

in the country. No further proceedings were reported by the end of the year.

## WOMEN'S AND GIRLS' RIGHTS

In July, parliament approved the draft Criminal Code without a controversial article that would have enabled rapists to escape prosecution by marrying their victim. Human rights activists had campaigned against this article.<sup>2</sup>

The draft approved by Parliament further did not require an official complaint from relevant individuals in the case of sexual offences against those under 16 years of age before starting a criminal proceeding. It still required an official complaint to be made by all other victims of sexual offences before a criminal proceeding could be instituted. However, an article remained on the rape of minors, which referred to minors as those under 12 years of age. The draft law was waiting to be signed by the President before becoming law at the end of the year.

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1. Statement on prison conditions to the African Commission on Human and Peoples' Rights  
[www.amnesty.org/en/library/info/AFR01/008/2014/en](http://www.amnesty.org/en/library/info/AFR01/008/2014/en)Mozambique Submission to the African Commission on Human and Peoples' Rights: 54th Ordinary Session of the African Commission on Human and Peoples' Rights  
[www.amnesty.org/en/library/info/AFR41/007/2013/en](http://www.amnesty.org/en/library/info/AFR41/007/2013/en)
  2. Mozambique: New Criminal Code puts women's rights at risk (AFR 41/001/2014)  
[www.amnesty.org/en/library/asset/AFR41/001/2014/pt/f5d3b8a2-45e5-460d-bab0-e1d4582158aa/af410012014en.html](http://www.amnesty.org/en/library/asset/AFR41/001/2014/pt/f5d3b8a2-45e5-460d-bab0-e1d4582158aa/af410012014en.html)

# MYANMAR

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## Republic of the Union of Myanmar

Head of state and government: **Thein Sein**

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**Despite ongoing political, legal and economic reforms, progress on human**

**rights stalled, with some backward steps in key areas. The situation of the Rohingya deteriorated, with ongoing discrimination in law and practice exacerbated by a dire humanitarian situation. Anti-Muslim violence persisted, with the authorities failing to hold suspected perpetrators to account. Reports of abuses of international human rights and humanitarian law in areas of armed conflict persisted. Freedoms of expression and peaceful assembly remained severely restricted, with scores of human rights defenders, journalists and political activists arrested and imprisoned. Impunity persisted for past crimes.**

## BACKGROUND

Myanmar assumed the chair of the Association of Southeast Asian Nations (ASEAN) in January. In March, the government announced parliamentary by-elections for the end of the year, later cancelled, and general elections in 2015. Despite a national campaign to amend the 2008 Constitution, led by the opposition National League for Democracy (NLD) and its leader Aung San Suu Kyi, by the end of the year she was still constitutionally barred from running for the presidency, and the military still held a veto power on any future constitutional changes.

## DISCRIMINATION

The situation of the Rohingya worsened during the year. Individuals suffered persistent discrimination in law and policy, exacerbated by a deepening humanitarian crisis, ongoing eruptions of religious and anti-Muslim violence, and government failures to investigate attacks on Rohingya and other Muslims. The authorities also failed to address incitement to violence based on national, racial and religious hatred.

In January, reports emerged of clashes between security forces, Buddhist Rakhine and Muslim Rohingya in Du Chee Yar Tan village, Rakhine state. Two investigations – one by the government and one by

the Myanmar National Human Rights Commission (MNHRC) - claimed to have found no evidence to substantiate allegations of any violence. In July, two people were killed and dozens injured when religious violence broke out in Mandalay, the second largest city. Again, no independent investigation was known to have been carried out.

An estimated 139,000 people - mostly Rohingya - remained displaced in Rakhine state for a third year after violent clashes erupted between Rakhine Buddhists, Rohingya and other Muslims in 2012. The dire humanitarian situation worsened after the expulsion of some humanitarian organizations and the withdrawal of others in February and March, following attacks against them by Rakhine people. The displaced population were left without access to emergency and life-sustaining assistance. By the end of the year, although most organizations had returned, assistance was still not back to levels prior to the withdrawals.

