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## BURMA ISSUES & CONCERNS VOL.8

# NOT ALL THAT GLITTERS IS GOLD: BURMA'S FACADE OF REFORM



\* Despite Rhetoric of Change Serious Human Rights Violations Persist \*

\* A Pretext for Anti-Rohingya Persecution \*

\* Legislative Reforms Still Pending \* Peacemaking Tatmadaw-Style \*

# ALTSEAN

BURMA

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## EXECUTIVE SUMMARY

When President Thein Sein took office on 30 March 2011, Burma ranked near the bottom of virtually all international indexes that measured adherence to civil and political rights, press freedom, corruption, and economic freedom. With a baseline so low, Thein Sein was able to undertake a series of initiatives that gave the appearance of reform but which, in fact, brought very limited benefits for the overwhelming majority of Burmese people.

Thein Sein's failure to stop human rights violations and to initiate fundamental legislative and institutional reforms effectively blocks Burma's progress towards genuine democracy and national reconciliation. The legislation that underpinned authoritarian rule under the State Peace and Development Council (SPDC) has, by and large, remained intact. Parliament, which is dominated by the regime-backed Union Solidarity and Development Party (USDP), has failed to amend or repeal the junta's oppressive laws. MPs have failed to undertake any initiatives aimed at amending the military-drafted 2008 constitution. In some cases, laws adopted by Parliament have implemented new measures that provide the legal basis for more human rights abuses and undemocratic practices.

Thein Sein, as President and chair of the powerful National Defense and Security Council (NDSC), has also failed to curb the Tatmadaw's systematic human rights violations, particularly in ethnic nationality areas. In Kachin and Arakan States, the situation has dramatically deteriorated since Thein Sein became President. The ongoing military offensives by the Tatmadaw against the Kachin Independence Army (KIA), which began in June 2011, have displaced over 90,000 people. Tatmadaw soldiers repeatedly target civilians during military operations. Human rights abuses include the rape of women, extrajudicial killings, torture, forced labor, arbitrary arrests, the use of human shields, and the confiscation and destruction of property. Regime authorities continue to block assistance to IDPs, an act considered a violation of international humanitarian law.

In Arakan State, the regime's ongoing discrimination and persecution of Muslim Rohingya intensified after deadly sectarian violence between Buddhist Rakhine and Muslim Rohingya erupted in June 2012. At the peak of the ongoing crisis, the violence displaced over 100,000 people. The regime continues to use the unrest to justify its persecution of Rohingya, with reports of extrajudicial killings, mass arrests, and the rape of women. Thein Sein's proposal for Rohingya to be deported to a third country or relocated to refugee camps, coupled with the deliberate destruction of their homes and mosques, justifies fears of ethnic cleansing.

Ongoing Tatmadaw attacks, prevailing impunity, and the sustained militarization of ethnic nationality areas seriously undermine the initial ceasefire agreements that Thein Sein's administration signed with 13 ethnic armed groups in Shan, Arakan, Mon, Karen, Karenni, and Chin States. The regime failed to address the fundamental grievances of ethnic communities and has instead prioritized harmful economic projects in ethnic areas above the resolution of political issues. In addition, ethnic representatives continue to be excluded from key positions in the executive. Endowed with only limited legislative powers by the 2008 constitution, local Parliaments remain marginalized in Burma's politics. Most local Parliaments in ethnic States have convened for brief and infrequent sessions where legislative activity has been extremely limited.

With regard to civil and political rights, under Thein Sein the regime released over 700 political prisoners. However, their release was extremely slow and strategically-timed. Many political

prisoners were released only conditionally and regime authorities continue to monitor, harass, and impose restrictions on former political prisoners. In addition, almost 300 dissidents remain in jail across Burma. The regime also continues to arbitrarily arrest human rights defenders. Since January 2012, the regime has arbitrarily arrested at least 200 activists, with about 60 cases resulting in prosecution.

While ending pre-publication censorship of the media, the regime, in August 2012, issued a new set of restrictive “guidelines” for news outlets. The Censorship Board remains in place and journalists face criminal charges under the 1962 Printers and Publishers Registration Act. Internet freedom continues to be greatly constrained as a result of the regime’s refusal to repeal the Electronic Transactions Law.

Under Thein Sein, the regime signed international agreements pledging to end forced labor in Burma by 2015 and prevent the recruitment and use of children as soldiers by the Tatmadaw. However, forced labor practices as well as the recruitment and use of child soldiers continued unabated. In September 2012, the International Labor Organization (ILO) in Rangoon said it was receiving about 60 forced labor complaints per month, of which half related to the recruitment of children into the Tatmadaw.

In the economic field, the regime continues to pursue many of the misguided policies that had characterized the SPDC’s rule. The regime abandoned the kyat’s outdated ‘official’ exchange rate but failed to take bold steps towards implementing reforms aimed at tackling Burma’s economic challenges. Naypyidaw continued to promote crony capitalism, increase military expenditure, neglect the agricultural sector, and encourage foreign investors to plunder Burma’s natural resources.

Eighteen months after Thein Sein became President, Burma remains near the bottom of all international indexes measuring freedom and democracy. Daw Aung San Suu Kyi warned against the “reckless optimism” surrounding developments in the country.<sup>1</sup> Asked how democratic Burma was on a scale of one to 10, Daw Suu said “We’re trying to get to one.”<sup>2</sup>

The regime has so far failed to meet the minimum benchmarks that the UN established to measure Burma’s progress toward democratization, national reconciliation, and respect for human rights.<sup>3</sup> It is time for the international community to shape their policies vis-à-vis Burma based on the regime’s concrete progress (or lack thereof) towards implementing genuine reforms, without being swayed by Naypyidaw’s well-orchestrated public relations campaign.

Truly democratic reforms must focus on halting impunity and implementing measures to prevent the recurrence of human rights violations. They must include: the unconditional release of ALL political prisoners; amendments to the 2008 constitution and laws not in line with international standards; the end of all military offensives in ethnic areas as well as the holding of time-bound genuine political dialogue with ethnic armed groups; and tangible steps towards the respect and promotion of human rights.

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<sup>1</sup> AP (01 Jun 12) Aung San Suu Kyi urges “healthy skepticism” over Burma’s reforms

<sup>2</sup> Globe and Mail (01 Apr 12) Myanmar poised for change as Suu Kyi set to win place in parliament

<sup>3</sup> Since October 2008, UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana has regularly urged the regime to implement four core human rights elements, which include: 1) amendment of legislation not in line with international standards; 2) release of political prisoners; 3) reform of the armed forces; 4) institution of an impartial and independent judiciary.

## **DESPITE RHETORIC OF CHANGE SERIOUS HUMAN RIGHTS VIOLATIONS PERSIST**

- Burma's human rights situation remains dire during President Thein Sein's first 18 months in office.
- Ongoing human rights violations in ethnic areas - particularly Kachin State - include attacks against civilians, extrajudicial killings, sexual violence, torture, arbitrary arrests, internal displacement, land confiscation, recruitment of child soldiers, and forced labor.
- Despite the release of 749 political prisoners, at least 284 dissidents remain in jail. Since January 2012, the regime has arbitrarily arrested at least 200 activists, with about 60 cases resulting in prosecution.
- Regime authorities continue to monitor, harass, and impose restrictions on former political prisoners.
- The regime Human Rights Commission proves itself inadequate to promote and protect human rights in the country. It is staffed by former regime officials and lacks independence from the executive. It refuses to investigate well-documented human rights abuses committed by the regime, particularly in ethnic areas.
- Despite ending pre-publication censorship, the regime issues a new set of restrictive guidelines. The Censorship Board remains in place and journalists face criminal charges under the 1962 Printers and Publishers Registration Act.
- Internet freedom continues to be greatly constrained as the regime refuses to dismantle a surveillance apparatus built on the national Internet platform and repeal the Electronic Transactions Law.
- Despite the regime's pledge to end forced labor in Burma by 2015, forced labor practices remain pervasive in Burma. The ILO in Rangoon says it receives about 60 forced labor complaints per month.
- Despite signing an action plan to prevent the recruitment and use of children by the Tatmadaw, recruitment and use of child soldiers continues unabated. The ILO in Rangoon says that it receives about 30 complaints of recruitment of children into the Tatmadaw per month.
- Reports continue to surface of severe restrictions on religious freedom. The US Commission on International Religious Freedom lists Burma among the world's 15 worst violators of religious freedom.

### **Human rights situation remains serious**

Despite the regime's rhetoric of change since Thein Sein took office as Burma's President in March 2011, the human rights situation in Burma remained dire.

UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana made three official visits (August 2011, February 2012, and July-August 2012) to the country during Thein Sein's first 18 months in office. Following each visit, Ojea Quintana released statements that highlighted the serious human rights challenges that Burma still faced. In particular, Ojea Quintana consistently expressed concern over:<sup>1</sup>

- The Tatmadaw's ongoing human rights violations in ethnic areas - particularly Kachin State - including attacks against civilians, extrajudicial killings, sexual violence, arbitrary arrests and detentions, internal displacement, land confiscation, the recruitment of child soldiers, and forced labor;<sup>2</sup>
- Conditions of detention and the treatment of prisoners;<sup>3</sup> and
- The treatment of Rohingya, who continued to be subject to discriminatory policies, including the denial of citizenship and restrictions on their freedom of movement and marriage.<sup>4</sup>

The UN Special Rapporteur repeatedly stressed the need for truth, justice, and accountability for the regime's past human rights violations as a necessary step towards national reconciliation.<sup>5</sup> On 4 August 2012, Ojea Quintana recommended Parliament form a truth commission to address grievances from decades of human rights violations and to promote national reconciliation.<sup>6</sup>

### Over 300 political prisoners remain in jail

Under Thein Sein's administration, the regime released 749 political prisoners as a result of six amnesty programs and reductions of prison sentences. [See table *Mass releases of prisoners under President Thein Sein*] However, as of 24 October 2012, it was estimated that there were still at least 284 dissidents in jails across Burma.<sup>7</sup>

Mass releases of prisoners under President Thein Sein			
Date	Total Prisoners	Political prisoners	%
16 May 2011	14,578	58	0.4
12 Oct 2011	6,359	240	3.8
4 Jan 2012	6,656	36	0.5
13 Jan 2012	651	302	46.2
3 Jul 2012	80	25	31.2
17 Sep 2012	514	88	17.1
<b>Total</b>	<b>28,838</b>	<b>749</b>	<b>2.6</b>

Sources: *New Light of Myanmar*; Assistance Association for Political Prisoners (AAPP)

In line with the past military junta's policies, the release of political prisoners was a slow and strategically-timed process. In an attempt to persuade the international community of its reformist credentials, the regime routinely released political prisoners ahead of key international meetings or events. More than 97% of those freed during mass prisoner releases were common criminals.

Despite the release of a large number of political prisoners, the following points remained a matter of concern:

- Many political prisoners released under Section 401 of the Criminal Procedure Code could be rearrested and forced to serve the remainder of their original sentences if the President deemed they violated the conditions of their release.<sup>8</sup>
- President Thein Sein and other high-ranking regime officials repeatedly refused to acknowledge the existence of political prisoners in Burma.<sup>9</sup>

- The regime continued to use arbitrary arrest as a tool of repression. [See below *Arbitrary arrests and restrictions on peaceful assembly continue*]
- Regime authorities continued to monitor, harass, and impose restrictions on former political prisoners, including denying them passports.<sup>10</sup>
- The military-backed National Defense and Security Council (NDSC), chaired by President Thein Sein, continued to have the final say on the release of political prisoners. For example, on 14 November, the NDSC put a highly-anticipated amnesty on hold.<sup>11</sup>

### Arbitrary arrests and restrictions on peaceful assembly continue

Despite efforts to present itself as a legitimate and reform-oriented administration, the regime's repressive nature was repeatedly exposed through the ongoing arbitrary detention of activists. During President Thein Sein's first 18 months in office, the regime continued to arrest and imprison activists and human rights defenders.

On 28 February 2012, regime authorities in Rangoon's South Dagon Township briefly detained 11 activists who demanded the liberalization of the SIM card market.<sup>12</sup> In May 2012, regime authorities detained over 40 activists who held peaceful protests against chronic power shortages in Prome, Pegu Division, and Mandalay.<sup>13</sup> In early July 2012, the regime detained student activists for about 24 hours in order to prevent them from holding commemorations of the 50<sup>th</sup> anniversary of the military regime's murderous crackdown against students in Rangoon.<sup>14</sup> Between 31 August and 10 September 2012, regime authorities in Myinmu and Monywa Townships, Sagaing Division, detained 13 activists who protested against the expansion of the Monywa copper mining project.<sup>15</sup>

On 27 September 2012, the Assistance Association for Political Prisoners (AAPP) said that since January 2012, the regime had arbitrarily arrested at least 200 activists, with about 60 cases resulting in prosecution.<sup>16</sup>

In addition, the Peaceful Gathering and Demonstration Law, enacted in December 2011 and purportedly aimed at regulating public protests, provided the legal basis for imposing restrictions on freedom of assembly and the prosecution of activists.

In July 2012, the regime prevented several groups of NLD members from organizing their own public commemorative events to mark Martyrs' Day.<sup>17</sup> On 24 August 2012, police in Rangoon's Kyauktada Township rejected a request by a group of journalists to hold a 28 August rally calling for more press freedom.<sup>18</sup> In September 2012, police in Rangoon charged at least 13 activists under the Peaceful Gathering and Demonstration Law for participating in International Day of Peace rallies in Taunggyi, Shan State, and Rangoon without obtaining prior official permission.<sup>19</sup> In October 2012, police in Mandalay informed at least 10 activists that they had been charged under the Peaceful Gathering and Demonstration Law for participating in peaceful protests against electricity shortages in May.<sup>20</sup>

### **Human Rights Commission fails to promote and protect human rights**

On 5 September 2011, the regime formed the Human Rights Commission (HRC).<sup>21</sup> Despite being touted by Naypyidaw as a significant reform, the HRC proved itself inadequate to promote and protect human rights in the country.

The regime appointed former State Peace and Development Council (SPDC) ambassadors and retired civil servants among its 15 members.<sup>22</sup> In their capacity as former junta representatives at the UN, HRC Chairman Win Mra and Vice-Chairman

Kyaw Tint Swe routinely denied the existence of human rights violations in Burma and defended the regime's abysmal human rights record in New York and Geneva for nearly 15 years.<sup>23</sup> During his tenure as HRC Chairman, Win Mra repeatedly rejected calls from the international community, including the UN, to investigate human rights violations in Burma.

On 14 February 2012, Win Mra said that the HRC would not investigate allegations of human rights abuses committed in Burma's conflict zones.<sup>24</sup> Win Mra outrageously stated that any investigation was "not appropriate" and said that with the establishment of peace, human rights violations and atrocities would "recede into the background."<sup>25</sup> Win Mra also rejected the idea of establishing a Commission of Inquiry (CoI) to probe allegations of human rights abuses in the country.<sup>26</sup> On 16 August 2012, Win Mra said there was no need for a probe by the HRC into the unrest in Arakan State.<sup>27</sup>

In addition, the HRC failed to investigate and report well-documented human rights abuses committed by the Tatmadaw and other regime authorities during its fact-finding missions in Arakan and Kachin States in June and August 2012 respectively.<sup>28</sup> On 30 December 2011, following a fact-finding mission to Rangoon's Insein prison three days earlier, the HRC denied that Insein prison authorities had punished political prisoners who went on a hunger strike in October 2011 by placing them in dog kennels and depriving them of water.<sup>29</sup>

On 4 August 2012, UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana said that the regime's HRC still had "a long way to go" to be independent and fully compliant with the UN Principles relating to the Status of National Institutions ('Paris Principles').<sup>30</sup>

### **Media still face oppressive laws, censorship, and legal action**

Despite repeated pledges by regime officials to allow more press freedom and end media censorship,<sup>31</sup> the regime continued to impose draconian media restrictions and subject media to heavy censorship. This trend was reflected in the various international indexes that monitor media freedom. On 25 January 2012, in its "Press Freedom Index 2011/2012," Reporters Sans Frontières (RSF) ranked Burma 169<sup>th</sup> out of 179 countries.<sup>32</sup> On 1 May 2012, in its "Freedom of the Press 2012" report, Freedom House ranked Burma 187<sup>th</sup> out of 197 countries surveyed.<sup>33</sup> On 2 May 2012, the Committee to Protect Journalists (CPJ) included Burma in its annual list of the world's "10 Most Censored Countries."<sup>34</sup>

Over Thein Sein's first 18 months in office, the regime Censorship Board routinely suppressed reports concerning: political prisoners;<sup>35</sup> campaigns against the Myitsone dam project;<sup>36</sup> monks' demonstrations and restrictions on monks' activities;<sup>37</sup> protests against land confiscation;<sup>38</sup> irregularities by the USDP in the lead-up to the 1 April by-elections;<sup>39</sup> lack of press freedom;<sup>40</sup> the health of both the current and the former regime's high-ranking officials;<sup>41</sup> and journalists' demonstrations.<sup>42</sup> The Board also suppressed some of Daw Aung San Suu Kyi's statements and activities<sup>43</sup> as well as anti-regime cartoons.<sup>44</sup> In addition, on various occasions, regime authorities prevented writers from giving literary talks.<sup>45</sup>

Between May 2011 and July 2012, the regime Censorship Board suspended six weekly journals for several weeks for publishing photos, reports or cartoons without obtaining prior approval from the Board.<sup>46</sup> The regime also continued to subject media outlets to intimidation. Regime authorities filed lawsuits against two publications. On 19 June 2012, the regime charged Snapshot editor-in-chief Myat Khaing under sections 505(b) and

