduction of all sentences, freeing an estimated 20,000 prisoners. Of these, 77 were believed to be political prisoners. In October, following months of rumors, another amnesty freed more than 14,000 prisoners. Disappointing widespread expectations of a major release of political prisoners, an estimated 220 political activists, journalists, artists, and other critics of the government were released, including famed comedian Zargana, labor rights activist Su Su Nway, journalist Nay Min, and several members of the National League for Democracy [NLD]. Large numbers of political prisoners remain in Burma's horrid prisons. Officially, the government continues to deny the very existence of political prisoners, although one of President Thein Sein's political advisors, Ko Ko Hlaing, estimated that only 600 prisoners could be deemed political prisoners, and that the October amnesty released nearly half of them." **[39c] (Fundamental Freedoms and Political Prisoners)**

15.12 According to the Assistance Association for Political Prisoners (AAPP) – Burma, dated 5 January 2012, a further 34 political prisoners were released at the beginning of January, **[44h]** and again, on 13 January, a number of high-profile dissidents were among 651 prisoners freed in a presidential pardon, including Min Ko Naing, Ko Jimmy and Nilar Thein of 88 Generation Students, Shan nationalist leader U Khun Tun Oo, Buddist monk U Gambira, and five journalists from the Democratic Voice of Burma (DVB). Former Prime Minister, Khin Nyunt, was also freed from house arrest. (BBC News, 13 January 2012) **[28j]**

15.13 The AAPP provided a list of released political prisoners, updated 4 January 2012. **[44g]**

15.14 The AAPP report *The recognition of political prisoners: essential to democratic and national reconciliation process*, dated 9 November 2011, stated:

"Although AAPP warmly receives the release of any political prisoner, they mean little in face of draconian laws that heavily circumscribe basic civil and political rights. Indeed, political prisoners face ongoing human rights abuses upon their release. These include:

1. Harassment and arbitrary arrest
2. Denial of education and employment opportunities
3. Discrimination against former political prisoners and their families
4. Social exclusion

"It is nearly impossible for former political prisoners to resume their normal lives outside of the prison walls. Students are barred from enrolling in school and finishing their studies; lawyers and doctors have their licenses revoked; artists are banned from performing; and former political prisoners are not allowed to hold political office due to their criminal records. For example, Zarganar, famed satirist and charity worker, and Zayar Thaw, musician and human rights activist, have not been allowed to perform since their releases in May and October 2011, respectively.

"Most recently, a group of 22 lawyers, 7 doctors, and 7 students who have had their licenses revoked and been dismissed from school due to their status as former political prisoners sent a petition to U Thein Sein and the Myanmar National Human Rights Council in an attempt to have their licenses reinstated and their right to education restored. One of those is U Aung Thein, a prominent NLD lawyer who has represented high profile individuals such as U Gambira, and was sentenced to 4 years imprisonment for contempt of court. According to U Aung Thein, the plight of a former political prisoner "is like punishing a person twice. We were imprisoned and when we were released lawyers and doctors cannot do their work and students have been dismissed from school. In this era, that should not happen." **[44f] (p4)**

15.15 On 8 November 2011 the UN News Service reported that the Special Rapporteur on human rights in Burma had received reports stating "...that 15 'prisoners of conscience,' currently on hunger strike in Insein prison, are being tortured or ill-treated, and that they have been denied drinking water. Eight of the prisoners have reportedly been held in dog cells..." **[58a]**

15.16 The AAPP noted on its website, updated 23 December 2011, 1,572 political prisoners in Burma. The AAPP also provided the names of those detained. **[44a]**

15.17 The AAPP report *Torture, Political Prisoners and The Un-Rule Of Law: Challenges To Peace, Security and Human Rights In Burma*, dated 14 October 2010, noted:

"To understand what it means to be a political prisoner in Burma we need to understand what it means to be political activist or a dissident. The term political activist or dissident lumps together a diverse range of people, as though they were a single, unified, political group. They are not. They do not share a single political ideology. Rather, the dissident community is made up of a variety of people, scattered across the entire country, and more across its borders, some of whom belong to large political parties like the recently disbanded National League for Democracy, some to smaller groups, like Generation Wave an underground youth culture network, and others who work alone. A dissident

may be someone who writes an article critical of the government, a monk who overturns their alms bowl at the military's economic mismanagement, or someone writing a poem about poverty or oppression. What ties these people together is that they engage in activities that the Burmese Junta considers contrary to its policies, and therefore 'anti-government', 'a security threat', or even 'terrorism'. In Burma, it does not take much to be 'political' or considered a 'security threat'. Owning a copy of the Universal Declaration of Human Rights can land you with a 5 year prison sentence, as can handing out leaflets for an independent student union. Some political prisoners were not directly involved in politics before their arrest. One former political prisoner reveals the effects of his imprisonment: 'I never considered myself political before my arrest, but now the regime has made me political through my imprisonment'." **[44d] (p6)**

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

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

[44d] (p7)

See also subsection: Opposition groups and political activists, Judiciary and History: Release of Aung San Suu Kyi

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

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FREEDOM OF ASSOCIATION AND ASSEMBLY

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

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

15.22 Radio Free Asia reported on 27 October 2011 that:

"Burmese police detained up to seven people, including a rights campaigner, and dispersed as many as 100 farmers... after the group held a rare demonstration in Rangoon to protest the confiscation of their land – testing the resolve of the country's new reform-leaning government... Police also confiscated the groups' banners and maintained surveillance on the location of the protest after the farmers left the area. Officials said the protest had been broken up by police... Last month, police detained a man for holding a protest against a controversial mega-dam planned for the Mekong River. Authorities later announced a suspension of the project following large-scale public opposition." **[18b]**

15.23 The same source reported in an article dated 15 November 2011 that:

"Five Buddhist monks staged a rare protest in Burma's second largest city on Tuesday, saying they wanted the government to release all political prisoners, end a longstanding ethnic armed conflict and allow freedom of speech. They gathered at the famous Maha Myatmuni pagoda in Mandalay to announce their demands written in banners which they unfurled and put up at the building, drawing at one stage about 500 fellow monks and onlookers... Police in plainclothes and military personnel deployed at the scene, a female eyewitness said." **[18c]**

15.24 On 25 November 2011, *The Irrawaddy*, citing the Associated Press, reported that:

"Burma's Parliament approved a law guaranteeing the right to protest, one of a series of reforms under the new elected government. The law is significant because the right to

protest had not previously existed in Burma... The protest law says would-be participants must seek permission five days before the event and provide details about slogans and speakers. Protests are prohibited at factories, hospitals and government offices. Staging a protest without permission carries a penalty of one year in prison." **[26k]**

15.25 In its report *Burma's Continuing Human Rights Challenges*, dated 3 November 2011, Human Rights Watch (HRW) reported on the new law allowing the formation of trade unions. The report stated:

"... on its face the Labor Organization Law allows for the formation of trade unions and grants unions the right to strike. Workers in the private sector must provide three-days notice to strike, while in the public sector 14 days notice is required. Employers who dismiss workers for organizing or participating in strike action are subject to criminal penalties. However, the law limits the independence of trade unions because unions will have to register with a national registrar appointed by the president." **[39c] (Passing of new rights-related legislation)**

See also Employment rights

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

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

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

See also Recent developments

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

"The SPDC's Unlawful Association Act is often invoked to punish civilians and grassroots organizations that provide vital humanitarian support to communities in conflict areas. The law states that anyone found supporting politically dissident groups are considered enemies of the State and should be punished accordingly. The law itself

serves as a deterrent function by inciting fear in individuals and communities. In fact, some village leaders are reluctant to accept much needed assistance from certain aid organizations because of the potential consequences of receiving aid." **[64a] (p82)**

Demonstrations outside Burma

15.28 In a letter dated 4 February 2011, a Foreign and Commonwealth Office (FCO) official at the British Embassy in Rangoon responded to the UK Border Agency's query on Burmese nationals attending demonstrations outside Burma, stating, "... the Embassy staff are not personally aware of any individuals who have returned to Burma and been arrested for their activism in the UK. Our assessment is that it would be rally leaders or individuals who also have histories inside Burma who would be particularly at risk." **[5w]**

15.29 In a letter to the Country of Origin Information Service, originally dated 1 August 2008 and updated 26 June 2010, the Foreign and Commonwealth Office (FCO) stated:

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

15.30 The FCO letter dated 4 February 2011 continued:

"1) A national's participation in demonstrations outside the Burmese Embassy is very likely to be recorded and we strongly believe these records are sent to the Burmse [sic] immigration authorites [sic] in Burma.

"2) Burmese national[s] who regularly participate in such demonstrations are very likely to have been photographed and identified by the Burmese authorities

"3) If such a person is returned, and there are additional factors that would trigger the attention of the Burmese authorities, there is a real risk of persecution, imprisonment, and possibly il [sic] treatment on return." **[5w]**

15.31 In an email to the COI Service dated 21 December 2011, the FCO confirmed that its view concerning Burmese nationals participating in demonstrations in the UK remained the same as in its letter dated 4 February 2011 (above), with the exception that it now judged the risk of arrest and prosecution to have reduced following the Burmese government's invitation welcoming back people from exile. **[5z]**

15.32 Reporting on an invitation to Burmese exiles to return to the country, *The Irrawaddy* stated on 18 August 2011:

"Most Burmese exile groups were skeptical about an announcement by President Thein Sein on Wednesday [17 August] that his government would allow dissidents to return to the country, but at least some welcomed the idea as something worth considering." **[26l]**

15.33 In an article dated 28 October 2011, *The Irrawaddy* reported on the Burmese government's failure to put in place any policy or procedure that would allow political exiles to feel secure in returning. The report noted, "...most Burmese exiles still have doubts about their ability to safely go back home and very few have actually accepted the invitation and returned." **[26m]**

15.34 The same source added:

"A source close to the Burmese embassy in Bangkok said that exiles wishing to return home have to sign a five-point statement saying that they will: avoid actions and words which can harm the state; avoid writing, talking and lobbying which can harm the stability of the state; avoid contact with illegal organizations; avoid actions that are destructive or harassing; and be loyal to the state and stay within the law.

"In addition, the source said that if any exile who has already requested asylum in any foreign country wants to return home, that person must leave their travel documents and identity card at the embassy, which will provide them with a letter of identity. There is no transparent policy stating whether the exiles who return home will be allowed to travel abroad once again." **[26m]**

15.35 Burma Campaign UK reported in its *Burma Briefing No.15*, dated September 2011, that "Asked about this possible offer [of inviting exiles to return] in an interview with Radio Australia on 30th August, the UN Special Rapporteur on Human Rights in Burma warned exiles they could be arrested if they do return, stating; 'The situation is that those who at this moment may decide to express their opinions against authorities may face the risk to be arrested arbitrarily'." **[53c] (p6)**

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

"A program manager with extensive experience with Myanmar issues who works for Inter Pares, a registered Canadian charity that promotes humanitarian assistance and human rights protection (25 Sept. 2006), provided the following information to the Research Directorate during a telephone interview on 27 July 2007. Regarding whether authorities in Myanmar monitor its citizens who travel to other countries, the Program Manager stated that it can vary depending on the identity of the person, on how the person left the country and whether they are politically active. The Program Manager explained that the Myanmar regime has an 'extensive' monitoring system, and that people feel watched, even when they are abroad. Citizens who are not politically active and who illegally cross the border could possibly go unnoticed by the authorities, but the movements of citizens who are politically active would likely be monitored by authorities. The Program Manager specified that Myanmar authorities' concept of 'politically active' is rather wide-ranging; for example, a health worker could be considered as politically active. The Program Manager also stated that members of the Rohingya ethnic minority in particular are closely monitored by authorities, that they face 'persecution' and that there are clear systems in place to keep track of them. She indicated that it is common practice for organizations who work with people from Myanmar to be extremely careful with information exchanged via e-mail or telephone as there are legitimate concerns that the regime is closely monitoring their work." **[37a]**

15.37 The same source continued:

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

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

15.38 The IRB noted in the same response:

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

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

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

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

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

"'I have been asked to provide affidavits of support for Burmese asylum seekers in my home country, the USA, and they are generally from the second category. What I have found to be the norm in those cases is that the asylum seeker came to the US as a

student and then became active in the pro-democracy movement. If the activities were largely of limited scope, such as marching in a peace rally at their college campus, or writing an op-ed in their college newspaper on Aung San Suu Kyi's birthday, then it is highly unlikely that the government of Burma will be able to/would even be interested in monitoring the activities of such individuals.'

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

See also Exit and return: Treatment of returned failed asylum seekers and exiles

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OPPOSITION GROUPS AND POLITICAL ACTIVISTS

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

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

15.40 The Human Rights Watch (HRW) report *Burma's Continuing Human Rights Challenges*, dated 3 November 2011, stated that the government continued to arrest and imprison activists. **[39c] (Fundamental freedoms and political prisoners)**

15.41 A Chatham House paper by Dr Gareth Price, *Burma: Time for Change?,* dated December 2011, stated that:

"...while some political prisoners are being released, others are being arrested. A member of the NLD, Aung Hla Myint, was recently sentenced to 16 months in prison for travelling outside his home town in central Burma, and the government has continued to arrest those suspected of taking part in pro-democracy protests. Furthermore, the parliament has rejected a proposal to repeal section 5(j) of Burma's Emergency Provisions Act, which is mainly used to imprison pro-democracy activists." **[88a] (p4)**

For further information on the Constitutional Referendum, see History (Independence (1948) – April 2011)

See also Treatment of returned failed asylum seekers and exiles

National League for Democracy (NLD)

15.42 Jane's Sentinel Security Assessment for Burma noted in its section on Internal Affairs, updated 2 December 2011, that, "The NLD was established on 28 September 1988. Led by Aung San Suu Kyi, it quickly emerged as the most important political player in opposition to the military government... The NLD won a landslide victory in the 1990 elections but was never allowed to take office." **[8a] (Political parties)**

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

15.44 Jane's noted:

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

15.45 On 18 November 2011 BBC News reported that the NLD had decided to register to run in forthcoming parliamentary elections. A party statement said, "We unanimously decide that the National League for Democracy (NLD) will register according to party registration laws, and we will take part in the coming by-elections..." The regulation that previously banned NLD leader Aung San Suu Kyi from running has been dropped, allowing her to take part in the political process. **[28e]**

15.46 However, some disagreed with the NLD's decision to re-register as a political party. *Mizzima* reported on 22 November 2011 that:

"A statement issued on Monday [21 November] by the All Burma Monks Alliance (ABMA) said the country's political problems could not be solved in the newly formed Parliament, and it favored meetings and dialogue to solve problems. 'There is not much change, so the NLD's deviation from its Shwegondine Declaration is not suitable under the current circumstances,' said the statement... The NLD's Shwegondine Declaration in April 2009 urged the former junta to recognize the 1990 general elections, to release all political prisoners, to amend the 2008 Constitution and to hold tripartite meetings. None of those conditions have been met to the NLD's satisfaction." **[33d]**

See also subsection: All Burma Monks Alliance (ABMA)

15.47 *Reuters* reported on 5 January 2012 that Burma's Election Commission had formally registered the NLD as a political party. By-elections were set for 1 April 2012 and Aung San Suu Kyi planned to run for parliament. **[85a]**

15.48 On 11 January 2012, the *Democratic Voice of Burma* reported that, as she prepared to fight in forthcoming by-elections, Aung San Suu Kyi had become head of the National

League for Democracy, having previously been a figurehead for the NLD with elders in the party providing leadership. **[3c]**

See also Recent Developments History: Release of Aung San Suu Kyi

National Democratic Force (NDF)

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

15.50 Jane's Sentinel Security Assessment for Burma noted in its section on Internal Affairs, updated 2 December 2011, that:

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

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

See also History: November 2010 elections and Annex B: Political organisations

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DISSIDENT GROUPS

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

See also History: November 2010 elections

All Burma Federation of Student Unions (ABFSU)

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

15.54 The International Federation for Human Rights (FIDH) *Observatory for the Protection of Human Rights Defenders Annual Report 2011*, released on 24 October 2011, stated in its section on Burma that the ABFSU was the largest national students union and was outlawed by the military regime. **[31a] (p285)**

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All Burma Monks Alliance (ABMA)

15.55 The All Burma Monks Alliance website, accessed 11 January 2012, stated, "The A.B.M.A was formed by a group of senior monks as a response to the severe economic and social problems existing in Burma in 2007. The A.B.M.A. leaders are recognized as the primary organizers and coordinators of the activities of the so-called Saffron Revolution in September, 2007." **[87a]**

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

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

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

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

15.57 U Gambira was released from prison on 13 January 2012, following a presidential pardon given to 651 prisoners. (BBC News, 13 January 2012) **[28j]**

See also Judiciary: Fair trial and Freedom of religion: Buddhism

88 Generation Students

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

15.59 The Economist Intelligence Unit (EIU) noted in its Country Profile for Burma, dated 9 October 2008, that the 88 Generation Students "... organised a number of civil disobedience actions in 2007, such as prayer vigils calling for the release of political prisoners. In August 2007 the group led peaceful protests against the junta's decision to

increase fuel prices, a move that caused severe economic hardship. These protests quickly escalated into mass demonstrations against the regime; the SPDC detained most of the group's top leaders, including Min Ko Naing, in the ensuing crackdown." **[46a] (88 Generation group)**

15.60 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, published 10 March 2010, stated, "The well known 88 Generation Students group has been punished most severely for advocating peaceful democratic changes. Many of its prominent members have been arrested and sentenced to lengthy prison terms." The report added that at least two leaders of the group were serving 65 year prison sentences. **[32e] (paragraph 55)**

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

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

15.62 *Mizzima* reported on 22 December 2011 that the 88 Generation Students stated they would not participate in the by-elections due on 1 April 2012 until all political prisoners were released. **[33f]** On 13 January 2012, 88 Generation Students Min Ko Naing, Ko Jimmy and Nilar Thein were freed from prison in a presidential pardon given to 651 prisonsers. (BBC News, 13 January 2012) **[28j]**

Generation Wave

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

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

15.64 Human Rights Watch stated in its report, *Burma's Forgotten Prisoners*, dated 16 September 2009, that Generation Wave members included "...hip hop artists such as Zay Yar Thaw, and young activists such as Arkar Bo, Aung Zay Phyo, Thiha Win Tin, Yan Naing Thu, and Wai Lwin Phyo." **[39f] (The 88 Generation Students)**

