POST-ELECTION BURMA/MYANMAR: HUMAN RIGHTS DEVELOPMENTS
(NOV 2015 - JAN 2016)

- Intensified pressure is needed to ensure that the incoming National League for Democracy (NLD) government prioritizes reforms that will bring institutional behavior, policies and legislation into line with international human rights standards.

- Post-election developments on the ground regarding discrimination and impunity fuel concerns generated by a pre-election survey, which found a disturbing lack of commitment by political parties to prioritize human rights issues consistently raised by the UN Human Rights Council.

- Despite the 22 January 2016 Presidential amnesty releasing 52 political prisoners, there are still 84 political prisoners in Burma/Myanmar and 408 people facing political charges. Two people were jailed for satirical Facebook posts in December and January, and five men were detained for printing a calendar that acknowledged the Rohingya as an ethnic group in Burma in November.

- In December 2015, the outgoing Parliament approved the Supplementary Budget Bill, creating a K3.9 trillion (US$3.17 billion) deficit for the incoming government. The Bill granted the military an additional K417.28 billion (US$338.75 million), bringing its total 2015-2016 budget to K2.88 trillion (US$2.34 billion), or 12.2% of the national budget.

- The outgoing Parliament approved the Former President's Security Bill, granting President Thein Sein immunity from prosecution for any crimes committed while in office. Other moves were made to strengthen the military's power but were defeated or deferred.

- The Tatmadaw continued to target civilians while intensifying hostilities in some conflict zones, and a new armed group has emerged while a dormant one has regrouped. The Union Peace Conference agreed to include 30% women in the peace process, but made no commitment to addressing gender-based violations – including sexual violence – in conflict zones.

- In January, it was disclosed that severe acute child malnutrition had spiked in Rohingya-majority northern Arakan/Rakhine State.

- The extremist Organization for the Protection of Race and Religion (Ma Ba Tha) continued to incite hatred against Muslims, and warned the NLD not to "tamper" with the four discriminatory Protection of Race and Religion laws.
Half empty: Political parties' commitments to human rights reforms

A 3 November report by the International Federation for Human Rights (FIDH) titled, “Half Empty: Burma’s political parties and their human rights commitments,” found most parties severely lacking in human rights commitments: 1

- Seventy-four percent of parties surveyed would not amend the 1982 Citizenship Law to grant Rohingya Muslims equal access to citizenship rights, 42% refused to respond to the question on addressing discrimination against Rohingya Muslims, and only 21.1% would prioritize addressing acts of discrimination and intolerance against religious minorities.
- There was extremely low interest in repealing the four controversial Protection of Race and Religion Laws [see textbox]; only 5.3% would repeal the Population Control Law to address discrimination against Muslim Rohingya, while 26.3% would prioritize repealing the Interfaith Marriage Law.
- Only 47.4% would introduce legislation to prevent violence against women and criminalize marital rape.
- Only 31.6% would prioritize ensuring independence of the judiciary from the executive branch.
- Only 21.1% would reject trade and investment agreements and arbitration mechanisms that do not provide effective human rights protections.
- Only 21% of political parties would significantly reduce the military budget.

Protection of Race and Religion Laws 2

Religious Conversion Law (August 2015)
The Religious Conversion Law requires anyone wishing to convert to another religion to submit an application to a township registration board and undergo an interview. Anyone found guilty of violating the law will be subject to a maximum of two years’ imprisonment and a fine of K200,000 (US$162). The law is in clear violation of the right to freedom of religion.

Interfaith Marriage Law (August 2015)
The Interfaith Marriage Law is a violation of the equal rights of women and Burma’s obligations as a party to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). It applies only to Buddhist women marrying outside their faith, and requires them to seek permission from the state to do so, under the false premise of „protecting” them. It is a violation of the right to marry, freedom of religion, and the right to privacy as it requires couples to register as interfaith, and give notice of their intention to marry so that others can raise objections – if objections are raised, the issue can be taken to court and the marriage prevented.

Population Control Law (May 2015)
The Population Control Law allows for restrictions on the number of children a woman can have – requiring “birth spacing” of 36 months. The law restricts women’s reproductive rights and is triggered by requests from regional governments to implement the law in their state, meaning it is likely to be used to target the Muslim population and other religious minorities in instances of localized discrimination.

Monogamy Law (August 2015)
The Monogamy Law sets out restrictions on Burmese citizens living with another person or entering into a second marriage while still married. While sounding less problematic, the Bill allows the loss of property rights and criminal penalties of up to seven years’ imprisonment for consensual extra-marital relationships.

