

**Review of the Country of Origin Information Report**  
**on**  
**Burma**  
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## INTRODUCTION AND SUMMARY

This report evaluates the latest Country of Origin Information report on Burma (hereafter “the COI Burma”), released 17 Jun 2011.

Overall, the COI Burma is a good document in both its *comprehensive scope* and the *diversity of information sources* which it attempted to access. Whoever compiled the report deserves credit. The compiler’s *meticulousness in his or her research*, and the *choice of materials* included in the document is commendable.

The 146-page report contains *extensive information* for use by UK officials in the areas of refugees, asylum and immigration and issues of professional interest to them.

This reviewer adopted a constructively critical stance throughout the evaluation. Also the reviewer consulted local language sources which the COI Burma did not include for linguistic reasons, for instance, a special interview program on the military and security forces in Burma, at the Voice of America Burmese Language Service whereby ex-military officers are interviewed regularly about different types of human rights violations which their former bosses, troops and ex-comrades had committed, the inner workings of the military leadership, the psychology and the worldview of decision-makers which in many cases defy the generally accepted logic and rationality, and so on. In most cases even the country information compiled by local sources is available in English language as local ethnic and political communities see the importance of making their views, experiences and analyses accessible to the global English readership.

The greatest paradox in understanding Burma’s problems and their main source namely the military-controlled government, is the **systemic arbitrariness** with which the authorities exercise governmental power in all domains of the life.

The United States State Department *Trafficking in Persons 2010* (released 14 June 2011) (cf 26.05 of the COI Burma) captures the essence of the State under the military or military-controlled governments: “The Burmese regime rules arbitrarily through its

unilaterally imposed laws, but rule of law is absent as is an independent judiciary that would respect ... rights.”

The intention of the authorities to regulate, restrict and control citizens’ movement is discernible from the United States Department of State *Country Report on Human Rights Practices (2010) (published 8 Apr 2011)*, which notes that “the law requires that persons who intend to spend the night at a place other than their registered domicile must inform ... local authorities in advance. Any household that hosts a person not domiciled there must maintain a guest list and submit it to authorities. Ward-level authorities continue unannounced nighttime checks of residences for unregistered visitors.”

While keeping the need to be objective in reviewing the COI Burma because of his own background as a Burmese – and a dissident scholar at that – the reviewer couldn’t help but notice how little progress there has been since he experienced the military rule firsthand 30 years ago, having been dragged, almost literally, from the guest room of his elderly grandmother’s house in his home city of Mandalay by the inspection team made up of members of the police Special Branch and civilian administrative ward authorities during the early hours - his elderly grandmother had failed to report to the local ward authorities of the reviewer’s overnight stay for one night at her residence where he was not a registered member of the household.

The observation that the population in Burma experience systematic denial of citizens’ basic human rights and other assemblage of political rights comes from a wide range of independent sources including the defecting Burmese diplomats and professional human rights organizations.

As recently as 4 July 2011, Mr Kyaw Win, the second most senior Burmese diplomat with the rank of the Deputy Chief of Mission (DCM) at the Burmese Embassy in Washington DC sought asylum in the United States, stating as his concerns for the decades-long absence of human rights and the dim prospects for progress in reconciliation and human rights in Burma. In his letter to US Secretary of State Hilary Clinton, Mr Win wrote, “After over 31 years of service in the Ministry of Foreign Affairs, I

had lost confidence and my conscience would no longer allow me to work for the government. It has always been my hope that democratic reform could finally be realized in my country. The truth is that, despite the election that was held up as a democratic process, the military continues to hold uncontested power and democratic change under this system will not happen in the foreseeable future.”<sup>1</sup>

In his Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar, Yangon International Airport, Myanmar (released 25 Aug 2011)<sup>2</sup> Tomas Ojea Quintana stressed that “the capacity, independence and impartiality of the judiciary remain outstanding issues in Myanmar. Additionally, I noted that various laws and legal provisions that limit fundamental rights and contravene international human rights standards remain in existence.” Quintana further notes, “Many of my interlocutors underscored the extent of deprivation of economic, social cultural rights throughout the country, but particularly in the ethnic border areas.” Special Rapporteur registered his two other concerns, namely “the continuing allegations of torture and ill-treatment during interrogation, the use of prisoners as porters for the military, and the transfers of prisoners to prisons in remote areas where they are unable to receive family visits or packages of essential medicine and supplemental food” and “the ongoing tensions in ethnic border areas and armed conflict with some armed ethnic groups, which continue to engender serious human rights violations, including attacks against civilian populations, extrajudicial killings, sexual violence, arbitrary arrest and detention, internal displacement, land confiscations, the recruitment of child soldiers, as well as forced labour and portering.”

It is against this fundamentally repressive nature of the military or military-controlled government in power and the absence of progress in the area of human rights, including political freedoms and social and cultural rights, that this reviewer approached the COI report on Burma.

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<sup>1</sup> (For the full text of the letter see Diplomat Kyaw Win’s Letter to US Secretary of State Hilary Clinton <http://www.rohingyablogger.com/2011/07/diplomat-u-kyaw-wins-letter-to.html> ).

<sup>2</sup> (See *Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar*, Yangon International Airport, Myanmar <http://yangon.unic.org> Accessed 25 Aug 2011).

## THE BODY OF THE REVIEW

### STATISTICS AND DATA ON BURMA

**COI Burma 1.02** gives the country's population as an estimated 52 million. This data needs to be qualified with a brief statement saying that there is no really reliable data available on the size of the population. When it comes to numbers and statistics about Burma interested readers should be advised to consider just how unreliable statistic information regarding Burma can be.

David Scott Mathieson, the researcher with the Human Rights Watch specializing in Burma affairs attempts to drive home this message about numbers regarding Burma in his article entitled *Burma: demographics of disciplined democracy* (27 May 2011).<sup>3</sup> It is instructive to quote Mathieson at length here:

“Burma has not had an effective nationwide census for decades: previous ones took place during British colonial rule in 1931, under the post-war social-democratic government in 1953, and by the self-described socialist government in 1983.... The Rangoon-based United Nations agency, the Myanmar Information Management Unit (MIMU), released a map in 2009 with a breakdown of the population of all of Burma's fourteen administrative units (states and divisions/regions); based on figures from Burma's ministry of home affairs, it finds the total population to be 44,209,146. The Lonely Planet tourist guide (2009) claims 47.4 million. The United States's Central Intelligence Agency (CIA) estimates the population at 48,137,741. Many newspapers reporting on the Burmese elections variously say 50, 51, 52, 54 or 57 million - numbers all likely based on internet searches through disparate figures on a variety of websites. United Nations millennium development goals (MDG) data compiled in 2008 projects the 2010 figure for Burma at 50,495,000.

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<sup>3</sup> *Burma: demographics of disciplined democracy*, David Scott Mathieson, OpenDemocracy, 27 May 2011 (<http://www.opendemocracy.net/david-scott-mathieson/burma-demographics-of-disciplined-democracy> Accessed 4 Aug 2011).

The statistical yearbook for 2008 of Burma's ministry of national planning and economic development gives the population figure as 57,504,000. The latest official figure in 2010, from the Burmese government's ministry of immigration and population, estimates that 59.12 million people live in Burma: 29.39 million men, and 29.73 million women. These numbers stem from a census of some kind conducted in 2007, in cooperation with the United Nations Population Fund (UNFPA). The survey estimates that the population growth rate is 2.02% annually.

So, estimates from the lowest to the highest figures in just a two-three-year timescale - in calculations from the Burmese government, the United Nations, and international organisation - produces a differential of 15 million people. Isn't that gap a little too wide to conduct anything approaching a credible election?"

COIS: Thank you for highlighting the considerable variations in population estimates. We will explain the caution required in handling statistics and accurately identifying the population in the next report.

**COI Burma 1.02** states that there are 7 divisions (Bama ethnic nationalities) and 7 ethnic states (non-Bama ethnic nationalities' states or provinces).

This needs to be updated so as to reflect the new administrative changes under the military's Constitution of Year 2008. The term "division" has been changed into "regions" while the term "state" has been retained. According to the new Constitution, 5 new Self-Administered Zones (such as Naga, Palaung, Kokang, Pao, and Danu) and one Self-administered Division for the Wa "for national races with suitable populations" have been created.