15.65 The *Democratic Voice of Burma* noted on the 18 May 2011 that, after three years of incarceration, Zayar Thaw was released from prison in the 17 May prisoner amnesty. **[3b]**

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16. FREEDOM OF SPEECH AND MEDIA

16.01 Reporters sans Frontières (RSF) noted in its *World Report – Burma*, published November 2011, that:

"Burma is one of the world's most repressive countries for the media. At least 25 journalists are currently jailed. The main sources of independent news and information are exile media such as *Democratic Voice of Burma* (DVB), *Irrawaddy* and *Mizzima* News which use networks of local correspondents who have to work with the utmost secrecy. The government has made a few conciliatory gestures towards the opposition since April 2011, but has so far balked at any significant concessions on media freedom." **[16b]**

16.02 The Committee to Protect Journalists (CPJ) reported on 20 September 2011 that:

"Despite a recent transition from military to democratic rule, Burma's heavily censored media is still among the most restricted in the world." However, although President Thein Sein hinted at a more liberal media approach "...with state censors still actively spiking news stories, pervasive state surveillance of reporters' communications and movements, and at least 14 journalists and media support workers behind bars, the government has made virtually no progress on press freedom, a CPJ analysis has found. Under Thein Sein's elected regime, authorities continue to systematically harass, sanction, and imprison journalists, particularly those who report undercover for exile-run media groups." **[15b]**

16.03 In its report *Burma's Continuing Human Rights Challenges*, dated 3 November 2011, Human Rights Watch (HRW) reported, "There has been a marked relaxation in media restrictions in 2011, with more open reporting on government decisions and policies and coverage of parliamentary debates. Private media have been permitted to run stories about Aung San Suu Kyi. For instance, an opinion piece by Aung San Su Kyi, as well as interviews with prominent exiled journalists such as *The Irrawaddy* magazine founder Aung Zaw have been published in Burmese language media." **[39c] (Media freedom)**

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

16.05 The same source added, "The government continued to use force or intimidation to prohibit all public speech or planned events critical of the regime by all persons. The government pursued this policy consistently with few exceptions. In contrast with 2009, the government did not ban ceremonies commemorating Human Rights Day. However, human rights activists reported that local authorities sought reprisal against the owner of a teashop who hosted a ceremony at his home in Pyay." **[7a] (Section 2a)**

16.06 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 7 March 2011, expressed concern that:

"…restrictions have already been imposed on parliamentarians regarding their freedom of expression. On 26 November 2010, laws signed by Senior-General Than Shwe stipulate that parliamentarians will be allowed freedom of expression unless their speeches endanger national security or the unity of the country or violate the Constitution. These are very broad categories that could be used to limit discussion. The laws also provide a two-year prison term for those who stage protests in the parliament compound or physically assault a lawmaker on its premises." **[32h] (paragraph 22)**

16.07 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 16 September 2011, noted:

"During the Special Rapporteur's mission to Myanmar [March 2011], some interlocutors noted that media censorship had eased. In August 2011, slogans criticizing foreign media were removed from Government newspapers. In September 2011, an article by Daw Aung San Suu Kyi was published in a local journal, her first publication in 23 years. Nevertheless, the Special Rapporteur has received reports of continuing restrictions placed on the media. For example, news outlets inside Myanmar have been required to publish only State-run newspaper accounts about fighting between the Government and the Kachin Independence Army in Kachin State. As of 10 June 2011, publications focusing on sports, health, the arts, children's literature and technology no longer need to gain approval prior to publication, but copies must be submitted to the Press Scrutiny and Registration Division afterwards. Publications focusing on news, crime, education, economics and religion must still be presented to censors prior to publication." **[32j] (paragraph 53)**

16.08 The Asian Human Rights Commission (AHRC) stated in its report *The State of Human Rights in Burma in 2011*, published 9 December 2011, that:

"Some government proponents have pointed to a relaxation of censorship as a sign of improvement. However, the extent to which censorship has in fact relaxed is questionable. It is true that publishers are able to cover more topics than previously. But despite the formal relaxing of some requirements on submission of copy for censorship prior to going to press, the government has introduced a new oversight board under the information ministry to investigate alleged violations. The board has issued a series of notifications, among which No. 46 (7 June 2011) states that it is prohibited to publish and distribute material that is contrary to the Three National Causes (non-disintegration of the union, non-disintegration of national solidarity, perpetuation of national sovereignty), the 2008 Constitution or the Official Secrets Act; that is damaging to relations among ethnic national races or religions; that upsets peace and tranquility or incites disturbances; that exhorts members of the armed services to commit traitorous acts or undermines the performance of public service duties, and so forth. The issuance of such blanket directives contradicts claims that the censorship regime is being relaxed and raises doubts that any real space is being opened up in Burma for free expression. That 'more free' expression exists in Burma today is not evidence of a shift in the conditions of human rights in the country, but a pragmatic tolerance of authorities that at this time their own objectives might be enabled through allowing for some more debate on some more permissible topics compared to previously." **[43d] (p2-3)**

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

"The media in Burma continued to be subject to significant censorship in 2010. All publications are required by law to be submitted to the Press Scrutiny and Registration Board for approval. Journalists continue to exercise self-censorship, aware that they otherwise risk imprisonment or having their licences revoked or suspended. The activities of bloggers were closely monitored and the 2004 Electronic Transactions Law allowed the government to imprison those disseminating information deemed critical of the regime. In spite of a pervading fear of monitoring by the state, control over internet use was weak in practice and Burmese citizens with access to the internet could usually find a way round the restrictions. Facebook and other social networking facilities were accessible." **[5y] (p142)**

16.10 The BBC reported in its country profile for Burma, last updated 16 January 2011, that:

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

"The state controls the main broadcasters and publications. Output is dominated by formulaic reports on the official and religious rituals of the ruling generals, accounts of progress in the implementation of policies, and denunciations of alleged US and UK plots against Burma.

"Foreign radio is a key source of information. The BBC, Voice of America, US-backed Radio Free Asia and Norway-based opposition station Democratic Voice of Burma target listeners in Burma.

"Well-off Burmese have access to some international TV and a limited number of international publications." **[28a] (Media)**

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

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

16.12 The CPJ also noted, "Authorities tightened already strict censorship guidelines for print publications, which have long been forced to publish on a weekly basis to allow time for state censors to approve their copy. The government's censorship arm suspended 10 local publications for the extensive coverage they gave to Aung San Suu Kyi's release, the Burma Media Association reported in November [2010]." **[15a]**

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INTERNET USAGE

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

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

16.14 The same source added:

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

16.15 The *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 7 March 2011, was concerned about:

"… reports that a recently announced upgrade of Myanmar's Internet service will allow the Government to reinforce surveillance and thus repression of national Web users. In October 2010 the Government announced the launch of the country's first national Web portal, which will be operated by the State-run Yatanarpon Teleport and grants the military exclusive control over the Hantharwaddy National Gateway, Myanmar's main link to the Internet. According to reports, the new system could allow the Government to capture data packets and confidential user information." **[32h] (paragraph 24)**

16.16 Different sources recorded different numbers of Internet users within Burma, although dates varied. As stated in its Burma country profile, dated 16 January 2011, the BBC stated, "There were 110,000 internet users by June 2010 (InternetWorldStats). Access is tightly controlled and further hampered by poor telecoms and an unreliable power supply. RSF calls Burma a 'black hole' whose system 'increasingly resembles an intranet'." **[28a]**

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

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

16.18 HRW noted in its report *Burma's Continuing Human Rights Challenges*, dated 3 November 2011, that:

"Internet censorship has been relaxed to permit access to exiled news media and other banned sites, although in many cases the widespread use of proxy servers has made government bans negligible for many years. Internet access in Burma remains extremely low in any case, with only an estimated one percent of the population having regular access to the internet. The use of social media to discuss sensitive political, environmental and economic issues increased, but again this is restricted to relative elites in urban areas." **[39c] (Media freedom)**

16.19 The *Freedom on the Net 2011* report stated that "According to the International Telecommunication Union, there were 110,000 internet users as of 2009, amounting to 0.2 percent of the population. MPT [Myanmar Post and Telecommunications] reports that there are 400,000 internet users in Burma." **[14c] (p2)**

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

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

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

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

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

16.24 A Chatham House paper by Dr Gareth Price, *Burma: Time for Change?*, dated December 2011, stated that despite a relaxation in censorship and sites accessible via the internet, "... internet users who access banned news sites still face lengthy prison sentences, and the Committee to Protect Journalists described the relaxations as meaningless, arguing that new publications are often forced to publish news written by state officials that presents the government 'in a glowing light'." **[88a] (p5)**

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JOURNALISTS

16.25 The CPJ stated in its Annual Prison Census 2011 – *Burma*, that, as of 1 December 2011, 12 journalists were imprisoned in Burma. **[15c]**

16.26 However, a presidential pardon given to 651 prisoners on 13 January 2012 included the release of five journalists from the *Democratic Voice of Burma* (DVB). (BBC News, 13 January 2012) **[28j]**

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

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

See also Political affiliation: Political prisoners

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17. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

17.01 Refugees International (RI) noted in its Field Report, *Burma: An Opportunity to Expand Humanitarian Space*, dated 11 January 2012, that:

"Burma's new government has demonstrated a willingness to work with the international community on humanitarian needs created by both natural disasters and conflict. The government has finally recognized the existence of IDPs, and invited the UN to assess the displaced's needs in Kachin State. In December, the government also took the unprecedented step of allowing UN agencies to assist IDPs in areas outside of its control. The government is also working with the UN Refugee Agency (UNHCR) to identify potentially stateless Chinese and Hindu populations, and has so far approved two communities for naturalization. While these steps may seem inadequate considering the vast need, history has shown that persistence in pushing the boundaries in Burma can effectively expand humanitarian space." **[61b]**

17.02 The same source added:

"The new, decentralized government structure has improved bureaucratic processes and increased channels to expand access to conflict-affected areas. Previously, all approvals passed through both the military and ministries. Now the military has been removed from the process, and there are multiple decision-makers. Over the past year, the government has signed numerous Memorandums of Understanding (MoUs) with international non-governmental organizations (INGOs), some of which had been languishing in bureaucracy for years. In addition, INGO officials told RI that the government has improved the approval system for visas and travel permits for international staff, although the process remains highly bureaucratic." **[61b]**

See also Internally Displaced Persons (IDPs)

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

"In the absence of basic state service provision, a small but energetic civil society has emerged. Networks of organisations with common goals have developed and are building a role for civil society advocacy at local and national levels. Civil society groups have encouraged the establishment of governance structures and democratic norms at community level. In 2010, civil society groups worked with the Burmese government to

report to the UN Universal Periodic Review of human rights in Burma, and helped draft a National Action Plan for the Advancement of Women. They also worked at local level to enable international and local aid programmes to support communities in need. They played a key role in building awareness of citizens' rights in the election process; facilitated mediation efforts and local protection strategies in ethnic and conflict areas; and promoted awareness of the social and environmental impact of major infrastructure projects. The Burmese government's relationship with civil society representatives continued to be complex. They viewed some NGOs [non-governmental organisations] as threatening, but worked with others to develop national strategies in certain areas, for example, on women's advancement and HIV/AIDs." **[5y] (p147)**

See also sections on Political affiliation, Women, Ethnic groups and Medical issues

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

"The government did not allow domestic human rights organizations to function independently, and it remained hostile to outside scrutiny of its human rights record. More than 60 nonpolitical, international humanitarian NGOs operated in the country. A few others had a provisional presence while undertaking the protracted negotiations necessary to establish permanent operations in the country.

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

"Authorities often allowed NGO staff to travel 'unaccompanied' to areas affected by Cyclone Nargis in 2008 and 2009, although SB [Special Branch] police monitored many visits. The work of the Tripartite Core Group – composed of the UN, the Association of South East Asian Nations, and the government – formed to address Cyclone Nargis-related matters, ended in July [2010]. In August a senior government official declared the recovery period over, and the government announced more restrictive policies regarding NGO travel and activities in cyclone-affected areas. Some international NGOs and UN agencies were required to have a government representative accompany them on field visits to other areas of the country, at the NGO or UN expense, although this rule was not consistently enforced. Foreign staff often experienced difficulty obtaining permission to travel to project sites outside of the cyclone-affected areas.

"Many international humanitarian NGOs and UN agencies reported government pressure to limit their activities, and access to human rights activists, prisoners, and ethnic minorities by international personnel was highly restricted. The government reportedly asked some personnel of international organizations to go on leave outside the country and not to return until after the elections. Employees of these international organizations reported difficulty getting the government to approve long-term visas. UN

agencies and NGOs continued to negotiate with the government to agree on mutually acceptable guidelines for the activities of humanitarian organizations." **[7a] (Section 5)**

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

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

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

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

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

17.08 The Child Rights Forum of Burma (CRFB) report *The plight of children under military rule in Burma*, to the UN Committee on the Rights of the Child (CRC), dated 23 April 2011, noted that:

"The State party and its armed forces, rather than taking steps to provide or support humanitarian assistance to children affected by conflict that would strengthen food security and health objectives..., have actively obstructed families' access to humanitarian services in conflict-affected areas, including services provided by international humanitarian actors; community organisations operating from bases inside the country or in Thailand; and humanitarian materials such as medicine or food collected for their own communities. Humanitarian actors that are able to access these populations are an exception, and must operate under risk of being killed or arrested." **[86a] (p29)**

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

"The Junta's continued pressure on defense lawyers in Burma has led to a diminishing number of lawyers advocating on behalf of political prisoners. Defense lawyers for political prisoners subject themselves to financial risk, as the Junta often pressures these lawyers' non-political clients to find legal representation elsewhere, which,

coupled with the risk of imprisonment and other forms of harassment, dissuades other lawyers from advocating on behalf of political dissidents. Furthermore, many lawyers are disbarred following imprisonment, further reducing the legal support for political prisoners." **[44b] (Lawyers)**

See also Arrest and detention – legal rights

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18. CORRUPTION

18.01 In its 2011 Corruption Perceptions Index (CPI), released 1 December 2011, Transparency International ranked Burma (Myanmar) 180th in the world corruption ranking, out of 182 countries, giving it a CPI score of 1.5. (CPI Score relates to perceptions of the degree of corruption as seen to exist among public officials and politicians by business people and country analysts. It ranges between 10 (highly clean) and 0 (highly corrupt). **[21a]**

18.02 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011 and covering 2010 events, noted, "In a system that lacks transparency and accountability, corruption and economic mismanagement are rampant at both the national and local levels... The SPDC's [State Peace and Development Council] arbitrary economic policies, such as an official fixed exchange rate that grossly overvalues the kyat, facilitate corruption through erroneous bookkeeping." **[14a]**

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

"The law provides for criminal penalties for official corruption; however, the government rarely and inconsistently enforced the anticorruption statute, and officials frequently engaged in corrupt practices with impunity. A complex and capricious regulatory environment fostered corruption. Authorities usually enforced anticorruption laws only when the regime's senior generals wanted to take action against officials whose egregious corruption had become an embarrassment or when they wanted to punish officials deemed a threat to the senior generals' power." **[7a] (Section 4)**

18.04 The same source added that:

"Police corruption was a serious problem. Police typically required victims to pay substantial sums for crime investigations and routinely extorted money from the civilian population. Public officials were not subject to financial disclosure laws. The government did not provide access to most official documents, and there is no law allowing for it. Most government data, even routine economic statistics, were classified or tightly controlled. Government policymaking was not transparent, with decision making confined to the top layers of government, and new government policies rarely were published or explained openly." **[7a] (Section 4)**

18.05 The report further noted, "Pervasive corruption further served to undermine the impartiality of the justice system." **[7a] (Section 1e)**

18.06 Although welcoming the Government's stated commitment to combating corruption, the UN General Assembly *Situation of human rights in Myanmar: Note by the Secretary-General, Report of the Special Rapporteur on the situation of human rights in Myanmar*,

dated 16 September 2011, covering human rights developments in Myanmar since the Special Rapporteur's fourth report to the Council in March 2011, stated that, "... the Special Rapporteur is concerned at allegations of widespread corruption, which, according to many sources, is institutionalized and pervasive. According to studies by civil society organizations, payments are made at all stages in the legal process and to all levels of officials, for such routine matters as access to a detainee in police custody or determining the outcome of a case." **[32j] (paragraph 23)**

18.07 The Asian Human Rights Commission (AHRC) noted in its report *The State of Human Rights in Burma in 2011*, published on 9 December 2011, that:

"Legal professionals say that the amount of corruption in the system is growing exponentially, as the costs of living rise and more and more judges and lawyers look to whatever opportunities they can to make as much money as they can. In some courts, lawyers estimate that up to 70 per cent of cases are decided in part or whole through the payment of money.

"Nor is this a question of one person or another in the system requiring payment: from studies that the AHRC has undertaken into the mechanics of corruption in Burma, payments are made at all stages in the legal process and to all officials, from the arresting and investigating police, to court clerks, prosecutors, judges and others. Sometimes the payments are routine and petty, such as to meet a detainee in police custody and give food or medicine; at other times they are substantial and determining, such as to effect a specific outcome to a case – be it acquittal or conviction, reduction or increase of sentence or otherwise." **[43d] (p10)**

18.08 The AHRC Report 2010, published 10 December 2010, noted:

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

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

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

18.10 Maung Zarni, noted in his review of the Burma COI Report June 2011, for the Independent Advisory Group on Country Information, dated 31 August 2011, regarding

corruption, that "... paradoxically, corruption in Burma has also enabled activists to buy themselves passports, forged ID cards, and so on in order to enhance their freedom of movement." **[74a] (p28)**

See also Judiciary: Fair trial and Arrest and detention – legal rights and Exit and return: Passport issuance and 'D' forms

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19. FREEDOM OF RELIGION

Religion and ethnicity are closely connected in Burma, and users are recommended to read this section in conjunction with Ethnic groups.