505(c) of the Penal Code over the journal's publication of a photo of the Rakhine woman who was raped and murdered on 28 May in Rambree, Arakan State.<sup>47</sup> On 20 September 2012, the regime charged Voice Weekly editor-in-chief Kyaw Min Swe with libel over the journal's publication of a report that alleged that several ministries misappropriated funds during the 2009-2011 financial years.<sup>48</sup>

On 20 August 2012, the regime Information Ministry announced the end of prior censorship of all publications with immediate effect.<sup>49</sup> Despite the hype generated by the announcement, numerous challenges for press freedom remained:

- The regime issued a new set of 16 guidelines that barred media from publishing news that harmed national security, the dignity of the state or relations with other countries.<sup>50</sup> The guidelines also banned reporting on corruption, forced labor, and child soldiers without using "reliable sources."<sup>51</sup>
- The Censorship Board remained in place and retained the power to monitor and sanction journals as editors still had to submit their stories to the Board after publication.<sup>52</sup>
- Journalists still faced criminal charges under the 1962 Printers and Publishers Registration Act and the 2004 Electronic Transactions Law.<sup>53</sup>
- Privately-run daily newspapers remained prohibited, leaving a monopoly to state-run dailies filled with regime propaganda.<sup>54</sup>

### **Internet freedom still constrained**

Internet freedom in Burma continued to be greatly constrained. The regime refused to dismantle a surveillance apparatus built on the national Internet platform and repeal the Electronic Transactions Law.<sup>55</sup> In addition, the regime continued to subject Internet cafés to severe restrictions, which included a ban on Voice over Internet Protocol (VoIP)

communication services and a ban on the use of external storage devices such as CDs and USB drives.<sup>56</sup>

On 15 September 2011, the regime unblocked websites of several news organizations including Reuters, Bangkok Post, Straits Times, VOA, BBC, and DVB.<sup>57</sup> Despite the much-acclaimed move, international indexes continued to rank Burma among the world's worst countries with regard to internet freedom. On 12 March 2012, Reporters Sans Frontières (RSF) "Internet Enemies Report 2012" listed Burma among the world's 12 worst countries with regard to internet freedom.<sup>58</sup> On 24 September 2012, Freedom House released "Freedom on the Net 2012," a report that rated Burma's status with regard to internet freedom as "Not Free."<sup>59</sup>

### **Forced labor continues unabated**

On 16 March 2012, regime and International Labor Organization (ILO) officials signed an agreement in Naypyidaw aimed at ending forced labor in Burma by 2015.<sup>60</sup> Despite the much-hyped announcement, forced labor remained pervasive under Thein Sein's administration, casting doubt upon the regime's commitment to end the long-standing practice. The UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana listed forced labor among the plethora of human rights abuses committed by regime authorities after each one of his visits to the country between August 2011 and August 2012.<sup>61</sup>

Numerous reports continued to surface of forced labor incidents involving the military, particularly in Arakan and Kachin States. Forced labor practices typically included portering,<sup>62</sup> sentry duty,<sup>63</sup> and construction work.<sup>64</sup> On 6 September 2012, the ILO in Rangoon said that it was receiving about 60 forced labor complaints per month.<sup>65</sup>

### **Tatmadaw still recruiting child soldiers**

The recruitment and use of child soldiers by the Tatmadaw continued unabated during Thein Sein's tenure. On 11 June 2012, the UN Secretary-General issued his annual report on children and armed conflict to the UN Security Council.<sup>66</sup> The report, which tracked violations against children in armed conflict from January-December 2011, listed Burma as one of 10 countries whose armed forces still recruited and used children as soldiers.<sup>67</sup> According to the report, the Tatmadaw used children for forced labor, with verified reports in late 2011 of children being used alongside adults as porters on the front line. The report said that the regime's Committee for the Prevention of Recruitment of Underage Children received more complaints in 2011 than in previous years. In addition, the report said that the regime continued to restrict aid agencies' access to vulnerable groups, including children, particularly in ethnic nationality areas.<sup>68</sup>

On 27 June 2012, regime officials and UN representatives signed an action plan in Naypyidaw to prevent the recruitment and use of children as soldiers by the Tatmadaw and allow for the release of underage recruits.<sup>69</sup> Despite the much-publicized move, the Tatmadaw's ongoing recruitment of child soldiers cast doubts over its commitment to put an end to the practice. On 19 June 2012, it was reported that the UN had verified 24 cases where child soldiers were recruited by the Tatmadaw in the first three months of 2012.<sup>70</sup> In addition, it was reported that the ILO was investigating a further 72 complaints of underage recruitment by the Tatmadaw from January-April 2012.<sup>71</sup> On 6 September, the ILO in Rangoon said that, of the 60-odd forced labor complaints it received every month, half related to the recruitment of children into the Tatmadaw.<sup>72</sup>

## Regime restricts religious freedom

Despite the regime's claim that Burma's citizens enjoyed freedom of religion and that there were no restrictions on religious beliefs,<sup>73</sup> reports continued to surface of severe restrictions on religious freedom during Thein Sein's first 18 months in office. These included: restrictions on monks' activities, including restrictions on movement, preaching, and holding religious ceremonies;<sup>74</sup> the detention of monks;<sup>75</sup> the closure of monasteries that played a key role during the Saffron Revolution;<sup>76</sup> the arrest and detention of Muslims for violating restrictions on their freedom of movement;<sup>77</sup> harassment, discrimination, arrest, and imprisonment of Rohingya in Arakan State;<sup>78</sup> and harassment and attacks against Christian communities in Chin and Kachin States.<sup>79</sup>

On 20 March 2012, the US Commission on International Religious Freedom (USCIRF) released its 2012 Annual Report.<sup>80</sup> The report listed Burma among the world's 15 worst violators of religious freedom.<sup>81</sup> The USCIRF recommended that Burma continue to be designated as a 'Country of Particular Concern' (CPC).<sup>82</sup> On 30 July 2012, the US State Department released its International Religious Freedom Report for 2011.<sup>83</sup> With regard to Burma, the report said that the regime's political reforms had not translated into any improvements for religious freedom in the country.<sup>84</sup>

<sup>1</sup> OHCHR (25 Aug 11) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar

<sup>2</sup> UNGA, 66<sup>th</sup> session, Report of the Special Rapporteur on the situation of human rights in Myanmar, 16 September 2011, UN Doc A/66/365; HRC, 19<sup>th</sup> session, Progress report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, 7 March 2012, UN Doc A/HRC/19/67; OHCHR (04 Aug 12) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar

<sup>3</sup> HRC, 19<sup>th</sup> session, Progress report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, 7 March 2012, UN Doc A/HRC/19/67

<sup>4</sup> HRC, 19<sup>th</sup> session, Progress report of the Special Rapporteur on the situation of human rights in

Myanmar, Tomás Ojea Quintana, 7 March 2012, UN Doc A/HRC/19/67

<sup>5</sup> UNGA, 66<sup>th</sup> session, Report of the Special Rapporteur on the situation of human rights in Myanmar, 16 September 2011, UN Doc A/66/365; OHCHR (05 Feb 12) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar

<sup>6</sup> OHCHR (04 Aug 12) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar

<sup>7</sup> AAPP (24 Oct12) List of 284 confirmed Political Prisoners whose whereabouts are verified

<sup>8</sup> Irrawaddy (17 Jan 12) Burma's Remaining Jailed Dissidents; Chinland Guardian (15 Jan 12) Political Prisoners from Ethnic Armed Groups Remain Locked Up: AAPP

<sup>9</sup> AFP (14 Jan 12) Myanmar says 300 political prisoners freed; DPA (20 Nov 11) Myanmar president insists no political prisoners in jails; AP (17 May 11) Myanmar frees 14,600, but few political prisoners; Myanmar Times (16 May 11) Govt has 'political will' for reform, advisers tell Nambiar; WSJ (16 Nov 11) 'No intention to Retract' Reforms, Myanmar Official Interview Transcript

<sup>10</sup> OHCHR (05 Feb 12) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar; HRW (16 Sep 12) Burma: Former Political Prisoners Persecuted

<sup>11</sup> AFP (14 Nov 11) Myanmar "delays" prisoner release

<sup>12</sup> Irrawaddy (28 Feb 12) 11 'SIM Card' Campaigners Detained for Questioning in Rangoon

<sup>13</sup> AP (24 May 12) Myanmar power-cut protesters clash with police; Irrawaddy (22 May 12) Protesters Released as Blackout Marches Spread

<sup>14</sup> RFA (06 Jul 12) Authorities Detain Student Activists; Reuters (07 Jul 12) Myanmar activists released on crackdown anniversary

<sup>15</sup> RFA (05 Sep 12) Thousands Protest Copper Mine; RFA (10 Sep 12) Dozen Mine Protesters Arrested

<sup>16</sup> AAPP (27 Sep 12) Arbitrary arrests in Burma: a tool to repress critical voices

<sup>17</sup> DVB (11 Jul 12) NLD barred from assembling during Martyrs' Day in Pegu; Kaowao News (18 Jul 12) Government Denies Permission to Mark Martyr's Day in Ye Township; DVB (18 Jul 12) Officials block group's request to mark Martyrs' Day

<sup>18</sup> Irrawaddy (24 Aug 12) Press Protest Gets Red Light, as Journals Put on Trial; AFP (24 Aug 12) Myanmar press still fighting for true freedom

<sup>19</sup> Irrawaddy (24 Sep 12) 13 Peace Activists Charged in Burma; DVB (24 Sep 12) Police to charge peace activists following Friday's rallies

<sup>20</sup> DVB (09 Oct 12) Officials press charges against 'electricity protestors'

<sup>21</sup> NLM (06 Sep 11) Myanmar National Human Rights Commission formed; AP (06 Sep 11) Myanmar establishes human rights commission; AFP (06 Sep 11) Myanmar announces human rights commission; BBC (06 Sep 11) Burma sets up human rights commission; VOA (06 Sep 11) Burmese Government Establishes Human Rights Commission; RFA (06 Sep 11) Human Rights Scrutiny Panel Formed

<sup>22</sup> AFP (06 Sep 11) Myanmar announces human rights commission; VOA (06 Sep 11) Burmese Government Establishes Human Rights Commission; RFA (06 Sep 11) Human Rights Scrutiny Panel Formed

<sup>23</sup> Irrawaddy (06 Sep 11) Human Rights Commission Met with Skepticism

<sup>24</sup> AFP (14 Feb 12) Myanmar rights body rules out conflict abuse probe

<sup>25</sup> AFP (14 Feb 12) Myanmar rights body rules out conflict abuse probe

<sup>26</sup> Irrawaddy (15 Feb 12) Head of HR Commission Rules Out Conflict-zone Inquiry

<sup>27</sup> VOA (16 Aug 12) Burma Rights Commission Resists Investigating Rohingya Abuses

<sup>28</sup> NLM (11 Jul 12) Statement No. (4/2012) of Myanmar National Human Rights Commission concerning incidents in Rakhine State in June 2012

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<sup>29</sup> DPA (30 Dec 11) Myanmar prison inspection reveals overcrowding but no "dog cells"

<sup>30</sup> OHCHR (04 Aug 12) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar

<sup>31</sup> Reuters (22 Nov 11) INSIGHT-"The Lady" media splash presents new face of Myanmar; Asahi Shimbun (20 Mar 12) Myanmar to end censorship on newspapers

<sup>32</sup> RSF (25 Jan 12) Press Freedom Index 2011/2012

<sup>33</sup> Freedom House (01 May 12) Freedom of the Press 2012: Breakthroughs and Pushback in the Middle East

<sup>34</sup> Irrawaddy (02 May 12) Burma Still Among World's Worst for Press Freedom

<sup>35</sup> Irrawaddy (18 May 11) Burma censors reports on UN Envoy press briefing; Mizzima News (27 May 11) Journalists call for UN's Nambiar to speak about Burma trip; Irrawaddy (23 Jan 12) Burma's Censors Tighten Grip Ahead of By-election

<sup>36</sup> Irrawaddy (26 Sep 11) Govt. Bans Media Reports on Myitsone Dam Protests; Irrawaddy (17 Nov 11) Burma's PSRD Still Alive and Censoring

<sup>37</sup> Irrawaddy (17 Nov 11) Burma's PSRD Still Alive and Censoring; Irrawaddy (23 Jan 12) Burma's Censors Tighten Grip Ahead of By-election; RFA (23 Jan 12) Burma's Censors Back in Action

<sup>38</sup> Irrawaddy (17 Nov 11) Burma's PSRD Still Alive and Censoring

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<sup>40</sup> Mizzima News (22 Mar 12) Burmese astrologer's prediction on no press freedom proves true

<sup>41</sup> RFA (08 May 12) Burma Stifles News of VP's Resignation; Irrawaddy (08 May 12) Censor bans reports of VP's resignation; Irrawaddy (13 Jul 12) Journals Warned over Maung Aye Reports

<sup>42</sup> AP (04 Aug 12) Myanmar journalists demand end to censorship; Reuters (06 Aug 12) Myanmar lifts suspensions on journals after protests

<sup>43</sup> Irrawaddy (18 May 11) Burma censors reports on UN Envoy press briefing; Irrawaddy (20 Jun 11) BKK Post Censored for Suu Kyi Feature; Mizzima News (29 Jun 11) Burma's censorship board bans magazine cover with photo of Suu Kyi; DVB (08 Sep 11) Suu Kyi interview lands magazine in trouble; Irrawaddy (17 Nov 11) Burma's PSRD Still Alive and Censoring; Irrawaddy (23 Jan 12) Burma's Censors Tighten Grip Ahead of By-election

<sup>44</sup> Irrawaddy (22 Sep 11) Suu Kyi Attends 'Save the Irrawaddy' Art Event

<sup>45</sup> Mizzima News (10 Feb 12) Writers' talks banned in Magway region, Narinjara News (15 Feb 12) Burmese authorities scrutinizes Arakanese writers public lectures

<sup>46</sup> Irrawaddy (16 May 11) True News Journal Suspended for Two Weeks; Irrawaddy (07 Sep 11) Journal Punished after Publishing Suu Kyi; DVB (09 Apr 12) Government hands out punishment to news journal; Irrawaddy (12 Jun 12) Journal Suspended for Publishing Photo that Sparked Arakan Riots; AP (31 Jul 12) Myanmar censors suspend publication of 2 magazines; Reuters (06 Aug 12) Myanmar lifts suspensions on journals after protests

<sup>47</sup> Myanmar Times (02 Jul 12) 'Snap Shot' editor bailed over Rakhine coverage

<sup>48</sup> AFP (20 Sep 12) Myanmar newspaper pair to face defamation charge; Myanmar Times (24 Sep 12) 'The Voice' defendants plead not guilty to defamation; AP (14 Mar 12) Gov't lawsuits imperil Myanmar's new press freedom

<sup>49</sup> AFP (20 Aug 12) Myanmar ends media censorship; AP (20 Aug 12) Myanmar government ends censorship of local media; BBC (20 Aug 12) Burma abolishes media censorship

<sup>50</sup> Xinhua (20 Aug 12) Myanmar totally liberalizes domestic media publication control; DVB (20 Aug 12) Burma abolishes pre-censorship, but forbids criticism of state; RFA (20 Aug 12) Burma Ends Censorship; Irrawaddy (20 Aug 12) Journalists Call for More Freedom as Censorship Lifted; Myanmar Times (27 Aug 12) Censorship ends but free press uncertain

<sup>51</sup> Myanmar Times (27 Aug 12) Censorship ends but free press uncertain

<sup>52</sup> AP (20 Aug 12) Myanmar government ends direct media censorship; DVB (20 Aug 12) Burma abolishes pre-censorship, but forbids criticism of state; CPJ (20 Aug 12) Burma ends pre-publication censorship; harsh laws remain

<sup>53</sup> NYT (20 Aug 12) Myanmar to Curb Censorship of Media; Irrawaddy (20 Aug 12) Journalists Call for More Freedom as Censorship Lifted; VOA (20 Aug 12) Burma Eases Censorship Rules

<sup>54</sup> AP (20 Aug 12) Myanmar government ends direct media censorship; WSJ (20 Aug 12) Myanmar Ends Local Press Censorship; Reuters (20 Aug 12) Myanmar government abolishes press censorship

<sup>55</sup> RSF (12 Mar 12) Internet Enemies Report 2012

<sup>56</sup> Irrawaddy (07 Apr 11) Burmese Authorities Crack Down on VoIP Calls; DVB (16 May 11) Internet cafes ban CDs, USB drives; RSF (17 May 11) Surveillance of media and Internet stepped up under new civilian president

<sup>57</sup> Reuters (15 Sep 11) Myanmar lifts bans on foreign news websites

<sup>58</sup> RSF (12 Mar 12) Internet Enemies Report 2012

<sup>59</sup> Freedom House (24 Sep 12) Freedom on the Net 2012

<sup>60</sup> AFP (17 Mar 12) Myanmar agrees to end forced labour by 2015; NLM (17 Mar 12) Myanmar, ILO sign MoU to eradicate forced labour

<sup>61</sup> OHCHR (25 Aug 11) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar; OHCHR (05 Feb 12) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar; OHCHR (04 Aug 12) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar

<sup>62</sup> IMNA (08 Jun 11) Dozens of Villagers Forced to Porter in Three Pagodas Pass; Mizzima News (08 Jun 11) Villagers forced to serve as human shields and porters by Burmese soldiers; Kachin News Group (17 Oct 11) Burma Army detains 20 Myitkyina residents as

porters; Kachin News Group (24 Oct 11) Burma Army soldiers gang-raped and killed 9 Chinese women; DVB (05 Oct 11) Army puts ransom on Kachin porters; KIC (19 Mar 12) Taungoo Township villagers scared of forced labor orders and forest fires lit by Burma Army; Arakan Project (31 Aug 12) Forced labour during the Arakan crisis: An overview of forced labour practices in North Arakan, Burma (June to August 2012)

<sup>63</sup> Kachin News Group (21 Jun 11) Burmese Army forces civilians to ensure security of Myitkyina-Namti rail road; SHAN (11 Oct 11) Rights abuses persist in ethnic states despite international perception; Arakan Project (31 Aug 12) Forced labour during the Arakan crisis: An overview of forced labour practices in North Arakan, Burma (June to August 2012)

<sup>64</sup> Kaladan News (13 Oct 11) Burma security force use forced labor in Maungdaw; SHAN (11 Oct 11) Rights abuses persist in ethnic states despite international perception; Kaladan News (12 Mar 12) Force labor still use in northern Arakan

<sup>65</sup> Myanmar Times (17 Sep 12) Shift in forced labour complaints from govt to private sector; Arakan Project (31 Aug 12) Forced labour during the Arakan crisis: An overview of forced labour practices in North Arakan, Burma (June to August 2012)

<sup>66</sup> OSRSG (11 Jun 12) 52 Parties on Secretary-General's List of Shame on Children and Armed Conflict

<sup>67</sup> UNGA, 66<sup>th</sup> session, Children and armed conflict - Report of the Secretary-General, 26 April 2012, UN Doc A/66/782-S/2012/261; Xinhua (12 Jun 12) Children suffered hardship in armed conflict in 2011: UN official

<sup>68</sup> UNGA, 66<sup>th</sup> session, Children and armed conflict - Report of the Secretary-General, 26 April 2012, UN Doc A/66/782-S/2012/261

<sup>69</sup> UN News Center (27 Jun 12) United Nations and Myanmar sign plan to prevent child recruitment in armed forces; Xinhua (27 Jun 12) Myanmar, UN sign agreement on ending recruitment of children in armed forces; NLM (28 Jun 12) Plan of Action for Prevention against Recruitment of Minors signed; AP (28 Jun 12) Myanmar signs pact with UN to ban child soldiers

<sup>70</sup> Independent (19 Jun 12) Two Burmese children a week conscripted into military

<sup>71</sup> Independent (19 Jun 12) Two Burmese children a week conscripted into military

<sup>72</sup> Myanmar Times (17 Sep 12) Shift in forced labour complaints from govt to private sector

<sup>73</sup> NLM (31 Jul 12) Myanmar has freedom of religion and there is no restriction on religious beliefs - Vice-President Dr Sai Mauk Kham addresses coord meeting on rehabilitation of Rakhine State

<sup>74</sup> Mizzima News (02 Sep 11) Burmese Home Ministry bans talks on peace by Abbot Shwe Nya Wah; BBC (15 Dec 11) Eviction order for Burma monk Shwe Nya War Sayardaw; AFP (17 Dec 11) Monk in trouble over speech at Suu Kyi party; DVB (02 Feb 12) Rangoon ceremony for freed monks blocked; Mizzima News (14 Feb 12) Abbot banned from preaching one more year

<sup>75</sup> AFP (10 Feb 12) Dissident Myanmar monk held for questioning: official; Narinjara News (26 Sep 11) Buddhist Monk in Arakan Put Under House Arrest; VOA (08 Mar 12) Burmese Authorities Release Activist Monk After Second Detention

<sup>76</sup> Irrawaddy (06 Feb 12) Monks Evicted as Monastery Resealed; Irrawaddy (10 Feb 12) Gambira Apprehended in Midnight Raid;

<sup>77</sup> DVB (22 Jul 11) Arrest dampens Martyrs' Day jubilation; Irrawaddy (26 Aug 11) Nay Myo Zin Sentenced to 10 Years

<sup>78</sup> Kaladan News (07 Sep 11) District court sentence 13 Rohingya in Maungdaw; Kaladan News (19 Sep 11) State Immigration and Population chief forces magistrate to imprison 9-Rohingya in Akyab; Narinjara News (14 Sep 11) 9 Muslims Sentenced to Prison for Traveling to Central Burma from Arakan State; For a comprehensive list of incidents, please see Altsean-Burma's Human Rights Chronology 2011-2012 available at: <http://bit.ly/QaWJbl> and <http://bit.ly/QMuKxS>

<sup>79</sup> Chinland Guardian (20 Mar 12) Soldiers Interfered Christian Conference, Chinland Guardian (28 Mar 12) Burma Army Soldiers Ransacked Kachin Church; Asian Tribune (27 Mar 12) Burma Army Ransacks Church In Bhamo District

<sup>80</sup> USCIRF (20 Mar 12) USCIRF Identifies World's Worst Religious Freedom Violators; Irrawaddy (29 Mar 12) Burma Among Worst For Religious Freedom: Report; Mizzima News (21 Mar 12) U.S. names world's 'worst religious freedom violators'

<sup>81</sup> USCIRF (20 Mar 12) USCIRF Identifies World's Worst Religious Freedom Violators; Mizzima News (21 Mar 12) U.S. names world's 'worst religious freedom violators'; Irrawaddy (29 Mar 12) Burma Among Worst For Religious Freedom: Repor

<sup>82</sup> USCIRF (20 Mar 12) USCIRF Identifies World's Worst Religious Freedom Violators

<sup>83</sup> Irrawaddy (31 Jul 12) US Expresses Concern for Minorities in Burma

<sup>84</sup> US State Department (30 Jul 12) International Religious Freedom Report for 2011

## **ARAKAN STATE UNREST: A PRETEXT FOR ANTI-ROHINGYA PERSECUTION**

- The rape and murder of a 27-year-old Buddhist Rakhine woman and the murder of 10 Muslim pilgrims trigger deadly sectarian clashes between Buddhist Rakhine and Muslim Rohingya in Arakan State starting on 8 June.
- After failing to stop the early violence, regime authorities become actively involved in rampant human rights abuses, predominantly against the Rohingya population.
- Human rights violations against Rohingya include arbitrary mass arrests, forced displacement, extrajudicial killings, rape, torture, destruction of property, and restrictions on religious activities and freedom of movement.
- Regime figures place the death toll at 89, and state that 5,338 houses, 19 mosques, and 14 monasteries have been destroyed since the beginning of the unrest. In addition, regime officials say authorities arrested 987 people in connection with the riots. However, Burmese Rohingya Organization UK estimated that at least 650 Rohingya have been killed and over 1,200 are missing as a result of the violence.
- At the peak of the crisis, unrest displaces at least 104,000 people. In late August, regime officials say that 70,000 people – 50,000 Rohingya and 20,000 Buddhists – remain displaced in Arakan State. The majority of IDPs heavily rely on food aid and live in challenging conditions in camps described as “open air prisons.”
- The regime refuses to acknowledge the severity of the humanitarian situation in Arakan State and detains 14 aid workers.
- The regime's response to the unrest does little to address the crisis and only fuels ongoing tensions. President Thein Sein suggests that the “solution” for sectarian unrest in Arakan State is deporting Rohingya to a third country or relocating them to UNHCR-run refugee camps. Thein Sein also reiterates the regime's longstanding position that Rohingya are illegal immigrants.
- The authorities' decades-long discriminatory policies and practices targeting Rohingya have reinforced the racial and religious animosity between the two communities in Arakan State. Rohingya have suffered restrictions on marriage, freedom of movement, and religious practice. In addition, the regime has routinely subjected Rohingya to forced labor, extortion, land confiscation, and other human rights abuses.

### **Rape, retaliatory massacre trigger deadly sectarian unrest**

The rape and murder of a 27-year old Buddhist Rakhine woman on 28 May 2012 by three Rohingya men sparked sectarian violence that hit Arakan State beginning in June 2012.<sup>1</sup> On 3 June, a mob of 300 Rakhine beat to death 10 Muslim bus passengers in Taunggoat Township,<sup>2</sup> apparently seeking revenge for the 28 May crime.<sup>3</sup> The initial attack and subsequent retaliation triggered rioting and deadly clashes. Violence erupted on 8 June in Maungdaw Township when a crowd of Muslims threw stones at regime buildings and local businesses after Friday prayers at a local mosque.<sup>4</sup> Police fired warning shots in an attempt to disperse the crowd. The crowd then set fire to homes of Rakhine in the area.<sup>5</sup> Rakhine also launched reprisal attacks on Rohingya villages.<sup>6</sup> Unrest quickly spread across other areas, affecting particularly Buthidaung, Rathidaung, Akyab, and Kyauktaw Townships. In response to the rioting, the regime imposed a dusk-to-dawn curfew in seven townships.<sup>7</sup> The military imposed a state of emergency, in effect until further notice,<sup>8</sup> allowing it to take administrative control of Arakan State.<sup>9</sup>

### **Regime commits serious human rights violations against Rohingya**

After failing to stop the early violence, regime authorities - namely police, Tatmadaw, and Na Sa Ka - became actively involved in rampant human rights abuses, predominantly against the Rohingya population.<sup>10</sup> These included arbitrary mass arrests, forced displacement, extrajudicial killings, rape, torture, destruction of property, and restrictions on religious activities and freedom of movement.<sup>11</sup>

On 21 August 2012, regime figures placed the death toll at 89, and stated that 5,338

houses, 19 mosques, and 14 monasteries had been destroyed since the beginning of the unrest.<sup>12</sup> In addition, regime officials said authorities arrested 987 people in connection with the riots.<sup>13</sup> Various organizations contradicted the regime's assessments and estimated that the death toll was much higher.<sup>14</sup> Within June alone, Burmese Rohingya Organization UK estimated that at least 650 Rohingya had been killed and over 1,200 were missing as a result of the violence.<sup>15</sup>

Serious human rights violations against Rohingya at the hands of regime authorities continued unabated in the months following June's events. In September 2012, Na Sa Ka personnel, Tatmadaw soldiers, and police in Maungdaw Township, Northern Arakan State, were still arbitrarily arresting local Rohingya for their alleged involvement in the June riots.<sup>16</sup> In addition, according to an Arakan Project's report made public on 13 September 2012, Na Sa Ka and Tatmadaw personnel continued to subject Rohingya, including children, to forced labor in Northern Arakan State.<sup>17</sup> In September 2012, it was also reported that regime authorities had bulldozed at least 12 mosques in the Akyab area after the violence in the region had subsided.<sup>18</sup>

### **IDPs kept in "open air prisons," aid workers detained**

At the peak of the crisis, unrest had displaced at least 104,000 people.<sup>19</sup> In late August, regime officials said that 70,000 people - 50,000 Rohingya and 20,000 Buddhists - remained displaced in Arakan State.<sup>20</sup> The majority of IDPs heavily relied on food aid and lived in challenging conditions in camps described as "open air prisons."<sup>21</sup> Aid workers warned of the looming possibility of a humanitarian crisis because of the lack of food and medical aid, severe overcrowding, poor water supplies, and unsafe sanitation in IDP camps.<sup>22</sup>

The regime refused to acknowledge the severity of the humanitarian situation in

Arakan State. As early as 20 June 2012, regime FM Wunna Maung Lwin claimed that the situation was "under control."<sup>23</sup> Again, on 10 August 2012, Wunna Maung Lwin claimed that conditions did not constitute a humanitarian crisis when he rejected a proposal for an emergency ASEAN meeting to discuss the situation in Arakan State.<sup>24</sup>

In June, regime authorities detained 14 aid workers because of their alleged involvement in rioting.<sup>25</sup> Although nine were subsequently released, as of 1 October, five remain in detention.<sup>26</sup>

### **Regime's statements fuel discrimination against Rohingya**

The regime's response to the unrest did little to address the crisis and only fueled ongoing tensions. On 11 July 2012, President Thein Sein told UN High Commissioner for Refugees (UNHCR) António Guterres that the "solution" for sectarian unrest in Arakan State was deporting Rohingya to a third country or relocating them to UNHCR-run refugee camps.<sup>27</sup> Thein Sein also reiterated the regime's longstanding position that Rohingya were illegal immigrants.<sup>28</sup> On 30 July 2012, regime Border Affairs Minister Lt Gen Thein Htay reiterated Naypyidaw's position that Rohingya had no claim to Burmese citizenship.<sup>29</sup> On the same day, regime Immigration Minister Khin Yi said that Rohingya would not be included in Burma's 2014 nationwide census.<sup>30</sup> In addition, regime FM Wunna Maung Lwin rejected reports of widespread human rights abuses against Rohingya and denied that the unrest stemmed from religious oppression or discrimination.<sup>31</sup>

### **Regime tightens media restrictions during unrest**

The regime increased restrictions on domestic media following the sectarian unrest in Arakan State. On 10 June 2012, Rangoon Division Chief Minister Myint Swe warned journalists that they could be

charged under Burma's existing laws, including the Emergency Provisions Act, if they published inflammatory reports on the ongoing violence in Arakan State.<sup>32</sup> The regime Censorship Board reminded journalists that all news must undergo censorship before publication.<sup>33</sup> On 11 June 2012, the regime indefinitely suspended the publication of the weekly journal Snapshot for publishing the photo of the body of the Rakhine woman who was raped and murdered on 28 May in Rambree, Arakan State.<sup>34</sup>

While the regime was busy muzzling independent news outlets, state-run media failed to refrain from using inflammatory language. On 5 June 2012, state-run newspaper New Light of Myanmar referred to the victims of the 3 June murderous attack in Taunggoat Township, Arakan State, as 'kalar' - a derogatory term for Muslims or persons of Indian appearance.<sup>35</sup>

Meanwhile, hate speech aimed at Muslims and Rohingya spread uncontrolled through the internet.<sup>36</sup> Thousands of unfiltered hateful comments appeared on websites, blogs, and social networks about Rohingya, who in many Burmese online forums were referred to as dogs, thieves, terrorists, invaders, Islamic terrorists, and other derogatory terms.<sup>37</sup>

### **Bangladesh pushes back Rohingya fleeing violence in Arakan State**

Under the assertion that they were already "overburdened" with refugees, Bangladesh sealed its border and imposed a punitive push-back policy on Rohingya refugees fleeing persecution.<sup>38</sup> As of 21 September 2012, Bangladesh had already pushed back over 1,700 Rohingya asylum seekers to Arakan State.<sup>39</sup> Bangladesh ignored its international legal obligations and repeated calls from the UN High Commissioner for Refugees (UNHCR) to allow a "safe haven" for Rohingya fleeing the unrest.<sup>40</sup> In addition, on 2 August 2012, Bangladeshi Prime Minister Sheikh Hasina ordered three

INGOs to cease providing humanitarian aid to Rohingya refugees.<sup>41</sup>

<sup>1</sup> NLM (05 Jun 12) Three murderers who raped, stabbed a woman to death to be brought to trial soonest

<sup>2</sup> AFP (04 Jun 12) Sectarian unrest spreads in west Myanmar; Reuters (04 Jun 12) Buddhist vigilantes kill 9 Muslims in Myanmar bus attack; Kaladan News (04 Jun 12) Massacre of Muslim pilgrims by the gang of Rakhine terrorists in Taungup; BBC (04 Jun 12) Muslims killed in attack in Burma's Rakhine province; NLM (05 Jun 12) 10 Muslims killed in bus attack

<sup>3</sup> AFP (04 Jun 12) Nine dead in Myanmar mob attack: govt official; AFP (04 Jun 12) Sectarian unrest spreads in west Myanmar; BBC (04 Jun 12) Muslims killed in attack in Burma's Rakhine province

<sup>4</sup> Reuters (08 Jun 12) Four killed as Rohingya Muslims riot in Myanmar: government; Irrawaddy (08 Jun 12) Riot Claims Three Lives in Arakan State; AFP (08 Jun 12) Myanmar police "open fire" amid religious unrest; RFA (08 Jun 12) Four Dead in Religious Clash; BBC (11 Jun 12) Q&A: Unrest in Burma's Rakhine state

<sup>5</sup> AFP (08 Jun 12) Myanmar police "open fire" amid religious unrest; BBC (08 Jun 12) Burma police clash with Muslim protesters in Maung Daw; AP (09 Jun 12) 7 dead in religious rioting in western Myanmar; gov't says troops opened fire, calm restored; RFA (08 Jun 12) Four Dead in Religious Clash; BBC (11 Jun 12) Q&A: Unrest in Burma's Rakhine state

<sup>6</sup> BBC (11 Jun 12) Q&A: Unrest in Burma's Rakhine state

<sup>7</sup> NLM (11 Jun 12) Sittway Township in Rakhine State placed under curfew; AFP (10 May 12) Myanmar imposes curfews after riots; Xinhua (10 Jun 12) Myanmar gov't declares state of emergency in Rakhine; WSJ (10 Jun 12) Myanmar Clashes Spur Web Use, Crackdown; Xinhua (10 Jun 12) Myanmar president calls on all parties to cooperate to restore order; Xinhua (10 Jun 12) Curfew imposed in Myanmar's Sittway; Xinhua (09 Aug 12) Myanmar imposes curfew on one more area in western state

<sup>8</sup> NLM (11 Jun 12) State of Emergency declared in Rakhine State; AFP (10 Jun 12) Myanmar declares emergency in unrest-hit state