A suggestion here would be to include an up-to-date administrative map of Burma reflecting these changes. An updated map can be obtained from Page 2 of "Ethnic Politics in Burma: The Time for Solutions", Burma Policy Briefing Nr 5, Trans National Institute-Burma Centre Netherlands, February.<sup>4</sup>

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<sup>4</sup> See <http://www.tni.org/sites/www.tni.org/files/download/TNI-BCN%20Burma%20policy%20briefing%20no.%205.pdf>

COIS: The section will be updated to reflect the changes in the new constitution, along with the suggested map.

**COI Burma 1.04**, citing FCO as its source, the data about the ethnic make-up needs to be treated with caution in the absence of any meaningful census. The ethnic make-up itself is a highly political and contentious issue among different ethnic stakeholders in Burma. Burma's minorities will certainly question the size of the dominant Bama or Burman group as "69%" as presented in the COI.

Also two noteworthy aspects of ethnicity and ethnic identities in Burma are their shifting nature depending on a given relational context and the interethnic (Burman and Shan, Shan and Kachin, for instance) and inter-racial (for instance, Sino-Burmese and Indo-Burmese, Sino-Shan, Sino-Mon, etc) familial backgrounds of hundreds of thousands of citizens who are scattered throughout Burma.

COIS: Unless a more accurate source can be found or offered providing data on ethnic groups, the fact that there has been no recent census will be highlighted in the next report.

**COI Burma1.05** – Animism and Buddhism are *inseparable* across all Buddhist and Christian (convert) communities. A good reflective analysis of the respective roles, in the lives of Burma peoples, of "great traditions" such as Buddhism, Christianity etc and "the small traditions" such as animisms may be found in Pascal Khoo Thwe's "From the Land of Green Ghosts: A Burmese Odyssey" (Harpers Collins, 2002), the acclaimed autobiography of the first "tribal" man from Burma to attend Cambridge University.

COIS: Thank you for this insight. It is preferable for COIS and its users to be able to access sources online, and for those sources to have been published as recently as possible. The researcher will attempt to find a reliable source of information on this subject for inclusion in the next report.

**COI Burma Page 13** – in place of the UN map of Burma which no longer reflects the administrative changes made in accord with the Constitution of 2008, two different maps should be included: a map depicting the distribution of ethnic groups and a second map which captures the administrative areas of the post-election Burma. The former may be obtained from this website the ReliefWeb at



[http://reliefweb.int/sites/reliefweb.int/files/resources/10FDF327AD43B28E852571FC004C65E4-tbbc\\_REF\\_mmr300606.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/10FDF327AD43B28E852571FC004C65E4-tbbc_REF_mmr300606.pdf) while the Transnational Institute's Burma Policy Briefing paper contains the most up-to-date administrative map, which can be downloaded from <http://www.tni.org/sites/www.tni.org/files/download/TNI-BCN%20Burma%20policy%20briefing%20no.%205.pdf> .

In a war-torn country such as Burma where ethnicity and rights violations and human vulnerability are interlinked inclusion of a map with ethnic distribution across the country's geographic zones is a crucial piece of policy information.

COIS: Thank you for these useful links. The maps will be included in the next report.

### **COI BURMA ECONOMY**

Add the following website link to the article in *The Diplomat*, published 31 Aug 2011, which contains the most up-to-date date on the Foreign Direct Investment (FDI) in Burma and offers a succinct but contextualized and comparative reading of the FDI.

*Behind Burma's Rising FDI*, Jared Bissinger, Jared Bissinger, *The Diplomat*, 31 Aug 2011 (<http://the-diplomat.com/asean-beat/2011/08/31/behind-burmas-rising-fdi/> Accessed 31 Aug 2011).

COIS: Thank you. This section is intended to just give a brief overview of the economy. The source suggested will be considered for the next report.

**COI Burma 2.02:** The CIA's estimated 5.7% unemployment is extremely low in light of on-the-ground realities. For one there is active, smoldering civil war in several major regions of Burma where communities simply subsist.

COIS: If a source providing a more accurate picture of Burma's unemployment figures can be located then it will be included in the next report. Any suggestions the reviewer may have would be welcome.

**COI Burma 2.05:** A mention needs made of barter trade between N. Korea and Burma as N. Korea has become a major arms exporter to Burma in exchange for Burmese goods such as agricultural commodities. Myanmar Business Network describes the nature of trade between Burma and N. Korea (although it fails to mention the well-documented N Korea's export of military hardware to Burma):

“due to the lack of cash the trading between the two countries is usually based on barter as Myanmar supplies North Korea with alcohol and agricultural commodities, such as rice and corn in exchange for North Korea's cement and industrial chemicals. When payments are involved, the transactions are mostly settled outside the banking system, in cash”.<sup>5</sup>

COIS: Thank you. As above the purpose of this section is to provide a brief overview of the economic situation but we will consider including this in the next report.

**COI Burma 2.03:** A new budget for 2011-2012 is available and should be included. It can be obtained from Budget Department, the Ministry of Finance and Revenue, Myanmar.<sup>6</sup>

It is important to stress that the Burmese government has set up a Special Fund (for national defence and security), which can be accessed only by the Commander in Chief of the Defense Services without any parliamentary or other external oversight.<sup>7</sup>

COIS: Thank you. These sources will be considered for inclusion in the next report.

**COI 2.07:** The country's unofficial, but widely used exchange rate needs to be updated. At the black market, Kyat appreciates significantly against dollars (at \$1= K 750-800) from about K1,000 to \$1 only a year ago. The Associated Press reported on 18 Aug 2011:

“Burma's president says the strengthening local currency is hurting the economy and garment factories face closure if the U.S. dollar continues to weaken...The dollar has fallen from 800 kyat to 750 kyat, dealing a blow to Burma's exporters, President Thein Sein said in a speech given Wednesday to economists, businessmen and local aid organizations in the capital Naypyitaw”.<sup>8</sup>

Here include the following website link to the most up-to-date discussion of critical issues regarding the country's currency system:

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<sup>5</sup> See Myanmar barter trade with North Korea, April 22, 2011 ( <http://www.myanmar-business.org/2011/04/myanmar-barter-trade-with-north-korea.html> Accessed 29 Aug 2011).

<sup>6</sup> See Budget Department, Ministry of Finance and Revenue ([http://www.myanmar.com/finance/dept\\_bud\\_04.html](http://www.myanmar.com/finance/dept_bud_04.html) Accessed 29 Aug 2011).

<sup>7</sup> See NLD Slams Military Fund, Associated Press, 5 Mar 2011 ( [http://www.irrawaddy.org/article.php?art\\_id=20881](http://www.irrawaddy.org/article.php?art_id=20881) Accessed 29 Aug 2011).

<sup>8</sup> Burma's president admits country facing hardship, AP News, Aug 18, 2011, ( <http://asiancorrespondent.com/62784/burmas-president-admits-country-facing-hardship/> Accessed 29 Aug 2011).

*Burma must face reality on currency regime*, Supalak Ganjanakhundee, The Nation, 31 Aug 2011 (<http://www.nationmultimedia.com/2011/08/31/national/Burma-must-face-reality-on-currency-regime-30164103.html> Accessed 31 Aug 2011).

COIS: Updated information on the exchange rate will be included in the next report.

## **COI BURMA HISTORY**

**COI Burma 3.02** offers a straightforward, but highly problematic narrative of the country's past, begging some correctives.

First, Burma was rich in natural resources and endowed with fertile agricultural land which was developed during the British rule into one of the world's largest agricultural economies. But in 1948, independent Burma inherited from the British rule one of Asia's most devastated economies as the British colonial administration, upon retreat to India against the advancing Japanese army, resorted to scorched earth measures, destroying virtually everything it built during its century rule – bridges, barges, oil refineries, roads, rice and timber mills, etc.

Second, politically, the country plunged into civil war within 90 days of independence as the Communists with their mass following went underground. Within a year in 1949 the separatist Karens followed suit and waged war against a democratically elected multi-ethnic government under PM U Nu. The mildly socialist parliamentary government sought and received military, financial and political support from US, UK, West Germany, etc.

Third, in 1962, out of its Cold War imperatives, the West tacitly welcomed the decisive coup against a weak parliamentary government which in its view was too conciliatory towards various Burmese communist movements, above and underground. The coup leaders were reputed to be staunchly anti-communist. During the first military dictatorship, such British firms as Unilever, Barclays investment, and so on were active partners of Burma's socialist enterprises while the then strong man General Ne Win was a welcome guest in UK, West Germany, France, USA and so on. Britain's Royal Military Academy at Sandhurst and command and staff colleges trained scores of Burmese military officers who manned General Ne Win's one-party military rule from its inception in 1962 until its collapse in 1988 in the midst of popular uprisings.