OVERVIEW

19.01 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011 and covering 2010 events, stated, for Burma, that "The 2008 constitution provides for freedom of religion. It distinguishes Buddhism as the majority religion but also recognizes Christianity, Islam, Hinduism, and animism, though the government shows a preference for Theravada Buddhism." **[14a]**

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

"Burma is a predominantly Buddhist country and the government promotes Buddhism over other religions. However, restrictions on freedom of expression and assembly imposed limits on the religious activities of all faiths, including Buddhists, Muslims and Christians. Surveillance of the Burmese Buddhist community and individuals, which began following the involvement of Buddhist monks in the protests against rising fuel and food prices in 2007, the so-called Saffron Revolution, continued in 2010. Many monks who were arrested in 2007 remain in prison." **[5y] (p143-144)**

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

"Religious freedom violations affect every religious group in Burma. Buddhist monks who participated in the 2007 peaceful demonstrations were killed, beaten, arrested, forced to do hard labor in prison, and defrocked. Buddhist monasteries viewed as epicenters of the demonstrations continue to face severe restrictions on religious practice. Monks suspected of anti-government activities have been detained in the past year. Muslims routinely experience strict controls on a wide range of religious activities, as well as government-sponsored societal violence. The Rohingya minority in particular are subject to pervasive discrimination and a relocation program that has produced thousands of refugees. In ethnic minority areas, where low-intensity conflict has been waged for decades, the Burmese military forcibly promotes Buddhism and seeks to control the growth of Protestantism through intimidation and harassment of religious groups. A 2009 law essentially bans independent 'house church' religious venues, and

Protestant religious leaders in Rangoon have been pressured to sign pledges to stop meeting." **[9a] (p34)**

19.04 The US Department of State reported in its *July-December, 2010 International Religious Freedom Report* (USSD IRF July-December 2010 Report), published 13 September 2011, that:

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

19.05 The report added, "During the reporting period, social tensions continued between the Buddhist majority and the Christian and Muslim minorities. Widespread prejudice existed against citizens of South Asian origin, many of whom are Muslims. The government continued to refuse to recognize the Muslim Rohingya ethnic minority as citizens and imposed restrictions on their movement and marriage." **[7b]**

19.06 The same source reported, "Although the country has no official state religion, the government continued to show a preference for Theravada Buddhism through official propaganda and state support, including donations to monasteries and pagodas, encouragement of education at Buddhist monastic schools, and support for Buddhist missionary activities. In practice nearly all promotions to senior positions within the military and civil service were reserved for Buddhists." **[7b] (Section II)**

19.07 The USSD IRF July-December 2010 Report also noted, "There continued to be credible reports from various regions that government officials compelled persons, Buddhists and non-Buddhists alike, especially in rural areas, to contribute money, food, or materials to state-sponsored projects to build, renovate, or maintain Buddhist religious shrines or monuments. The government denied that it used coercion and called these contributions 'voluntary donations' consistent with Buddhist ideas of earning merit." **[7b] (Section II)**

19.08 The same report stated, "The government observes the following religious holidays as national holidays: the Full Moon Day of Tabaung, the four-day Thingyan (Water Festival), Buddhist New Year's Day, the Full Moon Day of Kason, the Full Moon Day of Waso, the Full Moon Day of Thadinkyut, the Full Moon Day of Tazaungmone, and Christmas. Diwali and Bakri Eid are not government holidays; however, the government newspaper generally announces them in the state-run press." **[7b] (Section II)**

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DEMOGRAPHY

19.09 The USSD IRF July-December 2010 Report noted that:

"The country has an area of 261,970 square miles. The Human Development Report under the United Nations Development Program (UNDP) estimates the country's population to be 50 million. Buddhism coexists with astrology, numerology, fortune telling, and veneration of indigenous pre-Buddhist era deities called 'nats.' Buddhist monks, including novices, number more than 400,000 and depend on the laity for their material needs, including clothing and daily donations of food; Buddhist nuns are fewer in number. The principal minority religious groups include Christians (primarily Baptists, Roman Catholics, and Anglicans, along with several other small Protestant denominations), Muslims (mostly Sunni), Hindus, and practitioners of traditional Chinese and indigenous religions. According to official statistics, almost 90 percent of the population practices Buddhism, 4 percent Christianity, and 4 percent Islam. These statistics almost certainly underestimated the non-Buddhist proportion of the population. Independent researchers placed the Muslim population at between 6 and 10 percent. A very small Jewish community in Rangoon has a synagogue but no resident rabbi." **[7b] (Section I)**

19.10 The same source noted:

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

CONSTITUTION AND LEGISLATION

19.11 The USSD IRF July-December 2010 Report stated:

"Highly authoritarian military regimes have ruled the country since 1962. The [former] military government, the SPDC [State Peace and Development Council], has governed

without a constitution or legislature since 1988, although in a 2008 referendum that most observers believe was fundamentally flawed, the SPDC announced a 92 percent approval rating for a new constitution that is slated to take effect after a parliament is seated. The government held elections for national and regional assemblies on November 7. The government-backed USDP [Union Solidarity and Development Party], whose candidates included cabinet ministers and other high-ranking government and military officials, won approximately 77 percent of all seats. There have been widespread complaints by pro-democratic and ethnic political parties of election fraud. It is unclear what policy role the newly-elected parliament will play. Since independence in 1948, many ethnic minority areas have served as bases for armed resistance against the government. Despite ceasefire agreements with many armed ethnic groups after 1989, Shan, Karen, and Karenni insurgencies have continued. The government has maintained pressure on Kachin, Wa, and other armed ethnic minority groups, which have ceasefire agreements with the government, to join the Burma Army-dominated Border Guard Force. To date, most have refused to accede. The government has tended to view religious freedom in the context of potential threats to national unity or central authority.

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

"The regime commonly employed nonreligious laws to target those involved in religious and political activism, including the Electronic Transactions Act, Immigration Act, and Unlawful Associations Act.

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

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

19.13 The report also noted:

"Citizens and permanent residents are required to carry government-issued National Registration Cards (NRCs) (also known as Citizenship Scrutiny Cards), which permit holders to access services and prove citizenship. These identification cards often indicate religious affiliation and ethnicity. There appeared to be no consistent criteria governing whether a person's religion was indicated on the card. Citizens also were required to indicate their religion on certain official application forms for documents such as passports, although passports themselves do not indicate the bearer's religion. Members of many ethnic and religious minorities faced problems obtaining NRCs, Muslims even more than others." **[7b] (Section II)**

See also Citizenship and nationality: Identity cards

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BUDDHISM

19.14 The USSD IRF July-December 2010 Report stated:

> "The government restricted the activities and expression of the Buddhist clergy (Sangha), although some monks have resisted such control. Based on the 1990 Sangha Organization Law, the government has banned any organization of Buddhist monks other than the nine state-recognized monastic orders. Violations of this ban were punishable by immediate public defrocking and criminal penalties. The nine recognized orders submit to the authority of the State Monk Coordination Committee ('Sangha Maha Nayaka Committee' or SMNC), the members of which are indirectly elected by monks.
>
> "The Ministry of Religious Affairs' Department for the Perpetuation and Propagation of the Sasana (Buddhist teaching) oversees the government's relations with Buddhist monks and schools. The government continued to fund two state Sangha universities in Rangoon and Mandalay that trained Buddhist monks under the purview of the SMNC. The state-funded International Theravada Buddhist Missionary University in Rangoon, which opened in 1998, has a stated purpose 'to share the country's knowledge of Buddhism with the people of the world.'
>
> "Buddhist doctrine remained part of the state-mandated curriculum in all government-run elementary schools. Students at these schools could opt out of instruction in Buddhism and sometimes did, but all were required to recite a Buddhist prayer daily. Some schools or teachers may allow Muslim students to leave the classroom during this recitation, but there did not appear to be a centrally mandated exemption for non-Buddhist students." **[7b] (Section II)**

19.15 The same source noted:

> "The government continued its efforts to control the Buddhist clergy (Sangha). It tried Sangha members for 'activities inconsistent with and detrimental to Buddhism' and imposed on the Sangha a code of conduct enforced by criminal penalties. The government arrested and imprisoned politically active Buddhist monks. In prison, some monks were defrocked and treated as laypersons. In general they were not allowed to shave their heads and were not given food compatible with the monastic code. They were often beaten and forced to do hard labor.
>
> "The government also subjected the Sangha to special restrictions on freedom of expression and association. Members of the Sangha were not allowed to preach sermons pertaining to politics. Religious lectures could not contain any words, phrases, or stories reflecting political views. The regime told Sangha members to distance themselves from politics, political parties, or members of political parties. The government prohibited any organization of the Sangha other than the nine monastic orders that fall under the authority of the State Clergy Coordination Committee. The government prohibited all clergy from being members of any political party and electoral law bars them from participating in political activity and voting in the elections." **[7b] (Section II)**

19.16 The USCIRF Report 2011 concurred with the USSD IRF July-December 2010 Report with regards to restrictions on Buddhist activities and stated, "There may be as many as 100 monks and novices in prison for activities that preceded the 2007 public

demonstrations." Reporting on the September 2007 pro-democracy "monk-led" protests, the USCIRF Report 2011 added:

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

19.17 The same source continued:

"In the immediate aftermath of the 2007 protests, the military raided 52 monasteries, detained many monks, and arrested those perceived to be the leaders of the demonstrations. These monks were then tortured, forcibly defrocked, and forced to return to their villages. Several monasteries remain closed or are functioning in a more limited capacity, including Rangoon's Ngwe Kyar Yan monastery, to which only about 50 of the original 180 monks in residence have been permitted to return. Government authorities continue to monitor closely monasteries viewed as focal points of the protests and have restricted usual religious practices in these areas. Monks perceived to be protest organizers have been charged under vague national security provisions, including 'creating public alarm;' 'engaging in activities inconsistent with and detrimental to Buddhism;' 'the deliberate and malicious... outraging of religious feelings;' and 'engaging in prohibited acts of speech intended for religious beliefs'." **[9a] (p35-36)**

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

See also Political affiliation: Political prisoners

CHRISTIANS

19.19 The USCIRF Report 2011 stated:

"Christian groups in ethnic minority regions, where low-intensity conflicts have been waged for decades, face particularly severe and ongoing religious freedom abuses. The Burmese military has destroyed religious venues, actively promoted conversion to Buddhism, confiscated land, and mandated forced labor. The Chin, Naga, Kachin, Shan, Karen, and Karenni peoples, each with sizable Christian populations, have been the primary targets of these abuses. In the past year, for instance, authorities in Kachin state halted attempts by the Shatapru Baptist Church to build a Christian orphanage. In some ethnic minority areas, Christians are required to obtain a permit for any gathering of more than five people outside of a Sunday service. Permission is often denied or secured through bribes. In Chin areas, permission for ceremonies on religious holidays must be submitted months in advance, though Protestants report that they are often granted permission for these events." **[9a] (p38)**

19.20 The USSD IRF July-December 2010 Report cited that:

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

19.21 The same report added:

"Christian groups continued to have trouble obtaining permission to buy land or build new churches in most regions. In some cases authorities refused because they claimed the churches did not possess property deeds, but access to land title was extremely difficult due to the complex land law and because the government holds title to most land. In some areas permission to repair existing places of worship was easier to acquire. In Chin State authorities have not granted permission to build a new church since 2003. The Chin Human Rights Organization reported that authorities ordered the destruction of nine large public crosses in Chin State in 2010." **[7b] (Section II)**

19.22 The USCIRF Report 2011 cited that:

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

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

1. There shall be no home where the Christian religion is practised.
2. No home will accept any preaching about Jesus.
3. Teenagers should not wear inappropriate western clothing.
4. The Christian concept of 'No other God but me' is narrow-minded and should not be acceptable.
5. There shall be no Christian preaching/evangelism on an organised basis.
6. Take care as the Christian religion is very gentle – identify and utilise its weaknesses.
7. If anyone discovers Christians evangelising in the countryside they are to report it to the authorities and those caught evangelising will be put in prison.
8. Christians believe 'Christ died on the cross' and gives salvation. This is untrue and should be contradicted.
9. Buddhists should find Christian weak points and use these weak points to convert Christians to Buddhism.
10. Buddhists should study the Christian Bible so that they can contradict those parts which are untrue and be able to resist the Christian message.

11. The Old Testament and the New Testament are not the same. The two translations into Burmese by Judson and Thara Kwala are different. Find out their inconsistencies.
12. In the Christian religion God only loves the twelve tribes of Israel and does not love all the people in the rest of the world.
13. Buddhists love everybody, not just the twelve tribes of Israel. The Christian religion does not love everybody and this should be pointed out.
14. The principle of the creation story in the Bible is wrong.
15. The offerings taken at Christian meetings should be checked.
16. Study the Holy Spirit and show Christians that they have a wrong understanding.
17. Christian beliefs have to be contradicted in all circumstances." **[13a] (p17)**

19.24 The same source noted that:

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

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

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MUSLIMS

19.26 The USCIRF Report 2011 stated:

"Tensions between the Buddhist and Muslim communities have resulted in outbreaks of societal violence over the past several years, some of it instigated by Burmese security forces. Muslims in Rakhine state, on the western coast, and particularly those of the Rohingya minority group, continued to experience the most severe forms of legal, economic, religious, educational, and social discrimination. The government denies citizenship status to Rohingyas because their ancestors allegedly did not reside in the country at the start of British colonial rule. Approximately 800,000 Rohingya live in Burma, primarily in Rakhine state." **[9a] (p36)**

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

"... must apply for papers from Nasaka, the border and immigration forces in Northern Rakhine State, which checks for citizenship and age of majority, in order to get married.

This process is reported to cost 40,000 kyat (about $40), which many Muslims cannot pay, and can take up to several years to complete. As a consequence, many Muslims are arrested and sentenced up to five years in prison for offenses relating to these requirements. The majority of the prison population of Buthidaung were Muslim, most of them for charges related to immigration or marriage offenses. However, the Supreme Court in 2009 overturned two convictions for illegal marriage." **[32e] (paragraph 89)**

19.28 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General*, dated 28 August 2009, stated that, "The problem of statelessness is the root of chronic scourges endured by the Muslim population. Without any identity papers, this population needs to apply for travel permits, which are costly and cannot be obtained by everyone. Being confined to its own villages limits the possibility to have access to health care and education, to find a job, and thus to provide the basics for living in dignity." **[32c] (paragraph 72)**

19.29 The same source added:

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

19.30 The USSD IRF Report 2010 stated:

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

"Media reported on August 5 [2010] that Deputy Minister for Home Affairs retired Brigadier General Phone Swe went to Rakhine State in July and promised that the Ministry of Home affairs (MHA) would issue NRC [National Registration Cards] cards to Muslims who agreed to join the USDP [Union Solidarity and Development Party]. MHA, however, reportedly reneged on its promise after some Muslims joined the USDP, instead issuing them Temporary Registration Cards (TRC), which do not serve as proof of citizenship. Authorities required Muslims to pay a bribe of up to 250,000 kyat (approximately $250) in order to get the card.

"Muslims in Rakhine State, particularly those of the Rohingya minority group, continued to experience the severest forms of legal, economic, educational, and social discrimination. There were reports that Buddhist physicians would not provide Muslims the endorsement required by the Ministry of Health that permits Muslims to travel outside Rakhine State to seek advanced medical treatment." **[7b] (Section II)**

19.31 The same source added:

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

19.32 The USCIRF Report 2011 noted:

"Police often restricted the number of Muslims who could gather in one place. In some places, Muslims were only allowed to gather for worship and religious training during major Muslim holidays. Police and border guards also continue inspections of Muslim mosques in Rakhine state; if a mosque cannot show a valid building permit, the venue is ordered closed or destroyed. The government has, in recent years, ordered the destructions of mosques, religious centers, and schools. During the reporting period [1 April 2010 to 31 March 2011], the Burmese government maintained a campaign to create 'Muslim Free Areas' in parts of Rakhine state. Military commanders have closed mosques and madrassas, stoked ethnic violence, and built pagodas in areas without a Buddhist presence, often with forced labor. Refugees report that the military continues to entice conversion to Buddhism by offering charity, bribes, or promises of jobs or schooling for Muslim children.

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

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20. ETHNIC GROUPS

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

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

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

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

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

"Rohingya Muslims in Rakhine State were discriminated against because of their ethnicity. Most faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages" **[7a] (Section 6)**

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

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

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

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

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

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

"Although between 60 and 65% of Myanmar's 50 million people are ethnic Burmans, Burmans comprise the vast majority of the strongly centralised Myanmar government and army. Burmans speak a Sino-Tibetan language, which is the official language of Myanmar and is widely spoken throughout the country. Most Burmans are Theravada

Buddhists. They live in all parts of the country but predominantly inhabit Myanmar's central river valley areas in its seven central divisions." **[12c] (p14)**

20.07 The same source reported:

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

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

20.09 A 1994 report by Anti-Slavery International, *Ethnic Groups in Burma, Development, Democracy and Human Rights*, provided a list of the major ethnic groups of Burma, showing the approximate population (as of 1994) and religion. The report added that "All figures are very approximate and involve considerable ethnic overlap. Generally, the lower figures on the left are government estimates based on strict interpretations of ethnicity, while the higher figures on the right are ethnic minority estimates, which usually include more local inhabitants and ethnic sub groups within different territories."

Name	Population	Main Religions
Akha	100,000	Animist
Burman	29,000,000	Buddhist
Chin	750,000-1,500,000	Christian , Animist
Chinese	400,000	Buddhist, Taoist
Danu	70,000-100,000	Buddhist
Indian	800,000	Muslim, Hindu
Kachin	500,000-1,500,000	Christian, Animist
Karen	2,650,000-7,000,000	Buddhist, Christian
Karenni	100,000-200,000	Christian, Animist
Kayan	60,000-100,000	Christian, Animist
Kokang	70,000-100,000	Buddhist, Taoist
Lahu	170,000-250,000	Animist, Christian
Mon	1,100,000-4,000,000	Buddhist
Naga	70,000-100,000	Animist, Christian
Palaung	300,000-400,000	Buddhist
Pao	580,000-700,000	Buddhist
Rakhine	1,750,000-2,500,000	Buddhist
Rohingya	690,000-1,400,000	Muslim
Shan	2,220,000-4,000,000	Buddhist

Tavoyan	500,000	Buddhist
Wa	90,000-300,000	Animist

[81a] (p34)

20.10 The Anti-Slavery International report also provided background information on individual ethnic groups. **[81a] (p36-65)**

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

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

20.12 The Human Rights Watch *World Report 2012*, published 22 January 2012, stated for Burma that:

"Fighting between government forces and ethnic armed groups spread in Burma during 2011, as many longstanding ceasefire agreements unraveled. In Karen State, eastern Burma, a breakaway faction of the Democratic Karen Buddhist Army (DKBA) took up arms following the November 2010 elections. Intensified fighting along the border forced an estimated 20,000 refugees into Thailand.

