



Australian Government
Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT MYANMAR

18 April 2019

MAP



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ACRONYMS

| | |
|-------|--|
| AA | Arakan Army |
| ARSA | Arakan Rohingya Salvation Army |
| BGP | Border Guard Police |
| BSPP | Burma Socialist Programme Party |
| CSC | Citizenship Scrutiny Card |
| CTFMR | Country Task Force on Monitoring and Reporting |
| DFAT | Department of Foreign Affairs and Trade |
| EAO | Ethnic armed organisation |
| GAD | General Administration Department |
| GBV | Gender-based violence |
| GDP | Gross domestic product |
| ICNV | Identity Card for National Verification |
| ICRC | International Committee of the Red Cross |
| IDP | Internally displaced person |
| IOM | International Organization for Migration |
| KIA | Kachin Independence Army |
| KNLA | Karen National Liberation Army |
| KNU | Karen National Union |
| LGBTI | Lesbian, gay, bisexual, transsexual and intersex |
| MNDAA | Myanmar National Democratic Alliance Army |
| MNHRC | Myanmar National Human Rights Commission |
| MP | Member of Parliament |
| MSF | Médecins Sans Frontières (Doctors Without Borders) |
| NCA | Nationwide Ceasefire Agreement |
| NGO | Non-government organisation |
| NMSP | New Mon State Party |

NLD National League for Democracy
NRC National Registration Card
NVC National Verification Card
OCHA Office for the Coordination of Humanitarian Affairs
PEC Presidential Electoral College
SLORC State Law and Order Restoration Council
TNLA Ta'ang National Liberation Army
TRC Temporary Registration Card
UEC Union Election Commission
UN United Nations
UNHCR United Nations High Commissioner for Refugees
UPR Universal Periodic Review
USDP Union Solidarity and Development Party
UWSA United Wa State Army

GLOSSARY

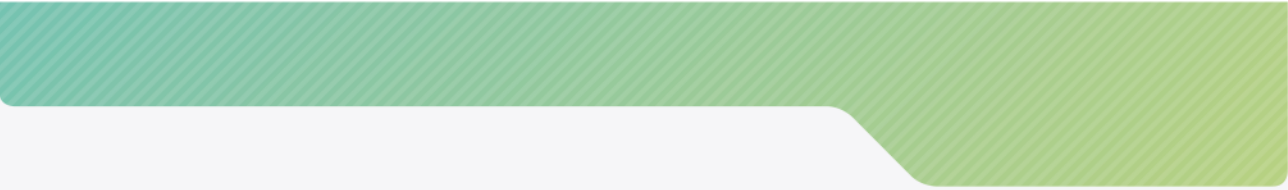
| | |
|---------------------------|---|
| <i>Amyotha Hluttaw</i> | upper house of parliament |
| <i>Ma Ba Tha</i> | the Burmese acronym for the Committee Protection of Nationality and Religion, an organisation led by nationalist Buddhist monks |
| <i>Madrassa</i> | a Muslim school, college, or university that is often part of a mosque |
| <i>Ma Ha Na</i> | the Burmese acronym for the State Sangha Maha Nayaka Committee, the highest Buddhist authority in Myanmar |
| <i>Ma Ka Pa</i> | the Burmese acronym for the Committee for the Prevention of the Illegal Immigration of Foreigners |
| <i>Na Sa Ka</i> | the Burmese acronym for the Border Area Immigration Control Headquarters |
| <i>Na Ta La</i> | the Burmese acronym for the National Races Youth Development Training Schools |
| <i>Pat Jasan</i> | a Kachin Baptist Convention movement against drugs known in English as ‘Prohibit Clear’ |
| <i>Pyidaungsu Hluttaw</i> | national parliament |
| <i>Pyithu Hluttaw</i> | lower house of parliament |
| <i>Pyithu Sit</i> | armed groups of civilians trained by the military, known as ‘People's Militias’ |
| <i>Sa Ya Pa</i> | the Burmese acronym for the Myanmar Intelligence Office of the armed forces |
| <i>Tatmadaw</i> | the Myanmar military |
| <i>Tilaka</i> | a red facial marking practiced in Hinduism |