COIS: Thank you. The history section is intended to provide a brief historical background and context to current events, and some of the above is perhaps overly detailed for the needs of asylum caseworkers. We will use some if not all of the background the reviewer has provided for the next report.

Do you have a source(s) for this information – or may we use you as the source?

#### **COI Burma 4, RECENT DEVELOPMENTS (Nov 2010 up to Mar 2011)**

This section needs to be brought up to date, needless to say, especially since some of the most significant developments have taken place after the cut-off date for the **COI Burma**. For instance, the 17-year old ceasefire between the Burmese military and the Kachin Independence Organization broke down as of 9 Jun 2011.<sup>9</sup> In a separate but related development, the Burmese government made a 180-degree turn in its adversarial stance towards Aung San Suu Kyi, resulting in the meeting between the country's new, if nominal Head of State President Thein Sein.<sup>10</sup>

COIS: Significant events and developments will be updated in the next report.

#### **COI Burma 5, CONSTITUTION**

It should start with 5.04, the hyperlink to the Australian National University where a copy of the Constitution of 2008 can be accessed.

In addition to Jane's brief discussion of the Constitution and the relevant note from the FCO Country Profile on Burma, this section would benefit from an inclusion of a legal expert analysis of the Constitution.

One of the most succinct and accurate expert analyses of the Constitution of 2008 is "Analysis of the 2008 SPDC Constitution for Burma", David Williams, Professor of Law and Executive Director, Centre for Constitutional Democracy, Indiana University at

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<sup>9</sup> *Conflict or Peace? Ethnic Unrest Intensifies in Burma*, Transnational Institute, 20 Jun 2011 (<http://www.tni.org/sites/www.tni.org/files/download/bpb7.pdf> Accessed 28 Aug 2011) .

<sup>10</sup> *Aung San Suu Kyi meets Burma's president Thein Sein*, The Guardian, 18 Aug 2011 (<http://www.guardian.co.uk/world/2011/aug/19/aung-san-suu-kyi-meeting> Accessed 29 Aug 2011).

Bloomington, USA. It is only 5-pages in length. According to Professor Williams, “under the Burmese constitution, the Tatmadaw (the Burmese Defense Services) will be truly the lawgiver, not the people elected in 2010”.<sup>11</sup>

In addition to the issue of 2,000-plus political prisoners and ethnic grievances, the substance of the Constitution is one of the three major obstacles in the way of Burma achieving political stability and domestic peace.

Here it is highly recommended that this section on the Constitution be inserted before the **Section on Constitutional Referendum at COI Burma 3**. Logically, readers should want to know what the Constitution contained before they should be exposed to the discussion about how the people voted on it.

Further, it may be suggested that the two relevant excerpts from Williams’ aforementioned constitutional analysis be added to the Section on Constitution, even if the revised version retained the order of the sections. These suggested excerpts from “Analysis of the 2008 SPDC Constitution for Burma”, are:

Article 20 provides: “The Defence Services has the right to administer for participation of the entire people in Union security and defence.” In other words, the military may forcibly enlist the whole citizenry into a militia so as to maintain internal “security.” And, again, the civilian government has no control over the military’s operations. After the elections, Burma will be a military dictatorship just as much as now.

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

COIS: Thank you. The additional information on the constitution will be included in the next report.

As the report follows a standard framework, we will maintain the current structure but will make the link clearer between paragraphs on the revision to the constitution and section on the constitution.

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<sup>11</sup> ( <http://www.burmapartnership.org/wp-content/uploads/2010/04/David-Williams-Briefer-on-power-of-Burmes-military-under-the-2008-constitution1.pdf> Accessed 4 Aug 2011) .

## COI Burma 6, POLITICAL SYSTEM

In order to contextualize the importance of political systems' it might be helpful to include in this section on Burma's political system an official and pertinent observation contained in "the UN Secretary General's report on the situation of human rights in Myanmar" (dated 14 Sept 2010) submitted to the sixty-fifth session, as Item 69 (c) of the provisional agenda entitled "Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representative".<sup>12</sup> The following passage from the UNSG's report on Burma's human rights situation contains this contextual information which bridges political system and human rights conditions on the ground, and should be included in the COI Burma.

"There should also be progress in overcoming Myanmar's twin legacies of political deadlock and armed conflict. Myanmar faces the longer-term challenges of reversing two generations of non-democratic rule as well as socio-economic stagnation. Addressing the challenges of national reconciliation, democratization and respect for human rights remain essential responsibilities. In that regard, it is critical to pursue dialogue and cooperation among all stakeholders, as well as greater political, social and economic openness. In order to respond to the expectations of the people, it will be necessary to establish a credible civilian system and shift to greater pluralism and broad-based policymaking. Myanmar will need to invest in civilian governance and promote administrative capacity-building, including by enabling civil society and the private sector to participate more fully in the development of the country. (p.15)

COIS: The section is usually kept short and factual, simply describing the principal parts of the political system. However this analysis provides an interesting insight into what Burma needs to do (and by inference what it isn't), and will be included in the next report.

*UN Human Rights Council, Situation of human rights in Myanmar : resolution / adopted by the Human Rights Council, 12 April 2011, A/HRC/RES/16/24, (<http://www.unhcr.org/refworld/docid/4dc007db2.html> Accessed 4 August 2011).*

Further, the link to the following human rights document should be provided in this Human Rights section.

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<sup>12</sup> *UN Secretary General's report on the situation of human rights in Myanmar*, The United Nations General Assembly, New York, 14 Sept 2010 ( <http://unic.un.org/imucms/userfiles/yangon/file/A-65-367.pdf> Accessed 4 Aug 2011).

*Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, Tomás Ojea Quintana, 7 Mar 2011. (<http://unic.un.org/imucms/userfiles/yangon/file/A-HRC-16-59.pdf> Accessed 4 Aug 2011).

COIS: These UN documents will be considered for inclusion in the next report.

In addition to UN official documents it would be important to ensure that human rights documentation works carried out as a collaborative effort between the rural communities/villagers in the country's war zones (for instance, the Karen state in Eastern Burma) and some lesser known but reliable local organizations. A sample work by one impressive local organization, namely Karen Human Rights Group, is included below:

At the Burmese government's tollgate in Paukpinkwin village, located between Ye Township, Mon State and Yebyu Township, members of the Myanmar Police Force and Government Immigration Office, known as La Wa Ka in Burmese, and local militia from the Light Infantry Battalion (LIB) No. 273 have restricted passengers from traveling as well posed threats of extortion and violent abuses against passersby.

Min Januu Aung[1] explained his encounter with the LIB No. 273:

My ID card identifies me as a resident from Pa-an Township, Karen State. In June, I set off on a trip traveling to Dawei Town to meet my friend to ask about job opportunities. When we arrived at the gate of Paukpinkwin, we, every passenger, had to get off our truck. On our truck, there were 15 passengers and some loaded goods. Getting off the truck, the passengers who did not have their ID cards with them were told to stand in one place. The persons who inspected us, the passengers, were members of La Wa Ka and two policemen. Behaving bossily, they were [acting] just like robbers. For me, without worrying, I showed my ID card. A policeman [who was around 35-years-old, short in height and called Ko Win by the other policemen] said to me that holding ID card identified as Pa-an resident, I [also] had to have a recommendation letter from the local police station or ward administration office or I had to a responsibility letter from the family that I was going to visit. And, I replied to him that I thought I could travel wherever I wanted as I am a Myanmar national holding my Myanmar national identification, Myanmar Citizen status. My face would have been punched immediately because I responded to him in that way; yet, I my right shoulder was punched instead because I avoided his punch.

Then, I was threatened by another guy, a La Wa Ka member, aged 40, who said that because I did not accept being inspected honestly and respectfully, that I would be put on trial. After inspecting all the passengers, another Mon woman, originally from Ye Township, and I, were left there. And, finally, they came to negotiate with me, saying that if I wanted to keep going on my trip, they would let me take another truck, and they would write a traveling permission letter if I gave them 10,000 Kyat as a security fee. This was spoken to me by policeman, Ko Win. Since I had to keep traveling, I gave them 10,000 Kyat right away without saying anything."