Discrimination continues to take a toll

- In November 2015, police charged five men under Article 4 of the Printing and Publishing Law and Article 505(b) of the Criminal Code for printing a calendar which referred to Rohingya as an ethnic group in Burma/Myanmar. They were fined K1 million (US$812) each under the first charge and detained in Insein Prison during trial proceedings on the second charge. A sixth man, accused of making the print order, remains on the run. The men were charged after pressure from the Organization for the Protection of Race and Religion (Ma Ba Tha), which has maintained a presence during court proceedings.3
- On 28 January 2016, the European Community Humanitarian Office (ECHO) stated that the number of children under age five suffering from severe acute malnutrition had spiked to 4,100 in Rohingya-majority northern Arakan/Rakhine State, six months after Cyclone Komen hit in July 2015. An ECHO spokesman said children were eating only one meal a day or were relying on just rice and water.4
- On 12 November 2015, Ma Ba Tha, which spearheaded the introduction of the four Protection of Race and Religion Laws [see textbox], warned the National League for Democracy (NLD) not to “tamper” with these and other discriminatory laws.5 Ma Ba Tha leaders continue to post messages and videos inciting racial and religious hatred on social media.6
- For the first time since Burma’s independence, there will be no Muslims in Parliament when the new Parliament sits. 7 Most Muslim candidates were disqualified in the run-up to the November elections and neither the NLD nor the Union Solidarity and Development Party (USDP) fielded any Muslim candidates.8

1 FIDH (3 Nov 15) Half Empty: Burma’s political parties and their human rights commitments
2 ALTSEAN-Burma (04 Oct 15) Post 2014 UNGA Resolution Developments In Burma
3 Myanmar Now (23 Nov 15) Myanmar court fines 5 men for printing Rohingya calendar; see videos posted on nationalist monk and Ma Ba Tha leader Wirathu’s Facebook page: https://www.facebook.com/vin.wirathumisy
4 Reuters (28 Jan 16) Malnutrition spikes in Arakan State after floods: EU agency
5 ALTSEAN-Burma (04 Dec 15) November 2015 Burma Bulletin
7 Myanmar Times (02 Feb 16) U Wirathu condemned and warned over hate speech video; see videos posted on nationalist monk and Ma Ba Tha leader Wirathu’s Facebook page: https://www.facebook.com/vin.wirathumisy
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2 ALTSEAN-Burma (04 Oct 15) Post 2014 UNGA Resolution Developments In Burma
3 Myanmar Now (23 Nov 15) Myanmar court fines 5 men for printing Rohingya calendar; RFA (25 Nov 15) Five Myanmar Men Arrested, Charged For Rohingya Calendar; Mizzima (17 Dec 15) Accused in Rohingya calendar case appear in court for the third time
4 Reuters (28 Jan 16) Malnutrition spikes in Arakan State after floods: EU agency
5 ALTSEAN-Burma (04 Dec 15) November 2015 Burma Bulletin
6 Myanmar Times (02 Feb 16) U Wirathu condemned and warned over hate speech video; See videos posted on nationalist monk and Ma Ba Tha leader Wirathu’s Facebook page: https://www.facebook.com/vin.wirathumisy
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**Political prisoners: Release marred by new Facebook imprisonments, 408 facing charges**

- Despite a Presidential amnesty in January 2016, which released 102 prisoners including 52 political prisoners, there are currently 84 political prisoners in Burma/Myanmar and 408 people facing charges for political actions.\(^9\) Only 2% of prisoners released in amnesties since 2011 have been political prisoners.\(^10\)
- On 22 January 2016 – the same day President Thein Sein announced the amnesty – aid worker Patrick Khum Ja Lee was sentenced to six months in prison under Article 66(d) of the Telecommunications Law for a satirical Facebook post.\(^11\) On 28 December 2015, activist Chaw Sandi Tun was also sentenced to six months in prison under the same law for a satirical Facebook post.\(^12\)
- Fifty-three of the students arrested in the violent crackdown at Letpadan in March 2015 remain in prison, with many facing severe health problems, including tuberculosis, gastrointestinal diseases and kidney problems, due to police beatings and a lack of medical treatment.\(^13\)
- The National League for Democracy (NLD) has committed to end political imprisonment, but military control over the Home Affairs Ministry in the new government could restrict their ability to do so, as the Ministry controls the police force and decisions on criminal complaints, and could call it a security matter.\(^14\)