Terms used in this report

| | |
|---------------|--|
| high risk | DFAT is aware of a strong pattern of incidents |
| moderate risk | DFAT is aware of sufficient incidents to suggest a pattern of behaviour |
| low risk | DFAT is aware of incidents but has insufficient evidence to conclude they form a pattern |

official discrimination

1. legal or regulatory measures applying to a particular group that impede access to state protection or services that are available to other sections of the population (examples might include but are not



limited to difficulties in obtaining personal registrations or identity papers, difficulties in having papers recognised, arbitrary arrest and detention)

2. behaviour by state employees towards a particular group that impedes access to state protection or services otherwise available, including by failure to implement legislative or administrative measures

societal discrimination

1. behaviour by members of society (including family members, employers or service providers) that impedes access by a particular group to goods or services normally available to other sections of society (examples could include but are not limited to refusal to rent property, refusal to sell goods or services, or employment discrimination)
2. ostracism or exclusion by members of society (including family, acquaintances, employers, colleagues or service providers)

1. PURPOSE AND SCOPE

1.1 The Department of Foreign Affairs and Trade (DFAT) has prepared this Country Information Report for protection status determination purposes only. It provides DFAT's best judgement and assessment at time of writing and is distinct from Australian government policy with respect to Myanmar.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia, without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:
Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report draws on DFAT's on-the-ground knowledge and discussions with a range of sources in Myanmar. It takes into account relevant information from government and non-government sources, including but not limited to those produced by the United Nations (UN) Independent International Fact-Finding Mission; other relevant UN agencies including the Office of the United Nations High Commissioner for Human Rights and the United Nations High Commissioner for Refugees (UNHCR); the US Department of State, recognised human rights organisations including Amnesty International; and reputable news organisations. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 This updated Country Information Report replaces the previous DFAT report released on Myanmar published on 10 January 2017.

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 Myanmar, formerly known as Burma, is a parliamentary republic, situated on the Bay of Bengal and the Andaman Sea. The second-largest country in southeast Asia by area, it shares borders with Bangladesh and India to the north-west, China to the north-east and Laos and Thailand to the east. The capital city is Naypyidaw, a planned city founded in the mid-2000s. The old capital, Yangon (formerly known as Rangoon), is Myanmar's largest city and its economic centre. Myanmar is prone to natural disasters, including cyclones and flooding. In May 2008, Cyclone Nargis caused severe damage across the Ayeyarwady Delta region, reportedly killing around 140,000 people. In August 2018, monsoon flooding across Myanmar displaced more than 150,000 people.

2.2 The Union of Burma achieved independence from Britain in 1948, initially as a parliamentary democracy under the leadership of General Aung San (the father of the State Counsellor, Aung San Suu Kyi). A military coup in 1962 brought General Ne Win to power, and he ruled through the Burma Socialist Programme Party (BSPP) for 26 years. Under the BSPP's 'Burmese Way to Socialism', Myanmar became one of the most isolated countries in the world. Many ethnic groups sought greater independence during this time, often through protracted armed insurgencies.

2.3 General Ne Win stood down in 1988 following widespread demonstrations—which were in part about rice shortages—and demands for an elected civilian government to replace the BSPP regime. The military (known as the *Tatmadaw*) responded by announcing a military-backed State Law and Order Restoration Council (SLORC, renamed the State Peace and Development Council in November 1997). The SLORC restored order through violent military and police crackdowns from August 1988. Some sources claim that at least 3,000 people were killed over six weeks in Yangon and Mandalay, though the exact number of casualties is unknown.