Source: *Traveling Restrictions, Extortion, and Goods Seizure Intensified in Ye and Yebyu Townships; Local Villagers Abused By Government Tollgate Authorities*, Karen Human Rights Group/KHRG, July 6, 2011 ( <http://rehmonnya.org/archives/2026> Accessed 4 Aug 2011

COIS: Thank you. We will consider adding this material to the relevant human rights section of the report in the next update, depending on their relevance, accuracy and currency, etc.

This reviewer would suggest that the COI Burma calls the readers' attention to the collaborative report entitled "Dead Men Walking: Convict Porters on the Front Lines in Eastern Burma" which the KHRG released on 12 Jul 2011 jointly with and under the sponsorship of the Human Rights Watch. It can be downloaded from the HRW's website at <http://www.hrw.org/en/reports/2011/07/12/dead-men-walking-0> .

The Human Rights Watch-Karen Human Rights Group report's executive summary reads:

This 70-page report details abuses against convict porters including summary executions, torture, and the use of the convicts as "human shields." The military should stop forcibly recruiting prisoners as porters and mistreating them, and those responsible for ordering or participating in such treatment should be prosecuted, Human Rights Watch and the Karen Human Rights Group said.

COIS: This report will be considered for inclusion in the next report.

### **COI Burma 8, SECURITY FORCES**

The quality of this section would be greatly enhanced if the English translations are available of the on-going special series/program at the Voice of America Burmese language radio interviews with among ex-military officers. These interviews offer first hand and up-to-date expert discussions and analyses on the inner workings of the Burmese government and the political system which it has managed since 1962. This reviewer knows the principal host of these interviews, who is himself an ex-military officer who held a strategically placed War Office position. However, unfortunately, no efforts are being made to translate these extremely rich interviews. The original Burmese language interviews, both audio-files and Burmese transcripts can be accessed from this link:

<http://www.voanews.com/burmese/news/soldier-talk/>



COIS: We are grateful for this information and will consider it for future reference. However our translation budget is limited, and we will have to consider if it is viable for us to translate. It would be helpful if the reviewer could identify which interviews might be particularly useful/worth translating.

### **COI Burma 8.02, Police**

Two factual updates: 1) the Home Affairs Minister Maung Maung Oo has been replaced by Lt-General Ko Ko and 2) the Police Chief Khin Yi has been promoted to the Minister of Immigration and Population. The new police chief is ex-brigadier General Kyaw Kyaw Tun. See *Burma's Police Chief Meets Chinese Counterparts*, Irrawaddy, 5 Jul 2011 at [http://irrawaddy.org/article.php?art\\_id=21628](http://irrawaddy.org/article.php?art_id=21628) (Accessed 29 Aug 2011).

The list of the new cabinet members of the post-election Government of Burma may be obtained from this embassy website at [http://www.myanmarembassy.com/chinese/default\\_gy.html](http://www.myanmarembassy.com/chinese/default_gy.html) (Accessed 29 Aug 2011).

COIS: Thank you. This will be updated in the next report.

### **COI Burma 8.03, POLICE (cont.)**

The US State Department Country Human Rights Report on Burma got the name of the key military intelligence agency wrong.

Again at **COI Burma 8.11 and 8.12** *Jane's Sentinel Country Risk Assessments: Myanmar* also repeated the same error.

The correct name of this powerful security organization is the Military Affairs Security or MAS. It is known to the locals as *Sa-Ya-Hpa*. Most foreign observers often get confused when important local acronyms are used by the locals in reference to important organizations.

The Irrawaddy News Group website reported that the MAS's new chief is Maj-General Soe Shein, long-time personal staff officer and aide-de-camp to Senior General Than Shwe, the government's shadowy chief. See *Than Shwe's Hand Seen in Choice of New Intelligence Chief*, Irrawaddy, 24 Aug 2011 ( [http://www.irrawaddy.org/article.php?art\\_id=21953](http://www.irrawaddy.org/article.php?art_id=21953) Accessed 29 Aug 2011).

COIS: The next report will be corrected to reflect the above information.

#### **COI Burma 8.05, ARMED FORCES**

The single best source on the subject is Maung Aung Myo's *Buiding the Tatmadaw: Myanmar Armed Forces Since 1948* (Institute of Southeast Asian Studies, Singapore, 2009). The full reference for this work on the country's armed forces should be included. This Burmese author is an army-bred who taught at the National Defense University, the highest staff college designed for senior military officers.

COIS: Thank you. We prefer online sources given how the document is used by decision makers. So if the reviewer knows of suitable online sources on this subject, we would welcome these. However, the above source looks to be useful, and we will look to at least make a reference to it.

#### **COI Burma 8.09, OTHER GOVERNMENT FORCES**

This entry sourcing Jane's Sentinel Risk Assessment report (updated March 2011) needs further updating. Union Solidarity and Development Association, the military's mass political organization, no longer exists. It has been transformed into the military's ruling political party similarly named Union Solidarity and Development Party (USDP).

COIS: Up-to-date information on the transformation of the USDA to the USDP will be researched and included in the next report.

#### **COI Burma 8.13 on the use of members of the public as part of the surveillance operations**

The government in Burma uses a vast web of street vendors in urban centers as police informers, informally integrating them into its security networks. This is based on this reviewer's research findings through conversations with security officials from Burma, as well as his past observation on the ground in cities such as Rangoon and Mandalay where he was driven around by intelligence escorts.

COIS: Thank you, this is useful. Are you able to provide a source for this? Or may we cite you as a source?

An important corrective re: **COI Burma 8.13.**

The FCO's statement – it was likely that the military intelligence unit would be able to find out if an individual was involved in political activity – is a probabilistic statement, and is not entirely correct.

Based on this reviewer's nine-months-long research in 2010 including in the Burmese-Thai border town of Mae Sot, Thailand, where there are networks of exiles which provide training and material support for Burmese activists from inside Burma, there are sleeper underground cells which organize political activities. And yet these underground activists have been able to go in and out of the country. For instance, the Democratic Voice of Burma has been running clandestine media reporting which would be considered subversive and deeply political by the regime, using their own underground networks which they manage from Mae Sot and Chiang Mai, Thailand.

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

Several senior intelligence officials with the Burmese government privately admitted to this reviewer in person that their service has been unable to identify moles even within their own ranks who leak sensitive information to the exile groups.

Therefore, the blanket generalization by the FCO as to the omnipotence of Burma's intelligence services needs to be either deleted or modified to reflect the realities on the ground.

COIS: If the reviewer could provide a disclosable source to corroborate the above information, it will be included in future reports. Again, if no source exists – and it appears this is based on the reviewer's personal experience – may we cite you as a source for this information?

Re the FCO's statement, it has the value of being the FCO's evaluation based on their experience, though it may be partly speculative. We would be inclined to keep it but set it next to and qualified by your own observations.

**Again re: 8.13**, citing US State Department report on Burma (2010) which stated: ‘Security personnel regularly screen private correspondence, phone calls, and emails.’ While it is a standard practice for the intelligence services to attempt to monitor electronic and postal communications Burmese intelligence services simply do not have the needed quantity of human intelligence to monitor all electronic communications. One important issue here is the difficulty to ascertain what percentage of total communications the security personnel are able to monitor effectively.

COIS: Again it would be interesting to know if there is further public information on this and if not, may we cite you as a source?

### **Human Rights Violations by Government Forces**

#### **COI Burma 8.14**

This entry citing the Human Rights Watch W report needs updating. The reported tensions between ceasefire groups and the central government have boiled over, specifically in the Kachin State, Northern Burma. As of 9 Jun 2011, the 17-year-old ceasefire between the Kachin Independence Organization and the government of Burma broke down.

COIS: Thank you. This paragraph will be updated in the next Report.

#### **COI Burma 8.14 – 8.20**

There is an important missing piece of information here with regards to human rights violations by Government Forces. That is, many rights violations are economically motivated. For instance, orders from the Defence and Home Ministries to use prison convicts and others translate into petty economic opportunities for the officials of the Department of Correctional Facilities. Prison officials would select which convicts should be sent to military frontlines to be used. Prisoners who could afford can bribe the authorities to spare them from being sent to the frontline. Former ex-military officers who had been jailed themselves for their pro-democracy political beliefs had brought up the economic aspect of rights violations which involve the use of prisoners as “human mine sweepers” by the government troops in Burmese language interviews.