**Final session of Parliament: Military budget gets a top-up, President gets immunity**

- **9 December 2015:** Burma/Myanmar’s National Parliament approved the Supplementary Budget Bill, which created a K3.9 trillion (US$3.17 billion) deficit for the incoming government and allocated an extra K417.28 billion (US$338.75 million) to the military. This is the largest amount allocated to any ministry, i.e. 17% of the K2.46 trillion (US$2 billion) approved in additional 2015 - 2016 government spending, and leaves the military budget at 12.2% of the total national budget.\(^15\)
- **21 December 2015:** A bill was proposed that would reduce the President’s power in the National Defense and Security Council by removing his/her right to vote on issues unless there was a deadlock, likely meant to limit the incoming National League for Democracy (NLD)'s executive authority. It was later deferred to the new Parliament.\(^16\)
- **22 January 2016:** Seven days before the final session of the outgoing Parliament ended, President Thein Sein requested National Parliament Speaker Shwe Mann to introduce a proposal to merge the Immigration Ministry with the Home Affairs Ministry (which will remain under the control of the Tatmadaw in the new government alongside the Defense and Border Affairs Ministries).\(^17\) This would expand military power to cover immigration and citizenship, and reduce NLD influence in the next government. However, on 28 January 2016 it was announced that Parliament rejected the proposal.\(^18\)
- **28 January 2016:** The National Parliament approved the Former Presidents’ Security Bill, which grants blanket immunity to ex-Presidents for all crimes committed in office. Its adoption, with an immunity clause for actions “in accordance with the laws,” shields President Thein Sein from domestic prosecution for war crimes and serious human rights abuses.\(^19\)

**Military Impunity: Serious crimes continue**

Since November, 19 civilians have been shot, injured, or killed in conflict zones, while 15 have been arbitrarily detained and in some instances tortured. Dozens have been threatened for attempting to return home from IDP camps (in one case 50 were held at gunpoint for hours before being turned away), one IDP shelter suffered artillery and aerial attacks, 45 homes in two villages were purposely burned, and 170 people are missing.\(^20\) There have also been three cases of rape by Tatmadaw soldiers – in one instance, on 5 November, 10 Tatmadaw soldiers gang-rape

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\(^9\) AAPP (22 Jan 16) AAPP raises concerns despite presidential amnesty; AAPP (22 Jan 16) 84 political prisoners list in prison
\(^10\) ALTSEAN-Burma (02 Aug 15) July 2015 Burma Bulletin; AAPP (22 Jan 16) AAPP raises concerns despite presidential amnesty
\(^11\) ALTSEAN-Burma (06 Jan 16) December 2015 Burma Bulletin; Irrawaddy (22 Jan 16) Kachin aid worker sentenced to 6 months in Facebook defamation case; DVB (22 Jan 16) Amnesty slams ‘outrageous’ jailing of online satirist
\(^12\) ALTSEAN-Burma (06 Jan 16) December 2015 Burma Bulletin
\(^13\) ALTSEAN-Burma (08 Feb 16) January 2016 Burma Bulletin; All Burma Federation of Student Unions, Justice Trust & Letpadan Justice Committee (25 Jan 16) Briefing paper: Medical crisis for political prisoners of Letpadan case
\(^14\) Myanmar Times (06 Jan 16) NLD pledges no more political prisoners; Myanmar Times (20 Jan 16) Call to release prisoners by US may be untenable
\(^16\) ALTSEAN-Burma (06 Jan 16) December 2015 Burma Bulletin; DVB (05 Jan 16) Defence Council bill delayed until NLD Parliament
\(^17\) Myanmar Times (27 Jan 16) NLD resists expansion of military ministries
\(^18\) Myanmar Times (29 Jan 16) Parliament rejects military expansion; Al (28 Jan 16) Myanmar: Scrap or amend new law that could grant immunity to former presidents
\(^19\) Al (28 Jan 16) Myanmar: Scrap or amend new law that could grant immunity to former presidents; GNLM (29 Jan 16) Pyidaungsu Hluttaw ends debate on Former Presidents’ Security Bill; Irrawaddy (13 Jan 16) Upper House Debates Presidential Protection, Immunity Bill
a 32-year-old woman in Kyethi Township, Shan State, amidst large-scale Tatmadaw offensives against the Shan State Army-North (SSA-N), while her husband was tied up beneath their home.\textsuperscript{21}

- Throughout October and November in central Shan State, the Tatmadaw’s “scorched earth” tactics displaced over 10,000 people, closed 17 schools (most damaged or destroyed), and sparked widespread food insecurity and dire health conditions that reportedly included outbreaks of cholera.\textsuperscript{22}