<sup>9</sup> AP (10 Jun 12) State of emergency declared for western Myanmar; BBC (11 Jun 12) Burma violence: Tension high in Rakhine state; RFA (10 Jun 12) Emergency Declared in Rakhine

<sup>10</sup> HRW (05 Jul 12) Burma: Mass Arrests, Raids on Rohingya Muslims; AI (19 Jul 12) Abuse Against Myanmar's Rohingya Erodes Recent Progress; Equal Rights Trust (02 Jul 12) Burning Homes, Sinking Lives: A situation report on violence against stateless Rohingya in Myanmar and their refoulement from Bangladesh; VOA (20 Jul 12) Report: Rights Abuses Persist Against Burmese Muslims; AI Jazeera (08 Aug 12) 'Mass graves' for Myanmar's Rohingya

<sup>11</sup> HRW (05 Jul 12) Burma: Mass Arrests, Raids on Rohingya Muslims; AI (19 Jul 12) Abuse Against Myanmar's Rohingya Erodes Recent Progress; Equal Rights Trust (02 Jul 12) Burning Homes, Sinking Lives: A situation report on violence against stateless Rohingya in Myanmar and their refoulement from Bangladesh; VOA (20 Jul 12) Report: Rights Abuses Persist Against Burmese Muslims; OHCHR (04 Aug 12) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar; HRW (Aug 12) The Government Could Have Stopped This: Sectarian

Violence and Ensuing Abuses in Burma's Arakan State;

Kaladan News (19 Aug 12) No Eid prayer in Maungdaw  
<sup>12</sup> NLM (22 Aug 12) Union Minister Lt-Gen Thein Htay meets Rakhine State Conflicts Investigation Commission Members

<sup>13</sup> NLM (22 Aug 12) Union Minister Lt-Gen Thein Htay meets Rakhine State Conflicts Investigation Commission Members

<sup>14</sup> HRW (Aug 12) The Government Could Have Stopped This: Sectarian Violence and Ensuing Abuses in Burma's Arakan State

<sup>15</sup> Mizzima News (28 Jun 12) British lawmakers hear testimony on Rakhine State unrest

<sup>16</sup> Kaladan News (02 Sep 12) Nasaka extorts money from villagers in Maungdaw north; Kaladan News (03 Sep 12) More Rohingya villagers arrested in Maungdaw south; Kaladan News (06 Sep 12) Village head arrested by police; Kaladan News (07 Sep 12) Police's arbitrary arrests going on at Maungdaw; Kaladan News (13 Sep 12) Update news of northern Arakan; Kaladan News (15 Sep 12) Latest information of northern Arakan; Kaladan News (16 Sep 12) Rohingya Muslim killed in Buthidaung jail; Kaladan News (17 Sep 12) Army commits robbery in Buthidaung Township; Kaladan News (18 Sep 12) Rohingya Muslim detained in Maungdaw; Kaladan News (22 Sep 12) New method of Rohingya cleansing policy; Kaladan News (23 Sep 12) Villagers express the grave situation of Arakan State; Kaladan News (24 Sep 12) Burma's security forces continue arrest Rohingyas in Arakan; Kaladan News (26 Sep 12) Authority arrest Rohingyas to extort money in Maungdaw

<sup>17</sup> AlertNet (13 Sep 12) Forced labour restarts for Myanmar's Rohingyas – report; Arakan Project (31 Aug 12) Forced labour during the Arakan crisis: An overview of forced labour practices in North Arakan, Burma (June to August 2012); DVB (14 Sep 12) Forced labour flourishes in post-conflict Arakan state

<sup>18</sup> Times (19 Sep 12) Burma mosques bulldozed in 'ethnic cleansing'

<sup>19</sup> OCHA (19 Jul 12) Myanmar: Displacement in Rakhine State, Situation Report No.5, 19 July 2012

<sup>20</sup> AFP (25 Aug 12) Myanmar communal bloodshed leaves deep scars

<sup>21</sup> OCHA (19 Jul 12) Myanmar: Displacement in Rakhine State Situation Report No. 5; Guardian (13 Jul 12) Burma 'creating humanitarian crisis' with displacement camps in Arakan

<sup>22</sup> Xinhua (22 Jun 12) UN warns more severe humanitarian crisis in Myanmar; OCHA (19 Jul 12) Myanmar: Displacement in Rakhine State Situation Report No. 5; Guardian (13 Jul 12) Burma 'creating humanitarian crisis' with displacement camps in Arakan; OCHA (15 Aug 12) Myanmar: Displacement in Rakhine State, Situation Report No. 7; AFP (05 Aug 12) Aid group urges Dhaka to reconsider Rohingya ban

<sup>23</sup> Guardian (13 Jul 12) Burma 'creating humanitarian crisis' with displacement camps in Arakan; Bernama (21 Jun 12) Malaysia Reiterates Willingness To Extend Humanitarian Aid To Rakhine

<sup>24</sup> Irrawaddy (17 Aug 12) Burma Rebuffs Asean Bid for Role in Arakan State

<sup>25</sup> NYT (28 Jun 12) Aid Workers Detained in Myanmar; Narinjara News (11 Jul 12) Arrested NGO employees produced in court in Maungdaw; DPA (30 Jul 12) Rohingyas are not citizens: Myanmar minister

<sup>26</sup> IRIN (30 Aug 12) MYANMAR: Government frees two UN employees

<sup>27</sup> DPA (12 Jul 12) Myanmar president asks UN to look after 'illegal' Rohingyas

<sup>28</sup> DVB (12 Jul 12) Gov't will not recognise Rohingyas: Thein Sein

<sup>29</sup> DPA (30 Jul 12) Rohingyas are not citizens: Myanmar minister

<sup>30</sup> DVB (31 Jul 12) Minister rejects calls for int'l investigation in Arakan

<sup>31</sup> Xinhua (30 Jul 12) Myanmar FM to UN envoy: Situation in west state returning to normalcy; AFP (31 Jul 12) Myanmar rejects Muslim crackdown concerns; NLM (31 Jul 12) The Government of the Republic of the Union of Myanmar Ministry of Foreign Affairs - Press Release on Situation in Rakhine State

<sup>32</sup> Reuters (14 Jun 12) Violence tests Myanmar's media, and its censors; Irrawaddy (11 Jun 12) Press Warned Against Inciting Arakan Clashes; Media accused of biased coverage of unrest in Arakan state

<sup>33</sup> Irrawaddy (11 Jun 12) Press Warned Against Inciting Arakan Clashes

<sup>34</sup> AP (22 Jun 12) Myanmar press limits tested by ethnic violence; Irrawaddy (12 Jun 12) Journal Suspended for Publishing Photo that Sparked Arakan Riots

<sup>35</sup> DVB (06 Jun 12) State media issues correction after publishing racial slur

<sup>36</sup> Reuters (14 Jun 12) Violence tests Myanmar's media, and its censors; DVB (05 Jun 12) Following attack, Muslims demonstrate in Rangoon; AFP (13 Jun 12) Web users vent rage over Myanmar unrest

<sup>37</sup> AP (14 Jun 12) Myanmar conflict spurs hatred for Asia's outcasts; NYT (15 Jun 12) Internet Unshackled, Burmese Aim Venom at Ethnic Minority; IPS (15 Jun 12) Ethnic Cleansing of Muslim Minority in Myanmar?

<sup>38</sup> Bloomberg (12 Jun 12) UN Calls for Bangladesh to Protect Victims of Myanmar Clashes; Daily Star (15 Jun 12) Do not push back Rohingyas: ASK; Reuters (13 Jun 12) Riot-hit Myanmar town calmer as troops restore order

<sup>39</sup> AP (18 Jun 12) Bangladesh detains 128 refugees fleeing Myanmar; BBC (22 Jul 12) Rohingyas recount terror of Burma clashes; Daily Star (27 Jul 12) 11 Rohingyas sent back to Myanmar; Daily Star (10 Aug 12) 15 Rohingyas sent back to Myanmar; Kaladan News (26 Aug 12) Bangladesh pushes back 65 Rohingyas; Kaladan News (03 Sep 12) BGB and Coastguards arrest Rohingyas at border; Daily Star (17 Sep 12) 25 held while going to Malaysia illegally; Kaladan News (15 Sep 12) Over 200 Rohingyas arrested along the Burma-Bangladesh border; Kaladan News (19 Sep 12) 37 Rohingyas push back again; Kaladan News (22 Sep 12) More Rohingyas arrested in Bandarban, Bangladesh

<sup>40</sup> Bloomberg (12 Jun 12) UN Calls for Bangladesh to Protect Victims of Myanmar Clashes

<sup>41</sup> Reuters (02 Aug 12) Bangladesh tells international charities to stop aiding Rohingyas

## BURMA'S PARLIAMENT 18 MONTHS ON: LEGISLATIVE REFORMS STILL PENDING

- During President Thein Sein's first 18 months in office, MPs and regime officials introduce a total of 55 bills. However, only two of them are aimed at amending legislation that the UN identified as not in line with international standards.
- The regime fails to live up to its repeated promises of introducing a much-heralded media law for debate in Parliament.
- Despite efforts by some opposition MPs, regime officials and USDP MPs continue to block or reject fundamental legislative reforms and proposals on important issues.
- Lack of transparency characterizes the legislative drafting process. Several important laws are rushed through Parliament without any room for input from specialists and experts.
- New laws adopted by Parliament (such as the Ward or Village-tract Administration Law, the Farmland Law, and the Peaceful Gathering and Demonstration Law) fail to address existing problems and introduce further restrictions which strengthen the regime's grip on power.
- Important issues, such as national reconciliation, the ongoing conflict in ethnic areas, sectarian violence in Arakan State, and the release of political prisoners are only tangentially discussed or are notably absent from the debate. By contrast, regime officials go to great lengths to categorically deny human rights abuses, justify repressive measures on freedoms, and spread Naypyidaw's propaganda in Parliament.
- Military-appointed MPs, making up 25% of lawmakers, maintain an ominous presence and introduce only two proposals.
- Endowed with only limited legislative powers by the 2008 constitution, Division and State Parliaments remain marginalized in Burma's politics. Most local Parliaments have convened for brief sessions where legislative activity is extremely limited.
- During the fourth session, Daw Aung San Suu Kyi and 40 other NLD MPs elected in the 1 April by-elections make their parliamentary debut. However, their impact is limited to three proposals (all rejected) and a handful of questions. Daw Suu is appointed as chairperson of a parliamentary committee for the 'Rule of Law and Peace and Stability'.

### Parliament fails to repeal oppressive laws

During President Thein Sein's first 18 months in office, Parliament convened for three sessions. MPs and regime officials introduced a total of 55 bills. However, only two of them were aimed at amending legislation that the UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana identified as not in line with international standards.<sup>1</sup> [See table *Regime's oppressive laws*]

On 26 July 2012, regime Home Affairs Minister Lt Gen Ko Ko introduced legislation in the National Assembly to revoke Law 5/96, which was frequently used by the military junta to jail critics of the SPDC-sponsored constitution-drafting process.<sup>2</sup> However, the law had already become void as a result of the conclusion of the National Convention in September 2007 and the adoption of the constitution in May 2008. On 6 August 2012, New National Democracy Party (NNDP) MP Thein Nyunt introduced a bill in the People's Assembly to amend the 1950 Emergency Act.<sup>3</sup>

While regime ministers and USDP MPs introduced several pieces of legislation of questionable importance (i.e. Traditional Medicine Council Law Amendment Bill, Bill Revoking the Myanmar Five Star Shipping Line Corporation Law, Myanmar Language Commission Bill), they rejected attempts by opposition parties to introduce much-needed legislation. The National Democratic Force (NDF) deplored the Parliament's rejection of all 56 bills it had attempted to introduce during the second and third sessions, including legislation proposing an amnesty for political prisoners and measures to limit the economic dominance of regime cronies.<sup>4</sup>

**REGIME'S OPPRESSIVE LAWS**

- Unlawful Association Act (1908)
- Emergency Provisions Act (1950)
- Printers and Publishers Registration Act (1962)
- Motion Picture Law (1966)
- State Protection Law (1975)
- Television and Video Law (1985)
- Law Relating to Forming of Organizations (1988)
- Law Protecting the Peaceful and Systematic Transfer of State Responsibility and the Successful Performance of the Functions of the National Convention against Disturbance and Opposition (aka Law 5/1996)
- Computer Science Development Law (1996)
- Electronic Transactions Law (2004)
- Sections 143, 145, 152, 505, 505(b) and 295-A of the Penal Code

The regime also failed to live up to its repeated promises of introducing a much-heralded media law for debate in Parliament.<sup>5</sup> The law was expected to abolish the draconian 1962 Printers and Publishers Registration Act.<sup>6</sup>

In addition, the regime routinely attempted to block initiatives promoted by opposition MPs to amend or repeal oppressive laws.

On 25 August 2011, the People's Assembly rejected a proposal introduced by then-NDF MP Thein Nyunt to repeal the Contempt of Courts Act.<sup>7</sup> MPs rejected the proposal by a vote of 359 to three.<sup>8</sup>

On 30 August 2011, the People's Assembly overwhelmingly rejected a proposal introduced by then-NDF MP Thein Nyunt to repeal the Emergency Provisions Act.<sup>9</sup> MPs rejected the proposal by a vote of 336 to eight, with 41 abstentions.<sup>10</sup> On 10 July 2012, Supreme Court Justice Soe Nyunt blocked the discussion of a bill introduced in the People's Assembly by NNDP MP Thein Nyunt to amend the Contempt of Courts Act. Soe Nyunt claimed that the bill was not necessary as the regime had already drafted a new version of the Contempt of Courts

Act.<sup>11</sup> On 31 July, Soe Nyunt introduced a regime-drafted Contempt of Court Bill in the National Assembly.<sup>12</sup>

On 17 July 2012, despite opposition by Home Affairs Deputy Minister Brig Gen Kyaw Zan Myint, the People's Assembly accepted a proposal introduced by NNDP MP Thein Nyunt to discuss the repeal of the Unlawful Association Act.<sup>13</sup>

**Parliament avoids debate on key issues, regime spreads propaganda**

During the three parliamentary sessions, most of the time was devoted to regime officials answering questions posed by MPs. The regime officials' responses to MPs' questions provided large amounts of statistical and background information but failed to address the substantive issues raised by lawmakers.

Important issues, such as national reconciliation, the ongoing conflict in ethnic areas, sectarian violence in Arakan State, and the release of political prisoners were only tangentially discussed or were notably absent from the debate. By contrast, the regime ministers went to great lengths to categorically deny human rights abuses, justify repressive measures on freedoms, and spread Naypyidaw's propaganda. In particular, regime ministers and officials denied land confiscation;<sup>14</sup> defended closed-door trials held in Rangoon's Insein prison;<sup>15</sup> reiterated that Rohingya were illegal immigrants and had no right to claim Burmese citizenship;<sup>16</sup> and claimed that Tatmadaw troops never attacked the Kachin Independence Army (KIA) after President Thein Sein ordered a halt to all offensives against the ethnic armed group on 10 December 2011.<sup>17</sup>

**Important proposals rejected**

In addition to failing to repeal oppressive laws, MPs rejected the adoption of several proposals that sought to address important issues, such as the release of political

prisoners, appalling detention conditions in jails across the country, labor relations issues, and transparency and good governance.

On 25 August 2011, then-NDF MP Thein Nyunt introduced a proposal in the People's Assembly that called for a presidential amnesty for political prisoners.<sup>18</sup> After MPs initially agreed to discuss the proposal,<sup>19</sup> the issue was effectively killed when the People's Assembly MPs referred the proposal to the National Defense and Security Council for further examination.<sup>20</sup>

On 25 August 2011, then-NDF MP Thein Nyunt introduced a proposal aimed at drafting a Prisons Act that would "guarantee human dignity."<sup>21</sup> Four days later, the People's Assembly rejected Thein Nyunt's proposal after Home Affairs Minister Lt Gen Ko Ko claimed that a bill on the subject had already been drafted and plans were underway to introduce it in Parliament.<sup>22</sup> However, no bill on the matter was ever introduced.

On 1 August 2012, the People's Assembly rejected, by a vote of 288 to 43 with 17 abstentions, a proposal introduced by NNDP MP Thein Nyunt to form a commission to investigate the root causes of the numerous strikes in factories in Rangoon Division over previous months.<sup>23</sup> Regime Labor Minister Aung Kyi, who had earlier called for the withdrawal of the proposal, said that such a commission would be "very dangerous" and could hurt the confidence of foreign investors.<sup>24</sup>

On 8 August 2012, the People's Assembly rejected, by a vote of 271 to 68 with 15 abstentions, a proposal introduced on 25 July by NLD MP Win Myint requiring ministers in the national cabinet and in the Division and State administrations to publicly disclose their assets.<sup>25</sup>

### **New restrictive laws introduced amid lack of transparency**

A lack of transparency characterized the legislative drafting process. Several important laws were rushed through Parliament without any room for input from specialists and experts.<sup>26</sup> On 4 August 2012, UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana stressed that Burma's legislative drafting process lacked sufficient inclusiveness and transparency.<sup>27</sup> New laws adopted by Parliament introduced further restrictions, strengthened the regime's grip on power, and failed to promote much-needed reform.

