

BURMA: SLIDING BACKWARDS FROM REFORM

- The first nine months of 2014 have seen a backward slide in terms of reform.

- Instead of reforms to strengthen human rights, democracy and peace, the Parliament has fast-tracked anti-Muslim legislation and pro-investment laws, and adopted rules to undermine free and fair elections.

- The regime has failed to fulfill its promise to release all political prisoners by the end of 2013. Instead, the number of political prisoners has risen since the beginning of 2014.

- Peace talks between the regime and the ethnic armed groups are fragile and patchy. The Tatmadaw requires the ethnic groups to abide by the 2008 constitution, directly contradicting the ethnic groups' demand for a federal union and a federal army.

- Impunity, especially for crimes committed by the Tatmadaw, continues to be a serious problem for minorities in Arakan, Kachin, and Shan States. Civilians continue to be targeted by the Tatmadaw as the war in Kachin and Shan States continues into its fourth year.

- Anti-Muslim and anti-Rohingya violence and hate speech has intensified, with security forces involved in many instances.

- The census excluded those who identified as Rohingya. Those who gave in and identified as 'Bengali' are now being subjected to an oppressive 'citizenship assessment' process that may lead to deportation or lifelong internment in camps.

In the past nine months, the Burmese regime has either failed or refused to protect vulnerable populations from serious human rights violations, or pursue essential legislative and institutional reforms, effectively blocking Burma's progress towards genuine democracy and national reconciliation. This has been partly due to an assumption that the international community will be willing to overlook serious human rights violations as a trade-off for economic opportunities and minor diplomatic concessions.

So far, 2014 has been marred by an overall climate of impunity that has seen a resurgence of media repression, the ongoing sentencing of human rights defenders, an increase in the number of land ownership disputes, and ongoing attacks on civilians by the Tatmadaw in Kachin and Shan States amid nationwide ceasefire negotiations. The human rights and humanitarian situation in Arakan [Rakhine] State has deteriorated to the extent that agencies are privately describing the situation as "pre-genocidal."

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LEGISLATION UNDERMINES COMMITMENT TO DEMOCRATIC REFORM

New and proposed discriminatory legislation

In 2014, the regime has continued to pursue an anti-Muslim agenda. In February, President Thein Sein expedited a package of four discriminatory bills to Parliament aimed at restricting the rights of Muslims. The bills, which make up the **‘National Race and Religion Protection’ package**, are: the Religious Conversion Bill; the Interfaith Marriage Bill; the Population Control Bill; and the Monogamy Bill.

In May, the regime published a draft of the Religious Conversion Bill. Drafts of the other three bills are yet to be published. In July, UN Special Rapporteur on human rights in Burma Yanghee Lee said the bills were “incompatible with international human rights standards.”¹

In addition, in March, the National Assembly approved a bill amending the Political Parties Registration Law, removing the right of temporary ID holders (which include many Rohingya) to form political parties.²

Constitutional reform slow

Efforts to reform the constitution have yielded no results to date. On 31 January, following five months of deliberation, a 109-member parliamentary constitutional review committee submitted its report on constitutional reform. Despite receiving 28,247 suggestions,³ the committee’s report failed to propose any substantial changes to contested articles, including Articles 109 and 141, which reserve 25% of seats for military MPs; and Article 436, which requires an approval of more than 75% of the Parliament for constitutional amendments.⁴ The committee also retained the clause granting immunity to military personnel who commit crimes while carrying out their duties.⁵

On 3 February, the National Parliament approved the formation of a new 31-member parliamentary committee tasked with reviewing the compilation of suggested amendments of the previous 109-member committee.⁶ On 10 June, the committee voted to retain, by a vote of 26-5, Article 59(f), which bars Daw Aung San Suu Kyi from running for president.⁷ The 31-member committee is expected to deliver its recommendations to Parliament during the current legislative session, which began on 11 September.⁸