This issue has not gotten the attention it deserves. This is so partly because it is mostly reported in the Burmese language media and also the human rights observations are focused on the rights and other legal aspects of the perpetrators' behaviors and acts. For instance, the special program "The Burmese Army Rank and File Soldiers: In Their Own Words", the Voice of American Burmese Programme, specifically 18 Jun 2011 broadcast transcript [http://www.voanews.com/burmese/news/soldier-talk/06\\_18\\_11\\_soldiers\\_talk065-124155134.html](http://www.voanews.com/burmese/news/soldier-talk/06_18_11_soldiers_talk065-124155134.html) .

COIS: We have limited resources to translate material into English. However, if the reviewer thinks this information is relevant we will consider translating this.

Our problem, of course not reading or speaking Burmese and having to be selective because of cost, is identifying the most relevant material. Would the reviewer be able to recommend particular source material?

### **COI Burma 8.24, TORTURE**

Under this sub-heading, the following analysis, in three short passages, of the legal institutions and their inability to prevent the State's abuses of law, in practice should be added as they capture accurately the essence of the law and law enforcement in Burma.

"Whereas the rule of law depends upon a minimum degree of certainty by which citizens can organize their lives, the un-rule of law depends upon uncertainty. Whereas rule of law depends upon consistency in how state institutions and their personnel operate, the un-rule of law depends upon arbitrariness. Whereas rule of law is intimately connected to the protection of human rights, the un-rule of law is associated with the denial of rights, and with the absence of norms upon which rights can even be nominally established."

"...the legal system becomes completely perverted, with its actual activities more and more remote from stated practice more and more in conformity with the nature of government through confusion. Since what the system is supposed to do is nowhere to be found in its actual operations, what it in fact does can change from day to day, generating profound uncertainty among all persons caught up in the system and leading to Kafkaesque scenarios in which accused know not of what they are guilty or why, let alone how long they will be made to suffer for some supposed crimes. In particular, the system becomes increasingly directed towards the raising of income for its personnel through endemic corruption, and also becomes increasingly worn down and dangerous through coercive use of force and violence on the part of police and other state security personnel."

"A key feature of the Constitutional unrule of law is that ostensibly legal institutions work to prohibit rather than protect the enjoyment of human rights. For instance, the police force does not perform its functions as a discrete professional civilian force but as a paramilitary and intelligence agency under command of the armed forces. Policing functions are also shared among other parts of the state apparatus, including with

executive councils at all levels that supervise and oversee other agencies, and with other local bodies, including the fire brigade and a government-organized mass group. At the same time, specialized agencies, in particular the Special Branch, operate as proxies for military intelligence, rather than as autonomous investigators of crime. Consequently, the characteristics of policing and prosecutions in Burma include: routine arbitrary arrest and detention; common use of torture and other forms of cruel and inhuman treatment, and frequent deaths in custody; coerced signing of documents that have no basis in law; baseless and duplicated charges; and fabricated cases.” (p.5).

Source - *BURMA: Government by confusion & the un-rule of law.* (

<http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-002-2010.pdf> Accessed 15 Aug 2011).

COIS: Thank you. This will be considered for inclusion in the next report.

#### **COI Burma 9.01-9.07, MILITARY SERVICE**

Not crucial or imminent at this point.

#### **COI Burma 10, ABUSES BY NON-STATE ACTORS**

This subsection may benefit from the inclusion of the website link -

<http://www.hrw.org/news/2011/03/24/burma-q-international-commission-inquiry> - to the Human Rights Watch’s “Q and A on an International Commission of Inquiry” (released Mar 2011) as it explicitly spelled out the types of human rights violations and war crimes which non-state actors, not just the Burmese military government, have been committing.

The following passage from the aforementioned HRW Q and A which lists the abuses by non-state actors should be added to this sub-section:

“Some non-state armed groups involved in Burma’s armed conflicts have been implicated in serious violations of the laws of war, including forcible recruitment and use of child soldiers, forced displacement of the population, torture, ill-treatment and summary executions of captured Tatmadaw personnel, sexual violence against women and girls, and widespread use of anti-personnel mines in civilian areas. The recruitment of child soldiers and the use of anti-personnel mines by non-state armed groups in Burma have been well-documented, but allegations of other laws of war violations have not been well researched.”

COIS: This information will be included in the next report.

**COI Burma 10.01** - Re: the United Wa State Army (UWSA) which the Jane's Security Assessment described as "largely criminal organization" some international scholars such as Professor Ko-Lin Chin of Rutgers University have argued that the UWSA views itself as a building of a mini-State within Burma and that it is not a criminal organization, not more than the Burmese government troops on the ground, Chinese provincial authorities in Yunnan, or Thai security forces many of whom are themselves implicated in Burma's infamous narcotic trade.

Recommended readings on the subject:

Ko-Lin Chin, *The Golden Triangle: Inside Southeast Asia's Drug Trade* (Cornell University Press, 2009).

An excellent review of the book may be accessed in the British Journal of Criminology (<http://bjc.oxfordjournals.org/content/early/2010/01/13/bjc.azp086> Accessed 15 Aug 2011).

COIS: Thank you for this. Further online information on the UWSA will be sought for use in the next report.

A corrective to part of **COI Burma 10.01** – The Karen National Union (KNU) and the Burmese government no longer have a verbal agreement to ceasefire which they reached in 2004, and which was short-lived.

In the same entry, the Jane's Security Assessment characterization of the KNU's arm wing, namely the Karen National Liberation Army (KNLA) as "a defunct organization" is factually incorrect. This reviewer himself spent nearly a month in the war zone of the Karen State at a KNLA stronghold in May 2003. To be sure, the KNLA has been weakened economically and militarily since the fall of its headquarters at Manaplaw in 1994, but it has been able to shift its military approach from that of positional warfare to guerilla warfare.

For a video-documentary on the current state of the war in Karen state, see Al Jazeera English's *101 East* programme entitled "The World's Longest Ongoing War (broadcast on 10 Aug 2011 and available for on-line viewing at <http://english.aljazeera.net/programmes/101east/>).

COIS: The researcher will look to update this information in the next report.

Overall, COI Burma's Human Rights Section is comprehensive and admirably put together.

COIS: Thank you. The reviewer's positive and constructive comments are gratefully received by the researcher.

### **COI Burma 11, JUDICIARY**

In this section, the inclusion of "BURMA: Government by confusion & the un-rule of law", the 16-page analysis of the law in Burma by the Asian Human Rights Commission (AHRC) as an appendix is highly recommended.<sup>13</sup>

COIS: This source will be considered for inclusion in the next report.

**COI Burma 11.05 & 11-06** cite the aforementioned AHRC document; however, in light of the fact that the government of Burma couches and justifies its behaviors and decisions through the reference to the country's laws and legal system it is imperative to pay special attention to the law in Burma itself, its functions and uses.

**COI Burma 15.29 – 15.31** – the sub-section on the National Democratic Front

The NDF, a splinter group made up of several second-line NLD members, is largely an insignificant entity. Compared with the NLD and its iconic leader Aung San Suu Kyi, the NDF neither commands sufficient popular support from amongst the Burmese electorate nor has much influence with the international community. However, some external players such as the International Crisis Group which has a long-standing disagreement with the NLD on the latter's pro-sanctions stance have sought to locate, and support, local political groups which the ICG thought could potentially break the NLD's hold on international sanctions regime. Accordingly, external players had unsuccessfully attempted to "big some non-entities up" in the run-up to the military's

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<sup>13</sup> *BURMA: Government by confusion & the un-rule of law*, Asian Human Rights Commission, Feb 2010, (<http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-002-2010.pdf> Accessed 15 Aug 2011) .



elections in November 2010 which Western governments, including Britain, wrote off as a sham.

For a contextualized, critical understanding as to why the ICG (and some other external players) pushed for the legitimization of the military rule in Burma albeit with a quasi-civilian façade see this reviewer's critiques of the ICG's report entitled "Myanmar's Post-Election Landscape (dated 7 Mar 2011)" here:

*Why the ICG's Burma analyses and calls for ending sanctions cannot be taken seriously*, 11 Apr 2011 (<http://www.nationmultimedia.com/home/2011/04/11/opinion/Why-the-ICGs-Burma-analyses-and-calls-for-ending-s-30152934.html> Accessed 29 Aug 2011) .

*Don't buy into Burma's cosmetic reforms*, *Al Jazeera English*, 10 Apr 2011, <http://english.aljazeera.net/indepth/opinion/2011/04/201141013120449738.html> Accessed 29 Aug 2011).