### **Peaceful Gathering and Demonstration Law**

This law introduces severe restrictions on the right of individuals to hold peaceful demonstrations. It requires participants to seek permission five days in advance of a demonstration from regime authorities. Demonstrators must also provide details about slogans and speakers. The law bars any protests at factories, schools, hospitals, embassies, and public offices and punishes those who hold a demonstration without permission with a prison sentence of up to one year.<sup>28</sup> The regime has already used the law to charge numerous activists for participating in peaceful rallies without obtaining prior official permission. [See above *Arbitrary arrests and restrictions on peaceful assembly continue*]

### **Ward or Village-tract Administration Law**

This law stipulates that local administrators at the Ward and Village-tract level have to be elected by secret ballot from a pool of candidates nominated by regime officials.<sup>29</sup> As a result, the law ensures the regime's control at all levels of administration and fails to promote transparency and democracy at the local level.

### **Farmland Law**

This law fails to provide for measures that effectively protect farmers' rights. The law legalizes land confiscation for a wide range of activities - from the construction of factories, power lines, roads, railways, pipelines, amusement parks, and any other project that the regime claims to be of "national interest." In addition, the law denies farmers the freedom to choose what to cultivate by conferring on the President the power to issue instructions on land use for particular purposes in any part of the country. Finally, the law limits farmers' access to courts by stipulating that newly-created agencies under the regime Ministry of Agriculture and Irrigation will have jurisdiction over land-related disputes.<sup>30</sup>

### **Local Parliaments marginalized**

Endowed with only limited legislative powers by the 2008 constitution, Division and State Parliament remained largely on the sidelines of Burma's politics.

After convening for their initial session during SPDC rule in January-March 2011, local Parliaments reconvened for two days (four in Kachin State and Sagaing Division) during a special session between late June and early July 2011. During this brief session, MPs approved a largely cosmetic ministerial reshuffle.

From 31 October to 26 November 2011, local Parliaments convened for their second session. During this session, local regime ministers answered questions posed by MPs while lawmakers discussed proposals. However, on the legislative front, only four bills (two in the Irrawaddy Division Parliament and two in the Rangoon Division Parliament) were introduced.

During a February-March 2012 third session, 12 of the 14 local Parliaments convened to discuss mainly budgetary matters.<sup>31</sup>

Ten of the 14 Division and State Parliaments did not convene from March until late September 2012. The only exceptions were Parliaments in Arakan and Shan States (which held brief special sessions in March-April), in Irrawaddy Division (which held a four-day special session in mid-August),<sup>32</sup> and in Kachin State (which began a third special session on 18 September).<sup>33</sup>

### **Military MPs inactive**

Despite making up 25% of lawmakers, military-appointed MPs were noticeable for their limited participation in parliamentary proceedings. Over the past three parliamentary sessions, military-appointed MPs failed to pose any questions, did not introduce any legislation, and introduced only two proposals.

On 8 September 2011, Maj Soe Hein Naung introduced a proposal in the National Assembly to urge the regime to better "supervise" the spelling of Burmese words, particularly in the media.<sup>34</sup> On 27 September 2011, Col Htay Naing introduced a proposal in the People's Assembly to adopt a law that imposes the use of the word 'Myanmar' "only in writings and publications that can uplift national prestige."<sup>35</sup>

Following the NLD's landslide victory in the 1 April 2012 by-elections, the regime quickly moved to make the military's representations in Parliament more hard-line in order to counterbalance the new contingent of NLD MPs.<sup>36</sup> On 22 April 2012, the regime Election Commission announced the replacement of 59 military-appointed MPs (39 in the People's Assembly and 20 in the National Assembly) with higher ranking officials.<sup>37</sup> Among the newly-appointed MPs was a Tatmadaw colonel from LID 77 who had been involved in the Saffron Revolution crackdown.<sup>38</sup>

In the fourth parliamentary session, military-appointed MPs voted against a move by the majority of MPs in both houses of

Parliament to impeach the Constitutional Tribunal's judges.<sup>39</sup>

### Parliament forces Constitutional Court's judges out

During the fourth session, a six-month long dispute between Parliament and the Constitutional Tribunal ended with the resignation of all nine judges of the Tribunal on 6 September 2012.<sup>40</sup> The dispute stemmed from the MPs' disagreement with the Constitutional Tribunal's 8 March 2012 decision that parliamentary committees were not vested with the power to scrutinize the executive.<sup>41</sup> On 28 August and 6 September 2012 respectively, the National Assembly and the People's Assembly approved resolutions to impeach the Constitutional Tribunal's judges.<sup>42</sup>

### NLD makes parliamentary debut

During the fourth session, Daw Aung San Suu Kyi and 40 other NLD MPs elected in the 1 April by-elections made their parliamentary debut.<sup>43</sup> However, their impact was limited to three proposals (all rejected) and a handful of questions.

On 25 July 2012, in her first speech to Parliament, Daw Aung San Suu Kyi called for the adoption of laws to protect the rights of ethnic nationalities in order to create "a truly democratic union, based on equality as well as the Panglong spirit."<sup>44</sup> On 7 August 2012, the People's Assembly appointed Daw Aung San Suu Kyi as chairperson of the newly formed 15-member 'Rule of Law and Peace and Stability Committee.'<sup>45</sup> The committee's key responsibilities include analyzing existing legislation and making recommendations regarding laws that need to be revoked or amended.<sup>46</sup> The committee would also be required to assess appeals and complaints about state agencies and submit them to Parliament.<sup>47</sup>

<sup>1</sup> UNGA, 63<sup>rd</sup> session, Situation of human rights in Myanmar, 5 September 2008, UN Doc A/63/341 Para 93

<sup>2</sup> NLM (27 Jul 12) Land Allotment and Utilization Scrutiny Committee formed for ensuring systematic management of land utilization - Kalewa Coal-fired Power Plant between Kalewa and Tamu regions under feasibility study

<sup>3</sup> NLM (07 Aug 12) Parents urged to hand down good senses of legacy to their offspring as well as to youths students to equip them with national awareness and nationalistic spirits

<sup>4</sup> Myanmar Times (10 Sep 12) Party drafting two bills for hluttaw

<sup>5</sup> Irrawaddy (27 Jan 12) Burma's Parliament Back in Session, Budget is Top Priority; Myanmar Times (06 Feb 12) Press law to wait until next hluttaw session: govt

<sup>6</sup> Myanmar Times (03 Sep 12) Daily licences early next year: Minister

<sup>7</sup> NLM (26 Aug 11) Fourth-day second regular session of First Pyithu Hluttaw takes place - Questioning, replying, discussing and submitting proposals; Mizzima News (25 Aug 11) NLD to work with lawyers to have their revoked licenses renewed; Mizzima News (26 Aug 11) Opposition MPs in Burma move to release 'prisoners of conscience'

<sup>8</sup> DVB (06 Sep 11) Controversy over parliament vote change

<sup>9</sup> NLM (31 Aug 11) First Pyithu Hluttaw second regular session goes on for seventh day - Questions raised and answers, proposals and bills submitted for approval

<sup>10</sup> DVB (31 Aug 11) Parliament rejects reform of emergency act; Narinjara News (02 Sep 11) RNDP Abstains on Voting for the Abolishment of the Emergency Act

<sup>11</sup> NLM (11 Jul 12) Pyithu Hluttaw meeting continues for fifth day - Eight questions answered, one proposal and two bills submitted

<sup>12</sup> NLM (01 Aug 12) Reforms must be undertaken for financial and legal institutional development during the drafting process of monetary and capital market law: MPs

<sup>13</sup> AFP (17 Jul 12) Myanmar MPs to discuss changes to repressive laws; NLM (18 Jul 12) Pyithu Hluttaw meeting continues for tenth day - Four questions raised, receipt of one bill reported to Hluttaw, two new proposals submitted

<sup>14</sup> NLM (02 Sep 11) Second regular session of First Amyotha Hluttaw continues for ninth day

<sup>15</sup> NLM (27 Aug 11) Second regular session of First Pyithu Hluttaw continues for fifth day - Questioning, answering, and submitting proposals at the session

<sup>16</sup> NLM (30 Aug 11) Second regular session of First Amyotha Hluttaw goes on for sixth day; NLM (02 Sep 11) Questions raised and answered, proposals discussed and submitted at first Pyithu Hluttaw second regular session; Kaladan News (19 Sep 11) Rohingya Global Day of Action Demonstration in Japan; NLM (14 Mar 12) Third regular session of first Amyotha Hluttaw continues for 14th day - Nine questions answered, one bill submitted, two proposals discussed, one proposal postponed, one proposal approved; NLM (01 Aug 12) Reforms must be undertaken for financial and legal institutional development during the drafting process of monetary and capital market law: MPs

<sup>17</sup> NLM (07 Sep 12) Like other armed groups, KIA may ink peace agreements if they follow internationally and generally-accepted peace processes

<sup>18</sup> NLM (26 Aug 11) Fourth-day second regular session of First Pyithu Hluttaw takes place - Questioning, replying, discussing and submitting proposals

<sup>19</sup> NLM (27 Aug 11) Second regular session of First Pyithu Hluttaw continues for fifth day - Questioning, answering, and submitting proposals at the session; AFP (27 Aug 11) Myanmar MPs propose prisoner amnesty: state media; DVB (20 Aug 11) MP calls for prisoner amnesty amidst govt denials

<sup>20</sup> Irrawaddy (29 Aug 11) Military Factions Join Opposition to Demand Amnesty; DVB (29 Aug 11) MP calls for prisoner amnesty amidst govt denials  
DVB (30 Aug 11) Prisons act reform proposal rejected by Home Minister

<sup>21</sup> NLM (26 Aug 11) Fourth-day second regular session of First Pyithu Hluttaw takes place - Questioning, replying, discussing and submitting prop; Myanmar Times (05 Sep 11) Government to submit new jail law: minister

<sup>22</sup> NLM (30 Aug 11) First Pyithu Hluttaw second regular session goes on for sixth day - Questions raised and answered, proposals and bills submitted for approval; Myanmar Times (05 Sep 11) Government to submit new jail law: minister

<sup>23</sup> NLM (02 Aug 12) No country forms commission prior to enforcement of a relevant legislation: Union Minister - Pyithu Hluttaw regular session continues for 19th day; Irrawaddy (02 Aug 12) Worker Strike Probe Shot Down by MPs

<sup>24</sup> Xinhua (02 Aug 12) Myanmar's Lower House rejects proposal to probe into strikes

<sup>25</sup> EMG (12 Aug 12) Parliament rejects proposal to declare cabinet members' assets; Irrawaddy (10 Aug 12) MPs Assets Declaration Motion Shot Down; Myanmar Times (20 Aug 12) MPs reject proposal on cabinet asset declaration; NLM (26 Jul 12) Discussions in Hluttaw should not include characteristics and behaviors of a person - Discussions about a proposal must be related with proposals under debate at the Hluttaw - Pyithu Hluttaw Speaker urges some representatives to strictly abide by Hluttaw laws and rules in making discussion; Myanmar Times (30 Jul 12) Hluttaw to debate asset disclosure proposal

<sup>26</sup> Myanmar Times (20 Feb 12) More warnings over land bills; Myanmar Times (30 Apr 12) Environment law deterrents not strong enough: activists

<sup>27</sup> OHCHR (04 Aug 12) Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar

<sup>28</sup> AP (24 Nov 11) Parliament guarantees right to protest in Myanmar; Reuters (24 Nov 11) Myanmar parliament passes law allowing protests; AFP (24 Nov 11) Protest bill passes Myanmar parliament: MP

<sup>29</sup> Reuters (09 Aug 12) As Myanmar reforms, discontent grips countryside; Mizzima News (20 Sep 11) Ward, village-tract administrative chiefs to be appointed by superiors

<sup>30</sup> AHRC (01 Nov 11) BURMA: Draft land law denies basic rights to farmers

<sup>31</sup> Parliaments in Chin and Shan States did not convene.

<sup>32</sup> NLM (04 Apr 12) Special session of first Rakhine State Hluttaw continues for third day; NLM (28 Apr 12) First day session of First Shan State Hluttaw Special Meeting (1/2012) held NLM (22 Aug 12) First special session of Ayeyawady Region Hluttaw concluded

<sup>33</sup> NLM (19 Sep 12) Fourth regular session of first Kachin State Hluttaw starts

<sup>34</sup> NLM (09 Sep 11) Second regular session of first Amyotha Hluttaw goes on for the 14th day - Eight questions answered, four new proposals approved; Myanmar Times (19 Sep 11) Army representative spells out plan to 'supervise' language; DPA (18 Sep 11) Myanmar government urged to supervise spelling

<sup>35</sup> NLM (28 Sep 11) Second regular session of first Pyithu Hluttaw continues for 26th day - Seven questions replied, one proposal discussed, one new proposal submitted, one new proposal put on record, one bill approved; Mizzima News (28 Sep 11) Parliament debates use of the word 'Myanmar'

<sup>36</sup> Reuters (25 Apr 12) Myanmar's military moves amid Suu Kyi no-show

<sup>37</sup> NLM (23 Apr 12) Republic of the Union of Myanmar Union Election Commission Nay Pyi Taw Notification No. 22/2012 2nd Waxing of Kason, 1374 ME (22 April, 2012) 39 Defence Services Personnel Pyithu Hluttaw Representatives substituted; NLM (23 Apr 12) Republic of the Union of Myanmar Union Election Commission Nay Pyi Taw Notification No. 23/2012 2nd Waxing of Kason, 1374 ME (22 April, 2012) 20 Defence Services Personnel Amyotha Hluttaw Representatives substituted

<sup>38</sup> Irrawaddy (30 Apr 12) Saffron Crackdown Commander in Parliament Stirs Outrage

<sup>39</sup> RFA (06 Sep 12) Lawmakers Oust Tribunal; Myanmar Times (10 Sep 12) Tribunal resigns to avoid impeachment

<sup>40</sup> AP (06 Sep 12) 9 judges resign after Myanmar lawmakers demand it; AFP (08 Sep 12) Reforms lift veil on Myanmar's power struggles

<sup>41</sup> BBC (06 Sep 12) Burmese MPs force out constitutional court judges

<sup>42</sup> AFP (08 Sep 12) Reforms lift veil on Myanmar's power struggles; NLM (07 Sep 12) No representative has so far claimed the Union minister level rights and emoluments

<sup>43</sup> Forty NLD MPs elected in the 1 April by-elections were sworn in on 2 May 2012 - the only business conducted on that day.

<sup>44</sup> AP (25 Jul 12) Myanmar's Suu Kyi makes first parliament speech; AFP (25 Jul 12) Suu Kyi urges minority rights in first parliament address; RFA (25 Jul 12) Call to Protect Ethnic Minorities

<sup>45</sup> AP (07 Aug 12) Myanmar's Suu Kyi to chair parliamentary committee; DPA (07 Aug 12) Aung San Suu Kyi appointed head of rule of law committee; Irrawaddy (07 Aug 12) Suu Kyi to Head 'Rule of Law' Committee

<sup>46</sup> Xinhua (07 Aug 12) Aung San Suu Kyi to head parliament's committee for rule of law, peace, stability; Myanmar Times (13 Aug 12) NLD leader pledges to 'safeguard rights of society' in committee role

<sup>47</sup> Myanmar Times (13 Aug 12) NLD leader pledges to 'safeguard rights of society' in committee role

## PEACEMAKING TATMADAW-STYLE: ONGOING OFFENSIVES, HUMAN RIGHTS ABUSES, AND MILITARIZATION IN ETHNIC NATIONALITY AREAS

- In the 16 months of ongoing conflict between the Tatmadaw and the Kachin Independence Army (KIA), 15 of 18 Townships in Kachin State have been subjected to fighting.
- The Tatmadaw's military offensive in Kachin and Northern Shan States continued despite two executive orders calling for the suspension of operations against the KIA.
- Tatmadaw soldiers have constantly targeted civilians in Kachin and Northern Shan States. Human rights abuses include the rape of women, extrajudicial killings, torture, forced labor, arbitrary arrest, the use of human shields, and the confiscation and destruction of property.
- The regime has compounded the misery of civilians in Kachin State by restricting assistance to IDPs - a violation of international humanitarian law. At least 90,000 civilians have been displaced since the conflict began.
- The militarization of ethnic nationality areas has continued despite a succession of ceasefire agreements with ethnic armed groups. Amid Tatmadaw attacks, ethnic leaders have criticized the regime for failing to address fundamental political grievances.
- Ongoing clashes between the Tatmadaw and the Shan State Army-South (SSA-S) and the Shan State Army-North (SSA-N) threaten the continuance of initial ceasefire agreements signed between the regime and the two groups.

### KACHIN STATE

#### Sixteen months of conflict as Tatmadaw ignores Thein Sein's orders

On 9 June 2011, a 17-year-old ceasefire between the regime and the Kachin Independence Organization (KIO) ended when around 500 Tatmadaw troops clashed with Kachin Independence Army (KIA) forces in Momauk Township, Kachin State. In the ensuing 16 months, the Tatmadaw escalated its military offensive and fighting spread to Northern Shan State and 15 of the 18 Townships in Kachin State.