Free and fair elections in 2015 in doubt

In July, the regime Election Commission approved new regulations that seriously restrict the freedom to campaign.⁹ The new rules limit when and where individuals are allowed to campaign, and place undue restrictions on candidates’ public statements and events.¹⁰ The rules limit the campaign period to 30 days, despite an NLD proposal for an extension.¹¹ Party leaders and other party members wishing to campaign on behalf of candidates also require specific permission from the regime Election Commission, which is likely to hinder Daw Aung San Suu Kyi’s ability to campaign across Burma in support of the NLD.¹²

Religious Conversion Bill

The Religious Conversion Bill will require anyone wishing to convert to another religion to submit a detailed application giving reasons for conversion, then submit to an interview by four members of a township registration board, who will make a decision in 90 days.⁶⁶ Anyone found guilty of violating the law will be subject to a maximum of two years’ imprisonment and a fine of 200,000 kyat (US\$200).⁶⁷

Interfaith Marriage Bill

Although not officially published, the Interfaith Marriage Bill would require women to seek permission from the state before marrying outside their faith. The initial draft proposed by the extremist Buddhist Organization for the Protection of National Race and Religion (OPNRR) stipulated that Muslim men who married Buddhist women would be required to convert to Buddhism, and that violators could face up to 10 years in prison.⁶⁸

Population Control Bill

The Population Control Bill is anticipated to apply on a national level for all Muslims and other religious minorities, effectively extending the existing Rohingya two-child policy currently being implemented in Arakan State. The bills target the Muslim population, but will consequently affect other religious minorities.⁶⁹

The National Parliament has also proposed changes to the electoral system itself, including a switch to a system of proportional representation, aimed at bolstering the ruling USDP's chances in the 2015 contest.¹³ Many ethnic political parties have objected to such a change since the proposed system would make it difficult for minority parties to win seats.¹⁴

Laws enable land confiscation

The USDP-dominated Parliament has failed to adequately address decades of land confiscation by the regime and the military, despite claims to the contrary.¹⁵ In July, the Parliament's Land Utilization committee agreed to return land or pay compensation for less than 25% of the total acres confiscated by the military, while allowing the Tatmadaw to hold onto the rest.¹⁶

In addition, regime security forces have often responded to protests related to land confiscation with disproportionate force.¹⁷ Those protesting land confiscation and large-scale development projects have been arrested or imprisoned. In 2014, the regime sentenced at least 120 farmers for peaceful protests, most related to land confiscation cases that go back several decades.¹⁸

ARBITRARY ARRESTS AND IMPRISONMENTS OF JOURNALISTS AND ACTIVISTS

Backsliding on media freedom

In 2014, the regime repeatedly denied permission for protests calling for an end to press restrictions, and charged reporters for leading unauthorized demonstrations in support of press freedom.¹⁹ In many cases, regime authorities also denied reporters access to media briefings and events, and limited visas for foreign journalists covering Burma.²⁰

From December to July, the regime arrested and/or sentenced at least 14 media professionals to prison terms under oppressive and outdated laws.

- On 17 December, a court in Loikaw Township, Karenni State, sentenced Eleven Media Group (EMG) reporter Ma Khine to three months in prison on charges of trespassing, defamation, and use of abusive language after she tried to investigate a corruption case.²¹
- On 10 July, a court in Pakokku Township, Magwe Division, sentenced four Unity Weekly reporters, Lu Maw Naing, Yarzar Oo, Paing Thet Kyaw, and Sithu Soe, and Unity Weekly CEO Tint San to ten years in prison with hard labor under the 1923 Official Secrets Act for the 25 January publication of an article claiming that the military had a secret chemical weapons factory in Pauk Township, Magwe Division.²²
- On 7 April, a court in Magwe, Magwe Division, sentenced DVB video journalist Zaw Pe on charges of trespassing and disturbing a civil servant who he had tried to interview about a scholarship program.²³
- On 8 July, Special Branch police in Rangoon arrested three editors and one reporter from the Bi Mon Te Nay weekly news journal under the 1950 Emergency Provisions Act for the 7 July publication of an article claiming that Daw Aung San Suu Kyi and ethnic minority leaders had been appointed to an interim government.²⁴ On 16 July, police arrested the journal's owner, Kyaw Min Khine, his wife, Ei Ei San, and office manager Yin Min Htun on the same charges.²⁵ On 4 August, a court in Rangoon's Pabedan Township discharged Ei Ei San and one editor, citing a lack of evidence, and reduced the remaining prisoners' charges to Article 505(b) of the Criminal Code.²⁶

Despite promises, political prisoners remain behind bars

The regime failed to fulfill its promise to release all political prisoners by the end of 2013, and during 2014, the number detained increased.