COIS: Political affiliation plays a large role in asylum claims from Burma. Albeit their tenuous link with the NLD, the information on the NDF is predominantly to inform the user of Burma's opposition groups who played some part in the recent elections; and which may be required in the asylum decision making process. The reviewer's comments are noted with interest.

#### **COI Burma15.43, DISSIDENT GROUPS**

A new development needs to be noted.

Zayar Thaw (spelled also Zeya Thaw) has been released from prison.

It may be useful for the **COI Burma** to include a relevant excerpt from his interview with the Democratic Voice of Burma as Thaw both explained fully the mission of his influential group the Generation Wave and offered his assessment of the state of human rights and political progress in Burma.

See "Freed hip-hop star says Burma 'regressing'", 18 May 2011, (<http://www.dvb.no/news/freed-hip-hop-star-says-burma-%E2%80%98regressing%E2%80%99/15722> Accessed 15 Aug 2011 ).

In the interview Zayar Thaw explains the mission of the Generation Wave more broadly than propagating the view that the 2010 elections by the military should be boycotted.

The Generation Wave is pushing for fundamental reforms through art and popular music. In his own words:

“They were not just songs but, in fact, attempts to draw attention to the reforms that we urgently require. This is indeed freedom of expression that one can exercise. Condemning alone will not work. We should not just let them know what things are not right. If we can show them the right things to do, we may have better conditions for all of us. “

[COIS: Thank you. This information will be updated and included in the next report.](#)

**COI Burma 16.03-** The FCO in its Human Rights and Democracy Report 2010 (31 March 2011) noted “in spite of a pervading fear of monitoring by the State, control over the Internet use was weak in practice and Burmese citizens with access to the Internet could easily find a way round restrictions”.

This is a rather important and most accurate observation, which contradicts the FCO’s earlier statements regarding the omnipotence of state surveillance, both in the cyberspace and in real time and space. There is a need for the COI Report on Burma to resolve the contradictory observations stemming from a single official source.

[COIS: This information will be clarified and corrected in the next report.](#)

### **COI Burma 18, CORRUPTION**

This reviewer’s interviews with younger generation Burmese points to a social-psychological dimension of corruption in Burma. The younger generation of Burmese who have never lived under a “cleaner government” view corruption in Burma as an acceptable cultural practice in their daily life. It pervades the entire governance structures, as well as all spheres of life. As a consequence, the bulk of the population doesn’t have any qualms in engaging in corrupt behavior themselves.

In cases involving serious human rights violations such as the selection and use of prisoners in the military frontlines, the role of corruption within Burma’s 30-plus prisons is easily discernible to the locals.

However, paradoxically, corruption in Burma has also enabled activists to buy themselves passports, forged ID cards, and so on in order to enhance their freedom of movement.

COIS: Thank you for these comments. May we cite you as source re the points made in the final paragraph?

### **COI Burma, BUDDHISM**

This subsection treats the predominant faith of the Burmese majority admirably. The important fact that the Buddhist majority are not involved in the State's violations of religious freedoms of Christian and Muslim communities comes through clearly. The Buddhist Order itself has been subject to numerous forms of rights abuses.

COIS: The reviewer's positive comments on this section are gratefully received by the researcher.

### **COI Burma 19.26 to 19.32, MUSLIMS**

Also this section does justice to the plight of the State's systematic persecution of the Muslims, most specifically, the Rohingya starting with the State's categorical denial of their citizenship.

Of all the ethnic groups in Burma the Rohingya people suffers the severest forms of ethnic persecution in Burma. Two important sources of information about the state of the Rohingyas should be added here.

*What is Rohingya? One Stop Information Site* (<http://www.rohingyablogger.com/>) is one of the most informative information clearing houses on the subject developed and managed by the Rohingya who have resettled in safe third countries such as UK.

*Crimes against Humanity in Western Burma: The Situation of the Rohingyas*, Irish Centre for Human Rights (released 16 June 2010), National University of Ireland at Galway.

This 151-page report can be downloaded from

[http://www.nuigalway.ie/human\\_rights/documents/ichr\\_rohingya\\_report\\_2010.pdf](http://www.nuigalway.ie/human_rights/documents/ichr_rohingya_report_2010.pdf)

Accessed 29 Aug 2011).

COIS: The reviewer's positive comments are gratefully received by the researcher. The additional sources will be considered for inclusion in the next report.

### **COI Burma 20, ETHNIC GROUPS**

The official list of the Government-recognized ethnic groups should be added to this sub-section from the outset. This site ([http://en.wikipedia.org/wiki/Rakhine\\_people](http://en.wikipedia.org/wiki/Rakhine_people) Accessed 28 Aug 2011) contains such a list.

COIS: Thank you. COI Service does not use Wikipedia as a source, though it is useful as a signpost to other sources. This is because it is unregulated: we are often unable to assess the origins of information provided and therefore the integrity of the content. In this instance, there does appear to be a link to the Burmese Ministry of Tourism but unfortunately the link does not appear to work.

Is the reviewer able to provide an alternative source for official list of ethnic groups?

The COI Burma should call the readers' attention to the fact that there exist several communities of national importance that are not recognized by the government. The legal denial of their ethnic identity directly leads to legal and political discrimination and ethnicity-based grievances, with the Muslim Rohingya being the severest case. They are, Burmese Chinese, Panthay, Burmese Indians, Anglo-Burmese, Rohingya, and Burmese Gurkha.

Additionally, the section on ethnic groups will remain incomplete without the inclusion of one of Burma's major ethnic groups, namely the Rakhine, also known as Arakanese. The Rakhine who populate the Western coastline of Burma are a historically and politically significant ethnic group whose political development had been on par with the dominant Burmese or Burman in the central Dry Zone until their kingdom at Mrauk-U was conquered by the invading Burmese troops in 1784 AD. The Rakhines are

important if only because they continue to wage armed resistance against the Burmese government. The only known reports which focus the state of military conflicts are generated by the Free Burma Rangers group. *FBR REPORT: Burma Army Attacks and Forced Labor in Western Burma*, 31 May 2011, (<http://www.freeburmarangers.org/Reports/2011/20110531.html> Accessed 28 Aug 2011)

A brief overview of the Rakhine people and their history may be accessed here at the website established and run by the Rakhine themselves (<http://www.narinjara.com/history.asp> Accessed 28 Aug 2011). Further, some basic demographic information about the Rakhine may be gleaned from JOSHUA PROJECT, a Christian “research initiative designed to highlight the ethnic peoples with the least followers of the Christ” ( <http://www.joshuaproject.net/peoples.php?peo3=13207> Accessed 28 Aug 2011).

COIS: Thank you for these additional sources. A section on the Rakhine will be included in the next report.

**COI Burma 20.22 & 20.23** (*Visit to Kachin State*, Christian Solidarity Worldwide, dated 1 May 2009) needs updating. As pointed out earlier the 17-year old ceasefire agreement between the central government and the Kachin Independence Organization broke down as of 9 June 2011.

The following excerpt indicates this most significant development with adverse impact on the Kachin:

“Fighting between the Kachin Independence Army (KIA) and the Burma Army broke out on 9 June 2011, ending a 17-year cease-fire agreement between the two groups. As many as 10,000 people have been displaced by the fighting in Southeastern Kachin State, according to Democratic Voice of Burma. A Kachin women's organization has reported that at least eighteen Kachin women were gang-raped by Burma Army soldiers. The fighting was sparked by a dispute over control of the area surrounding the Chinese-run Taping hydropower projects.”

SOURCE: “Fighting in Kachin State ends 17-year cease-fire; 10,000 people displaced”, Free Burma Report dated 4 Jul 2011

<http://www.freeburmarangers.org/Reports/2011/20110704.html> Accessed 28 Aug 2011).

Further, it may be suggested that an official statement of the KIO on the status of the new negotiations be included as it gives the history and rationale behind this ethnic conflict and explains the Kachin's view as to the failures of political negotiations since 1962 aimed at ending the decades-old ethnic conflict between the Kachin represented by the KIO and the Burmese military government. The Statement can be downloaded from this Kachin News Group website (<http://kachinnews.com/news/2024-burmese-government-demonstrates-no-willingness-to-solve-ethnic-problem.html> Accessed 28 Aug 2011).