Violence between religious communities and restricted humanitarian access continued within a broader context of discriminatory laws and policies against the Rohingya, who remained deprived of nationality under the 1982 Citizenship Act. As a result they continued to face restrictions on their freedom of movement, with repercussions for their access to livelihoods. On 30 March, one day before the start of the first national census in Myanmar since 1983, the Ministry of Information announced that Rohingya would have to register as "Bengalis" - a term used to deny recognition to the Rohingya and to imply that they are all migrants from Bangladesh. In October, the government announced a new Rakhine State Action Plan which if implemented would further entrench discrimination and segregation of Rohingya. The announcement of the plan appeared to trigger a new wave of people fleeing the country in boats, adding to the more than 87,000 who, according to UNHCR, the UN refugee agency, had already fled by sea since the violence started in 2012.

## **INTERNAL ARMED CONFLICTS**

The government and ethnic armed groups failed to agree to a nationwide ceasefire, despite the signing in 2012 of preliminary ceasefire agreements. The armed conflict in Kachin and Northern Shan states continued into its fourth year, with violations of international humanitarian and human rights law reported on both sides, including unlawful killings and torture and other ill-treatment, including rape and other crimes of sexual violence.<sup>1</sup> The conflict started in June 2011 after the Myanmar Army broke its ceasefire with the Kachin Independence Army (KIA), leading to widespread and continuous displacement of civilian populations. Around 98,000 people remained displaced at the end of the year. The government continued to deny full and sustained access for humanitarian workers to displaced communities in Kachin state, particularly those displaced in KIA-controlled areas.

In September, fighting erupted in Karen and Mon states between the Myanmar Army and armed opposition groups, causing civilians to flee.

The Myanmar Army was reported to have discharged 376 children and young adults from its forces as part of ongoing efforts to end the use of child soldiers and underage military recruitment.

## **FREEDOMS OF EXPRESSION AND PEACEFUL ASSEMBLY**

Freedoms of expression and peaceful assembly remained severely restricted, with scores of human rights defenders, journalists, political activists and farmers arrested or imprisoned solely for the peaceful exercise of their rights.

Ko Htin Kyaw, leader of the Movement for Democracy Current Force (MDCF), a community-based organization, was convicted on 11 different counts of violating Section 505(b) of the Penal Code and three separate counts under Article 18 of the Peaceful Assembly and Peaceful Procession Law. He was sentenced to a total of 13

years and four months' imprisonment for delivering speeches, distributing leaflets and holding protests calling on the government to resign and against land evictions. Three other members of MDCF were also jailed for peaceful political activities.<sup>2</sup>

In June the President signed into law amendments to the Peaceful Assembly and Peaceful Procession Law, commonly used by authorities to imprison peaceful protesters since its adoption in 2011. However, despite the revisions the law retained severe restrictions on the right to freedom of peaceful assembly.<sup>3</sup>

Media reforms were undermined by the arrest and imprisonment of journalists and other media workers. In July, five media workers for the *Unity* newspaper were sentenced to 10 years in prison under the Official Secrets Act for the publication of an article about an alleged secret chemical weapons factory. Their sentence was reduced on appeal to seven years' imprisonment in October.<sup>4</sup> At least 10 media workers remained in prison by the end of the year.

## **PRISONERS OF CONSCIENCE**

The President failed to keep his promise to release all prisoners of conscience by the end of 2013, despite a far-reaching Presidential Pardon announced on 30 December 2013. Muslim leader Dr Tun Aung was among those not released under the pardon. One prisoner amnesty was announced in 2014, just weeks ahead of major international meetings in the country. Only one prisoner of conscience was believed to be among those released.

The Committee for Scrutinizing the Remaining Prisoners of Conscience, established by the government in February 2013, did not function effectively and it was unclear whether it would continue to operate beyond 2014.