2.4 Violence and the arrest of many opposition figures undermined the 1990 elections. Despite this, opposition groups and ethnic parties opposed to the government won 475 out of the 485 non-military seats available. The SLORC did not recognise the results of the election, and senior opposition figures, including Aung San Suu Kyi, were imprisoned. Senior General Than Shwe continued military rule until 30 March 2011, establishing Myanmar's current Constitution in 2008.

2.5 The November 2010 parliamentary elections were boycotted by the opposition National League for Democracy (NLD) and considered not credible by international observers. The military-backed Union Solidarity and Development Party (USDP) won over 75 per cent of the non-military seats available (see [Political System](#)). The new parliament convened in January 2011 and appointed Thein Sein, a general in the Tatmadaw and Prime Minister under Than Shwe, as President.

2.6 Thein Sein's government initiated a series of political and economic reforms that set in motion a period of rapid and transformational change for Myanmar. They released hundreds of political prisoners, including Aung San Suu Kyi from house arrest six days after the 2010 elections. Aung San Suu Kyi and other members of the NLD party contested parliamentary by-elections on 1 April 2012 for 45 seats in the union,

state and regional parliaments. International observers considered the by-elections credible. The NLD won 43 of the 44 seats it contested; Aung San Suu Kyi was one of those elected.

2.7 In November 2015, Myanmar held credible nationwide elections for the first time since 1960. More than 23 million people voted for more than 6,000 candidates from 91 political parties for the bicameral national parliament (*Pyidaungsu Hluttaw*). The NLD won almost 80 per cent of the 75 per cent of seats not reserved for the military. The public, other parties and candidates, and international observers accepted the election result. The new government was in power by March 2016 (see [Political System](#)).

2.8 The NLD was elected on a platform of economic development, constitutional reform and national reconciliation. However, Myanmar's democratic transition has come under scrutiny internationally, due to the lack of progress in undertaking substantive reform, slow momentum with the peace process, and the government's failure to uphold fundamental human rights for populations affected by ongoing violence (see [Security Situation](#)).

DEMOGRAPHY

2.9 Myanmar's estimated population in 2017 was 55.1 million. In April 2014, the first national census in more than 30 years counted the national population at 51.4 million people. This included estimates of the population sizes of various communities in Rakhine, Kachin and Karen (also known as Kayin) States that were not directly surveyed due to conflict (Kachin and Karen States) or sensitivities regarding ethnicity (Rakhine State; see [Rohingya](#)).

2.10 In 2017, around 70 per cent of Myanmar's population lived in rural areas. Of the cities, Yangon has the highest population with around 5.1 million people, followed by Mandalay with around 1.4 million. The states of Chin and Kayah (also known as Karenni) are the least populated, with fewer than half a million people residing in each.

2.11 Myanmar's *Citizenship Law* (1982) officially recognises 135 ethnic groups. Some ethnic minorities living in Myanmar are not included in this list. Information on the size of these ethnic populations was collected during the 2014 census, but has not yet been released by the government. The Bamar ethnic group is the largest in Myanmar, making up around 68 per cent of the population, followed by Shan (9 per cent), Karen (7 per cent), and Rakhine (4 per cent). Other significant ethnic groups in Myanmar include the Mon, Chin, Kayah, and ethnic Chinese and Indian populations, as well as a group of Muslim people who identify as Rohingya. DFAT acknowledges that use of the term 'Rohingya' is highly sensitive in Myanmar (see [Rohingya](#)).

2.12 At the time of the 2014 census, the majority of people in Myanmar were Buddhists (87.9 per cent), although there were also significant minority populations of Christians (6.2 per cent) and Muslims (4.3 per cent), and a smaller group (2 per cent) belonging to animist or other religious groups. The Muslim population in Myanmar has decreased following the mass movement of Rohingya to Bangladesh in 2017 (see [Security Situation](#), [Rakhine State](#), and [Rohingya](#)).