For the government's version of the revival of the military conflict with the Kachin Independence Organization, President Thein Sein's speech delivered on 16 Aug 2011 and subsequently broadcast on the State-controlled Myanmar TV may be viewed on YouTube at this URL -

[http://www.youtube.com/watch?v=ldd\\_LKEUK\\_U&feature=related](http://www.youtube.com/watch?v=ldd_LKEUK_U&feature=related)

COIS: Thank you for the additional sources. Updated and further information on the Kachin will be included in the next report.

**COI 20.13 re:** AI report on ethnic minority activists (released in Feb 2010) repeats one of the most often stated mistake painting the Karen as "Christian". In fact, the bulk of the Karens, the second largest ethnic group after the majority Burmese or Burman, are Buddhist animists and animists. Christian Karen are a minority within the Karen communities. However, the fact that Christian Karens including the Cambridge-educated iconic Karen revolutionary martyr Saw Ba U-Gyi have historically made up the upper echelon of the Karen armed revolution, the international media often gets the wrong impression that the Karens are predominantly Christian and are fighting the predominantly Buddhist majority State.

COIS: Thank you for this useful information. The researcher will look to locate additional sources to update and clarify this section. If the reviewer can recommend some sources, these would be most welcome. Additionally, if the reviewer would be willing to be cited as a source, that would be helpful too.

## **COI Burma 24, WOMEN**

This subsection on WOMEN is very comprehensive and detailed, and needs no further improvement.

COIS: [The reviewer's positive comments are gratefully received by the researcher.](#)

## **COI Burma 33, EXIT AND RETURN**

**A corrective to COI Burma 33.05-** The FCO letter dated 30 Oct 2007 was paraphrased as saying “NLD members, who were not active, and therefore not blacklisted, would have been able to exit and leave the country without question.”

This observation is problematic because no one outside relevant intelligence agencies would know who is on the blacklist or how long a NLD member needs to stop being active before he or she will be removed from “the blacklist”. It is doubtful that the FCO has any means of ascertaining who is and who is not, or what specific criteria the Burmese authorities are using in order to keep their blacklist (s) up to date.

Given the endemic corruption many an activists, including some of the better known activists, have been found to have exited and then returned to the country.

This reviewer has the first-hand knowledge of politically active Burmese citizens coming to UK on the FCO-sponsored short-term Chevening Scholarship program as well as other educational tours. A former Chevening fellow, ex-Major Win Naing Kyaw (Defense Services Academy In-take-20) has been on death row for subsequently leaking “state secrets” to the exiles and foreign media.<sup>14</sup> The other is Mr Htay Kywe, a well-known student leader, who came to UK in 2005 to observe British electoral politics, is serving 60 years imprisonment for his role in fomenting political unrests in 2007.<sup>15</sup>

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<sup>14</sup> *Burma to execute two over secret tunnels leak*, Times, 8 Jan 2010 (<http://www.timesonline.co.uk/tol/news/world/asia/article6980654.ece> Accessed 29 Aug 2011 ).

<sup>15</sup> See Htay Kywe’s political profile compiled by the Assistance Association of Political Prisoners ([http://www.aappb.org/bio\\_pdf/Htay\\_Kywe\\_bio\\_24\\_June\\_2009.pdf](http://www.aappb.org/bio_pdf/Htay_Kywe_bio_24_June_2009.pdf) Accessed 29 Aug 2011).

There are many other examples which effectively contradict the FCO statement here. In short, **COI Burma 33.05** has no basis in reality, and should be deleted.

COIS: Thank you. We will go back to the FCO to clarify the point, if their view persists, and on what basis it was made. We will research the topic further but, again, it would be helpful if we could cite the reviewer and his comments above.

### **PASSPORT ISSUANCE AND DEPARTURE FORMS (D-Forms)**

**COI Burma 33.06 – 33.18** contain various observations by diverse sources, from US State Department, FCO, Immigration and Refugee Board of Canada, as well as references compiled by the Burmese organizations themselves such as Burma Human Rights Yearbook and Women’s League of Burma (WLB). While it is interesting to note the details of formal procedure involved in passport and D-form applications the most significant observation which best captures the realities on the ground for passport seekers in Burma, whatever their political background or purpose of departing Burma, is provided by the Women’s League of Burma.

**COI Burma 33.13** provides the most succinct summary on the issuance of passports and D-forms in Burma. One way is doing it yourself (that is, going through the official procedure including “intimidating mini-interviews” which the FCO described in the entry 33.16). The other, and most widely used, is “going through an agent.” Quoting a Mon woman who obtained her passport through an agent, the WLB states:

“you can just go to the (passport) office, take passport pictures and give the agent the pictures (and agent fees), and he/she will do everything for you.... It costs 100,000 Kyat (about US\$ 100 in 2008 when WLB report was written; now in 2011, the unofficial exchange rate for US\$1 is 750 Kyat in the black market) if the waiting period is one month, but if you want it within 7 days it costs 300,000 Kyat”.

The reviewer’s own empirical research based on interviews, both online and face-to-face clearly indicates that while the Burmese regime is intent on restricting the travel, domestic and international, by well-known political dissidents and ex-dissidents (for instance, the political comedian and writer Zaganar), the vast majority of political activists who are not household names like the comedian have been able to obtain passports through the use of passport agents, who forge documents including IDs, recommendations from ward authorities and intelligence clearance.



COIS: Thank you for your comments.

**COI Burma 33.16** which contains the FCO's reply (originally dated 21 Nov 2007, updated 26 June 2010) to the COI Services Burma "if a person is identified as being currently politically active against the government it was unlikely that they would be issued with a passport" is verifiably incorrect.

The website of the flagship opposition party of Aung San Suu Kyi openly states here that its politically active members just returned from the conference named Global Forum on Civil Society Law, Stockholm, Sweden. See "Vice Chairman met NLD representatives who attended a forum in Sweden" 26 August 2011, <http://www.nldburma.org/political-activity/88-headquarters/388-vice-chairman-met-nld-representatives-who-attended-a-forum-in-sweden-.html> (Accessed 28 Aug 2011).

Similarly, **COI Burma 33.17** should be stricken as it cites US State Department report 2010, stating that "the government regularly declined to issue passports to former political prisoners, activists, and some local staff of foreign embassies".

See  
*NLD leader Tin Oo to visit Singapore for eye surgery*, Mizzima News Group, 16 Sept 2010 (  
<http://www.mizzima.com/news/inside-burma/4367-nld-leader-tin-oo-to-visit-singapore-for-eye-surgery.html> Accessed 28 Aug 2011).

These generalizations by the FCO and US State Department, usually reliable sources, are no longer valid. Therefore, COI Burma 33.16 and COI Burma 33.17 should be stricken.

COIS: Thank you. Again the information you have provided is very interesting, especially as it seems to contradict the FCO and US State Department. It would be helpful if we could cite you on this matter, as well as making reference to the sources you have recommended.

However, we do not think it appropriate to simply remove the FCO and US State Department comments. Regarding the FCO, we can clarify with them if they still hold this view and on what basis. This is less easy for the US State Department. But, as you note, the US State Department is generally a reliable source, as such we think its view should be presented - presumably it is based on some sort of evidence (although we cannot assess what exactly).

It would also seem to us that the US State Department statement is not completely at odds with your own comments, since it is possible that various individuals are regularly

declined passports (simply because some do get passports doesn't necessarily mean many do not). Might this not be true, especially if the individuals concerned did not resort to bribery?

Ultimately decision makers will need to weigh up the evidence before them – no doubt the reviewer's will be the most compelling.

### **COI Burma, ENTERING**

**COI Burma 33.19** is problematic, especially when it stated that "A Burmese national, holding a valid Burmese passport, with an expired UK visa in it, would not have drawn particular attention on his return to Burma". As it is stated at the very outset of this review the arbitrariness with which the Burmese authorities at all levels and in all domains of the governance enforce law renders such general observation doubtful.

**COI Burma 33.21** regarding the certificate of identity, the FCO's letter (dated 2 Feb 2011) from the British Embassy in Rangoon stated rather authoritatively what course of actions the Burmese authorities would take or would not take against a Burmese citizen who could not produce certificate of identity upon arrival.

No expert can be fully certain of how the authorities in Burma will interpret and enforce law. That is precisely the essence of the authoritarian State in Burma.

COIS: Thank you for highlighting these points, which the researcher will look to clarify in the next report.

### **FAILED ASYLUM SEEKERS**

There should be noted that there are two sharply contradictory statements on the issue of failed asylum seekers who are deported to Burma.

**COI Burma 33.22** states, quoting the FCO, that "it (FCO) was unaware of any case where an individual has received particular attention for being a failed returned asylum seeker".