The Tatmadaw used mortars, heavy artillery, helicopters and, according to some reports, even chemical weapons during military operations against the KIA.<sup>1</sup> Tatmadaw troop deployments and military offensives, including attacks on civilians, continued<sup>2</sup> despite President Thein Sein's two executive orders - on 10 December 2011 and 13 January 2012 - that called for the suspension of military operations against the KIA.<sup>3</sup>

#### Tatmadaw commits systematic human rights abuses

In Kachin and Northern Shan States the Tatmadaw committed serious human rights violations against civilians, including women and children. In his March 2012 report to the UN Human Rights Council, UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana stated that Tatmadaw soldiers in Kachin State were responsible for "attacks against civilian populations, extrajudicial killings, internal displacement, the use of human shields and forced labor, and the confiscation and destruction of property."<sup>4</sup> Civilians in Kachin State have been killed during

artillery attacks on their village while others have been summarily shot and killed.<sup>5</sup> In addition, Tatmadaw troops often arrested, tortured or destroyed the property of those suspected of having ties to the KIA.<sup>6</sup>

The rape of civilians has been a disturbing feature of Tatmadaw abuses in Kachin State. On 2 October 2012, the Kachin Women's Association Thailand (KWAT) released a report which documented the rape or sexual assault of 61 women and girls since the beginning of the conflict - of whom around half were killed.<sup>7</sup>

### **Minimal aid for 90,000 displaced**

The Tatmadaw's ongoing offensive against the KIA in Kachin and Northern Shan States caused the displacement of an estimated 90,000 people, including at least 10,000 refugees who crossed the border into China.<sup>8</sup>

The regime compounded the misery of IDPs by blocking humanitarian aid to IDP camps in KIO-controlled areas. In the early stages of the conflict, the regime threatened to withdraw the registration of local NGOs if they provided aid to Kachin IDPs.<sup>9</sup> Finally, on 12 December 2011, after six months of conflict, the regime allowed the UN to make a small delivery of aid to IDPs in Laiza, Momauk Township, Kachin State.<sup>10</sup> In 2012, the regime only allowed three small UN convoys to deliver aid to IDPs in KIO-controlled areas.<sup>11</sup> The regime's unwillingness to assist Kachin IDPs prompted the KIO to appeal directly to UN Sec-Gen Ban Ki-moon in May 2012 to facilitate the delivery of humanitarian assistance to IDP camps in Kachin State.<sup>12</sup>

Despite the massive scale of displacement in Kachin State, the regime consistently sought to downplay the phenomenon. In February 2012, when the UN Office for the Coordination of Humanitarian Affairs (OCHA) estimated the total number of IDPs in Kachin State at 55,000, the regime irresponsibly declared that it hoped to close all IDP camps in Kachin State before May.<sup>13</sup>

The regime trivialized the plight of Kachin refugees and IDPs and called on them to return home, even as Tatmadaw offensive operations continued. In September 2012, in relation to Kachin refugees who crossed the border into China, President's Office Minister Aung Min said "It's beyond my comprehension why they would rather flee elsewhere, when they can live at home in their village."<sup>14</sup>

### **Talks stall as conflict persists**

The KIO and the regime held several rounds of peace talks between June 2011 and March 2012 but no agreement was reached.<sup>15</sup>

The regime's failure to broker a ceasefire with the KIO apparently prompted President Thein Sein to reorganize the regime's team responsible for negotiating with ethnic armed groups.<sup>16</sup> The new team was divided into two committees - a 12-member central committee headed by Thein Sein and a 52-member working committee chaired by Vice-President Mauk Kham. The working committee also included Tatmadaw Commander in Chief Vice Sr Gen Min Aung Hlaing, cabinet ministers, chief ministers, MPs, and Tatmadaw regional commanders.<sup>17</sup> The new team excluded Aung Thaung, the negotiator who failed to broker a ceasefire with the KIO.<sup>18</sup>

Since the reshuffle, a further three rounds of informal talks have been held on 21 May, 1 June, and 20 June 2012, with the regime's negotiating team headed by then-regime Rail Transportation Minister Aung Min.<sup>19</sup> Despite the talks, conflict between the Tatmadaw and the KIA did not stop and three months passed without further negotiations. The KIO remained wary of the regime's "systematic strategy" of holding peace talks with ethnic armed groups, while simultaneously waging military offensives.<sup>20</sup> The regime has thus far rejected KIO demands to discuss long-term political solutions prior to a ceasefire agreement.<sup>21</sup> The KIO has remained opposed to any ceasefire agreement that merely reinstates

the status quo created by the 1994 ceasefire, without addressing its demands for a degree of local autonomy, more respect for the rights of Kachin communities, and protection from human rights abuses.<sup>22</sup>

## CEASEFIRES

### Ceasefires brokered, then broken

Under President Thein Sein, the regime has signed ceasefire agreements with 13 ethnic armed groups [See table below]. However, ongoing Tatmadaw attacks and the sustained militarization of ethnic nationality areas have seriously undermined the ceasefire process.

Clashes between the Tatmadaw and five ethnic armed groups - the Democratic Karen Buddhist Army (DKBA); the Karen National Liberation Army (KNLA); the Karenni National Progressive Party (KNPP); the Shan State Army-South (SSA-S); and the Shan State Army-North (SSA-N) - all occurred after each group signed ceasefire agreements with the regime.

### Regime fails to address fundamental grievances of ethnic groups

The regime failed to address the fundamental grievances of ethnic groups and instead pursued piecemeal ceasefire agreements which privileged the economic development of ethnic nationality areas over the resolution of political issues. The regime's eight-point guidelines, which structured bilateral negotiations with ethnic groups, emphasized economic development, acceptance of the 2008 constitution, and a "return to the legal fold."<sup>23</sup> The guidelines failed to address the demands of the majority of ethnic groups for a degree of local autonomy under a genuine federal union, protection from human rights abuses, and respect for local language, culture, and institutions.

Representatives from various ethnic armed groups and political organizations remained highly skeptical of the ongoing ceasefire process and the regime's intentions. In August 2012, Karen National Union (KNU) Chairman Tamla Baw and Shan Nationalities League for Democracy

Ethnic group	First agreement (date signed)	Second agreement (date signed)	Third agreement (date signed)
Arakan Liberation Party (ALP)	05 Apr 2012 <sup>1</sup>		
Chin National Front (CNF)	06 Jan 2012 <sup>2</sup>	07 May 2012 <sup>3</sup>	
Democratic Karen Buddhist Army (DKBA) Brigade 5 *	03 Nov 2011 <sup>4</sup>	11 Dec 2011 <sup>5</sup>	
Karen National Union/Karen National Liberation Army Peace Council (KNU/KNLA Peace Council)	07 Feb 2012 <sup>6</sup>		
Karen National Union (KNU) *	12 Jan 2012 <sup>7</sup>	06 Apr 2012 <sup>8</sup>	
Karenni National Progressive Party (KNPP) *	07 Mar 2012 <sup>9</sup>	10 Jun 2012 <sup>10</sup>	
National Democratic Alliance Army (NDAA)	07 Sep 2011 <sup>11</sup>	09 Oct 2011 <sup>12</sup>	27 Dec 2011 <sup>13</sup>
National Socialist Council of Nagaland-Khaplang (NSCN-K)	09 Apr 2012 <sup>14</sup>		
New Mon State Party (NMSP)	25 Feb 2012 <sup>15</sup>		
Pa-O National Liberation Organization (PNLO)	25 Aug 2012 <sup>16</sup>		
Shan State Army-South (SSA-S) *	02 Dec 2011 <sup>17</sup>	16 Jan 2012 <sup>18</sup>	19 May 2012 <sup>19</sup>
Shan State Army-North (SSA-N) *	28 Jan 2012 <sup>20</sup>		
United Wa State Army (UWSA)	06 Sep 2011 <sup>21</sup>	26 Dec 2011 <sup>22</sup>	
*Ethnic groups who have clashed with the Tatmadaw post-agreement			

(SNLD) Chairman Hkun Htun Oo both criticized the regime for focusing on business matters, rather than genuine political dialogue.<sup>24</sup> In addition, on 9 August 2012, KNPP Vice-President Abel Tweed stated that “none of the conditions” agreed during negotiations with the regime had been met and that the Tatmadaw continued to expand its presence in Karenni State.<sup>25</sup>

## **SHAN STATE**

### **Clashes, human rights abuses continue**

Fighting in Shan State between the Tatmadaw and the Shan State Army-North (SSA-N) which began in earnest in March 2011, promptly escalated under Thein Sein's administration, and drew in the Shan State Army-South (SSA-S).<sup>26</sup> In the past 18 months, clashes between the Tatmadaw and both SSA-S and SSA-N forces occurred in 22 townships across Shan State. Tatmadaw military operations included the use of mortars, fighter jets for reconnaissance missions, and the alleged firing of shells that released a smoke on impact which caused those exposed to faint, suffer dizziness, nausea, and breathing problems.<sup>27</sup>

Civilians paid a heavy price for the Tatmadaw's offensives in Shan State. From March to August 2011, fighting forced over 30,000 people to flee their homes.<sup>28</sup> The Tatmadaw also committed serious human rights abuses against civilians. From 11 April to 2 August 2011, Shan Human Rights Foundation (SHRF) and Shan Women's Action Network (SWAN) documented various Tatmadaw abuses in Shan State including: eight cases of rape; at least nine cases of torture; 16 civilians killed; and 77 people coerced into forced labor.<sup>29</sup> The Tatmadaw terrorized civilians in areas controlled by the SSA-N. In July and August 2011 in Kyethi Township, home to the SSA-N's headquarters, the Tatmadaw committed rape; forced civilians to act as human shields; and burned down six houses

because they suspected the residents of being SSA-N supporters.<sup>30</sup>

### **Tatmadaw repeatedly violates ceasefire agreements**

The regime signed ceasefire agreements with both SSA-S and SSA-N, on 2 December 2011 and 28 January 2012 respectively. However, the agreements did little to stem the fighting.

In February 2012, the Tatmadaw clashed at least 10 times with SSA-S forces. Further clashes were reported in March, May, June, July, and September of 2012, leading SSA-S leader Yawd Serk to assert that, although the regime had “declared peace,” the Tatmadaw was pursuing “a different path.”<sup>31</sup>

The Tatmadaw continued to attack the SSA-N, in blatant contravention of the relevant ceasefire agreement. From 30 June to 3 July 2012, Tatmadaw troops launched a significant offensive against the SSA-N's Kawng Maihoong base in Monghsu Township, deploying some 10 infantry battalions and using mortars in fighting which displaced around 300 people.<sup>32</sup> Constant ceasefire violations by the Tatmadaw reinforced both SSA-N and SSA-S forces' suspicions of the regime and ensured that tensions remained high in Shan State.

## **KAREN STATE**

### **Fragile agreements, ongoing tensions**

Tensions in Karen State failed to dissipate, despite the regime having signed ceasefire agreements with both the Democratic Karen Buddhist Army (DKBA) and the Karen National Liberation Army (KNLA)'s political wing - the Karen National Union (KNU). The Tatmadaw clashed with both armed groups subsequent to the ceasefire agreements.<sup>33</sup> The Tatmadaw maintained its considerable troop presence in Karen State and continued to commit human rights violations. In August 2012, Physicians for

Human Rights (PHR) released a report which found that nearly one third of the 665 families surveyed in Karen State reported experiencing human rights violations, including forced labor, torture, and rape, between January 2011 and January 2012.<sup>34</sup>

The fragility of the situation in Karen State has been understated by the regime. In April 2012, then-regime Rail Transportation Minister Aung Min said that Naypyidaw wanted to begin resettling IDPs and refugees, many of whom were ethnic Karen and lived in camps along the Thai-Burma border, before the start of the rainy season in June 2012.<sup>35</sup>

In Karen State, ongoing sporadic clashes, militarization, and the absence of genuine political dialogue between the regime and both the DKBA and the KNU, suggested that the regime's professed desire to begin resettling refugees was premature. In addition, the presence of landmines in Karen State further undermined the safety of returning refugees. Landmines were estimated to be present in at least 47 townships in Eastern Burma.<sup>36</sup>

## **KARENNI, MON, AND CHIN STATES**

### **Civilians remain vulnerable**

In the absence of genuine political dialogue between the regime and ethnic armed groups, ongoing concerns in Karenni, Mon, and Chin States, including lack of protection against human rights abuses, remain unaddressed. Under President Thein Sein, the Tatmadaw continued to commit human rights abuses in all three states including the gang-rape of a 40-year-old woman in Shadaw Township, Karenni State, in December 2011; the beating to death of a 41-year-old villager from Tiddim Township, Chin State in March 2012; and forced labor and extortion in Mon State.<sup>37</sup>

Religious persecution also continued in Chin State. In March 2012, Tatmadaw soldiers from LIB 140 disrupted a Christian

conference attended by over 1,000 delegates in Sabawngte Village, Matupi Township, Chin State, and in April 2012, regime authorities in Rawnglaung Village, Mindat Township, Chin State, evicted a family of seven from their home because they converted to Christianity.<sup>38</sup>

From January to March 2012, the regime signed ceasefire agreements with the Karenni National Progressive Party (KNPP), the New Mon State Party (NMSP), and the Chin National Front (CNF). The initial agreements, ostensibly aimed at relieving tensions and confidence building, nevertheless left crucial issues off the table. For example, in the latest agreement signed with the KNPP in June 2012, the regime would not consent to the complete withdrawal of Tatmadaw troops from KNPP-controlled areas.<sup>39</sup>

<sup>1</sup> DVB (25 Nov 11) 'Yellow rain' fuels chemical weapons fears; Kachin News Group (21 Nov 11) Yellow rain in KIO's Mai Ja Yang in Northern Burma; RFA (03 May 12) Kachin Fighting Escalates

<sup>2</sup> Kachin News Group (19 Jan 12) Thein Sein's orders for Burma army to halt Kachin offensive are worthless; Irrawaddy (15 Dec 11) Govt Sending More Troops to Kachin State by Helicopter; KIO; Kachin News Group (17 Jan 12) Burma army continues killing unarmed civilians in Hpakant

<sup>3</sup> BBC (12 Dec 11) Burma orders end to fighting against Kachin rebels; Kachin News Group (19 Jan 12) Thein Sein's orders for Burma army to halt Kachin offensive are worthless

<sup>4</sup> HRC, 19<sup>th</sup> session, Progress report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, 7 March 2012, UN Doc A/HRC/19/67

<sup>5</sup> Mizzima News (23 Aug 11) Calling us 'insurgents' makes political dialogue difficult; KIO; Kachin News Group (18 Oct 11) Kachin baby shot dead by govt troops; Kachin News Group (13 Jan 12) Burma government soldiers execute farmer in Loiye near China border

<sup>6</sup> Irrawaddy (12 Jul 12) Serious Abuses Still Rife in Burma: UK Govt; Kachin News Group (21 Oct 11) Innocent Shan civilian killed by Burmese soldiers; Kachin News Group (23 Apr 12) Burma army troops assault Kachin village headman

<sup>7</sup> KWAT (02 Oct 12) From Persecution to Deprivation

<sup>8</sup> DVB (13 Sep 12) Aung Min: 'We will take full responsibility'

<sup>9</sup> Mizzima News (11 Jul 11) Burmese government blocks aid to Kachin war refugees

<sup>10</sup> Irrawaddy (13 Dec 11) UN Launches Relief Aid in Kachin State Conflict Zones

<sup>11</sup> VOA (26 Mar 12) Burma Allows Second UN Aid Shipment to Kachin Rebel Areas; Kachin News Group (05 Jun 12) UN aid convoy to deliver food to IDP camps after being blocked by the Burmese govt; Kachin News

Group (15 Jun 12) More Kachin civilians flee to KIO controlled area

<sup>12</sup> RFA (17 May 12) Kachin Appeal for UN Observers;

<sup>13</sup> Myanmar Times (20 Feb 12) Government aims to close Kachin State relief camps

<sup>14</sup> DVB (13 Sep 12) Aung Min: 'We will take full responsibility'

<sup>15</sup> Irrawaddy (30 June 11) Ceasefire Talks Produce Old Rhetoric, No New Agreement; NLM (01 Dec 11) Trio and KIO meet for peace talks; Kachin News Group (29 Nov 11) Burma government-KIO delegates meet for peace talks in China; Irrawaddy (30 Nov 11) KIA Calls for Political Dialogue; Kachin News Group (10 Mar 12) Latest KIO-Burma talks end without peace deal; (12 Mar 12) Myanmar government fails to sign peace pact with Kachin rebels; Irrawaddy (11 May 12) What does the future hold for Aung Thuang? Kachin News Group (10 Mar 12) Latest KIO-Burma talks end without peace deal

<sup>16</sup> AFP (09 May 12) Myanmar leader reshuffles peace team

<sup>17</sup> AFP (09 May 12) Myanmar leader reshuffles peace team; Irrawaddy (08 May 12) Burmese President will lead Peace Committee; NLM (19 May 12) Formation of Union Peace-making Central Committee; NLM (19 May 12) Formation of Union Peace-making Work Committee; Xinhua (18 May 12) Myanmar forms top-level peace-making group

<sup>18</sup> AFP (09 May 12) Myanmar leader reshuffles peace team

<sup>19</sup> Irrawaddy (31 May 12) Govt and KIA to Hold Informal Talks; Kachin News Group (02 Jun 12) KIO demands Burmese troops withdraw from frontlines; Irrawaddy (20 Jun 12) Kachins Still Seek an Elusive Truce

<sup>20</sup> SHAN (17 Aug 12) Exchange of hearts, not brains, will bring peace

<sup>21</sup> DPA (12 Mar 12) Myanmar government fails to sign peace pact with Kachin rebels

<sup>22</sup> Asia Times Online (02 Jun 12) Failed Path to Peace

<sup>23</sup> SHAN (24 Jul 12) Peace guidelines not set in stone: Naypyitaw negotiator; Asia Times Online (02 Jun 12) Failed path to peace in Myanmar

<sup>24</sup> Irrawaddy (09 Aug 12) KNU Doubts Govt Peace Efforts; SHAN (16 Aug 12) Elected Shan leader calls for more power to the states

<sup>25</sup> DVB (17 Aug 12) Armed Karenni group ready to hold more talks with gov't