"Most DKBA soldiers refused to complete their transformation into Burmese army-controlled Border Guard Force units and ended their 16-year ceasefire. In March the Burmese army attacked the Shan State Army-North, breaking a ceasefire reached in 1989, as the Shan army resisted pressure to demobilize and form a government-controlled people's militia. Fighting in northern Shan State displaced an estimated 30,000 civilians.

"In June fighting broke out between Burma's second largest opposition armed group, the Kachin Independence Army (KIA), and the Burmese army in northern Burma near the Chinese border, ending a ceasefire signed in 1994. Local women's rights groups reported high levels of sexual violence with more than 35 women and girls raped in the first two months of the fighting alone. Over 30,000 civilians were internally displaced, fleeing Burmese army abuses such as forced labor, extrajudicial killings, and indiscriminate fire, with several thousand seeking refuge in China." **[39j] (p302)**

20.13 The ceasefire between the Kachin Independence Army (KIA – the KIO's armed wing) and the Burmese government was broken on 9 June 2011 after a 17-year ceasefire "...spurred on by the KIA's refusal to accept the regime's demand that they transform into a Border Guard Force, as well as the KIA's strategic control of areas with lucrative Chinese hydropower projects..." (KWAT Report, October 2011) **[76a] (p5)**

See also subsection: Kachin

20.14 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General, Report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 16 September 2011, covering human rights developments in Myanmar since the Special Rapporteur's fourth report to the Council in March 2011, stated that:

"The ongoing tensions in ethnic border areas and armed conflict with some armed ethnic groups, particularly in Kachin, Shan and Kayin States, continue to engender serious human rights violations, including attacks against civilian populations, extrajudicial killings, sexual violence, arbitrary arrest and detention, internal displacement, land confiscations, the recruitment of child soldiers and forced labour and portering. The Special Rapporteur also continues to receive disturbing reports of landmine use by both the Government and non-State armed groups, and subsequent casualties throughout the country." **[32j] (paragraph 31)**

See also Abuses by non-government armed forces

20.15 Recent ceasefire agreements were signed with the Chin National Front (*Mizzima*, 6 January 2012) **[33e]** and Shan State Army-South. (*The Irrawaddy*, 2 December 2011) **[26p]**

See also Chin and Shan

20.16 Ceasefire agreements have been signed with five groups: the United Wa State Army; Mong La Special Area-4; the Restoration Council of the Shan State / Shan State Army; and the Chin National Front. (*Mizzima*, 11 January 2011) **[33g]**

20.17 BBC News reported on 12 January 2012 that a ceasefire agreement had been signed with the Burmese government and the Karen National Union (KNU). **[28i]**

See also Karen and Karenni (Red Karen or Kayah)

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

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

See also Freedom of religion

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

See also Prison conditions and Political affiliation: Political prisoners

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

See also History: November 2010 elections

20.21 Minority Rights Group International provided further information on Burma's ethnic minority groups in its *World Directory of Minorities and Indigenous Peoples*, last updated September 2009. **[38a]** The *Burma Human Rights Yearbook 2008* provided extensive information on human rights abuses against ethnic minorities in Burma, along with details of the different armed ethnic groups. **[51a] (Chapter 18: Ethnic minority rights)**

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

See also Internally displaced persons

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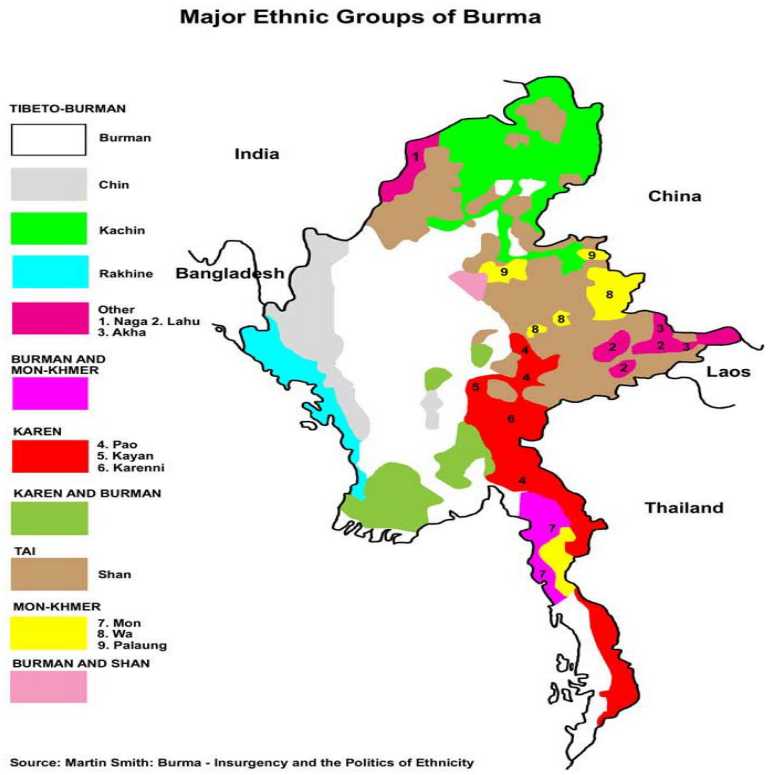
MAP

20.23 Map depicting the distribution of major ethnic groups, undated, accessed 24 October 2011, via Relief Web. **[71a]**



CHIN (ZOMI)

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

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

20.25 The Human Rights Watch report *"We are like forgotten people" The Chin People of Burma: Unsafe in Burma, Unprotected in India,* dated 27 January 2009, provided accounts of a wide range of human rights abuses against the Chin carried out by the Burmese army and government officials, including forced labour, arbitrary arrests and detention, torture, religious repression and other restrictions on fundamental freedoms. **[39d]**

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

20.27 On 6 January 2012, *Mizzima* reported that the Chin National Front (CNF) signed a ceasefire agreement with the Burmese government, which "...included safe passage in each other's territory with prior notice and joint cooperation in state development work." **[33e]**

KACHIN

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

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

20.29 International Christian Concern (ICC), an American-based organisation reporting on the persecution of Christians across the world, noted on 2 August 2011 that the Kachin "... comprises of six ethnic sub-groups or principal lineages (Jinghpaw, Lawngwaw, Lashi, Zaiwa, Rawang, Lisu). These six groups are deemed to share similar traditions, customs, dialects and practices living mainly in northern Burma, as well as parts of China and India." **[75a]**

20.30 The Kachin Women's Association Thailand (KWAT) stated in its report *Burma's Cover up War: Atrocities Against The Kachin People* (KWAT Report), published October 2011, that the Kachin in Burma are estimated to number between 1 to 1.5 million people. **[76a] (p5)**

20.31 Reporting on crimes perpetrated against Kachin civilians between June and September 2011, the KWAT Report noted that since the November 2010 elections, human rights violations against Kachin people in Burma had increased. The report added:

"In 2009 the Burmese regime issued a demand that all ethnic ceasefire groups, including the KIA [Kachin Independence Army – the KIO's armed wing], transform themselves into Border Guard Forces under the control of the Burma Army. On 9 June 2011, spurred on by the KIA's refusal to accept the regime's demand that they transform into a Border Guard Force, as well as the KIA's strategic control of areas with lucrative Chinese hydropower projects, the Burma Army launched a full-scale attack on the KIA, breaking the decades long ceasefire. The resulting war between the KIA and the Burma Army has continued for more than four months and shows no sign of ending in the near future. The conflict has led to an increase in human rights abuses against the Kachin people and has resulted in the displacement of tens of thousands of civilians, most of whom are now living in makeshift refugee camps along the China border. In contempt of humanitarian principles, the regime has blocked aid to these IDPs, forbidding NGOs and international organizations to provide humanitarian assistance to these vulnerable people." **[76a] (p5)**

20.32 The same source noted, "After a seventeen year ceasefire, the renewed conflict has brought rampant human rights abuses by the Burma Army including, rape, torture, the use of human minesweepers and the forced displacement of entire villages." **[76a] (p4)**

20.33 Following its visit to a number of IDP (internally displaced persons) camps along the Sino-Burmese border in September and October 2011, a report by Physicians for Human Rights, *Under siege in Kachin State, Burma*, dated November 2011, echoed much of the KWAT Report, and stated:

"The human rights investigation provides compelling evidence that the Burmese army (the Tatmadaw) has committed multiple human rights violations in Kachin State. Between June and September 2011, the Burmese army looted food from civilians, fired indiscriminately into villages, threatened villages with attacks, and used civilians as porters, human minesweepers, and impressed guides. Our findings are consistent with similar reports of human rights abuses in other ethnic states, and suggest that violations of rights of ethnic nationalities in the country by the central government are systematic and widespread." **[59b] (p3)**

20.34 On 12 December 2011, BBC News reported that, "The Burmese government is reported to have ordered the military to stop operations against ethnic Kachin rebels in the north. Officials said President Thein Sein had told the army to shoot only in self-defence against forces of the Kachin Independence Army (KIA)... all military commands in the area had been sent the president's instruction to stop offensive action." **[28h]**

20.35 Further information on human rights abuses in Kachin State, committed by government forces, can be found in the report *Crimes in Northern Burma: Results from a fact-finding mission to Kachin State*, dated November 2011, by Christian international relief and development agency, Partners Relief and Development. As noted in its Executive Summary:

"This report presents data collected from a Partners investigation in southern Kachin State, Burma in October 2011. The testimony of witnesses and on-site photographs reveal multiple acts perpetrated by Burma Army battalions 74 and 276 against ethnic Kachin civilians that potentially amount to war crimes and other extreme crimes. These acts include torture, extrajudicial killing, the specific targeting of civilians, human shielding, unlawful arrest, unlawful detention, forced labor, forced relocation, displacement, property theft and property destruction." **[29b]**

NB. The report contains some distressing images.

See also Internally displaced persons (IDPs)

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KAREN AND KARENNI (RED KAREN OR KAYAH)

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

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

20.37 The same source reported:

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

20.38 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General, Report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 16 September 2011, stated that:

"Fighting that erupted immediately after the November 2010 elections continues in southern and central Kayin State, in areas controlled by factions of the Democratic Karen Buddhist Army that refused to transform into border guard forces. Recently, former units of the Democratic Karen Buddhist Army that had agreed to the border guard forces scheme have defected and joined with the Karen National Liberation Army. An estimated 8,000 people have been displaced in this region, drastically increasing their vulnerability to human rights abuses, such as arbitrary detention and arrest by the military, and risks from landmines. **(paragraph 33)**

"In northern Kayin State and eastern Bago Division, internal displacement and severe food shortages continue. Despite fewer reports of targeted attacks on civilians, it appears that ration re-supply operations have continued as normal, including the use of civilian porters to carry equipment and walk or drive ox-carts in front of military trucks, to clear for landmines." **[32j] (paragraph 34)**

20.39 BBC News reported on 12 January 2012 that a ceasefire agreement had been signed with the Burmese government and the Karen National Union (KNU). **[28i]**

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

MON

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

"The Mon are largely found in Mon State in southeast Myanmar, but smaller populations live in Ayerawaddy [Irrawaddy] Division and along the Myanmar-Thailand border. They helped spread Theravada Buddhism throughout the region. The Mon language was once widely spoken in the south of the country but is presently spoken by less than one million people. The Mon National Democratic Front (MNDF), which won five seats in the 1990 elections, was banned in 1992 but still continues to operate." **[12c] (p16)**

20.42 The UN General Assembly's *Situation of human rights in Myanmar: Note by the Secretary-General, Report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 16 September 2011, stated that "In Mon State, authorities under the Southeast Command announced an order via loudspeakers and posted notices in public locations in various townships, to members of ceasefire groups, to turn in their weapons to police stations or Military Affairs Security offices by 3 July 2011. However, no weapons were reported to have been handed over." **[32j] (paragraph 36)**

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

See also Abuses by non-government armed forces

RAKHINE (ARAKANESE)

20.44 The AI Report of February 2010 on ethnic minority activists reported, "The Rakhine (also known as Arakan) are concentrated in Rakhine State on the western coast of the country. They are predominantly Theravada Buddhists. The Rakhine language is widely spoken in the region and is mutually intelligible with Burmese. The Arakan League for Democracy (ALD), which won 11 of 26 contested seats in the 1990 elections (becoming the country's third largest political party) seeks to represent the Rakhine." **[12c] (p15)**

20.45 The same source documented a number of accounts on and from Rakhine activists during the pro-democracy protests in 2007 (Saffron Revolution) following the first protests which took place in Sittwe, capital of Rakhine State. AI noted, "The findings reveal violent suppression of peaceful demonstrations, leading in some cases to deaths; arbitrary arrests and imprisonment; and surveillance and harassment of activists." **[12c] (p18)**

20.46 On 31 May 2011, Free Burma Rangers (FBR) reported on clashes between the Burma Army and the Arakan Liberation Army (ALA) near the Indian border in January and

February 2011. FBR also reported on villagers being forced to work as porters for the Burma Army resulting in a number of civilians fleeing their homes to avoid the forced labor. **[79a]**

ROHINGYA

20.47 The Irish Centre for Human Rights stated in its 2010 report *Crimes against Humanity in Western Burma: The Situation of the Rohingyas* that "The Rohingyas are a Muslim minority group residing in North Arakan State in Western Burma. It is estimated that there are approximately 800,000 Rohingyas in Arakan State, and many hundreds of thousands of Rohingya refugees in other countries." **[78a] (p9)**

20.48 The FCO Report 2010 noted that:

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

20.49 The US Department of State *July-December, 2010 International Religious Freedom Report* (USSD IRF July-December 2010 Report) published 13 September 2011, stated:

"Essentially treated as illegal foreigners, Rohingya were not issued Foreigner Registration Cards (FRCs). Since they also were not generally eligible for NRCs, Rohingya have been commonly referred to as 'stateless.' The government continued a program with the United Nations High Commissioner for Refugees (UNHCR) that issued Temporary Registration Cards to stateless persons in northern Rakhine State, the majority of whom are Rohingyas. This was primarily done, it appears, to allow Rohingya participation in the elections. UNHCR worked with approximately 750,000 residents of Rakhine State who do not hold citizenship in the country. At the end of the reporting period, UNHCR (quoting government estimates) indicated that 85 percent of eligible residents (637,500 stateless persons) over the age of 10 possessed TRCs. UNHCR also assisted Rohingya with education, health, infrastructure, water and sanitation, and agriculture." **[7b] (Section II)**

20.50 The Asian Human Rights Commission (AHRC) translated in its report, *The State of Human Rights in Burma in 2011*, published 9 December 2011, an interview on the BBC Burmese Service, dated 24 October 2011, with the director-general of the Department of Immigration and National Registration, U Maung Maung Than, concerning the status of Rohingya refugees repatriated from Bangladesh:

"Q. What is the policy of the government towards these Rohingya refugees?

A. For our part we merely have responsibility to scrutinize them according to whatever policies.

Q. Actually what I mean to say is that there is argument in the media, that are these Rohingya Burmese [citizens] or not, and what is the policy on that?

A. As far as we are concerned, there is no such thing as Rohingya. We have said it from the beginning. The so-called Rohingya are not among the ethnicities of Burma.

Q. That is the official government policy?

A. That is what we had discussed before. In whatever discussion wherever, we have said that the so-called Rohingya are not included among the people of our country. You can go and ask all of the people of Arakan State. All of them say that there are no so-called Rohingya." **[43d] (p2)**

20.51 In its report *Rohingya: Burma's Forgotten Minority*, dated 18 December 2008, Refugees International stated:

"Official Burmese government policy on the Rohingya is repressive. The Rohingya need authorization to leave their villages and are not allowed to travel beyond Northern Rakhine State. They need official permission to marry and must pay exorbitant taxes on births and deaths. Religious freedom is restricted, and the Rohingya have been prohibited from maintaining or repairing crumbling religious buildings. Though accurate statistics are impossible to come by inside Burma, experts agree that conditions in Northern Rakhine State are among the worst in the country. Rohingya refugees commonly cite land seizures, forced labor, arbitrary arrests, and extortion as the principal reasons for flight. Once a Rohingya leaves his or her village without permission, he or she is removed from official residency lists, and can be subject to arrest if found." **[61a]**

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

20.53 Further information on the Rohingya can be found in the Amnesty International report *Myanmar, The Rohingya Minority: Fundamental rights denied*, dated May 2004 **[12a]**, and the more recent The Irish Centre for Human Rights 2010 report, *Crimes against Humanity in Western Burma: The Situation of the Rohingyas*. **[78a]**

See also Internally displaced persons (IDPs)

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SHAN

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

"The Shan live primarily in Shan State, in the east of the country bordering China, Laos and Thailand. There are smaller groups of Shan living in Mandalay Division in the centre of the country, in Kayin State in eastern Myanmar, and in Kachin State. Most Shan people follow Theravada Buddhism and are part of the pan Tai family, which also includes most of the populations of Thailand and Laos. The Shan National League for Democracy (SNLD), which seeks to represent the Shan, was the second most successful party in the 1990 elections after the NLD, winning 23 seats. The Party Chair, Khun Htun Oo, is presently serving a 93-year prison sentence and is in poor health." **[12c] (p16)**

20.55 The Shan Human Rights Foundation (SHRF) reported in its Newsletter dated January 2011 on the continuing human rights violations that occurred against the people living in Shan State, including extrajudicial killing, rape, beating and torture, arbitrary arrest and detention, and forced disappearance. **[60a]** The SHRF provided monthly newsletters which recorded accounts of human rights abuses allegedly committed by government forces.

20.56 On 10 August 2011 the SHRF reported:

"Numbers of villagers fleeing Burma Army atrocities have soared to over 30,000 during recent intensified attacks against the Shan State Army North (SSA-N), causing a dire humanitarian crisis in northern Shan State. Over 4,000 Burmese troops from 42 battalions were deployed during July [2011] to seize the SSA-N headquarters of Wan Hai in Ke See township, backed up by jet fighter planes. Advancing through surrounding villages, troops have been scaling up atrocities against civilians, including killing, rape and mutilation. One dead villager was found with his leg and hand cut off.

"An estimated 31,700 villagers from nine townships have fled since the Burma Army began its offensive on March 13, breaking its 22-year-long ceasefire with the SSA-N. Some have fled to towns, to Wa-controlled areas along the China border, or to the Thai border, but most are hiding in the jungle near their villages...