At the start of 2014, approximately 40 political prisoners remained behind bars.²⁷ By 31 August, there were 84 behind bars and approximately 122 activists were still awaiting trial on various charges, according to the Assistance Association for Political Prisoners (AAPP).²⁸

From January to August, regime authorities arrested and/or sentenced at least 50 activists, including at least six human rights defenders.²⁹

- Between 4 June and 11 September, authorities in Rangoon sentenced **Htin Kyaw**, a human rights defender who leads the Movement for Democracy Current Force (MDCF), 12 times under Article 18 of the Peaceful Gathering and Demonstration Law and Article 505(b) of the Criminal Code for peaceful protests. His sentences so far total 11 years and four months in prison with almost eight years hard labor. He still faces trials in two courts and is currently being held in Rangoon's Insein prison.³⁰
- On 24 March, a court in Monywa, Sagaing Division, sentenced **Thaw Zin**, a member of the Yangon People's Support Network, to 15 months in prison under Articles 505(b) and 447 of the Criminal Code for helping local protesters who were affected by land seizures linked to the Letpadaung (Monywa) copper mine in Salingyi Township, Sagaing Division.³¹
- On 19 and 20 August, two separate courts in Rangoon sentenced land rights activist **Sein Than** to a total of eight months in prison under Article 18 of the Peaceful Gathering and Demonstration Law for leading a protest in Rangoon against land confiscation.³² On 10 September, Rangoon's Kyauktada Township Court sentenced Sein Than to an additional four months in prison with hard labor.³³
- On 23 May, a court in Chan Mya Thazi Township, Mandalay Division, sentenced **Aye Thein**, an activist who provided support to child soldiers and forced labor victims seeking assistance from the International Labor Organization (ILO), to six months in prison with hard labor under Article 353 of the Criminal Code, for assaulting a civil servant during his intervention in a March 2013 land dispute between community members and authorities.³⁴
- On 23 July, Matupi Township Court, Chin State, convicted eight Chin women's rights activists (six women and two men) under Article 18 of the Peaceful Gathering and Demonstration Law for organizing protests on 23 and 24 June in Matupi Township against Tatmadaw impunity for sexual violence.³⁵ The court ordered each of the activists to either pay a 30,000 kyat (approximately US\$30) fine or serve one-month prison sentences.³⁶

REGIME CONTINUES ATTACKS IN KACHIN AND SHAN STATES

122 clashes during 10 months of peace talks

Between November 2013 and August 2014, the regime formally met five times with a coalition of 16 ethnic armed groups for a new round of peace talks.³⁷ The talks frequently stalled due to disagreement over key demands: the military insisted that the ethnic groups accept the 2008 constitution, while the ethnic groups needed constitutional amendments to allow for their demand of a federal union and army.³⁸

During the same ten-month period, Tatmadaw troops clashed at least 122 times with ethnic armed groups in Kachin and Shan States, including with the Kachin Independence Army (KIA), the Shan State Army-North (SSA-N), the Shan State Army-South (SSA-S), the Ta'ang National Liberation Army (TNLA), and the Myanmar National Democratic Alliance Army (MNDAA). Tatmadaw troops also attacked the Karen National Liberation Army (KNLA) twice in 2014, in violation of a 2012 ceasefire agreement.³⁹

Abuses against civilians continue

Since June 2011, the ongoing fighting between the Tatmadaw and the Kachin Independence Army (KIA) in Kachin and Shan States has displaced over 100,000 civilians. As of August 2014, there were 98,921 registered persons living in internally displaced persons (IDP) camps in Kachin and Shan States, of which nearly 50% did not have access to government services.⁴⁰ Some IDPs have been displaced two or three times as a result of the fighting.⁴¹