<sup>26</sup> Irrawaddy (08 Apr 11) Conflict in Shan State Spreading; SHAN (06 Apr 11) Shan rebels on offensive defense

<sup>27</sup> SHAN (14 Jul 11) Junta plane visits battlefield; DVB (18 Jul 11) Burmese shelling forces SSA from bases; SHAN (07 Jun 11) Being honest about using CW

<sup>28</sup> SWAN and SHRF Press Release (10 Aug 11) Over 30,000 displaced by Burma Army Attacks face humanitarian crisis in northern Shan State

<sup>29</sup> SWAN and SHRF (Aug 12) Update of human rights abuses committed by Burma Army reported in northern and central Shan State during Burma Army offensive; SWAN and SHRF (Jul 12) Update of human rights abuses committed by Burma Army reported in northern and central Shan State during Burma Army offensive

<sup>30</sup> SWAN (14 Jul 11) Rape cases documented during Burma Army offensive in northern Shan State since 13 March 2001; SHAN (24 Aug 11) Newsflash; DVB (21 Sep 11) Shan monks used as human shields

<sup>31</sup> SHAN (17 Aug 12) Exchange of hearts, not brains, will bring peace

<sup>32</sup> SHAN (03 Jul 12) Army still not on board, fighting goes on

<sup>33</sup> KIC (16 Mar 12) Karen fighters and Burma Army soldiers killed over ceasefire breach; KIC (07 Aug 12) KNLA and government's militia fight – four soldiers killed; Irrawaddy (23 Feb 12) DKBA Ceasefire Breaks Down

<sup>34</sup> PHR (28 Aug 12) Bitter Wounds and Lost Dreams: Human Rights Under Assault in Karen State, Burma

<sup>35</sup> Irrawaddy (23 Apr 12) Govt Wants to Start Resettling Refugees: Minister

<sup>36</sup> HRW (13 Sep 2012) Ad Hoc and Inadequate: Thailand's treatment of refugees and asylum seekers

<sup>37</sup> Chinland Guardian (18 Jul 12) Soldiers Attack Left one Dead in Chin State; Kantarawaddy Times (16 Dec 11) Burma Army gang raped Karenni woman; HURFOM (19 Jan 12) Burma's Democratic Façade: Human Rights Abuses Continued

<sup>38</sup> DVB (21 Mar 12) Chin MP threatened at gunpoint by military; Chinland Guardian (27 Apr 12) Chin Family Evicted from Village for Conversion to Christianity

<sup>39</sup> Irrawaddy (11 Jun 12) Karennis Sign Ceasefire with Naypyidaw

## THEIN SEIN CONSOLIDATES HIS EXECUTIVE POWERS

- **President Thein Sein progressively removes or marginalizes those perceived to be opposed to his policies and surrounds himself with trusted allies.**
- **Tin Aung Myint Oo steps down as Burma's Vice-President and is replaced by Navy Commander-in-Chief Admiral Nyan Tun.**
- **Despite a series of reshuffles, the cabinet remains dominated by retired military officers, who account for 24 of the 36 ministers. Women continue to be underrepresented, with only one female minister and five female deputy ministers.**
- **Ethnic nationalities remain excluded from key positions in the executive. No ethnic representatives are among the new ministers appointed by Thein Sein in September 2012.**
- **Despite the regime's insistence that former SPDC Chairman Sr Gen Than Shwe has "retired completely," several reports suggest that Than Shwe remains involved in Burma's politics and exerts a degree of influence over the regime's decision-making processes.**

Power struggles and cabinet reshuffles characterized the first 18 months of Thein Sein's administration. Thein Sein progressively removed or marginalized those perceived to be opposed to his policies and surrounded himself with trusted allies.

### Vice-President replaced

On 3 May 2012, Tin Aung Myint Oo stepped down as Burma's Vice-President.<sup>1</sup> According to some reports, Tin Aung Myint Oo resigned due to health reasons following a trip to Singapore to seek medical treatment for throat cancer.<sup>2</sup> However, many observers believed Tin Aung Myint Oo was the first casualty of Thein Sein's purge aimed at removing his opponents from the regime's

leadership cadre.<sup>3</sup> The regime made no official announcement about Tin Aung Myint Oo's status and banned local media from reporting about his resignation.<sup>4</sup>

Finally, on 4 July 2012, National Parliament Speaker Khin Aung Myint read an announcement by Thein Sein confirming the resignation of Tin Aung Myint Oo effective 1 July 2012.<sup>5</sup>

Tin Aung Myint Oo's position remained vacant until 15 August 2012, when Navy Commander-in-Chief Admiral Nyan Tun was sworn in as one of the country's two vice-presidents shortly after the National Parliament approved his nomination by military-appointed MPs.<sup>6</sup>

### Nyan Tun: A brief bio

- Born in the mid-1950s.<sup>7</sup>
- Former Navy Commander-in-Chief and a former board member of the regime's wealthy and powerful conglomerate Union of Myanmar Economic Holdings (UMEH).<sup>8</sup>
- Graduated from the 16<sup>th</sup> intake of the Defense Services Academy (DSA)<sup>9</sup> in the mid-1970s.<sup>10</sup>
- Replaced Vice-Admiral Soe Thein as Navy Commander-in-Chief in June 2008.<sup>11</sup>
- Visited India, Bangladesh, Thailand, and Pakistan in a bid to strengthen military ties with regional neighbors.
- Played a key role in handling relations between the regime and Bangladesh and in strengthening military cooperation with India.
- Under Nyan Tun, the regime's Navy was involved in human rights abuses, including extortion, forced labor, and land confiscation, in some coastal areas of Arakan State and Tenasserim Division.<sup>12</sup>

The election of Nyan Tun came after the military-appointed MPs' first choice, Rangoon Division Chief Minister Myint Swe, turned out to be ineligible for the position of Vice-President.<sup>13</sup> According to regime sources, Myint Swe has a son who holds foreign citizenship, which made him ineligible under the 2008 constitution.<sup>14</sup>

### **New cabinet: Few civilians, ethnics excluded, women underrepresented**

Despite a series of reshuffles, the cabinet remained dominated by retired military officers, who accounted for 24 of the 36 ministers.<sup>15</sup>

In a major reshuffle carried out between 27 August and 7 September 2012, Thein Sein reassigned nine ministers, appointed 11 new ministers to fill the positions left vacant, appointed 19 new deputy ministers, and reassigned one deputy minister.<sup>16</sup> In addition, two ministers were “permitted to resign.”<sup>17</sup> In the reshuffle, Thein Sein effectively demoted then-Information Minister Kyaw Hsan to the Ministry of Cooperatives and replaced him with Aung Kyi.<sup>18</sup>

As part of the cabinet reorganization, Thein Sein also assigned his trusted allies Soe Thein, Aung Min, Hla Tun, and Tin Naing Thein to four of the six newly-created ministries within the President's Office.<sup>19</sup> The National Parliament overwhelmingly approved the move (511 votes in favor, 41 against, and 45 abstentions).<sup>20</sup> However, some MPs expressed concern over the excessive centralization of power in the President's Office.<sup>21</sup>

Ethnic nationalities remained excluded from key positions in the executive. No ethnic representatives were among the 11 new ministers appointed by Thein Sein on 7 September 2012.<sup>22</sup> In early September 2012, the People's Assembly rejected a proposal by four MPs to appoint one ethnic representative to be among the six ministers nominated to work in the President's Office.<sup>23</sup>

Women continued to be underrepresented in Thein Sein's administration, with only one female minister - Social Welfare, Relief and Resettlement Minister Myat Myat Ohn Khin - and five female deputy ministers.<sup>24</sup>

Despite Thein Sein's attempt to rationalize ministerial functions, the number of ministries increased by two since he took office. Thein Sein abolished the Ministry of Industrial Development and merged the Ministries of Industry 1 and 2 as well as the Ministries of Electric Power 1 and 2.<sup>25</sup> However, the total number of ministries went from 34 to 36 as a result of the creation of six new ministries within the President's Office.<sup>26</sup>

### **Than Shwe still in the loop**

Despite the regime's insistence that former SPDC Chairman Sr Gen Than Shwe had “retired completely,”<sup>27</sup> several reports suggested that Than Shwe remained involved in Burma's politics and exerted a degree of influence over the regime's decision-making processes.

On 4 April 2011, regime officials said that Than Shwe would continue to “give some advice when the government asks for it.”<sup>28</sup> Ministry of Defense sources revealed that the War Office in Naypyidaw continued to send reports to Than Shwe even after he stepped down as Commander-in-Chief.<sup>29</sup> On 1 July 2011, Than Shwe's former personal security officer Maj Gen Soe Shein replaced Maj Gen Kyaw Swe as head of the regime's intelligence agency, the Military Affairs Security (MAS).<sup>30</sup>

<sup>1</sup> Reuters (06 May 12) Hardline Myanmar vice president resigns, says report; AP (06 May 12) Burma's hardline VP resigns; FT (06 May 12) Myanmar reports fuel talk of cabinet reshuffle; DPA (10 May 12) Myanmar's “hardliner” first vice president resigns

<sup>2</sup> Reuters (06 May 12) Hardline Myanmar vice president resigns, says report; AP (06 May 12) Burma's hardline VP resigns; DPA (10 May 12) Myanmar's “hardliner” first vice president resigns; Mizzima News (07 May 12) Vice President Tin Aung Myint Oo resigns: reports; Irrawaddy (11 May 12) VP Quit Rumors Grow with Photo No-Show

<sup>3</sup> FT (06 May 12) Myanmar reports fuel talk of cabinet reshuffle; Mizzima News (07 May 12) Vice President Tin Aung Myint Oo resigns: reports; Irrawaddy (11 May 12) VP Quit Rumors Grow with Photo No-Show; WSJ (26 May 12) Myanmar Mystery: A Missing Vice President

<sup>4</sup> Irrawaddy (11 May 12) VP Quit Rumors Grow with Photo No-Show; SHAN (24 May 12) Why Naypyitaw has yet to address VP resignation; WSJ (26 May 12) Myanmar Mystery: A Missing Vice President

<sup>5</sup> AP (04 Jul 12) Myanmar vice president's resignation announced; Irrawaddy (04 Jul 12) VP's Resignation Confirmed; Replacement to be Named Next Week

<sup>6</sup> AP (15 Aug 12) Myanmar parliament names politically moderate naval chief as new vice president; Reuters (15 Aug 12) Myanmar navy chief takes vice-presidential post

<sup>7</sup> AP (15 Aug 12) Myanmar parliament names politically moderate naval chief as new vice president

<sup>8</sup> Australian Government (25 Jan 11) Autonomous Sanctions (Designated and Declared Persons - Burma) List 2011

<sup>9</sup> Mizzima News (31 Jul 12) Admiral Nyan Tun to be nominated vice president: source

<sup>10</sup> Lahore Times (07 Jun 12) Myanmar Naval Chief discusses naval matters with Pak counterpart

<sup>11</sup> Irrawaddy (20 Jun 08) Junta Reshuffles Cabinet, Top Military Posts

<sup>12</sup> HRFOM (Jun-Jul 2011) Burma's Navy Attacks Civilians' Livelihood; Dawei Project Watch (Apr 12) No Rights to Know; BNI (08 May 12) Burmese Navy orders shooting of any person on its confiscated lands

<sup>13</sup> AP (10 Jul 12) Myanmar military names hardline former general to serve as new vice-president; Xinhua (10 Jul 12) Yangon region chief minister named as candidate for vice president

<sup>14</sup> Irrawaddy (17 Jul 12) Myint Swe's VP Bid Postponed; SHAN (18 Jul 12) Military MPs to re-nominate new VP

<sup>15</sup> AP (07 Sep 12) Myanmar government appoints first female minister, adds more civilians to Cabinet; Irrawaddy (07 Sep 12) 11 New Ministers Sworn In

<sup>16</sup> Xinhua (11 Sep 12) Myanmar president calls for materializing good governance, clean gov't

<sup>17</sup> NLM (29 Aug 12) Permission granted to resign from the post of Union Ministers

<sup>18</sup> AFP (27 Aug 12) Myanmar president shakes up reformist government; Reuters (28 Aug 12) Myanmar president promotes reformers in cabinet shake-up; NYT (27 Aug 12) President of Myanmar Reshuffles His Cabinet

<sup>19</sup> NLM (08 Sep 12) Assignment of Union Ministers; AFP (27 Aug 12) Myanmar president shakes up reformist government; Reuters (28 Aug 12) Myanmar president promotes reformers in cabinet shake-up; NYT (27 Aug 12) President of Myanmar Reshuffles His Cabinet

<sup>20</sup> Myanmar Times (10 Sep 12) Hluttaw approves cabinet reshuffle

<sup>21</sup> Myanmar Times (10 Sep 12) Hluttaw approves cabinet reshuffle; EMG (09 Sep 12) Parliament approves more presidential ministries despite criticism

<sup>22</sup> Irrawaddy (04 Oct 12) Minorities Still Neglected, Say Ethnic MPs

<sup>23</sup> Kaowao News (06 Sep 12) Political Reform Comes at Cost of Ethnic Representation in Naypyidaw

<sup>24</sup> AP (27 Aug 12) Myanmar president announces Cabinet reshuffle; NLM (28 Aug 12) Union Ministers reshuffled; NLM (28 Aug 12) Deputy Ministers appointed; Xinhua (27 Aug 12) Myanmar announces cabinet reshuffle; Irrawaddy (07 Sep 12) 11 New Ministers Sworn In

<sup>25</sup> NLM (03 Dec 11) Ministry reconstituted; Xinhua (04 Sep 12) Myanmar parliament passes gov't proposal for reformation of ministries

<sup>26</sup> Xinhua (04 Sep 12) Myanmar parliament passes gov't proposal for reformation of ministries

<sup>27</sup> Mizzima News (16 Feb 12) Nationwide peace is near: Aung Min

<sup>28</sup> AFP (04 Apr 11) Than Shwe steps into the shadows

<sup>29</sup> Irrawaddy (07 Apr 11) Than Shwe Continues to Control Burma's Military

<sup>30</sup> DVB (06 Jul 11) Than Shwe disciple to head Burma's intelligence

## ECONOMIC REFORMS FALL SHORT AS REGIME'S MISMANAGEMENT CONTINUES

### Dual exchange rate ends

On 1 April 2012, at the start of the 2012-2013 fiscal year, Burma's Central Bank began a managed float of the kyat and determined its value based on the supply and demand of the currency.<sup>1</sup> The regime initially set the exchange rate at 818 kyat to the US dollar - near the black market rate at that time.<sup>2</sup> This marked the end of the fixed exchange rate of 6.4 kyat to the US dollar - roughly 125 times stronger than the black market rate.<sup>3</sup>

The fixed exchange rate that was in place for 35 years greatly overvalued the kyat and had many negative implications. This included the regime using the dual exchange rate system to record foreign currency revenues using the official rate, thereby undervaluing reserves in its budgets while siphoning off funds into bank accounts controlled by senior junta officials.<sup>4</sup>

### Chronic budgetary mismanagement

Skewed budgetary priorities and fiscal deficits continued to characterize the regime's economic policies during the first 18 months of President Thein Sein's administration.<sup>5</sup>

The budget deficit for the 2012-2013 fiscal year reached 2.5 trillion kyat (US\$3.2 billion).<sup>6</sup> Total anticipated expenditures stood at 13 trillion kyat (US\$16.6 billion),<sup>7</sup> roughly 40% higher than the previous fiscal year.<sup>8</sup>

### Military gets 57% more funds

Military expenditure amounted to 1.878 trillion kyat (US\$2.4 billion), accounting for 14.4% of the total expenditures.<sup>9</sup> This was a 57% increase in military spending from the 2011-2012 fiscal year.<sup>10</sup> Healthcare and education expenditure increased under the

- Skewed budgetary priorities and fiscal deficits continue to characterize the regime's economic policies. The budget deficit for the 2012-2013 FY reaches 2.5 trillion kyat (US\$3.2 billion). Military expenditures increase by 57% from the previous fiscal year. Healthcare and education remain severely underfunded accounting for a meager 2.8% and 4.7% of the total expenditure respectively.
- Despite numerous risks, foreign businesses flock to Burma to explore investment opportunities with its extractive industry continuing to be the most attractive sector. The state-owned Myanmar Oil and Gas Enterprise (MOGE) grants exploration rights for 19 more onshore and offshore oil and gas blocks through deals with foreign companies.
- In prioritizing investment in Burma's extractive industry, the regime neglects other areas which have a higher capacity to drive development and alleviate poverty. Farmers' limited access to low interest loans hampers progress in the agricultural sector.
- Burma's infrastructure remains woefully inadequate. Mobile phones and internet access remain unaffordable for most Burmese. Chronic electricity shortages - almost 75% of the population lack access to electricity - spark protests that the regime meets with arrests and harassment.
- The regime continues to pursue the development of Special Economic Zones (SEZs) and mega-projects that result in land confiscation, displacement, and environmental destruction.
- President Thein Sein suspends the Myitsone dam project but workers and equipment remain onsite while China pushes for the project's resumption.
- Crony-capitalism continues to reign in Burma despite talk of liberalization and economic reform, as the regime grants tax breaks and transfers key economic assets to a few trusted businessmen.
- Conditions remain precarious for workers despite new legislation aimed at recognizing labor rights. In 2012, the number of industrial actions - particularly in Rangoon Division's industrial zones - skyrockets. However, the vast majority of strikes are spontaneous actions by workers without the intervention of unions.
- Burma ranks 180 out of 183 countries in terms of corruption; 173 out of 179 for economic freedom; and is dead last among 197 countries in terms of legal protection for foreign investors.