"Although the Burma Army withdrew its extra battalions from the Wan Hai area in late July after facing heavy losses, their local troops remain encircling the SSA-N stronghold and fighting has been ongoing." **[60b]**

20.57 the UN General Assembly *Situation of human rights in Myanmar Note by the Secretary-General, Report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 16 September 2011, stated that, "According to community-based organizations with whom the Special Rapporteur met in Chiang Mai, in May 2011, more than 100,000 civilians have been affected, with increases in forced labour, forced relocation, property confiscation, arbitrary arrest, torture, extrajudicial killings on suspicion of support for the opposition and the gang rape of three women, details of which he finds particularly abhorrent." **[32j] (paragraph 35)**

20.58 On 2 December 2011 *The Irrawaddy* reported that the Burmese government reached a ceasefire agreement with the Shan State Army-South. The report noted that "the agreement included not only a ceasefire, but government assurances of economic development, a joint-task force working against illegal drugs in Shan State, and the opening of liaison offices." **[26p]**

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21. LESBIAN, GAY AND BISEXUAL (LGB) PERSONS

For the position of transgender persons see Transgender persons below

LEGAL RIGHTS

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

"The penal code contains provisions against 'sexually abnormal' behavior, and authorities applied them to charge gay men and lesbians who drew official attention. The maximum sentence is 20 years' imprisonment and a fine. Under the penal code, laws against 'unnatural offenses' apply equally to both men and women. Nonetheless, such persons had a certain degree of protection through societal traditions. There was no official or social discrimination based on sexual orientation in employment." **[7a] (Section 6)**

21.02 The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), accessed 1 February 2011, commented with regards to Burmese law that male to male sexual relationships were illegal but female to female sexual relationships were legal. ILGA stated that "Anal intercourse between a man and another man, a woman or an animal" was prohibited under Section 377 of the Penal Code (PC). On female to female sexual relations, ILGA noted, "The 'carnal intercourse' law... is understood as not covering female to female activity in the countries with the same provision (originating in the Indian Penal Code of 1860)." ILGA noted that punishment for committing an offence under Section 377 of the PC was imprisonment of less than ten years although this was rarely applied. **[22a]**

21.03 ILGA added that it had "...very limited information on LGBTI issues in Myanmar/Burma. Probably there are few, if any, criminal charges laid under the penal code. A few years ago a number of gay men were detained during the Taungbyone Nat festival near Mandalay (an event fairly famous for attracting gay men and transvestite spirit mediums). The men were detained for a couple of days and released without charges being laid. Apparently this pattern has not occurred in more recent years." **[22a]**

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

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

21.05 The Burma profile page, undated, accessed 15 March 2011, of the website globalgayz.com, observed that:

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

TREATMENT BY, AND ATTITUDE OF, STATE AUTHORITIES

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

21.07 Purple Dragon, which claimed to be Asia's largest and oldest tour company for gay travellers to ten countries in Asia, accessed 16 March 2011, reported for Burma that:

"Gay and trans-gendered people in Myanmar are rarely openly apparent, except for spirit mediums who channel the energies of revered and feared nat spirits. You will likely not see people expressing their sexuality through dress or behavior. Ladyboys, commonly seen and tolerated across the border in Thailand, are virtually absent here. The government works hard to prevent the rise of a sex industry and to control nightlife which encourages this... Cruising does take place and some nightlife venues provide social opportunities for gays and lesbians." **[17] (Gay life in Myanmar)**

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SOCIETAL TREATMENT AND ATTITUDES

21.08 The Inter Press Service (IPS) News Agency reported on 3 June 2010 that, "According to Ko Aye, who conducted a pioneering study on men who have sex with men (MSM) in Burma in 2003, stigma remains against [gay men]... Yet while he says there is 'not a very serious or strong reaction' against MSM, many MSM themselves apparently think there is a need to keep their 'true identity' secret." The report added that "...despite the official condemnation of homosexuality, there are dozens of local MSM networks in major cities such as Rangoon and Mandalay, with local community-based organisations providing these with information and counselling services." **[50a]**

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

21.10 The article continued:

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

"Same-sex relations are technically criminalised by a colonial penal code, and while this is no longer strictly enforced, activists say it is still used by authorities to discriminate and extort. 'They use it as an excuse to make money and harass people but they don't bring the cases to court,' said Aung Myo Min, an openly gay Myanmar exile and director of the Human Rights Education Institute of Burma, based in Thailand. He said there were numerous instances of sexual violence and humiliation of gay people in public.

'Many cases are not reported because the victims keep silent out of shame and fear of repercussions'." **[69a]**

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

21.12 Purple Dragon noted that although it was common to see men walking hand-in-hand, this did not necessarily indicate that they were gay. **[17] (Gay life in Myanmar)**

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

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

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22. TRANSGENDER PERSONS

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

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

22.02 Purple Dragon, which claimed to be Asia's largest and oldest tour company for gay travellers to ten countries in Asia, accessed 16 March 2011, reported for Burma that "Gay and trans-gendered people in Myanmar are rarely openly apparent, except for spirit mediums who channel the energies of revered and feared nat spirits. You will likely not see people expressing their sexuality through dress or behavior. Ladyboys, commonly seen and tolerated across the border in Thailand, are virtually absent here." **[17] (Gay life in Myanmar)**

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

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23. DISABILITY

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

"There is no law providing for equal treatment before the law and for general protection against discrimination, including discrimination against persons with disabilities. Under

the constitution all citizens have the right to education and health care. The government did not actively discriminate against persons with disabilities in employment, access to healthcare, education, or the provision of other state services or other areas, but there were few official resources to assist persons with disabilities. There are no laws mandating accessibility to buildings, public transportation, or government facilities.

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

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

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

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

23.03 The same report noted that education for disabled children was limited. **[34a] (paragraph VIII)**

25.04 The International Committee of the Red Cross (ICRC) reported in its *Annual Report 2010*, published May 2011, that "Some 5,500 physically disabled people, mainly from southeastern Myanmar, continued to receive services at the Hpa-an Orthopaedic Rehabilitation Centre, run by the Myanmar Red Cross with ICRC managerial, technical, financial and training support." **[40a] (p245)**

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24. WOMEN

OVERVIEW

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

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

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

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

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

24.03 Burma became an accession state to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in July 1997. (UN Treaty Collection, accessed 10 March 2010) **[32d]**

24.04 A report, dated 12 March 2010, by the Office of the UN Resident/Humanitarian Coordinator in Myanmar stated that, following the destruction and death caused by cyclone Nargis in 2008, "... approximately 14 out of every 100 households are now headed by women, the majority being widows. Female-headed households are often vulnerable. Sixty percent of female-headed households live in unsatisfactory shelters, they make up the highest percentage of the low income groups, and children from female-headed households frequently drop out of school due to financial constraints." **[48]**

LEGAL RIGHTS

24.05 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, noted that "By law women enjoy the same legal rights as men, including property and inheritance rights; however, it was not clear if the government enforced the law." **[7a] (Section 6)**

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

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

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

POLITICAL RIGHTS

24.09 The USSD Report 2010 noted that "Women were excluded from political leadership… There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court." **[7a] (Section 3)**

24.10 The UN Committee on the Elimination of Discrimination Against Women (CEDAW) *Information provided in follow up to the concluding observations of the Committee: Response by Myanmar to the recommendations contained in the concluding observations of the Committee following the examination of the combined second and third periodic report of Myanmar on 3 November 2008 – Myanmar*, dated 13 September 2011, stated that out of 104 women candidates in the 2010 elections, 45 were selected as Members of Parliament. **[32k] (paragraph 3)**

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

24.12 The *Concluding observations of the Committee on the Elimination of Discrimination against Women*, dated 7 November 2008, noted that "While noting that the majority of university graduates are women, the Committee is concerned at the very low rate of participation of women in all areas of public, political and professional life, including in the National Assembly and the realms of government, diplomacy, the judiciary, the military and public administration, especially at senior levels." **[32a] (paragraph 28)**

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SOCIAL AND ECONOMIC RIGHTS

24.13 The USSD Report 2010 noted, "Women remained underrepresented in most traditionally male occupations (e.g., mining, forestry, carpentry, masonry, and fishing) and were effectively barred from certain professions, including the military officer corps. Poverty affected women disproportionately." **[7a] (Section 6)**

24.14 The USSD Report 2010 added:

> "There were no registered, independent women's rights organizations, although there were several groups with some relationship to the government. The MWAF [government-affiliated Myanmar Women's Affairs Federation] was the leading 'nongovernmental' women's organization. The Myanmar Maternal and Child Welfare Association, another government-controlled agency, provided basic health assistance to mothers and children. The Myanmar Women Entrepreneurs' Association, a professional society for businesswomen, provided loans to women starting new businesses. While not controlled by the government, the entrepreneurs' association enjoyed good relations with the government and was allowed to conduct its activities to support women in business." **[7a] (Section 6)**

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

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

See also subsection: Violence against women

24.16 The Social Institutions and Gender Index (SIGI), accessed 16 March 2011, noted with regards to marriage and family life that:

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

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

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

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

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

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

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

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

See also subsection: Women's health, and Medical issues

24.22 The SIGI report on Burma stated:

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

24.23 The same source added:

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

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

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VIOLENCE AGAINST WOMEN

24.25 The USSD Report 2010 noted:

> "Domestic violence against women, including spousal abuse, remained a problem. Spousal abuse or domestic violence was difficult to measure because the government did not maintain statistics. There are no laws specifically against domestic violence or spousal abuse (including spousal rape), although there are laws related to committing bodily harm against another person. The related prison terms range from one year to life, in addition to possible fines.
>
> "Police generally were reluctant to act in domestic violence cases; however, in cases where women sustained injuries and filed a report, police generally took action. Punishment for men in these cases typically was a fine but no imprisonment. The government-affiliated Myanmar Women's Affairs Federation (MWAF) – usually chaired by the wife of the prime minister – sometimes lobbied local authorities, including the police, to investigate domestic violence cases involving spousal abuse. Since the MWAF was controlled by wives of regime leaders, police usually investigated cases referred to them by the group." **[7a] (Section 6)**

24.26 On rape, the same source stated:

> "Rape is illegal, but the government did not enforce the law effectively. If the victim is under 14 years of age, the sexual act is considered rape, with or without consent. In such cases the maximum sentence is two years' imprisonment when the victim is between ages 12 and 14, and 10 years' to life imprisonment when the victim is under 12. Spousal rape is not a crime unless the wife is under 14. The regime did not release statistics concerning the number of rape prosecutions and convictions. The police generally opened and investigated reported cases of rape. However, in ethnic areas, when government soldiers committed rape, the army rarely took action to punish those responsible." **[7a] (Section 6)**

24.27 The USSD Report 2010 also noted that "The penal code prohibits sexual harassment and imposes fines or up to one year's imprisonment. There was no information on the prevalence of the problem because these crimes were largely unreported." **[7a] (Section 6)**

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

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

24.29 The *International Tribunal on Crimes Against Women of Burma*, held on 2 March 2010, by the Nobel Women's Initiative in collaboration with the Women's League of Burma, reported:

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

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

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

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

24.31 The Women's League of Burma (WLB) documented in its 2008 report *In the Shadow of the Junta* 399 incidents of rape and sexual violence against 875 women across Burma's states and regions between 1988 and 2006, of which 161 were committed against girls. **[27a] (p56)**

24.32 The WLB asserted that: 'Nearly all military rapists – whatever their rank – go unpunished, fostering the climate of impunity and escalating violence. The reports corroborate that sexual violence is not being committed by rogue elements within the military but is central to the modus operandi of SPDC, and is therefore systematic and structural in nature'." **[27a] (p57)**

See also Children: Violence against children

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

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

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

against women, disaggregated by age and ethnic group, as well as studies and/or surveys on the extent of such violence and its root causes." **[32a] (paragraph 22)**

24.35 The UN Committee on the Elimination of Discrimination Against Women (CEDAW) *Information provided in follow up to the concluding observations of the Committee: Response by Myanmar to the recommendations contained in the concluding observations of the Committee following the examination of the combined second and third periodic report of Myanmar on 3 November 2008 – Myanmar*, dated 13 September 2011, noted:

"Regarding Violence against Women, if complaints are received, the concerned authorities investigate the cases and take action against offenders according to the law. In 2010 from 1st Jan to 31 August, the Ministry of Home Affairs received 503 complement [sic]. Among them 101 complaints which are not correct are abolished and 199 complaints were taken into action. 203 complaints are still being investigated. According to investigation and complaints by women victims, it is found that (7) Military officers, 99 other ranks who committed sexual abuse have been accused and they are given severe punishment by [sic] Military Act." **[32k] (paragraph 12)**

24.36 The same source added, "Based on the survey result on Domestic Violence which was conducted by [the] Department of Health, Dissemination Workshops on [the] prevention of Violence Against women are being conducted among Ministry of Health, other related Ministries and NGOs." **[32k] (paragraph 13)**

24.37 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 10 March 2010, commented that:

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

See also Ethnic groups

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WOMEN'S HEALTH

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

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

24.39 The same report added:

"... the situation is even more dire in conflict zones of eastern Burma, where official investment in health, especially reproductive health, is essentially non-existent and abuses against the predominantly non-Burman population rife, including the systematic rape of women and girls. In eastern Burma, only 4% of births are attended by skilled birth attendants, far lower than the official figure of 57% of the rest of the country... 1 in 12 women will, in the course of her lifetime, lose her life as a result of pregnancy-related causes, a figure far worse than Burma's national figure of 1 in 75, already the worst in the region. (For comparison, this figure in neighboring Thailand is 1 in 900). This figure from eastern Burma is more comparable to countries such as Rwanda, Somalia, and Democratic Republic of the Congo. These deaths are mainly preventable, a result of post-partum hemorrhage, unsafe abortion, and obstructed delivery. Further, high fertility rates, reflecting lack of access to reproductive technologies, as well as the high prevalence of conditions such as malnutrition and anemia, increase the risk that women die unnecessarily as a result of their pregnancies." **[27a] (p44)**

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

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25. CHILDREN

OVERVIEW

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

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

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

"Despite such [CRC] provisions, children in Burma are not immune to government-sanctioned abuse... childhood is often disrupted by violence, insecurity, and poverty.

Children are witnesses of and subject to arbitrary and extrajudicial killings, torture and mistreatment, arbitrary arrest and detention, rape and sexual violence, forced labor and portering, recruitment as child soldiers, and restrictions on basic and fundamental freedoms. They are inordinately affected by the rampant poverty, inadequate schools, and poor healthcare that exists in Burma." **[29a] (p3)**

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

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

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

See also sub-section: Health and welfare and Medical issues

Basic legal information

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

- Under the 1993 Child Law, a child is anyone under the age of 16 and a youth is anyone over 16 years and below 18 years. (Burma Lawyers' Council, The Child Law, 14 July 1993) **[45c]**
- Voting age: 18 years old. (Central Intelligence Agency (CIA) World Factbook, 20 December 2011) **[6a] (Government)**
- Minimum age for employment: 13 years old; however, the law was not enforced. (US Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011) **[7a] (Section 7d)**
- Compulsory recruitment age for the military: 18 years old; however, children were forcibly recruited into the army. (CIA World Factbook, 20 December 2011) **[6a] (Military)**
- Criminal age of responsibility: 7 years old. (Burma Lawyers' Council, The Child Law, 14 July 1993) **[45c]**
- Marriage: no minimum age for boys; girls of 14 years old require parental consent. (Committee on the Rights of the Child – Concluding observations, 30 June 2004) **[32b]**

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LEGAL RIGHTS

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

"The main law dealing with children's rights in Burma is the 1993 Child Law, enacted on 14 July 1993, two years after Burma acceded to the International Convention on the Rights of the Child (CRC). While this law provides a range of positive rights and protections for children, evidence of continued serious abuse and neglect of Burma's

children clearly demonstrates that Burma has failed to uphold the promises codified under the Child Law." **[29a] (p57)**

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

See also Citizenship and nationality

VIOLENCE AGAINST CHILDREN

25.07 The USSD Report 2010 stated:

"There are laws prohibiting child abuse, but they were neither adequate nor enforced. The government claimed child abuse was not a significant problem. However, accurate statistics were not available, and some international NGOs believed the problem was more widespread than the government acknowledged. The 1993 Child Law contains many provisions to protect children from abuse, sale, and other types of exploitation. The punishment for violators is up to two years' imprisonment or a fine of up to 10,000 kyat ($10)." **[7a] (Section 6)**

25.08 The same source added:

"Children reportedly engaged in prostitution for survival without third-party involvement. The penalty for child prostitution is 10 years' imprisonment. The law prohibits pornography; the penalty is three to five years' imprisonment. The law prohibits statutory rape, punishable by two years to life in prison. In Rangoon and Mandalay, observers noted widespread presence of female prostitutes who appeared to be in their teens. Additionally, some brothels reportedly offered young teenage 'virgins' to their customers for a substantial additional fee. Although there is no law explicitly banning child sex tourism, article 13 of the 1949 Suppression of Prostitution Act and the Prostitution Act prohibit pimping and prostitution, respectively, and the penal code prohibits having sex with a minor." **[7a] (Section 6)**

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

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

25.10 The same source noted:

"Increased militarization in ethnic minority and rural areas has led to rape and other forms of sexual abuse against children. Despite the challenges many documenters face, several women's rights organizations have released reports over the past few years recording the extent to which children have been sexually abused in Burma's conflict zones. Documented crimes include: attempted rape, rape, gang rape, and sexual

assault. In some cases victims were also killed after suffering grave sexual abuse. In other cases children were forced to witness their mothers and sisters being raped and abused. Although the documented cases focus on incidences involving young girls, sexual violence is a problem that affects boys as well; unfortunately, such incidences are rarely reported and/or documented.