### Exclusive peace talks, armed conflicts continue

- Women remain severely underrepresented in the peace process, as exemplified by the 7% participation by women at the 16 January 2016 five-day Union Peace Conference (UPC).\textsuperscript{23} Despite the breakthrough pledge for future political dialogue to include 30% women’s participation, the peace agenda notably lacks commitments to resolving and preventing conflict-related human rights violations against women. A UPC pledge to recognize all participants in the record has already been broken as the UPC’s meeting records omitted women’s input.\textsuperscript{24}

- Only eight out of 18 ethnic armed organizations (EAOs) signed the “Nationwide” Ceasefire Agreement (NCA) on 15 October 2015. The signatories have about 16,000 troops among themselves and were already enjoying relative peace, compared to the 48,000 troops of the non-signatories who operate in zones of protracted armed conflict.\textsuperscript{25}

- On 31 December 2015 the Tatmadaw attacked NCA-signatory Shan State Army South/Restoration Council of Shan State (SSA-S/RCSS), confirming Myanmar Peace Centre senior advisor Hla Maung Shwe’s September assertions that signing the NCA would not end conflict.\textsuperscript{26}

- Naypyidaw continues to defy the ethnic bloc’s request to include the Ta’ang National Liberation Army (TNLA), Arakan Army (AA), and Myanmar National Democratic Alliance Army (MNDAA) as partners in a nationwide peace deal. The Tatmadaw may potentially block attempts by a National League for Democracy (NLD) government to include these groups in the peace process by wielding its voting power on the National Defense and Security Council.\textsuperscript{27}

- The Tatmadaw has retaliated fiercely against non-signatory EAOs since their 30 September 2015 refusal to sign the NCA, especially in ruby and jade-rich areas of Shan and Kachin States, respectively.\textsuperscript{28} During that time:\textsuperscript{29}
  - The Tatmadaw and Shan State Army-North (SSA-N) clashed at least 83 times; with incessant Tatmadaw air attacks and bombing campaigns. From 6 October - 1 December, Shan State witnessed only five days without armed conflict.\textsuperscript{30} By 27 October, 1,388 homes in 22 villages had been damaged or destroyed.\textsuperscript{31}
  - The Tatmadaw and Kachin Independence Army (KIA) clashed at least 52 times, with several air attacks, in clashes described as the “fiercest in the history of fighting between the Burmese army and KIA.”\textsuperscript{32}
  - The Tatmadaw clashed with the TNLA at least 20 times, and with the MNDAA in at least seven incidents. On 28 October, locals of Shan State’s Kokang Self-Administered Zone told press that the Tatmadaw used chemical shells in its artillery against the MNDAA in clashes at higher elevation.\textsuperscript{33}
  - Since 28 December the Tatmadaw and AA have clashed 15 times, with the military vowing to “remove” them from Arakan/Rakhine State.\textsuperscript{34}
  - At least 30 appeals for peace and an all-inclusive peace process made by civil society, political parties, EAOs, and international actors were heeded by Naypyidaw. Tatmadaw offensives endangered activities of political parties and forced the closure of polling across several townships in Shan and Kachin States before the 8 November elections – 101,727 people in Shan State’s conflict-ridden Monghsu and Kyethi Townships alone, lost the right to vote.\textsuperscript{35}


\textsuperscript{25} Irrawaddy (22 Jan 16) Women’s Alliance Breaks Down Gender Disparity in Peace Process.

\textsuperscript{26} ALTSEAN-Burma (08 Feb 16) January 2016 Burma Bulletin; Irrawaddy (22 Jan 16) Women’s Alliance Breaks Down Gender Disparity in Peace Process.

\textsuperscript{27} ALTSEAN-Burma (04 Nov 15) October 2015 Burma Bulletin.


\textsuperscript{29} Myanmar Times (11 Jan 16) Key players to miss peace conference.

\textsuperscript{30} Myanmar Times (08 Oct 15) Renewed attacks cast doubt on ceasefire pledge.


\textsuperscript{32} SHAN (01 Dec 15) Preventable diseases spread as Shan State IDPs are denied access to primary health care.

\textsuperscript{33} Myanmar Times (28 Oct 15) RCSS, rights groups urge end to fighting.

\textsuperscript{34} ALTSEAN-Burma (04 Dec 15) November 2015 Burma Bulletin.

\textsuperscript{35} RFA (29 Oct 15) Myanmar Rejects Claim its Troops Used Chemical Weapons in Border Conflict.

\textsuperscript{35} GNLM (08 Jan 16) Tatmadaw aims to remove AA insurgents from Rakhine State.

\textsuperscript{36} ALTSEAN-Burma (04 Dec 15) November 2015 Burma Bulletin; SHAN (07 Nov 15) Cancellations leave 100,000 unable to vote in central Shan State.