## **LAND DISPUTES**

Protests against land confiscations and forced evictions were widespread. A parliamentary committee established to investigate land

disputes in 2012 had reportedly received over 6,000 reports of land confiscations. However, failures to resolve or respond to land disputes led farmers and other affected people increasingly to resort to so-called "plough protests", with farmers ploughing the disputed land. Some protests were met with unnecessary or excessive use of force by security forces. Many farmers and human rights defenders supporting them were arrested and charged, often under provisions in the Penal Code relating to trespass and criminal damage.

In March, members of the Michaungkan community resumed a sit-in protest close to Yangon's City Hall after the authorities failed to resolve their land dispute case. They were calling for the return of land which they alleged was confiscated by the military in the 1990s and for compensation for their losses. Community leader U Sein Than was subsequently arrested for protesting without permission and obstruction, and sentenced to two years' imprisonment.<sup>5</sup>

In December, police opened fire on protesters demonstrating against their lands being taken over for the Letpadaung copper mine in Sagaing region. One person was killed and several injured, sparking a series of peaceful protests in major cities across the country. At least seven peaceful activists were subsequently charged with protesting without permission and offences under the Penal Code. Environmental and human rights concerns related to the mining project had not been addressed by the end of the year.

## **TORTURE AND OTHER ILL-TREATMENT**

Torture was still not criminalized as a distinct offence and Myanmar failed to ratify the UN Convention against Torture as promised by the Deputy Minister of Foreign Affairs in January. Officers from the police and military faced persistent allegations of torture and other ill-treatment, both conflict-related and of criminal suspects. Investigations into complaints were rare and suspected perpetrators were seldom held to account.

Victims and their families did not have access to effective remedy.<sup>6</sup>

In October it was reported that freelance journalist Aung Kyaw Naing, also known as Par Gyi, was killed while in the custody of the Myanmar Army. He had been detained on 30 September in Mon state while reporting on the resumption of fighting between the Myanmar Army and armed groups in the area. The Myanmar Army claimed that he was a “communications captain” for an armed opposition group, and that he was shot while attempting to escape military custody. After national and international pressure, in November the police and the MNHRC opened an investigation. At the end of the year no one was known to have been held to account for his death.<sup>7</sup>

In August, Myanmar Army soldiers detained and beat seven farmers in Kone Pyin village, Chin State, whom they accused of having contact with the Chin National Army, an armed opposition group. The seven were ill-treated - some of them tortured - over a period of between four and nine days. By the end of the year there was no information about an independent investigation into the case, or of suspected direct perpetrators or their superiors being brought to justice.<sup>8</sup>

## IMPUNITY

Immunity from prosecution for past violations by the security forces and other government officials remained codified in Article 445 of the 2008 Constitution. Victims of past human rights violations and their families continued to be denied truth, justice, compensation and any other form of reparation.

More than three years after Sumlut Roi Ja was detained by the military, her fate and whereabouts remained unknown. She disappeared in October 2011 in Kachin state after being detained by Myanmar Army soldiers along with her husband and father-in-law. Her husband, who managed to escape with her father-in-law, lodged a case with the Supreme Court in January 2012. The case

was dismissed in February 2013, with the Court citing lack of evidence.

The MNHRC remained largely ineffective in responding to complaints of human rights violations. In March, the law establishing the MNHRC was adopted by the national Parliament and a new Commission was formed in September. Most members were government-affiliated and the selection and appointment process lacked transparency, casting further doubts on the independence and effectiveness of the Commission.

## DEATH PENALTY

On 2 January the President commuted all death sentences to terms of imprisonment. However, provisions allowing for the imposition of the death penalty remained part of the legal framework, and at least one new death sentence was imposed during the year.

## INTERNATIONAL SCRUTINY

The new UN Special Rapporteur on the situation of human rights in Myanmar visited the country in July; she presented her report to the General Assembly in October, warning against potential backtracking on human rights. The authorities failed to sign an agreement for the establishment of an Office of the UN High Commissioner for Human Rights and to ratify core international human rights treaties. In November, Myanmar was under increased scrutiny when world leaders gathered in the capital, Nay Pyi Taw, for the ASEAN and East Asia Summits. US President Barack Obama visited the country for the second time.