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

See also Abuses by non-government armed forces

25.11 The Child Rights Forum of Burma (CRFB) report *The plight of children under military rule in Burma* to the UN Committee on the Rights of the Child (CRC), dated 23 April 2011, noted that:

"Accounts gathered by CRFB member organizations indicate that rape and sexual violence have been committed against children by Tatmdaw soldiers. Militarization and the lack, or absence, of accountability for members of armed groups, particularly the Tatmadaw, heighten the vulnerability of children to sexual violence. Sexual violence against children is extremely difficult to document, as survivors, and their families, are often reluctant to speak about their experiences because of shame and fear of stigmatisation by their communities if an incident becomes public knowledge; parents worry about a daughter's future marriage prospects if she is not yet married. In some cases girls have been ostracised by their communities after incidents of sexual violence. Fear of reprisals by perpetrators also pushes survivors to refrain form reporting incidents of sexual violence." **[86a] (p30)**

25.12 The same source added:

"No credible evidence indicates that members of the Tatmadaw and non-state armed groups who perpetrate acts of sexual violence against children are prosecuted and punished... token punishment for perpetrators or compensation for survivors for specific incidents may take place in localized contexts outside of the judicial system, where survivors or their families are brave enough to report incidents to local authorities. Such compensation has in some instances been accompanied by specific instructions not to discuss the incident further, effectively 'closing' a case. In other instances, survivors or families have explicitly stated that they feared retribution if they pursued the matter further." **[86a] (p31)**

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

"Children are forced to work on innumerable projects under harsh conditions and without pay. These include the building of army barracks, police stations, roads and state schools, clearing land, breaking and carrying rocks and many other tasks. 'Special' projects often require the entire village to work. Expensive fines must be paid if a villager fails to report for work. Wealthier families can sometimes bribe officials and

gain exemptions, but for the vast majority of villagers, there is no choice but to send a family member to work." **[34c] (p4)**

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

See also subsection: Child soldiers, Abuses by non-government armed forces: Forced conscription and Human rights violations by government forces: Convict and civilian porters

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CHILDCARE AND PROTECTION

25.15 The USSD Report 2010 observed that:

"The government did not dedicate significant resources to protecting the rights and welfare of children. Children were at high risk, as deteriorating economic conditions forced destitute parents to take them out of school to work in factories and teashops or to beg. Many were placed in orphanages. With few or no skills, increasing numbers of children worked in the informal economy or in the street, where they were exposed to drugs and petty crime, risk of arrest, trafficking for sex and labor exploitation, and HIV/AIDS." **[7a] (Section 6)**

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

See also Trafficking

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CHILD SOLDIERS

25.17 The USSD Report 2010 observed:

"The government army continued to recruit and use child soldiers. The minimum age of enlistment in the army is 18 years, and the government's official policy is to avoid conscripting child soldiers; however, it did not deny their existence. Informal recruiting targeted vulnerable children. Authorities routinely falsified the enlistment papers of those under age 18. According to the Office of the UN High Commissioner for Refugees (UNHCR), the army recruited children as young as 10 years old. Credible sources indicated the number of child soldiers may have risen to 12,000, although accurate statistics were difficult to obtain." **[7a] (Section 1g)**

See also Military service

25.18 The Human Rights Education Institute of Burma (HREIB) stated in its report *Forgotten Future: Children affected by armed conflict in Burma* (HREIB Report), dated September 2008, stated, "Evidence that the Tatmadaw [army] forcibly recruits large numbers of children below the age of 18 is supported by first hand accounts from former child soldiers themselves, many of whom have testified that the majority of new recruits are children." **[64a] (p50)**

25.19 The UN Security Council's *Report of the Secretary-General on Children and armed conflict*, dated 23 April 2011, covering the period January to December 2010, stated:

"In 2010, the [Burmese] Government shared details of a number of new military instructions issued on the prevention of underage recruitment and granted greater access to UNICEF, on behalf of the country task forces on monitoring and reporting, to recruitment units to observe recruitment procedures. This did not extend to military training schools or operational units. During these visits, greater rigour in the screening process was observed. The rejection of prospective recruits due to invalid age verification documentation or to the fact that they were underage was also observed." **[4b] (paragraph 41)**

25.20 The same report stated that, "Although these steps reflected positive progress in terms of prevention and discharge and cooperation with the country task forces on monitoring and reporting, the Government had yet to draw up a plan to systematically identify and separate children being used by the Tatmadaw Kyi, and the discharge of children continued to be undertaken on an ad hoc basis as a response to complaints." **[4b] (paragraph 43)**

25.21 The same source added that common patterns of recruitment into the Government military units of the Tatmadaw Kyi included the targeting of:

"...working and unaccompanied children from the streets, railway stations or other public places, although the majority of children were recruited from their homes or villages. Most cases of recruitment were of children between 15 to 17 years of age, and the majority were from Yangon division. Children continue to be persuaded or duped by relatives (working in the Tatmadaw), soldiers (to earn a promotion or other incentives) and other brokers to join the Tatmadaw. The majority of children interviewed after discharge stated that the recruiter had not requested for the age of the child, or had falsified the age of the child upon recruitment." **[4b] (paragraph 106)**

25.22 The US Department of State *Trafficking in Persons Report 2011*, published 27 June 2011, noted in its section on Burma that:

"The recruitment of children into the army is a criminal offense under Penal Code Section 374, which could result in imprisonment for up to one year, or a fine, or both. The continued primacy of the Burmese military in the regime significantly limited the ability of civilian police and courts to address the recruitment of child soldiers and military-perpetrated forced labor – the most severe forms of trafficking prevalent in the country. Burmese law enforcement officials generally were not able to investigate or prosecute cases of military-perpetrated forced labor or child soldier recruitment absent assent from high-ranking military officers. While the military prosecuted several of its uniformed members for complicity in child soldier recruitment during the previous reporting period, it did not report any such prosecutions during the reporting period." **[7d] (Prosecution)**

25.23 The UN Security Council *Report of the Secretary-General on Children and armed conflict in Myanmar*, dated 1 June 2009, stated that, "According to ILO [International Labour Organization], in most cases, underage recruits go through the full formal recruitment process and are required to undertake approximately four and one-half months of training before being sent to their duty station. In a few cases, children have been recruited directly into an operational unit." **[4a] (p4, paragraph 12)**

25.24 The HREIB Report stated:

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

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

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

25.26 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 7 March 2011, stated that it commended:

"... the considerable progress made in addressing underage recruitment. The Government cooperated with the ILO to return 73 underage recruits during 2010, 40 from complaints received in 2010 and 33 from complaints initiated in 2009. At the end of December 2010, the ILO had received 331 complaints of underage recruitment since beginning to monitor the problem in February 2007. Of those complaints, 142 underage recruits have been discharged back to their families, while 120 cases were in the process towards discharge and a further 60 complaints were either under assessment or required further information prior to submission." **[32h] (paragraph 89)**

25.27 The same source noted that, "According to the ILO, the Myanmar Army has undertaken extensive training activities for military personnel on the legal issue of underage recruitment, including activities undertaken with UNICEF and the ILO. A brochure explaining the law relating to forced labour, including underage recruitment, and procedures to be taken in the event of a breach of the law, continues to be widely circulated nationwide." **[32h] (paragraph 91)**

25.28 The HREIB Report noted on desertion that:

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

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

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

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

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

See also Military service and Abuses by non-government armed forces: Forced conscription

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EDUCATION

25.31 The Freedom House *Freedom in the World Country Report 2011*, published 12 May 2011, stated that in Burma "Academic freedom is severely limited. Teachers are subject to restrictions on freedom of expression and are held accountable for the political

activities of their students. Since the 1988 student prodemocracy demonstrations, the junta has sporadically closed universities and relocated many campuses to relatively isolated areas to disperse the student population." **[14a]**

25.32 The USSD Report 2010 noted that in Burma, "By law education is compulsory, free, and universal through the fourth standard (approximately age 10). However, the government continued to allocate minimal resources to public education, and schools routinely charged informal fees. Rates of school attendance were low, largely due to economic hardship." **[7a] (Section 6)**

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

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

25.34 The UN Human Rights Council, *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 7 March 2011, stated that:

"According to official figures, primary education has a 97 per cent intake rate with gender parity. There are currently some 40,000 schools and about 150,000 school teachers in Myanmar, as well as 23 teacher training colleges and institutes that produce around 10,000 teachers annually. However, less than 60 per cent of children complete the full cycle of primary education. According to some international figures, 45 per cent of children in Myanmar initially enrolled in school failed to complete fourth grade, with the highest rate of dropout (19 per cent) at the end of first grade… **(paragraph 57)** Participation rates in secondary school are not available but are estimated to be extremely low, with only 1,099 high schools in the country." **[32h] (paragraph 28)**

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

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

"Indeed, the situation in war-ravaged regions is worse. In many villages there are no schools, and children have no choices. According to Refugees International, only 3 percent of children reach high school in some conflict areas. They cannot afford to leave their communities to study in other villages, nor do they have the resources to recruit help from others. The regime's ambivalence toward improving education,

especially in conflict-affected areas, is rooted in discrimination and exclusion inherent in the SPDC's [State Peace and Development Council] laws and policies. The SPDC forbids students in ethnic minority areas to study in their own language placing minority children at a severe disadvantage." **[64a] (p29)**

25.36 On positive educational developments, the *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 7 March 2011, gave some examples, including, "... mobile schools, special classes for over-age children in primary classes and voluntary night schools for children. Another positive development is the provision of education and training outside the State education system by civil society groups and NGOs, with the tacit or explicit permission of the Government." **[32h] (paragraph 80)**

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

25.38 On 6 December 2011, the *Democratic Voice of Burma* reported that:

"Staff at private schools in Burma who include in their teaching material discussions of topics deemed subversive by the government could face up to three years in prison, according to new rules enacted... [which allows] the opening of private schools... [but also warns] that the curriculum must abide by the 'three national causes' promulgated under the former junta, which include the 'perpetuation of sovereignty' and national solidarity." **[3d]**

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HEALTH AND WELFARE

25.39 The UN Human Rights Council *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 10 March 2010, following his visit in February 2010, stated, "Infant mortality remains high, with an estimated 1 in 10 births resulting in the death of the infant. More than 25 per cent of the population lacks access to safe drinking water. Approximately half of the malaria deaths in South-East Asia occur in Myanmar. More than 30 per cent of Myanmar's children are chronically malnourished. The national prevalence of underweight and stunting among children under 5 years is 32 per cent." **[32e] (paragraph 97)**

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

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

25.41 The same source noted:

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

See also Medical issues and Women: Women's health

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26. TRAFFICKING

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

26.02 The US Department of State *Trafficking in Persons Report 2011* (USSD TiP Report 2011) published 27 June 2011, noted in its section on Burma that:

"Burma is a source country for men, women, and children who are subjected to forced labor and for women and children subjected to sex trafficking in other countries... Trafficking within Burma continues to be a significant problem, as the military engages in the unlawful conscription of child soldiers and continues to be the main perpetrator of forced labor inside the country. Burmese civilian and military authorities' use of forced or compulsory labor remains a widespread and serious problem, particularly targeting members of ethnic minority groups... Military and civilian officials have for years systematically used men, women, and children for forced labor for the development of infrastructure and state-run agricultural and commercial ventures, as well as forced portering for the military. Government authorities use various forms of coercion, including threats of financial and physical harm, to compel households to provide forced labor. Those living in areas with the highest military presence, including remote border areas populated by ethnic groups, are most at risk for forced labor. The regime's treatment of ethnic minorities makes them particularly vulnerable to trafficking." **[7d] (Burma)**

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

"...at the persistence of trafficking and sexual exploitation of women and girls in the country. The Committee is also concerned at reports that the 2005 anti-trafficking law has been abused and that some innocent people have been arrested on false trafficking charges. It is further concerned at the inadequate protection procedures granted for

returned trafficked victims from abroad, especially from China, along the border areas, and at the State party's failure to address the root causes of migration in and from Myanmar, and its consequent inability to seriously address the trafficking problem." **[32a] (paragraph 26)**

26.04 The UN Committee on the Elimination of Discrimination Against Women (CEDAW) *Information provided in follow up to the concluding observations of the Committee: Response by Myanmar to the recommendations contained in the concluding observations of the Committee following the examination of the combined second and third periodic report of Myanmar on 3 November 2008 – Myanmar*, dated 13 September 2011, noted, "Awareness raising Workshops on Trafficking in Persons are being conducted in school, workplace and village level. Besides, prevention of Trafficking is done widely through pamphlets, Magazine, Video, Posters and Cartoons." **[32k] (paragraph 13)**

26.05 The USSD TiP Report 2010 noted that:

"The regime continued some efforts to assist repatriated victims of cross-border sex trafficking, though it exhibited no discernible efforts to identify and protect victims of internal trafficking and transnational labor trafficking... **(Protection)** The Government of Burma continued limited efforts to prevent international trafficking in persons over the last year, but made few discernible efforts to prevent the more prevalent internal trafficking, particularly forced labor and child conscription by regime officials and ethnic armed groups. The Women's Affairs Federation, a government-linked entity, conducted educational sessions for women around the country to discuss trafficking risks associated with emigrating for employment. The government continued awareness campaigns through billboards, flyers, and public talks during the reporting period. The Burmese government reported forming a new anti-trafficking unit in Chin Shwe Haw during the year. The National Task Force on Anti-Trafficking in Persons helped coordinate activities among domestic and international organizations. The government, in conjunction with the ILO, published a brochure on trafficking disseminated widely throughout the country. Additionally, informational billboards were posted at bus and railway station to increase public awareness. UN sources reported increased access to military recruitment centers during the year, and conducted training courses for military and civilian officials." **[7d] (Prevention)**

See also Children: Child Soldiers

26.06 The same source added:

"While forced labor is widely considered to be the most serious trafficking problem in Burma, authorities reported that most trafficking cases investigated and prosecuted continued to involve women and girls subjected to forced marriage or recruited and transported with the intention to be subjected to forced marriage, typically in China. Some of these cases, however, may have involved Burmese women voluntarily working with brokers to attempt to cross into China with the understanding that they would be married to Chinese men. The Burmese regime reported investigating 173 cases of trafficking, and convicting 234 offenders in 2010; however, these statistics include cases of abduction for adoption, rather than human trafficking. Additionally, Burmese court proceedings are not open, and lack due process for defendants. Burma lacks rule of law and an independent judiciary, and the regime rules arbitrarily through its unilaterally imposed laws. International organizations and NGOs were not able to verify the statistics provided by the regime. Additionally, limited capacity and training of the police

coupled with the lack of transparency in the justice system make it uncertain whether all trafficking statistics provided by authorities were indeed for trafficking crimes. Corruption and lack of accountability remain pervasive in Burma, affecting all aspects of society..." **[7d] (Prosecution)**

See also Judiciary and Corruption

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

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27. MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

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

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

27.02 The same source noted:

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

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

27.04 The same article stated:

"Overall, Burmese citizens struggle to cope with medical costs, even at public facilities, and those who can afford government medical services complain of poor service and a

lack of equipment and medicine. A Rangoon resident said, 'If you are hospitalized, you have to buy cotton and gauze for yourself. The public hospitals provide nothing for you. There are some written slogans in the hospital such as 'sharing cost for health care.' You don't get anything free in a public hospital. Every person in Burma knows that is [the] real situation'." **[26f]**

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

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

See also Corruption

27.06 A report by Partners Relief & Development and Free Burma Rangers, entitled *Displaced Childhoods: Human Rights & International Crimes Against Burma's Internally Displaced Children*, dated April 2010, stated, "Medicines are also frequently unavailable in health facilities. In general, accessing medical treatment can be a difficult and expensive process in Burma..." **[29a] (p34)**

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HIV/AIDS – ANTI-RETROVIRAL TREATMENT

27.07 Médecins Sans Frontières (MSF) stated in its *Activity Report 2010*, published August 2011, that in Burma:

"More than 240,000 people are living with HIV in Myanmar, and an estimated 120,000 are in need of lifesaving antiretroviral (ARV) treatment. However, treatment is currently available to only 21,000 people, and MSF was treating 18,300 of these people in 2010. Staff also provided symptomatic and palliative care and managed common opportunistic infections, which patients suffer from as a result of their compromised immune systems. In Yangon, MSF operated four HIV clinics. In addition to treatment, staff offered health education, especially to high-risk groups such as intravenous drug users, men who have sex with men and sex workers, and helped prevent the transmission of HIV through voluntary testing and counselling and mother-to-child transmission prevention services. MSF continued to work in close collaboration with the Ministry of Health and other agencies in building up the technical capacities and resources of the various HIV/AIDS care programmes in the country." **[41a] (p69)**

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

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

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

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

27.11 The UN Human Rights Council's *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, dated 7 March 2011, stated that:

"... there are estimated to be over 10,000 new infections a year in Myanmar, and HIV-related stigma and discrimination continue. Punitive laws and practices drive people who use drugs, sex workers, men who have sex with men and transgender people away from HIV services. These laws and practices, including illegal police activity (arbitrary arrest, harassment and violence), are barriers for access to HIV-prevention education, information, treatment and care services and commodities. There are also cases of detention of alleged drug users in non-voluntary centres without due process, evidence-based treatment or minimum standards of care. While the participation of civil society in HIV response has increased over the past three years, there continue to be problems with the registering of community-based groups and local NGOs which provide HIV-related services. The Special Rapporteur calls on the Government to take active measures to address these problems that hamper a robust response to this health crisis, an obligation of the Government in ensuring the right to health." **[32h] (paragraph 96)**

MENTAL HEALTH

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

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

27.13 The same source added:

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

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

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28. HUMANITARIAN ISSUES

28.01 The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) stated in its section on Burma, undated, accessed 23 November 2011, that:

"The most vulnerable communities in Myanmar are affected by a complex mix of factors linked to natural disasters and conflict. Populations remain vulnerable to frequent, low-scale shocks that undermine the development process. Outside the Delta, significant humanitarian needs exist, particularly in areas such as Chin State, Northern Rakhine State and the eastern border areas. Humanitarian actors are particularly concerned about factors such as food insecurity, malnutrition, internal and external migration, and limited access to basic services such as health, education and water." **[42b]**

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

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

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

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

28.04 *The Irrawaddy* added:

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

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

CYCLONE GIRI – OCTOBER 2010

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

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

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

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

CYCLONE NARGIS – MAY 2008

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

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

"The military government blocked large-scale international relief efforts by delaying the issuance of visas to aid workers, prohibiting foreign helicopters and boats from making deliveries to support the relief operation, obstructing travel by aid agencies to affected areas, and preventing local and international media from freely reporting from the

disaster area. Rather than prioritizing the lives and well-being of the affected population, the military government's actions were dictated by hostility to the international community, participation in the diversion of aid, and an obsession with holding a manipulated referendum on a long-delayed constitution." **[39g] (Summary)**

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

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

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29. FREEDOM OF MOVEMENT

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

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

"Although the government restricted freedom of movement, most citizens were able to travel within the country. However, authorities closely monitored the movements of some opposition party members. Ethnic minority areas previously affected by conflict continued to experience strict controls on personal movement, including frequent military checkpoints and monitoring by military intelligence.