During late March and early April, the Tatmadaw heavily increased military presence in Southern Kachin State under the guise of preparing to help conduct the census in KIA-controlled areas.⁴²

Tatmadaw soldiers have forcibly displaced civilians by opening fire on villages and torturing those who remain,⁴³ and have also looted homes; destroyed crops and livestock; and killed, tortured, and sexually assaulted civilians – including children.⁴⁴ The Tatmadaw also continued to use rape as a weapon of war in ethnic minority areas, with at least ten reports of rape and sexual assault of women and girls by security forces taking place between November 2013 and August 2014.⁴⁵

DISCRIMINATION AND PERSECUTION AGAINST ROHINGYA CONTINUE

Failure to prevent or respond to hate speech and inter-communal violence

Since inter-communal violence erupted in Arakan State in June 2012, outbreaks of anti-Muslim violence have continued across Burma, including attacks on Rohingya. Two major instances were:

- **9-13 January:** Buddhist Rakhine and local police killed at least 48 Muslim Rohingya men, women, and children in Du Chee Yar Tan Village, Maungdaw Township, Arakan State.⁴⁶ Then-UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana said that the regime's subsequent probe failed to adequately investigate the killings.⁴⁷
- **1-4 July:** Extremist Buddhist mobs attacked Muslim shops, homes, and other buildings in Mandalay Division, killing two and injuring 14, after extremist Buddhist monk U Wirathu shared a post on Facebook that falsely accused two Muslim teashop owners in Mandalay of raping a Buddhist woman.⁴⁸ Riot police on the scene failed to stop the targeting of Muslims.⁴⁹

Regime authorities have failed to adequately respond to instances of hate speech and inter-communal violence, or take effective measures to protect Rohingya and other Muslims, thereby perpetuating an environment that fosters such behavior.⁵⁰ In July, Minority Rights Group International ranked Burma 8th on a list of the world's most dangerous nations for minorities, noting that hate speech was on the rise and that hate crimes against Rohingya had reached the scale of "mass atrocities." It linked U Wirathu and the '969' movement to violence and a "coordinated anti-Muslim campaign."⁵¹

Regime continues discriminatory laws and policies

Arakan State authorities have continued to strictly enforce anti-Rohingya policies, including requiring permission for marriage and travel (Regional Order 1/2009) and restricting Rohingya to two children (Regional Order 1/2005).⁵²

Rohingya are also denied full citizenship under the 1982 Citizenship Law, as they are not one of eight officially listed ethnic groups.⁵³ Although some Rohingya are eligible to apply to be naturalized citizens – a class that has been particularly vulnerable to arbitrary citizenship revocation – many have been deprived of the necessary documentation to achieve even that status by state officials.⁵⁴

Further citizenship disputes have exacerbated threats against Rohingya and undermined their right to self-identify:

- Burma's first nationwide census in more than 30 years, conducted from 30 March to 10 April, left out 1.2 million people from Arakan, Kachin, and Karen States, including an estimated 1.09 million Rohingya. The census produced a population estimate of 51 million – nearly 10 million fewer than previously estimated.⁵⁵ Census enumerators refused to record 'Rohingya' as an ethnicity.⁵⁶
- In June, the regime began a 'citizenship assessment' in Myebon Township, Arakan State, with the stated intention of allowing those individuals who identified as 'Bengali' in the census to apply for naturalized citizenship, while excluding those who identified as Rohingya.⁵⁷ In August, Arakan State's Emergency Coordination Centre (ECC) – a body that monitors the activities of aid organizations in the state – submitted a proposal backed by 40 Rakhine civil society groups urging the internment of all Rohingya if the results of the 'citizenship assessment' proved they were "illegal settlers."⁵⁸
- A 'data collection' process in Maungdaw Township, which began in June, has resulted in several incidents of arbitrary arrest, sexual assault, torture, and violence against Rohingya perpetrated by local authorities, regime border police, and Tatmadaw troops, resulting in the death of one Rohingya man.⁵⁹