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1. Myanmar: Three years on, conflict continues in Kachin State (ASA 16/010/2014)  
[www.amnesty.org/en/library/info/ASA16/010/2014/en](http://www.amnesty.org/en/library/info/ASA16/010/2014/en)
  2. Myanmar: Further Information: Activist organization targeted again (ASA 16/029/2014)  
[www.amnesty.org/en/library/info/ASA16/029/2014/en](http://www.amnesty.org/en/library/info/ASA16/029/2014/en)
  3. Myanmar: Stop using repressive law against peaceful protesters (ASA 16/025/2014)  
[www.amnesty.org/en/library/info/ASA16/025/2014/en](http://www.amnesty.org/en/library/info/ASA16/025/2014/en)

4. Myanmar: Further Information: Myanmar media workers imprisoned in Myanmar (ASA 16/013/2014)  
[www.amnesty.org/en/library/info/ASA16/023/2014/en](http://www.amnesty.org/en/library/info/ASA16/023/2014/en)
5. Myanmar: Further sentences for protester in Myanmar: U Sein Than (ASA 16/021/2014)  
[www.amnesty.org/en/library/info/ASA16/021/2014/en](http://www.amnesty.org/en/library/info/ASA16/021/2014/en)
6. Myanmar: Take immediate steps to safeguard against torture (ASA 16/011/2014)  
[www.amnesty.org/en/library/info/ASA16/011/2014/en](http://www.amnesty.org/en/library/info/ASA16/011/2014/en)
7. Myanmar: Ensure independent and impartial investigation into the death of journalist (ASA 16/028/2014)  
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8. Myanmar: Farmers at risk after beating by soldiers (ASA 16/002/2014)  
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## NAMIBIA

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### Republic of Namibia

Head of state: **Hifikipunye Pohamba**

Head of government: **Hage Geingob**

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**The long-running treason trial of Caprivi detainees continued, with most of the men having spent more than 14 years in custody. The policy of not offering protection to refugees persecuted for their sexual orientation was challenged by a gay asylum-seeker from Uganda. Gender-based violence remained a concern.**

### BACKGROUND

General elections were held on 28 November. The South West Africa People's Organization (SWAPO) secured 87% of the presidential vote, and 80% of the National Assembly vote.

### CAPRIVI DETAINEES' TRIAL

Sixty-five men in the Caprivi treason case remained in detention facing 278 charges, including counts of high treason, sedition, murder and attempted murder. Forty-three Caprivi detainees had been acquitted on 11 February 2013. Some of the released prisoners of conscience sued the government

for damages. Nine detainees who were tried separately and had been found guilty by the High Court had their convictions set aside and their cases referred back to the High Court for retrial. Eight of the accused claimed that they had been abducted by state agents in Botswana and unlawfully transferred to Namibia on various dates between September 2002 and December 2013.

Many of the Caprivi detainees were possible prisoners of conscience because they were arrested solely on the basis of their actual or perceived political views, ethnicity or membership of certain organizations. The group was being tried under what is known as the "common purpose" doctrine, which shifts the burden of proof from the prosecution to the defendants and undermines the right to presumption of innocence. Another accused man was on trial separately; his trial had not concluded by the end of the year.

### REFUGEES AND ASYLUM-SEEKERS

In April, Namibia's Commissioner for Refugees, Nkrumah Mushelenga, reportedly said in the press that "[Namibia's] domestic refugee law does not have a provision granting refugee status for being gay". However, as a signatory to the UN Refugee Convention and its 1967 Protocol, Namibia is expressly forbidden from returning refugees who face persecution in their country of origin on the basis of belonging to a social group with a well-founded fear of persecution.

In August, a Ugandan asylum-seeker was granted an urgent halt to his deportation from Namibia. The man had sought asylum because of his fear of persecution in Uganda on the basis of his sexual orientation. The man, who identifies himself as being gay, was detained in Walvis Bay and was facing deportation back to Uganda where legislation had recently been adopted criminalizing homosexuality (although the law was later annulled by Uganda's Constitutional Court).