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

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

29.02 The same report noted:

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

29.03 The Child Rights Forum of Burma (CRFB) report *The plight of children under military rule in Burma*, to the UN Committee on the Rights of the Child (CRC), dated 23 April 2011, noted that:

"... restrictions on humanitarian support organized internally or cross-border are reinforced by movement and trade restrictions enforced by the armed forces of the State party in areas where Tatmadaw or civilian authorities feel vulnerable to attack or unrest, or where civilian support bases may attempt to escape. Movement restrictions are used to deny civilian access to areas that are not under control, for instance by blocking roads linking relocation sites or villages in lowland areas with upland areas where NSAG [non-state armed groups] forces are active. These restrictions are devastating for internally displaced civilians in adjacent shoot-on-sight areas, because they prevent civilians from selling or trading agricultural products and acquiring essential supplies such as food and medicine." **[86a] (p29)**

See also Human rights institutions, organisations and activists

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30. INTERNALLY DISPLACED PERSONS (IDPS)

30.01 In its section on IDP Population Figures for Burma, gathered from various sources, dated 19 July 2011, the Internal Displacement Monitoring Centre (IDMC) stated:

"There are no comprehensive figures of the number of people internally displaced due to armed conflict or human rights violations in Myanmar, and it is very difficult to assess the scale of such internal displacement in the country. The available figures only cover those IDPs who live in rural areas of south-eastern Myanmar controlled by or accessible to various NSAGs that facilitate the collection of data, and there is no way of verifying them independently. Very little or no information exists on the impacts of armed conflict, human rights violations and displacement on civilians for areas controlled by the government or by government-allied NSAGs.

"UNHCR used an estimate of 451,000 IDPs in Myanmar as its planning figure for 2010, while the Thailand-Burma Border Consortium (TBBC) estimated that in July 2010 at least 446,000 IDPs were living in the 37 surveyed townships (administrative sub-districts) in southern Shan, Kayah/Karenni, Kayin/Karen and Mon States and Bago/Pegu and Tanintharyi/Tenasserim Regions. Of those IDPs, it was believed that

125,000 were living in relocation villages in government-controlled areas, 115,000 dispersed in hiding areas in the jungle, and 206,000 living in areas administered by ceasefire NSAGs. The TBBC also reported that an estimated 73,000 of the IDPs in south-eastern Myanmar were newly displaced between August 2009 and July 2010, including some 26,000 people in northern Karen areas and some 8,000 in southern Mon areas...

"Information on internal displacement resulting from recent fighting was scarce, although available reports indicate that thousands were displaced in Kayin/Karen, Shan and Kachin States and into Thailand and China between November 2010 and June 2011...

"It was believed that more than 500,000 IDPs were living in eastern Myanmar, including in urban areas and mixed administration or 'grey' areas (TBBC, 28 October 2010, p.20). An unknown but significant number of IDPs were believed to be living in other parts of Myanmar. Estimates of the total number of IDPs in the country – including many long-term IDPs who had not reached a durable solution – went up to several million..." **[35b]**

30.02 Following its visit to a number of IDP (internally displaced persons) camps along the Sino-Burmese border in September and October 2011, a report by Physicians for Human Rights*, Under siege in Kachin State*, *Burma*, dated November 2011 stated that "The camps fail to meet multiple minimum humanitarian standards outlined in the Sphere humanitarian guidelines. Camps are overcrowded and there are insufficient numbers of latrines and water supply points. Camp medical staff reported that upper respiratory infections and diarrhea were the most common reasons for clinic visits, and that they experienced shortages in medicine for infants." **[59b] (p3)**

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

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

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

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

30.05 The Human Rights Watch (HRW) *World Report 2012*, dated 22 January 2011, stated,

"Approximately 500,000 people are internally displaced due to conflict in eastern Burma, with an additional 140,000 refugees in camps in Thailand. Thai authorities in 2011 increased calls for repatriation of the refugees, a proposal that Burmese officials welcomed, and European Union authorities gave greater priority in refugee aid allocations to preparations for repatriation despite serious security concerns about returning populations to active conflict zones. Bangladeshi authorities increased threats to close Rohingya refugee camps and drive the Rohingya minority back into Burma. Some 28,000 Rohingya refugees live in official camps in Bangladesh and another 200,000 live in makeshift settlements or mixed in with the local population in border areas. Millions of Burmese migrant workers, refugees, and asylum seekers live in Thailand, India, Bangladesh, Malaysia, and Singapore." **[39j] (p304)**

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

See also Freedom of Religion and Ethnic groups

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31. CITIZENSHIP AND NATIONALITY

31.01 The United States Department of State *Country Report on Human Rights Practices 2010* (USSD Report 2010), published 8 April 2011, noted that with regard to stateless persons in Burma:

"Citizenship is granted to anyone whose parents are both nationals of the country as prescribed by law. In practice the government did not implement laws and policies to provide stateless persons the opportunity to gain nationality on a nondiscriminatory basis.

"There are 135 officially recognized 'national races' who qualify for citizenship. Some members of native-born but so-called nonindigenous ethnic populations, such as Chinese, Indians, Bengalis, some Eurasians, and the country's Rohingya population, are not included in the list and are denied the full benefits of citizenship based on their nonindigenous ancestry. Of these, the Muslim Rohingya fared the worst, with nearly all Rohingya denied any benefits of citizenship." **[7a] (Section 2d)**

See also Freedom of religion and Ethnic groups

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

31.03 In a question posed to an official at the Foreign and Commonwealth Office (FCO) British Embassy in Yangon (Rangoon) by the Country of Origin Information Service, regarding

foreign national residency and marriage rights, the FCO stated in a letter dated 4 February 2010 that:

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

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

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

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

IDENTITY CARDS

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

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

31.07 The USSD IRF July-December 2010 Report noted:

"Citizens and permanent residents are required to carry government-issued National Registration Cards (NRCs) (also known as Citizenship Scrutiny Cards), which permit holders to access services and prove citizenship. These identification cards often indicate religious affiliation and ethnicity. There appeared to be no consistent criteria governing whether a person's religion was indicated on the card. Citizens also were required to indicate their religion on certain official application forms for documents such as passports, although passports themselves do not indicate the bearer's religion. Members of many ethnic and religious minorities faced problems obtaining NRCs, Muslims even more than others." **[7b] (Section II)**

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

"What are the criteria for obtaining a card?
To obtain a National Registration Card, the applicant's parents and grandparents have to be Burmese citizens.

"At what age would a citizen apply for a NRC/CSC?
A person aged 10 can start applying to obtain a NRC card. The NRC card issued at the aged of 10 has to be renewed and changed to another card at the aged of 18.

"What documents must be provided when applying?
Documents required are:
Application Form of the Immigration and Population Department to be attached with:

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

"Where would one apply? Is the procedure official, or, like passport applications, could an agent be used?
One would apply at the township immigration department, where his/her Family Registration Card is registered. Using [an] agent is not recommended because there have been many cases of cheating.

"Can a card be applied for from abroad, e.g. via the Burmese embassy in UK?
A card can not be applied from abroad.

"What are the penalties for a) not having a card or possessing a forgery, and b) for obtaining one fraudulently, e.g. the holder is not a legal Burmese citizen?
a) A person who does not have a NRC cannot travel inside Burma.
b) A person forging a NRC card is liable to 7 years imprisonment.
c) Obtaining one fraudulently also brings 7 years imprisonment.

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

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

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32. FORGED AND FRAUDULENTLY OBTAINED OFFICIAL DOCUMENTS

32.01 The United States Department of State (USSD) listed, in its Burma Reciprocity Schedule, accessed 1 February 2011, a number of documents, including birth, marriage and death certificates, and police, prison and military records, which were available from the relevant offices in Burma. **[7f]**

ARREST WARRANTS

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

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

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

See also Arrest and Detention – Legal Rights: Arrest warrants

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33. EXIT AND RETURN

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

EXITING BURMA

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

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

"Although there is no law explicitly restricting the foreign travel of citizens, the government carefully scrutinized prospective travel abroad of all passport holders. Rigorous control of passport and exit visa issuance perpetuated rampant corruption, as applicants were sometimes forced to pay bribes of up to 400,000 kyat ($400).

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

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

"a) holding a valid passport and valid departure papers (known as 'D-forms')

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

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

33.04 The same source noted:

"All Burmese citizens exiting Burma legally have to receive an exit stamp. If they are travelling by air, the exit stamp will mark the date of departure and the flight number. If they are crossing at legal border immigration points, the exit stamp will mark the date of departure and the name of the border crossing. The exit stamp does not include information about the date required to return. Nor does it include information about the authorised destination, although if travelling by air, the flight number effectively states the initial destination of travel and D forms state the authorised destination." **[5h]**

See also subsection: Passport issuance and Departure ('D') forms

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

33.06 However, in an email to the COI Service dated 21 December 2011, the FCO commented that:

"In recent months a number of NLD members have been able to travel overseas and return to Burma without interference from the authorities. Following the re-registration of the NLD as an official political party in December 2011, and their likely entry into parliament following by-elections in early 2012, it is likely that NLD members, whether active or inactive, will be able to leave and re-enter the country without significant hindrance. It is unlikely, though not impossible, that inactive NLD members would be questioned on re-entering the country." **[5aa]**

33.07 Examples of prominent NLD members travelling abroad included National League for Democracy (NLD) members attending the Global Forum on Civil Society Law in Sweden from 21-23 August 2011. (National League for Democracy website, 26 August 2011) **[77a]** NLD vice-chairman, Tin Oo, received travel documents for a trip to Singapore for eye surgery. (*Mizzima*, 16 September 2010) **[33b]**

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Passport issuance and Departure 'D' forms

33.08 The Immigration and Refugee Board of Canada (IRB) noted in a Response to Information Request dated 15 May 2007 that, according to the Burmese Ministry of Home Affairs website, various types of passports are issued, including a business passport, a short-visit business passport, an employment passport, a short-visit passport, and a passport for dependants. In applying, a "national scrutinization card" and "family members' registration list" must be provided in all cases. For business passports applicants must produce company documents and relevant licenses; those applying for an employment passport must produce an "appointment letter from abroad". **[37d]**

33.09 In a letter, originally dated 11 January 2008 and updated 26 June 2010, the FCO in Rangoon noted that passports were categorised into business, work, short-visit and student passports, all of which were valid for three years. **[5l]**

33.10 An email response from an official at the UK Border Agency Visa Services in Rangoon, dated 15 September 2009, stated that Burmese passports continued to be handwritten and that no entry clearance staff in Visa Services had seen any machine readable passports. **[5u]**

33.11 In a further email, dated 16 September 2009, another Visa Services official stated that some staff recalled seeing machine readable passports for business men only. However, this was some time ago and it was likely that such passports would now have expired or been cancelled and would not be in current circulation. **[5v]**

33.12 In its Response to Information Request dated 17 May 2007 the IRB reported that the Ministry of Home Affairs website noted:

"...to obtain a short-visit passport, applicants must provide an invitation letter from relatives working abroad, provide a copy of their tax assessment, list their next of kin and provide a copy of the passport belonging to the person who has invited them to visit. If their letter of invitation has been written by someone who has renounced their Myanmar citizenship and become a citizen of another country, 'the invitation letter must be endorsed by the Myanmar embassy concerned'. If the applicant is a civil servant, he or she must provide proof of leave." **[37d]**

33.13 The same source stated that all those seeking a passport must submit their application in person; however an exception was made to those who are "old" or in poor health, in which case they may send a person to submit the application on their behalf. **[37d]**

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

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

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

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

33.16 The IRB stated that according to the Burmese Home Affairs website the passport application is subject to security clearance and took an estimated 45 days to issue. **[37d]**

33.17 The *Burma Human Rights Yearbook 2008*, published in November 2009 by the Human Rights Documentation Unit (HRDU), the research and documentation department of Burma's government in exile, the National Coalition Government of the Union of Burma (NCGUB), stated, "Despite the high costs associated with obtaining a passport, as of October 2008, the Burmese passport office, located in Pansodan St in central Rangoon, was processing between 8-10,000 passports per month, with an average waiting time of around 40 days." **[51a] (p635)**

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

33.19 The USSD Report 2010 observed that passports were often revoked by the authorities for political reasons. **[7a] (Section 2d)** The same report added, "The government regularly declined to issue passports to former political prisoners, activists, and some local staff of foreign embassies. College graduates who obtain a passport (except for certain government employees) are required to reimburse the government for the cost of their education. It frequently took several months to receive a passport, particularly if the applicant was unwilling to offer a bribe as incentive for speedier service." **[7a] (Section 2b)**

33.20 Commenting on the above statements by the FCO and USSD Report 2010, which cited that political activists were unlikely to be issued with, or were regularly declined, passports, Maung Zarni noted in his review, dated 31 August 2011, of the Burma COI Report June 2011, for the Independent Advisory Group on Country Information, that:

"The reviewer's own empirical research based on interviews, both online and face-to-face clearly indicates that while the Burmese regime is intent on restricting the travel, domestic and international, by well-known political dissidents and ex-dissidents (for instance, the political comedian and writer Zaganar), the vast majority of political activists who are not household names like the comedian have been able to obtain passports through the use of passport agents, who forge documents including IDs, recommendations from ward authorities and intelligence clearance." **[74a] (p34)**

33.21 In an email to the COI Service dated 21 December 2011, the FCO commented that "Some politically active individuals continue to be denied passports by the authorities. Equally, there are some high profile political activists and NLD members who do have passports, and who travel overseas without problems. [Therefore] 'some politically active persons continue to encounter difficulties in being issued with passports'." **[5aa]**

33.22 Maung Zarni added in his review, dated 31 August 2011, of the Burma COI Report June 2011, prepared for the Independent Advisory Group on Country Information, regarding corruption, that "... paradoxically, corruption in Burma has also enabled activists to buy themselves passports, forged ID cards, and so on in order to enhance their freedom of movement." **[74a] (p28)**

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

"Since November 2006, it has been possible to apply for Departure ('D') forms on-line, making the system much more efficient. It now takes less than an hour to get a 'D' form. As of 1st January 2007, all 'D' forms are issued on line. They are issued by the Ministry of Immigration and are separate to the passport application process. 'D' forms are valid for 30 days from the date of issue. To apply for 'D' forms on-line, applicants have to state their intended date of departure, flight no. and destination. It cost only 300 kyats (£0.10) payable to the 'D' form department under the Ministry of Immigration. Agents charge 1500 kyats (£0.65) to get 'D' forms. 'D' forms are submitted to immigration at the time of departure and are not required at the time of return. Very few people encounter problems in obtaining a 'D' form." **[5l]**

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ENTERING BURMA

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

33.25 An email dated 8 December 2011 from the FCO stated, "We do not systematically monitor the actions of Burmese authorities at different Burmese ports... we have a wide network of contacts both within Burma and within the UK exile community, with whom we meet regularly. In the event of arbitrary arrests or detention, in most cases we would expect to hear about this through those networks, and to raise these cases with the authorities accordingly." **[5ab]**

33.26 The same source noted in an email dated 21 December 2011 that, as with all authorities, passenger lists of those arriving in Burma were monitored. **[5z]**

33.27 The HRDU *Burma Human Rights Yearbook 2008* stated that, in accordance with the regulations given in the Burma Passport Act (2) and the Burma Immigration (Emergency

Provisions Act) (2), "...anyone who has left the country without a passport and is caught returning can be imprisoned for up to 5 years." **[51a] (p636)**

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

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

"A person with only a Myanmar ID card would not be able to buy plane tickets etc. If they arrived at Yangon airport they would certainly be held for questioning, as above, and, even if no charges were held against him/her, they would not be permitted to hold a passport again in the future (unless they have connections/give sufficient bribes etc). Questions would be asked about how they had left Burma in the first place. If found to have exited illegally, they could be charged under the illegal immigration law, and subject to a prison sentence." **[5o]**

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

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

33.30 The USSD Report 2010 noted, "In general citizens who emigrated legally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return." **[7a] (Section 2d)**

TREATMENT OF RETURNED FAILED ASYLUM SEEKERS AND EXILES

33.31 Reporting on an invitation to Burmese exiles to return to the country, *The Irrawaddy* stated on 18 August 2011:

"Most Burmese exile groups were skeptical about an announcement by President Thein Sein on Wednesday [17 August] that his government would allow dissidents to return to the country, but at least some welcomed the idea as something worth considering.

"In a speech to local businessmen in Napyidaw, Thein Sein said the government would take a 'benevolent attitude' toward exiles who chose to return.

"'We will make reviews to make sure that Myanmar [Burmese] citizens living abroad for some reasons can return home if they have not committed any crimes. And if a Myanmar citizen in a foreign country who committed crimes applies for returning home to serve terms, we will show our benevolent attitude in dealing with his case,' Thein

Sein said, according to the state-run newspaper *The New Light of Myanmar* on Thursday.

"However, Thein Sein's speech was 'clearly nothing more than a public relations exercise aimed at improving the image of his regime in the international community,' said prominent activist Khin Ohnmar, who is the coordinator of the Burma Partnership.

"'We will not naïvely believe what the regime says until they prove it with actions. The problem is that the regime sees political activists as having broken the law or committed crimes. They refuse to acknowledge that those nearly 2,000 people in prisons are political prisoners, held for their political beliefs,' she said." **[26l]**

33.32 In an article dated 28 October 2011, *The Irrawaddy* reported on the Burmese government's failure to put in place any policy or procedure that would allow political exiles to feel secure in returning. The report noted, "...most Burmese exiles still have doubts about their ability to safely go back home and very few have actually accepted the invitation and returned." **[26m]**

33.33 The same source added:

"A source close to the Burmese embassy in Bangkok said that exiles wishing to return home have to sign a five-point statement saying that they will: avoid actions and words which can harm the state; avoid writing, talking and lobbying which can harm the stability of the state; avoid contact with illegal organizations; avoid actions that are destructive or harassing; and be loyal to the state and stay within the law.