ECONOMIC OVERVIEW

2.13 Myanmar is a lower-middle income country with significant economic potential. The countries with which it shares its borders (Bangladesh, India, China, Laos and Thailand) are home to approximately 40 per cent of the world's population; it is located near key maritime trade routes; and has significant natural resources. In 2018, Myanmar's gross domestic product (GDP) per capita was forecasted at USD 1,354 (approximately AUD 1,920), the highest since 2014. Myanmar's services sector accounts for around 40 per cent of GDP, followed by the industrial sector (35 per cent) and the agriculture sector (25 per cent).

2.14 Despite strong growth in recent years, Myanmar remains one of Asia's poorest countries and ranked 148th out of 189 countries and territories in the UN Development Programme (UNDP) 2018 Human Development Index. Over a third of Myanmar's population live in poverty, with rates substantially higher in rural areas (39 per cent) compared to urban areas (14.5 per cent). Economic activity is centralised in major urban centres, particularly Yangon and Mandalay.

2.15 According to the World Bank, economic growth is expected to moderate from 6.8 per cent in 2017-18 to 6.2 per cent in 2018-19, driven by a slowdown in both the services sector and industrial activities. The World Bank projects GDP growth of 6.6 per cent by 2020-21, driven by an expected pickup in foreign and domestic investment as a result of recent policy changes, including large investments in infrastructure projects. Inflation is expected to rise from 5.4 per cent in 2017-18 to 8.8 per cent in 2018-19. The lack of employment opportunities in rural areas has driven increased rates of rural-urban migration (see [Employment](#)).

2.16 The state exerts significant influence over the economy, but reforms implemented since 2011 have increased competition for military-owned businesses. The abolition of the Tatmadaw-controlled Trade Council, which approved all export and import licences, and the removal of the tax-exempt status of Tatmadaw businesses, has opened up these enterprises to greater competition, particularly in the manufacturing and processing sectors. However corruption, weak rule of law and complex licensing systems remain major barriers to investment and trade, and Myanmar is consistently ranked at the lower end of Transparency International's Corruption Perceptions Index, ranked 130th of 180 countries in 2017. Corruption is reported at both national and local levels and recent government initiatives aimed at curbing it, including the Anti-Corruption Commission established in 2014, have produced limited results.

2.17 Myanmar's 2014 National Social Protection Strategic Plan remains the key policy underpinning welfare provision to vulnerable groups, and is implemented by the Ministry of Social Welfare, Relief and Resettlement. In 2016, the government reaffirmed the plan's eight flagship areas targeting pregnant women, children, persons with disabilities and the elderly, and extended pilot programs focused on the provision of cash allowances and pensions. From March 2017, seniors over 90 years old with National Registration Cards (NRCs, see [National Identity Cards](#)) and household registration lists (see [Household Registration Lists](#)) are eligible for pension payments of MMK 10,000 (approximately AUD 9) per month; in October 2018, the minimum age was lowered to 85 years. The government provides financial and technical assistance to over 80 privately run aged care facilities nationwide. Social service delivery is limited in rural, remote and border areas (see [Health](#) and [Education](#)).

Health

2.18 Health outcomes are generally poor in Myanmar, and worse in rural areas. According to the World Health Organization, Myanmar has low life expectancy rates (67 years), high maternal mortality rates (200 per 100,000 live births), and high infant mortality rates (51 per 1,000 live births). Around one third of children are stunted, with the highest incidence in Rakhine State. Myanmar spends only around three per cent of GDP on healthcare, and the standard of health services is generally inadequate, even in major urban centres. Communicable diseases such as tuberculosis, malaria and HIV/AIDS are leading causes of death and illness.

2.19 There are significant disparities between regions and groups in the access to, and quality of, health services, particularly for ethnic minorities, poor people, and people living in remote areas. Limited infrastructure, rugged and remote terrain and ongoing conflict are key constraints to the effective delivery of health services in some parts of the country, particularly during the monsoon season. Private healthcare has

expanded rapidly in recent years, particularly in cities, and volunteers and members of local non-government organisations (NGOs) and faith-based organisations also provide health services at the village level.