Aid situation remains dire

In February, the regime suspended the activities of Médecins Sans Frontières (MSF) Holland, the largest aid organization operating in Arakan State.⁶⁰ While the regime subsequently allowed it to resume some of its activities in Burma, negotiations have not led to a return of the organization to Arakan State.⁶¹

More international aid agencies ceased operations in Arakan State in March after extremist Buddhist Rakhine mobs attacked the offices and homes of international aid workers.⁶² In April, aid agencies returned to the state with reduced staff, but were subject to restrictions set by the ECC, including the requirement for ECC supervision during all aid activities and one week's advance permission for any movement within the state.⁶³

The aid suspension and restrictions have produced a dire situation for more than 800,000 people in Arakan State, including 137,000 displaced Muslim Rohingya.⁶⁴ The lack of access to aid has led to an increase in deaths from treatable diseases, particularly among children, and has heightened the risk of additional outbreaks.⁶⁵

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⁶² DVB (27 Mar 14) Buddhist mob attacks aid offices in Sittwe; Irrawaddy (27 Mar 14) Arakanese Mob Attacks Aid Group Offices, Forces Staff to Flee; AFP (27 Mar 14) Foreign aid groups, UN targeted by Myanmar mob; RFA (27 Mar 14) Mobs Attack Offices of UN, Aid Groups in Myanmar's Rakhine State

⁶³ OCHA (20 May 14) Humanitarian Bulletin Myanmar, Issue 4: 1 to 30 April; Irrawaddy (26 May 14) Arakanese Groups to 'Monitor' Aid Operations for Rohingya; DVB (23 Apr 14) Children in Arakan State face malnutrition after aid workers' exodus; UN Country Team in Myanmar (30 Apr 13) Inter-Agency Preparedness/Contingency Plan-Rakhine State, Myanmar; RFA (23 Apr 14) Aid Groups in Rakhine State Required to Report Activities in Advance; DVB (02 May 14) Aid workers negotiate terms in Arakan; OCHA (20 Aug 14) Humanitarian Bulletin Myanmar, Issue 7: 1 to 31 July

⁶⁴ IRIN (01 Apr 14) Aid workers keen to return to tense western Myanmar; AFP (03 Apr 14) UN warns of health crisis in Myanmar; AFP (01 Apr 14) Food shortages loom as aid workers flee west Myanmar; DVB (05 Apr 14) Authorities accused of undermining efforts to resume Arakan aid; OHCHR (07 Apr 14) Myanmar: UN expert raises alarm on Rakhine State; OCHA (31 Jul 14) MYANMAR: Snapshot of Humanitarian Issues; Altsean interview (04 Sep 14) [name and location withheld for security reasons]

⁶⁵ OCHA (20 May 14) Humanitarian Bulletin Myanmar, Issue 4: 1 to 30 April; OCHA (20 Aug 14) Myanmar Humanitarian Bulletin Issue 7: 1 to 31 July; Myanmar Times (03 Apr 14) In the shadow of the census, a health crisis unfolds; OCHA (31 Jul 14) MYANMAR: Snapshot of Humanitarian Issues

⁶⁶ DVB (28 May 14) Burma invites public to review faith conversion bill; Irrawaddy (27 May 14) Burmese Govt Publishes Draft of Religious Conversion Bill; Mizzima News (27 May 14) Public suggestions invited on draft religious conversion law

⁶⁷ AFP (27 May 14) Myanmar mulls religious conversion curbs; DVB (28 May 14) Burma invites public to review faith conversion bill; RFA (27 May 14) Myanmar Publishes Draft of Religious Conversion Bill

⁶⁸ Irrawaddy (13 Jun 13) Monks' Convention in Burma Calls for Restricting Buddhist-Muslim Marriage; Mizzima News (14 Jun 13) Monks propose restricting interfaith marriages; Myanmar Times (21 Jun 13) Monks to amend controversial marriage law

⁶⁹ Altsean interview (07 Sep 14) [name and location withheld for security reasons]; Irrawaddy (02 Apr 14) Draft Law on Religious Conversion to Be Finished by June: Deputy Minister