"In addition, the source said that if any exile who has already requested asylum in any foreign country wants to return home, that person must leave their travel documents and identity card at the embassy, which will provide them with a letter of identity. There is no transparent policy stating whether the exiles who return home will be allowed to travel abroad once again." **[26m]**

33.34 Burma Campaign UK reported in its Burma Briefing No.15, dated September 2011, that "Asked about this possible offer [of inviting exiles to return] in an interview with Radio Australia on 30th August, the UN Special Rapporteur on Human Rights in Burma warned exiles they could be arrested if they do return, stating; 'The situation is that those who at this moment may decide to express their opinions against authorities may face the risk to be arrested arbitrarily'." **[53c] (p6)**

33.35 On 11 September 2011, BBC News reported on the return to Burma of three political satirists, known as Thee Lay Thee, who had been living in self-imposed exile in Thailand. The report noted, "Three comedians and a dancer flew from Chiang Mai to Rangoon weeks after Burma's new civilian president urged exiles to come home. One of them said there were signs that Burma's military-backed government was taking steps towards democracy." **[28g]**

33.36 *The Irrawaddy* stated on 10 November 2010, following its interview with visiting exile Harn Yawnghwe, that "Contrary to the misgivings that many exiles still have about recent moves toward political reform in Burma, most people he [Harn] spoke to in the country said they were overwhelmingly positive about the situation developing under President Thein Sein's administration." **[26o]**

33.37 *The Irrawaddy* also reported on 28 October 2011 on Harn Yawnghwe's return to Burma and stated that he "...went back to Burma on Oct 21 and issued a statement saying that he did so because of Thein Sein's invitation. However, Harn Yawnghwe also said that he was making a private trip to his hometown in Shan State and he had no political agenda, fixed itinerary or intention of acting on behalf of any organization during his stay." **[26o]**

33.38 The same source reported on 12 October 2011 that "On Sept. 6, *The Irrawaddy* wrote in a news story that, 'Sein Kyaw Hlaing was reportedly detained and interrogated in Rangoon after accepting President Thein Sein's offer to exiles to return home,' adding that, 'It has not been disclosed whether Sein Kyaw Hlaing would be charged or just detained for interrogation'." **[26n]**

33.39 However, the report added that:

"Sein Kyaw Hlaing, a veteran Burmese journalist who previously worked in exile for the BBC Burmese Service and is currently a contributor to Radio Free Asia, issued a statement over the Internet on Sunday [9 October] denying that he had taken any airplane flight to Rangoon or been detained at the airport and then interrogated by Burmese authorities at the Aung Tha Pyay interrogation center. He sent the statement by e-mail to popular Burmese blogger Dr Lun Swe, who posted it on his blog after speaking to Sein Kyaw Hlaing by telephone. The statement was then picked up and reposted by several other Burmese blogs." **[26n]**

See also Recent developments

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

33.41 With regards to failed asylum seekers, a Response to Information Request issued by the Immigration and Refugee Board of Canada (IRB), dated 7 August 2007, stated:

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

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

"'It is important to understand that the nature of the state in Myanmar is highly arbitrary, and therefore any decisions made concerning repatriations to that country from Canada should be done with extreme caution. Two persons with apparently similar circumstances may be treated completely differently by the Myanmar authorities, which do not operate according to the rational methods that may be found in established and organised jurisdictions. Thus, it should not be imputed from one case – i.e. where

someone is able to return home without facing threats – that the same will happen in another, or at another time'." **[37c]**

33.42 The IRB further added:

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

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

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

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34. EMPLOYMENT RIGHTS

34.01 BBC News reported on 14 October 2011 that:

"Workers in Burma will be allowed to form unions and go on strike under a new law signed this week by the president, officials say. The law permits unions with a minimum of 30 members to be formed and allows strikes if a notice period is given. Unions have not been allowed to operate in Burma since 1962. The law appears to be the latest in a series of changes being introduced by Burma's new military-backed, civilian-led government... Observers have cautioned, however, that it remains to be seen whether unions will really be able to operate in practice. Many labour activists remain in prison." **[28f]**

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

"Despite the ban on collective bargaining, some worker-management negotiations take place through Workers' Supervision Committees (WSC) in government-designated industrial zones. Composed of four workers and chaired by the factory owner, WSCs meet monthly to discuss grievances. The worker representatives are usually chosen by management. If a dispute cannot be settled at the factory level, township-level labor authorities and possibly the Ministry of Labor will intervene.

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

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

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

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

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

See also Economy

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LAND RIGHTS AND LAND CONFISCATION

35.01 The Ta'ang Students and Youth Organization (TSYO), a non-profit organisation working to bring peace, justice and equality to the Ta'ang (Palaung) people, dated November 2011, reported on the confiscation of Ta'ang people's land in Shan State, and the exploitation of their natural resources, by multi-national and transnational companies, with the permission of the Burmese government. The TSYO report, *Grabbing Land: Destructive Development in Ta'ang Region*, stated, "Land confiscation, in various forms,

is still occurring in Burma (Myanmar). To date, there are no effective constitutional guarantees for land rights in Burma." **[82a] (p8)**

35.02 The report added that Article 37(a) of the 2008 Constitution states, "'[t]he Union is the ultimate owner of all lands and all natural resources above and below ground, above and beneath the water, and in the atmosphere in the Union.' At the time of this writing, the Burmese Government has drafted a new Land Law into legislation that is likely soon to be adopted by the legislature. As it stands, under Article 2 of the newly drafted Land Law, the State has the power to confiscate farmland and agricultural land at any time." **[82a] (p8)**

35.03 Reporting on the draft land law, the Asian Human Rights Commission (AHRC) stated on 1 November 2011 that:

"The current legislation on land, either for reasons of content or because of institutional factors, lacks coherence. It is ineffectual in protecting the rights of cultivators. With the rise and rise of private businesses linked to serving and former army officers and bureaucrats, the incidence of land grabbing also is fast increasing, and is bound to increase even more dramatically in the next few years." However, the report added "Under the draft, farmers could be evicted to make way for the construction of polluting factories, power lines, roads and railways, pipelines, fun parks, condominiums and whatever else government officials claim to be in 'the national interest'." **[43e]**

35.04 In its report *The State of Human Rights in Burma in 2011*, published 9 December 2011, the AHRC expressed its concern at:

"... the convergence of military, business and administrative interests in new economic projects aimed at displacing ordinary people from land. Whereas seizure of land has long been practiced in Burma, in the past land seizure was mostly carried out directly by state officials or the military. Hence, contestation over land seizure in such cases was between the state and affected citizens. Increasingly, with the changes in government and economy in Burma, private companies with connections to military officers or retired military officers are seizing land." **[43d] (p3)**

35.05 The TSYO's *Grabbing Land* report stated, "There are many different reasons for land confiscation, such as authorities confiscating land for building military camps; military farm plantations and authorities' building projects as well as them taking the land for government income generation projects... Government authorities along with private business corporations confiscated land too." **[82a] (p19)**

35.06 On 15 September 2011 *The Irrawaddy* reported:

"More than a hundred farmers in Burma's Irrawaddy Delta region took to the streets... demanding that the authorities return plots of lands which they said were forcibly confiscated from them by a construction company and the Burmese military. The rice farmers, from five village tracts in Pathein Township, Irrawaddy Division, said that since 2000, they have been pressured to sell their lands at far below their market value to the Yuzana Company, owned by Htay Myint, a Burmese tycoon on a US sanctions blacklist for his close ties to the country's top military leadership... Such protests are rare in Burma and often face violent crackdowns by the government. In this case, however, the local authorities told the farmers that their complaints would be examined and the issue would be resolved through proper negotiations within three days." **[26b]**

35.07 The Human Rights Foundation of Monland stated in its report *Burma's Navy Attacks Civilians' Livelihood, June – July 2011*, published 14 August 2011, that:

"Beginning in December of 2010, Burmese Navy Unit No. 43 began to place red flags on farmland, rubber plantations, and household plots of villagers on Kywe Thone Nyi MaIsland, Yebyu Township, Tennaserim Division. Since December 2010, the land on which the red flags were placed has been confiscated by the Navy. Navy Unit No. 43 seized land from over on Kywe Thone Nyi Ma Island, without compensation, and a decree banning these former landowners to cultivate and enter upon their acreage and plots." **[34f] (p9)**

See also Ethnic groups

35.08 Further information on land rights can be found in the November 2009 report published by the non-profit organisation Displacement Solutions and The HLP Institute, *Housing, Land and Property Rights in Burma: The Current Legal Framework*. **[84a]**

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Annex A

CHRONOLOGY OF MAJOR EVENTS

Reproduced from the BBC Timeline, last updated 10 January 2012. **[28b]**

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

Japanese occupation

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

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

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

Independence

1948 Burma becomes independent with U Nu as prime minister.

1958-1960 Caretaker government, led by army Chief of Staff General Ne Win, formed following a split in the ruling AFPFL party.

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

One-party, military-led state

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

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

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

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

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

Riots and repression

1987 Currency devaluation wipes out many people's savings and triggers anti-government riots.

1988 Thousands of people are killed in anti-government riots. The State Law and Order Restoration Council (Slorc) is formed.

1989 Slorc declares martial law, arrests thousands of people, including advocates of democracy and human rights, renames Burma Myanmar, with the capital, Rangoon, becoming Yangon. National League for Democracy (NLD) leader Aung San Suu Kyi, the daughter of Aung San, is put under house arrest.

Thwarted elections

1990 Opposition NLD wins landslide victory in general election, but the result is ignored by the military.

1991 Aung San Suu Kyi awarded Nobel Peace Prize for her commitment to peaceful change.

1992 Than Shwe replaces Saw Maung as Slorc chairman, prime minister and defence minister. Several political prisoners freed in bid to improve Burma's international image.

1995 Aung San Suu Kyi is released from house arrest after six years.

1996 Aung San Suu Kyi attends first NLD congress since her release; Slorc arrests more than 200 delegates on their way to party congress.

1997 Burma admitted to Association of South East Asian Nations (Asean); Slorc renamed State Peace and Development Council (SPDC).

Release of pro-democracy supporters

1998 300 NLD members released from prison; ruling council refuses to comply with NLD deadline for convening of parliament; student demonstrations broken up.

1999 Aung San Suu Kyi rejects ruling council conditions to visit her British husband, Michael Aris, who dies of cancer in UK.

2000 September – Ruling council lifts restrictions on movements of Aung San Suu Kyi and senior NLD members.

October – Aung San Suu Kyi begins secret talks with ruling council.

2001 Ruling council releases some 200 pro-democracy activists. Government says releases reflect progress in talks with opposition NLD leader Aung San Suu Kyi who remains under house arrest.

February – Burmese army and Shan rebels clash on Thai border.

Improving border relations

2001 June – Thai Prime Minister Shinawatra visits; says relations are back on track.

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

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

Conflicting signals

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

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

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

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

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

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

Prime minister ousted

2004 October – Khin Nyunt is replaced as prime minister amid reports of a power struggle. He is placed under house arrest.

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

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

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

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

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

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

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

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

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

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

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

Public unrest

2007 August – Wave of public dissent sparked by fuel price hikes. Dozens of activists are arrested.

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

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

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

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

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

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

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

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

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

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

Junta renews Aung San Suu Kyi's house arrest.

2008 November – Dozens of political activists given sentences of up to 65 years in series of secretive trials.

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

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

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

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

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

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

Aung San Suu Kyi trial

2009 May – The European Union (EU) extends the 2006 sanctions for another year, but adds that they can be reviewed in the event of moves towards democracy.

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

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

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

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

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

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

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

Staged election

2010 November – Main military-backed party, the Union Solidarity and Development Party (USDP), claims resounding victory in first election for 20 years. Opposition groups allege widespread fraud and the election is widely condemned as a sham. The junta says the election marks the transition from military rule to a civilian democracy.

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

2011 January – Government authorises internet connection for Aung San Suu Kyi.

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

September – President suspends construction of controversial Myitsone hydroelectric dam.

October – Some political prisoners are freed as part of a general amnesty.

November – Pro-democracy leader Aung San Suu Kyi says she will stand for election to parliament, as her party rejoins the political process.

December – US Secretary of State Hillary Clinton visits, meets Aung San Suu Kyi and holds talks with President Thein Sein. Washington offers to improve diplomatic relations if the military-backed government continues to press ahead with democratic reforms.

President Thein Sein signs law allowing peaceful demonstrations for the first time.

NLD re-registers as a political party in advance of by-elections for parliament due to be held early in 2012.

Burmese authorities agree truce deal with rebels of Shan ethnic group and orders military to stop operations against ethnic Kachin rebels.

2012 January – Government signs ceasfire with rebels of Karen ethnic group. **[28b]**

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Annex B

POLITICAL ORGANISATIONS (LISTED ALPHABETICALLY)

Chin National Party

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

Democratic Party

Jane's *Sentinel Security Assessment*, updated 2 December 2011, noted:

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

Democracy and Peace Party

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

Kayin People's Party (KPP)

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

National Democratic Force (NDF)

Jane's noted:

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

National League for Democracy (NLD)
Jane's noted:

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

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

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

Burma's Election Commission accepted the NLD's re-registration as a political party in January 2012 and Aung San Suu Kyi planned to run for parliament in the April 2012 by-elections. (Reuters, 5 January 2012) **[85a]**

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

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

National Unity Party (NUP)
Jane's reported:

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

New Era People's Party
As noted by *The Irrawaddy*, dated 7 April 2010, the party was led by "Htun Aung Kyaw (secretary of the Unity and Development Party, which contested in the 1990 election, although it did not win any seats. The party was disbanded by the junta in 1992. Htun Aung Kyaw was the personal secretary of Thakhin Soe, the former leader of the Burmese Communist Party (Red Flag). Party principles are based on scientific reasoning, knowledge and theory, rather than blind faiths and unsystematic analysis." **[26h]**

Shan Nationalities Democratic Party (SNDP)
The Irrawaddy noted on 7 April 2010 that the leader of the SNDP was "Sai Eik Paung (a former leader of Shan National League for Democracy (SNLD), which won 23 seats in Shan State in the 1990 election but decided not to re-register and contest the election. SNLD leader Khun Htun Oo is currently detained in prison and serving a prison sentence of nearly one hundred years.)" The Party was nationwide but targeted Shan-populated areas. Its aim was "To work to maintain the literature, culture and tradition of the ethnic nationalities. The party will avoid confrontation and opposition in politics and instead, seek opportunities for productive and positive results in the viable framework." **[26h]** Khun Htun Oo was released from prison on 13 January 2012. (BBC News, 13 January 2012) **[28j]**

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

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

United Solidarity and Development Party (USDP)
Jane's noted that in April 2010:

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

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

88 Generation Student Youths (Union of Myanmar)
The Irrawaddy, dated 7 April 2010, noted the leader as "Ye Tun (formerly a student involved in the 1988 democratic uprising and an ex-political prisoner, Ye Tun is the younger brother of Aye Lwin, the leader of the Union of Myanmar Federation of National Politics.)" with an aim "To modernize the systems of the nation in areas such as politics, economy, defense, legislature, governance, justice, mass media, education, health, land, finance and environmental conservation. To develop the languages, literature and culture of the ethnic nationalities and to encourage the formation of civil society organizations." **[26h]**
[NB: not to be confused with the dissident student group 88 Generation Students – see Political affiliation – Dissident groups]

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

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

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

See History: November 2010 elections for election results.

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Annex C

PROMINENT PEOPLE

A List of Members of the Government of the Republic of the Union of Myanmar was provided on the Embassy of Myanmar in Beijing website, undated, accessed 3 November 2011. **[66a]**

PROMINENT PEOPLE OUTSIDE THE GOVERNMENT

Aung San Suu Kyi
Born in 1945 and leader of the National League for Democracy (NLD) following its inception in 1988, Aung San Suu Kyi symbolises the struggle of Burma's people to be free. She has spent more than 15 years of the last 21 years in detention, most of it under house arrest. She was released from her current third period of detention on 13 November 2010. (Burma Campaign UK, A biography of Aung San Suu Kyi, undated) **[53b]** Following the re-registration of the NLD, Aung San Suu Kyi planned to run for parliament in the by-elections set for April 2012. (Reuters, 5 January 2012) **[85a]**

See also History: Release of Aung San Suu Kyi and Political affiliation: National League for Democracy (NLD)

Khun Htun Oo
Chairman of the Shan Nationalities League for Democracy (SNLD) and currently serving 95 years in prison for treason, setting up an illegal group and violation of the 5/96 Law prohibiting people from criticizing the Constitution. Suffering from ill health worsened by lack of exercise and appropriate medical treatment. (Assistance Association of Policital Prisoners (Burma) (AAPP), 2010 Annual Report, 14 January 2011) **[44b]** Released from prison on 13 January 2012. (BBC News, 13 January 2012) **[28j]**

Zargana
"... one of Burma's most famous comedians and actors, is a long-time opponent of military rule who has in recent years become a high-profile activist and relief worker, assisting many sick and impoverished Burmese who have been further marginalized by the military's self-serving development policies." (Human Rights Watch (HRW), *Burma's Forgotten Prisoners,* 16 September 2009) **[39f] (Secret trials of political prisoners in late 2008)** Zargana was released from prison in an amnesty in October 2011. (HRW, 3 November 2011) **[39c] (Fundamental Freedoms and Political Prisoners)**

U Gambira
"...a young Buddhist monk who played a key role in the 2007 demonstrations, emblematic of widespread discontent among young people over declining living standards and repressive military rule." (HRW, *Burma's Forgotten Prisoners,* 16 September 2009) **[39f] (Secret trials of political prisoners in late 2008)** U Gambira is serving 63 years in prison, suffering from malaria and receiving insufficient medication for the disease. (AAPP, 2010 Annual Report, 14 January 2011) **[44b]** Released from prison on 13 January 2012. (BBC News, 13 January 2012) **[28j]**

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

(Amnesty International, 8 November 2010) **[12f]** Su Su Nway was released from prison in an amnesty in October 2011. (HRW, 3 November 2011) **[39c] (Fundamental Freedoms and Political Prisoners)**

Min Ko Naing

Born in 1962, former chairman of the All Burma Federation of Student Unions (ABFSU) and a leading member of the 88 Generation Students, Min Ko Naing spent between 1989 and 2004 in prison for participating in the student-led uprising of 1988. He was rearrested in 2007 for his part in the Saffron Revolution and given a 65 year sentence in a remote prison in Shan State. His family claims he is suffering from ill health. (*The Irrawaddy*, 18 October 2010) **[26i]** Released from prison on 13 January 2012. (BBC News, 13 January 2012) **[28j]**

See also Political affiliation: Opposition groups and political activists

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Annex D

LIST OF ABBREVIATIONS

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

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Annex E

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