2.20 In many of Myanmar's contested regions, parallel government and ethnic armed organisation (EAO) systems provide health services. In Kachin and Shan States, most internally displaced persons (IDPs), particularly in non-government controlled areas, continue to rely on humanitarian assistance for basic health services and facilities available in China, as their access to services and referral systems in Myanmar remains limited. In Rakhine State, in addition to long-standing limitations in general health service provision, there are continued restrictions on access to health facilities and township hospitals for the Muslim population, including IDPs (see [Rohingya](#), Freedom of movement). The Ministry of Health has recently implemented mobile health teams in northern Rakhine, but their reach appears to have been limited. In October 2018, ethnic Rakhine and Mro people described expensive transport and poor roads in northern Rakhine as the primary constraints to accessing the nearest medical facilities.

2.21 Myanmar has two mental health hospitals, in Yangon and Mandalay, as well as mental health wards in hospitals in all 14 states and regions. Treatment is considered affordable for many, but access to and quality of services is more limited for people living outside of urban areas. Religious and cultural beliefs and social stigma surrounding mental illness reportedly prevent people from accessing professional services.

2.22 There is widespread drug use (particularly heroin and amphetamines) in Kachin State and Shan State, and is reportedly a growing problem elsewhere. This is largely affecting youth and contributing to urban safety issues and crime. The Kachin Baptist Convention created the *Pat Jasan* (Prohibit Clear) movement in 2014 as a "people's war on drugs". Pat Jasan vigilantes reportedly slash poppy fields and force drug users into drug treatment camps. The movement gained popularity due to the perception that local authorities were not effectively addressing drug issues. Drug production is also a major resource for war economies in the north of Myanmar.

2.23 In February 2018, the government released a new national drug control policy, coinciding with amendments to the *Narcotic Drugs and Psychotropic Substances Law* (1993). These developments mark a shift in the government's approach to drug management, from punitive action and supply reduction to one incorporating harm minimisation. However, the establishment in June 2018 of a Drug Activity Special Complaint Department to receive information from the public has been described by some as being inconsistent with the new policy, as this type of approach typically drives arrests and prosecutions and can limit users' access to services. There are 70 drug treatment centres nationwide, and some hospitals including Yangon's Mental Health Hospital offer methadone treatment to inpatients and outpatients. Social stigma prevents some users from seeking treatment, and some non-government services for injection drug users in Yangon have decreased in recent years because of community protest.

Education

2.24 Myanmar's prolonged internal conflict, isolation over the years of military rule, lack of funding and use of education as a tool of social control, have created ongoing problems in the education sector. This includes difficulties in retaining students at both primary and secondary levels, and producing graduates with the skills necessary to raise economic productivity. However since 2015, the government has prioritised the reform of the education sector to improve education quality.

2.25 In Myanmar, education is compulsory and free until fourth grade. Myanmar's adult literacy rate is around 93 per cent. Enrolment rates at primary school are very high, estimated at 100 per cent in 2016, but drop rapidly at secondary and tertiary levels of education, with enrolment rates of 51 per cent and 14 per cent at secondary and tertiary levels respectively. This drop-off in enrolments at secondary and tertiary levels of education is reflected in the average number of years of education, which is around 4.7 years in

Myanmar compared with 5.2 years in Laos, 8 years in Vietnam and 7.9 years in Thailand. Some schools charge informal fees, to supplement the minimal government resources provided for education.

2.26 Children in rural and remote areas, and in areas affected by conflict, face additional challenges in obtaining an education. In some schools, particularly those in ethnic and religious minority areas, students are not routinely taught the national curriculum (for example, see [Christians](#)). Education and training opportunities are limited for Myanmar nationals (predominantly Karen) in the refugee camps on the Thai border. While camp education is considered to be of a higher standard than that available in Myanmar, there are limited opportunities for tertiary education, and qualifications attained remain largely unrecognised outside the camps.