**COI Burma 33.25** presents a statement contradicting sharply **COI Burma 33.22**.

In this case, the reviewer is inclined to assign greater validity to the observation made by the Asian Legal Resource Center, a regional legal NGO with a consultative status with the UN Social and Economic Council, when it states emphatically that “it is important to understand that the nature of the State in Myanmar is highly arbitrary, and therefore any decision made concerning repatriations to that country ... should be done with extreme caution.”

COIS: Again, thank you for highlighting the points here. It might be clearer if we brought these apparently contradictory statements together. Contradiction is a common feature of COI, often reflecting political standpoint or simply, as in this case, observation based on different experience. We are inclined to keep both – they accurately reflect the observations of the respective respondents. However, it would be useful if we could cite your comments too to add a further voice to views already expressed.

## **COI BURMA, ANNEX A**

Chronology Section (reproduced from the BBC timeline).

### **JAPANESE OCCUPTION**

1942 – The entry here is factually incorrect in that it portrayed the Japanese-trained Burma Independence Army headed by Aung San as the sole organizational base of, and the force behind, the Anti-Fascist People’s Freedom League. On the contrary, the AFPFL was a constellation of different organizations and ideological cliques under a handful of powerful personalities, including the Communist Party of Burma under Thakhin Soe’s leadership, the Burma National Army, original the Burma Independence Army, led by General Aung San, and the People’s Revolutionary Party (later renamed Socialist Party) under Thakhin Mya’s leadership.

This view needs to be corrected because the military government has attempted to erase from Burma’s official history the contributions made by other Burmese organizations to the country’s liberation and, self-servingly, project itself as the sole liberator of the country.

### **INDEPENDENCE**

The chronology should include the start of the Burmese civil war which continues to smolder after 64 years since independence. A new entry, a shortened version of the sample one below, may be informative.

**March 1948** - The main-faction of the Communist Party (CPB) of Burma known as “the White Flag” under Thakhin Than Tun’s leadership – went underground as the socialists which controlled the governing AFPFL government launched a punitive campaign against the CPB, thereby plunging the country into a “multi-color civil war”, that is, multi-ethnic and multi-ideological struggles, which smolders on to this date. Within months, the CPB’s armed revolt against the socialist-controlled government in Rangoon was followed by one dozen armed rebellions organized by virtually all major ethnic minority communities such as the Karen, the Kachin, the Arakanese, the Chin, the Mon, the Shan, and so on.

**1958-1962** – the correct entry would be:

Following the split of the AFPFL, into Clean and Stable Factions, led respectively by the populist PM U Nu, and the Stable Faction made up of socialists under the leadership of the Defense Minister Ba Swe and his deputy Home Minister Kyaw Nyein with close ties to the military, a group of army officers led by General Ne Win compelled PM U Nu to relinquish power to the military.

In his memoir “U Nu: Saturday’s Son” (Yale, 1975), the PM U Nu characterized the incident in 1958 as “the first military coup” which was made to look like a Constitutional transfer of power to the Commander in Chief at the request of the sitting Prime Minister.

**1960** – Again the entry was factually incorrect. A shortened version of the following sample may be suggested as a new entry here:

After 18 months in office, the military sponsored and held the elections wherein the military-backed Stable-AFPFL faction was defeated resoundingly by former PM U Nu. In his campaign for re-election, Nu effectively mobilized the majority Burmese voters with a promise of establishing Buddhism as the state religion while wooing minorities with his conciliatory gestures towards ethnic autonomy – not independence. U Nu’s Buddhist mobilization angered the predominantly Christian minorities such as the Kachin, the Karenni and the Chin while his conciliatory stance towards the minorities, as well as towards above-ground Communists, unnerved the Burmese generals. However, Nu was as equally staunch as the Burmese generals in his opposition to the break-up of the Union of Burma into smaller independent separate states.

**1981** – This entry needs to be deleted.

Neither Ne Win relinquishing presidency nor San Yu becoming President was a significant event simply because Ne Win retained his one-man grip on State power. Instead a more consequential event took place in 1986 which deserves an entry.

Add a new entry:

**1986** - Japan, Burma's largest donor since the country's independence, gave Ne Win's socialist regime an ultimatum to reform its ailing economy, or face the end of Japanese Overseas Development Assistance.

Again add another entry to indicate a significant development.

1987 the UN granted Burma's application to be categorized as a Least Developed Country (LDC) or world's poorest nations status, the news of which dealt a psychological blow to the proud citizenry.

**2003** entry needs to be significantly modified.

What happened in a small up-country town called Depayin in May 2003 was not simply a clash between the NLD and government supporters. It is widely known and reported to be a mob-style bloody ambush, an attempt on the lives of Aung San Suu Kyi and her NLD party chairman ex-general Tin Oo by government. The ambush involved several thousand convicts, local thugs and rough elements from within the Union Solidarity Development Association members trucked from various towns to Depayin, and the whole incident was widely reported to be orchestrated from highest level of the military government.

Also two new entries for **2011** are needed to signify the year's most important developments to date:

June 2011 - The 17-year-old ceasefire agreement between the Government of Burma and the Kachin Independence Organization broke down, raising the prospects for a renewed civil war not just in the Northern Burma but eastern Burma where the Government troops are engaged in military campaigns against the Shan and the Karen armed resistance groups and resulting in the exodus of 15,000 war-fleeing refugees throughout the

August 2011 – Burma's President Thein Sein, ex-general, announced the government's intent to undertake important reforms including a plan to tackle endemic corruption and poverty, and devalue Burmese currency. He also held a meeting with the opposition leader Aung San Suu Kyi in the new capital Naypyidaw.

COIS: The researcher welcomes these comments and clarifications. The timeline is there to provide a historical overview. However, the researcher will look to update and correct where possible. As previously mentioned, all material must be sourced – so if you are able provide the original information that would be helpful. Alternatively, or in addition to, perhaps we could cite you as the source.

## Appendix C

Appendix C needs to be replaced with the more accurate and comprehensive list of the members of the Government. For instance, Lt-General Ko Ko was incorrectly listed as “Defense Minister”, whereas he heads the Home Affairs. Also Ministry of Immigration and Population was listed as Ministry of Immigration and Social. The Wikipedia - [http://en.wikipedia.org/wiki/Politics\\_of\\_Burma#Members\\_of\\_Government\\_of\\_Burma](http://en.wikipedia.org/wiki/Politics_of_Burma#Members_of_Government_of_Burma) - has an up-to-date list of the members of the Myanmar Government since the quasi-civilian government assumed governmental duties in March 2011.

COIS: This annex will be updated in the next report.

### **CONCLUDING REMARKS**

The COI Burma should certainly be recommended reading for politicians and other UK government officials who may have both personal and professional interest in that country’s affairs.

Generally speaking, the COI Burma reflects the country’s genuine situation on the ground, as lived by the individuals and communities. In many areas of the COI report on Burma where the reviewer is silent, the silence should be treated as a sign of the sections and entries being accurate and adequate, thus needing no comment.

Every important section of the COI Burma report pertaining to refugees, internally displaced persons and victims of numerous forms of rights abuses, was found to have treated the relevant information and sources fairly. In instances where suggestions such as the deletion of certain verifiably false statements were made the intent was to improve the accuracy of the COI Burma.

COIS: The reviewer’s positive and constructive comments on the Burma COI Report have been gratefully received and are conducive to the way in which the report is used by asylum decision makers in UKBA.

### **ABOUT THE AUTHOR**

Engaged scholar, Maung Zarni is visiting fellow (2011-13) in the Department of International Development, London School of Economics and Political Science. As a

graduate student at the University of Wisconsin at Madison in the mid-1990s, Zarni founded the Free Burma Coalition, the then pioneer in the Internet-based international human rights activism. As an academic, he has held visiting and other research appointments at Oxford University, LSE Global Governance, and the Institute of Security and International Studies Chulalongkorn University in Bangkok, and taught at the National-Louis University in Chicago, USA. He has written extensively on Burma's political affairs, regularly comments on Burmese affairs in the broadcast media and has provided expert testimonies before the British House of Commons and other governmental and parliamentary bodies in N. America, Europe and Southeast Asia. He has also travelled within Burma's armed conflict zones and had extensive Track II level engagement with the Burmese military government, particularly with the intelligence services. His first and forthcoming book on life and politics in Burma will be published by Yale University Press.