most recent budget, however they remained severely under-funded and under-prioritized. The regime set aside a meager 2.8% and 4.7% of the budget for health and education spending respectively, an increase of only about 1% each from the previous fiscal year.<sup>11</sup> Burma was the only developing Asian country with a defense budget greater than the education and health budgets combined.<sup>12</sup>

2012-13 FY key budget expenditure <sup>13</sup>		
Ministry	kyat (million)	% of total
Defense	1,878	14.4
Health	365	2.8
Education	613	4.7

Low fiscal revenues remained a primary cause of Burma's fiscal deficit.<sup>14</sup> Burma's poor revenue performance was the result of a tax system with unclear legislation, a complicated structure, and weak administration that encouraged tax avoidance.<sup>15</sup> In addition, the regime continued to grant substantial tax breaks for top businessmen and regime cronies.<sup>16</sup>

### Foreign investors flock to Burma despite warnings

The suspension of sanctions by the US, the EU, Canada, and Australia resulted in foreign businesses expressing significant interest in investing in Burma. In 2012, foreign business delegations began flocking to Burma to explore investment opportunities in the country.<sup>17</sup>

Despite the international hype generated by its newly-accessible market, several international risk analysis groups highlighted the dangers of investing in Burma. In 2011 and 2012 indexes, Burma ranked 180 out of 183 countries in terms of corruption;<sup>18</sup> placed 173<sup>rd</sup> out of 179 for economic freedom;<sup>19</sup> and came dead last among 197 countries in terms of legal protection for foreign investors.<sup>20</sup> In December 2011, Singaporean corporate

advisory firm Vriens and Partners rated Burma as the worst place for investment among 19 countries surveyed in the Asia Pacific region.<sup>21</sup> UK risk analysis firm Maplecroft identified two major issues for investors: 1) "intractable risks" stemming from excessive state bureaucracy, corruption and inconsistent legal enforcement; and 2) "reputational risks" as human rights groups closely monitored companies' business practices.<sup>22</sup>

### Extractive industry gets lion's share of FDI

Burma's extractive industry continued to be the most attractive sector for foreign investors. UK risk analysis firm Maplecroft cautioned foreign investors that doing deals with state-run Myanmar Oil and Gas Enterprise (MOGE) would expose them "to a whole spectrum of risks, ranging from poor labor, environmental and safety issues, corruption, forced labor, and other human rights violations."<sup>23</sup> Despite the warnings, joint venture arrangements between MOGE and foreign companies continued to take place under Thein Sein's administration.<sup>24</sup>

Since early January 2012, MOGE granted exploration rights for 19 onshore and offshore oil and gas blocks through deals with foreign companies.<sup>25</sup> The companies involved included: Hong Kong's EPI Holdings, Switzerland's Geopetro International, Malaysia's Petronas, India's Jubilant Energy, Thailand's PTTEP, Singapore's Istech Energy EP-5, Russia's CIS Nobel Oil, France's Total SA, and Japan's JX Nippon Oil & Gas Exploration.<sup>26</sup>

In the first three months of 2012, Burma drew over US\$270 million in Foreign Direct Investment (FDI), of which US\$247 million (91%) was in the oil and natural gas sector and US\$20 million (7.4%) was in the mining sector.<sup>27</sup> This is compared with Asian Development Bank (ADB) figures from 2005 to 2010, when oil and gas accounted for 77% of FDI in Burma.<sup>28</sup> In the first four months of the 2012-2013 fiscal year, natural

gas also accounted for US\$859.72 million (33%) of Burma's US\$2.61 billion in exports.<sup>29</sup>

**Slanted economic policies hamper national development**

On 19 June 2012, President Thein Sein announced that the regime would triple Burma's GDP per capita by the 2015-2016 fiscal year.<sup>30</sup> Despite Thein Sein's promise of an economic miracle, the regime's slanted economic policies continued to be the biggest impediment to broad-based economic growth. By focusing on promoting investment in Burma's energy sector, the regime neglected other areas of the economy which have a higher capacity to drive national development and alleviate poverty.

In March 2012, the International Monetary Fund (IMF) advised the regime to address its suppressed agricultural sector, whose underdevelopment stemmed from poor access to credit, lack of private land ownership, and inadequate infrastructure.<sup>31</sup>

Burma's agricultural sector accounts for 43% of Burma's economy and is responsible for the livelihood of 70% of the population.<sup>32</sup> However, farmers' limited access to finance hampered progress in the agricultural sector.<sup>33</sup> Farmers received loans of only 50,000 kyat (US\$58) per acre from the state-controlled lenders, up 10,000 kyat (US\$12) from 2011, but still significantly below the 150,000 kyat (US\$174) required to cultivate an acre of land.<sup>34</sup> Consequently, farmers were forced to borrow from black-market lenders at high interest rates, a situation which caused many to fall into debt.<sup>35</sup> The ADB classified about 30% of Burma's rural population as "landless," a result of both land confiscation and farmers abandoning their farms to find employment in factories and construction sites abroad.<sup>36</sup>

The regime also continued to under-prioritize the development of the manufacturing sector, which was stymied by poor infrastructure, inadequate know-how,

and extensive administrative constraints.<sup>37</sup> According to the IMF, Burma has one of the highest startup costs in the world to establish a business.<sup>38</sup>

**Burma's infrastructure woefully inadequate**

Burma's inadequate infrastructure continued to pose a significant impediment to sustained economic development. Burma ranked last among its regional neighbors in terms of key infrastructure, including in the areas of transport, telecommunications, and access to electricity.<sup>39</sup> Roads, railways, and inland waterways remained insufficient to support growing economic activity.<sup>40</sup> Road density was about two kilometers per 1,000 people, compared to an average across Southeast Asia of 11 kilometers per 1,000 people.<sup>41</sup>

Infrastructure: Burma vs Thailand <sup>42</sup>		
Infrastructure	Burma	Thailand
Fixed telephone lines (thousands)	521.1	6,720.2
Fixed broadband internet (thousands)	1,243.6	78,667.9
Mobile cellular telephone (thousands)	29.3	3,738.2
Road Density (km of road per 1,000 sq km of land)	41	352
Vehicle Ratio (per km of road)	13	40

The regime also failed to make telecommunications adequately accessible and affordable for its citizens. In August 2012, the ADB said that for every 100 people in Burma, only 1.26 had access to fixed telephone lines.<sup>43</sup> As the regime continued to maintain a monopoly on mobile telecommunications, mobile phones remained unaffordable for the majority of Burmese. In 2011, there were 29,300 mobile telephones in use in Burma, compared to over 37 million in Thailand.<sup>44</sup> On 19 September 2012, the regime Ministry of Communications, Posts, and Telegraphs (MPT) began selling 5,000 kyat (US\$5.80) MPT prepaid top-up cards - the cheapest on

the market so far.<sup>45</sup> However, the price of SIM cards remained exorbitant at 200,000 kyat (US\$231).<sup>46</sup>

The cost of an internet connection remained beyond the reach of most of Burma's people. On 11 October 2012, it was reported that setting up an internet connection cost between US\$562 and US\$786. Monthly packages cost US\$30 in addition to an annual fee of US\$60.<sup>47</sup> Although official statistics claimed that Burma had more than 400,000 internet users across 42 cities, the number of users outside of the two main cities of Rangoon and Mandalay was just over 10,000.<sup>48</sup>

### **Chronic electricity shortages spark protests**

Notwithstanding Burma's abundance of energy resources, on 1 July 2012, the ADB stated that almost 75% of the population had no access to electricity.<sup>49</sup> Electricity usage averaged 104 kilowatts an hour per person, near the same level as the Democratic Republic of Congo.<sup>50</sup> The ADB said Burma's energy grid was inadequate as a result of an absence of planning and policies; the low electrification rate; poor maintenance; ill-trained staff; regime-controlled pricing; and the crippling bureaucracy involved in decision-making.<sup>51</sup>

Chronic power shortages throughout the country triggered widespread peaceful protests that underscored the regime's protracted mismanagement. Starting in October 2011, activists in Arakan State began campaigning for a 24-hour electricity supply and called on the regime to use profits generated from the Shwe gas project to improve Arakan State's dire electricity situation.<sup>52</sup> Regime authorities routinely harassed protestors and met their peaceful campaigning with numerous arrests.<sup>53</sup> In May 2012, protests over chronic power shortages hit Burma's two major cities, Rangoon and Mandalay, and other locations across the country. Regime authorities briefly detained at least 46 people in Prome,

Pegu Division, and Mandalay in connection with the protests.<sup>54</sup>

### **SEZs spur negative consequences**

Following the State Peace and Development Council's (SPDC) adoption of a Special Economic Zone (SEZ) Law in January 2011, Thein Sein's administration continued to pursue the development of SEZs and industrial zones in Burma in order to attract foreign investment. On 3 October 2012, state-run newspaper *New Light of Myanmar* reported that the regime Ministry of Industry planned to set up seven more industrial zones in Naypyidaw, Mandalay Division, and Karen, Arakan, and Shan States, to bring the total number of industrial zones in Burma to 25.<sup>55</sup> There are currently three multi-billion dollar SEZ development projects underway: Tavoy in Tenasserim Division; Kyaukpyu in Arakan State, and Thilawa in Rangoon Division's Thanlyin Township.<sup>56</sup>

The Tavoy project exemplified how the development of SEZs can negatively impact local communities and result in land confiscation, displacement, and environmental destruction. The regime granted the development of the Tavoy project to the Thai-owned company Italian-Thai Development (ITD) in November 2010.<sup>57</sup> The project included the construction of a deep sea-port and an industrial estate containing a power plant, steel mill, oil refinery, fertilizer plant, and shipyard.<sup>58</sup> The project has already resulted in a tenfold increase in property value in the area;<sup>59</sup> increased pressure on locals to move;<sup>60</sup> and the confiscation of land and relocation of residents for inadequate compensation.<sup>61</sup> Workers on the Tavoy port project also reported poor working conditions and housing.<sup>62</sup> In January 2012, regime officials said the Tavoy SEZ project was expected to displace over 23,000 people in 18 villages in Tenasserim Division.<sup>63</sup> However, it was estimated that the anticipated number displaced would be over 32,000.<sup>64</sup> Independent research estimated

that a potential 500,000 people in the Tavoy region would be directly and indirectly affected by the massive land grabs, speculation on land price increases, and destruction of the local rural economy.<sup>65</sup>

### **Myitsone dam project suspended, abuses continue**

On 30 September 2011, President Thein Sein ordered the suspension of the Myitsone dam project in Kachin State.<sup>66</sup> The Chinese-backed US\$3.6 billion project was projected to generate 6,000 megawatts of power, of which 90% would be sold to China.<sup>67</sup> Thein Sein's announcement came after a relentless campaign against the project by civil society groups and prominent individuals, including Daw Aung San Suu Kyi.<sup>68</sup> Condemnation of the project stemmed from its negative impact on local communities, including the displacement of 12,000 people<sup>69</sup> and the serious threat it posed to the environment.<sup>70</sup> The project was also a major contributor in the resumption of hostilities between the Tatmadaw and the Kachin Independence Army (KIA) in June 2011 after a 17-year ceasefire.<sup>71</sup>

Despite Thein Sein's announcement, concerns remained that the project would resume as reports surfaced that both equipment and workers remained on the project site.<sup>72</sup> China also consistently pushed for the continuation of the project.<sup>73</sup> In February 2012, China Power Investment (CPI) lobbied for the full resumption of the project through a public relations campaign to gain support among Kachin residents.<sup>74</sup> On 10 March 2012, CPI Chairman Lu Qizhou said that the company was in "active talks" with the regime to resume construction on the site.<sup>75</sup> On 21 September 2012, Chinese Vice-President Xi Jinping called on Burma's regime to ensure the smooth implementation of major bilateral infrastructure projects during a meeting with President Thein Sein in Nanning, China.<sup>76</sup>

In addition, human rights violations related to the development of the Myitsone dam

project continued. In March 2012, the regime ordered the destruction of homes and buildings next to the project site in Tang Hpre Village, Myitkyina Township, and arrested more than 10 villagers displaced by the project for attempting to return to their homes.<sup>77</sup>

### **Regime promotes crony-capitalism**

Despite talk of liberalization and economic reform, Thein Sein's administration continued to promote crony-capitalism in Burma, as the privatization process transferred key economic assets into the hands of a few trusted businessmen.<sup>78</sup>

Regime cronies benefited from the sale of state-owned properties;<sup>79</sup> the acquisition of telecommunication rights;<sup>80</sup> the privatization of the liquid petroleum gas (LPG) market;<sup>81</sup> the issuance of private bank licenses, including permitting the banks to trade foreign currencies and handle remittances from Burmese migrant workers;<sup>82</sup> the license to offer insurance services in Burma;<sup>83</sup> and the development of SEZs.<sup>84</sup>

In addition, the influx of lucrative business deals with foreign investors enabled strategically-positioned regime cronies to reap the benefits. This included planned partnerships with crony-affiliated companies, such as Japan's 7-Eleven joint venture with Zaykabar Company owned by USDP MP Khin Shwe<sup>85</sup> and Singapore's Aussino Group's deal to operate gas stations with US-blacklisted Zaw Zaw's Max Myanmar.<sup>86</sup>

### **Workers' rights still under pressure despite new legislation**

Despite the adoption of new legislation aimed at recognizing labor rights, conditions remained precarious for workers in Burma under President Thein Sein's administration.

On 9 March 2012, five months after it was signed into law by Thein Sein, the Labor Organization Law came into effect.<sup>87</sup> The

law gave workers the right to unionize and go on strike. The legislation stipulated that workers, with the exception of military and police personnel, could set up a union with a minimum of 30 members.<sup>88</sup> According to regime figures released on 1 August 2012, one employee federation, one employer federation, 127 employee organizations, and 11 employer organizations had been formed since the enactment of the law.<sup>89</sup> However, the implementation of the law showed apparent flaws. On 19 July 2012, International Labor Organization (ILO) chief technical advisor Ross Wilson said that employers had fired “quite a big number” of workers who were trade union officials in apparent contravention of the Labor Organization Law.<sup>90</sup>

With regard to the right to strike, the Labor Organization Law stipulated that workers should give employers up to 14 days notice of industrial action and unions must specify in advance how many people would take part in the strike. The law barred providers of essential services, such as healthcare, firefighting, and utility providers from striking.<sup>91</sup>

While unauthorized strikes were sporadically taking place during SPDC rule, following the adoption of the Labor Organization Law the number of industrial actions - particularly in Rangoon Division's industrial zones - skyrocketed. However, the vast majority of strikes were spontaneous actions by workers without the intervention of unions. On 1 August 2012, the regime said that there had been strikes at 90 factories involving 53,343 employees over the previous months.<sup>92</sup>

The frequency of strikes illustrated that poor working conditions continued to plague Burma's industries. However, the regime seemed primarily concerned with keeping wages low in order to attract foreign investors rather than addressing the workers' grievances. On 1 August 2012, the USDP-dominated People's Assembly overwhelmingly rejected a proposal

introduced by New National Democracy Party (NNDP) MP Thein Nyunt to form a commission to investigate the root causes of the numerous strikes in factories in Rangoon Division over the previous months.<sup>93</sup> Then-Labor Minister Aung Kyi, who had earlier called for the withdrawal of the proposal, said that such a commission would be “very dangerous” and could hurt the confidence of foreign investors.<sup>94</sup>

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## ALTSEAN-BURMA

### VISION

We are committed to a free and democratic Burma where all the people enjoy human rights in accordance with the principles of the Universal Declaration of Human Rights.

We are dedicated to the creation of a society of empowered individuals and communities in charge of their own destiny.

This can be realized through genuine national reconciliation, regional cooperation and mutual respect.

### MISSION

We are a regional network engaged in advocacy, campaigns and capacity-building to establish a free and democratic Burma.

We work with the democracy movement and its supporters to produce resources and create opportunities for:

- Building and strengthening strategic relationships among key networks and organizations from Burma, ASEAN and the international community.
- Implementing innovative strategies that are responsive to emerging needs and urgent developments.
- Inspiring and building confidence for empowerment among activists, particularly women and youth from the different ethnic groups of Burma.

### VALUES

- Adherence to the fundamental principles of human rights guides all our actions. In striving for a free and democratic Burma we are committed to:
- Reform through non-violent means.
- Non-discrimination, particularly with regard to gender equality and ethnic diversity.
- Idealism in thought and realism in action.
- We believe in the importance of education for the purposes of empowerment, especially for women.
- We value creativity, innovation and adaptability in achieving our goals.

### GOALS

- Contributing to efforts to achieve democratic transition in Burma.
- Advancing ASEAN reforms that will uphold democracy and human rights amongst members, particularly Burma.
- Contributing to a more effective regional Burma movement.
- Supporting meaningful participation of women and youth from Burma in the movement.
- Enhancing capacity-building programs to address the human resources and strategic needs of Burmese organizations.
- Promoting mutually reinforcing advocacy messages and strategies by the Burma movement.
- Consolidating and strengthening the effectiveness of the secretariat.

### LEARN MORE

Altsean-Burma publishes a monthly review of events in Burma, the "Burma Bulletin", as well periodic briefers on emerging issues. Have them delivered to your inbox by emailing [publications@altsean.org](mailto:publications@altsean.org).

Log on to our website at [www.altsean.org](http://www.altsean.org) and discover our online resources and advocacy tools.

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# ALTSEAN BURMA

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