2.27 Students from religious minority groups, particularly Muslims, experience unequal access to secondary and tertiary education (see [Muslims](#)). The government's 2017 National Education Strategic Plan did not address issues related to mother tongue instruction. Local media reported that the General Administration Department (GAD) issued an order in June 2018 that required *madrassas* and mosques to only use Burmese language, and only hold religious classes and services in permitted places. Recent, reliable data on state-approved *madrassas* are rare; a 1997 Ministry of Defence report stated there were 759 *madrassas* nationally. According to Muslim leaders, the government has not approved the opening of new *madrassas* (and mosques) since 1962 (see [Muslims](#)).

Employment

2.28 Myanmar has a high workforce participation rate, with many more men (82 per cent) than women (47 per cent) working. However 38 per cent of people are underemployed (defined as working part-time or not using their skills and qualifications), and 75 per cent of jobs are in the informal sector. Half of the working population are employed in the primary sector (agriculture, forestry and fishing), with the highest proportion in Chin (81 per cent) and Shan (75 per cent) States. In Karen and Kachin States, most people (62 and 54 per cent) work in the primary sectors, followed by the tertiary (services) (28 and 32 per cent) and secondary (manufacturing) (10 and 14 per cent) sectors.

2.29 Yangon and Mandalay have become major hubs for domestic labour migrants, and 25 per cent of Yangon's population are lifetime migrants from other states and regions. Most of Yangon's population (58 per cent) are employed in the tertiary sector, with smaller numbers in the secondary (26 per cent) and primary (16 per cent) sectors. There is greater distribution across the primary (43 per cent), secondary (20 per cent) and tertiary (37 per cent) sectors in Mandalay.

2.30 According to 2014 census data, the national unemployment rate was 4 per cent, but levels of unemployment vary considerably between states and regions. Unemployment was highest in Rakhine (10 per cent), Karen (8 per cent) and Mon (6 per cent) states. Anecdotally, the conflict in Kachin State is reported to have created high youth unemployment and increased general migration to Yangon for work; DFAT assesses that conflicts in other areas of Myanmar have likely created similar conditions.

POLITICAL SYSTEM

2.31 The Constitution divides power between the executive, legislature and judiciary. The Tatmadaw reserves 25 per cent of seats in parliament, giving it the ability to block any reforms to the Constitution. It also appoints the Ministers for Defence, Home Affairs and Border Affairs. The Commander-in-Chief of the Armed Forces also has the right to invoke extraordinary powers, including to dissolve the civilian government and parliament and rule directly upon presidential declaration of a state of emergency.

2.32 Myanmar is divided administratively into seven regions, seven states, six self-administered zones or divisions, and one 'union territory' (where the capital, Naypyidaw, is located). Despite the difference in terminology, states and regions are constitutionally equivalent.

2.33 The six self-administrated zones/divisions in Myanmar are recognised under the Constitution. Ethnic minority groups govern these areas; five are located within Shan State and one within Sagaing Region. The largest is the Wa Self-Administered Division, bordering China in the eastern part of Shan State.

2.34 Under the Constitution, the legislative power of the Union is shared among the central and the state and regional parliaments, although in practice, power is heavily centralised in the national executive and the national parliament. The President has the power to appoint the chief ministers of states and regions, and chief ministers are directly responsible to the President, rather than to their respective state or regional parliament. National legislation overrides state and regional law under the Constitution.

2.35 Each state and region has its own legislature, comprising elected officials and appointed administrators. While taxation is formally centralised, state governments typically collect informal revenues through land repossessions and sales, local contracts and administrative levies. Myanmar's judicial, law enforcement and administrative structures do not have uniform reach across the country. Representatives from government revenue and service delivery agencies rarely travel to the more inaccessible areas of Myanmar due to poor transportation and telecommunications infrastructure, and instability and conflict.

2.36 The national parliament is made up of the People's Assembly (*Pyithu Hluttaw*, the lower house) and the House of Nationalities (*Amyotha Hluttaw*, the upper house); the two houses combine to form the *Pyidaungsu Hluttaw* to discuss certain issues, such as national budgets, and to resolve deadlocks. The People's Assembly consists of 440 representatives, of which 330 are directly elected from single-member electorates and 110 are military personnel appointed by the Commander-in-Chief. The House of Nationalities consists of 224 representatives, of which 168 are directly elected (12 from each of the states and regions) and 56 are military personnel appointed by the Commander-in-Chief.

2.37 The President is elected by the Presidential Electoral College (PEC), which comprises lower house members of parliament (MPs), upper house MPs and military MPs. Each of these three groups elects one Vice President. The combined PEC (comprising all representatives in the national parliament) then elects one of the three Vice Presidents to be President. The President and the remaining two Vice Presidents serve in those roles for a five-year term. Section 59 (f) of the Constitution includes several eligibility criteria for Presidential and Vice-Presidential nominees, including that neither the nominee's parents nor any of their children can be foreigners. On these grounds, Aung San Suu Kyi is ineligible for the presidency because her two sons have British citizenship. In January 2019, the Pyidaungsu Hluttaw passed a motion to establish a committee to recommend amendments to the Constitution. The NLD introduced the motion following party discussions of a number of possible constitutional amendments, including removing the military-appointed Vice President position and amending section 59 (f).

2.38 The parliamentary elections held in November 2015 resulted in a landslide victory for the NLD. The NLD won almost 80 per cent of the popularly elected seats in the national parliament (and a similar proportion in state and regional parliaments), despite receiving just 57 per cent of the popular vote, due to the first-past-the-post electoral system. The incumbent military-aligned USDP won just eight per cent of elected seats, and parties representing ethnic minorities won 11 per cent of elected seats, well below expectations. The Buddhist nationalist National Development Party, which had the fourth-most candidates of all parties contesting the election, failed to win a seat. The results gave the NLD enough seats to choose a President and to pass legislation on its own. International electoral observers concluded that the election outcome reflected the will of the people, though anti-Muslim rhetoric, the exclusion of Muslim candidates, and the disenfranchisement of Rohingya Muslims marred the election campaign.

2.39 In March 2016, the parliament elected NLD nominee Htin Kyaw as President, with retired Lieutenant General Myint Swe (nominated by the military representatives) and Henry Van Thio (also nominated by the NLD) appointed as Vice Presidents. Aung San Suu Kyi was appointed to the new and constitutionally undefined position of State Counsellor, and holds the key portfolios of Foreign Minister and Minister of the President's Office. Htin Kyaw resigned in March 2018 and Win Myint, NLD member and speaker of the lower house since 2012, was elected by majority in both houses of parliament. As provided by the Constitution, the positions of Ministers for Defence, Home Affairs and Border Affairs are held by members of the defence services nominated by the Commander-in-Chief. Home Affairs is responsible for the Myanmar Police Force and the court system.

2.40 While 95 political parties (including 50 ethnic parties) have registered with the Myanmar Union Election Commission (UEC) since the multi-party system began in 2011, the USDP and NLD have dominated electoral politics. In August 2018, the UEC approved a new political party started by members of the '88 Generation group (formed from the 1988 pro-democracy movement), known as the People's Party. The People's Party plan to contest the 2020 general election.

2.41 In November 2018, 13 by-elections were held across union, state and regional parliaments. Of the 11 seats in play held by the NLD, seven were retained and four lost. Three of the lost seats went to USDP in Tamu (Sagaing), Seikkan (Yangon) and Myitkyina (Kachin). Observers and parties questioned the transparency around military voting. A Chin ethnic party won the remaining seat in Matupi (Chin).

HUMAN RIGHTS FRAMEWORK

2.42 Myanmar has ratified four of the core UN human rights treaties: the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of Persons with Disabilities; and the Convention on the Rights of the Child, as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of child prostitution and child pornography.

2.43 In 2015, Myanmar underwent its second Universal Periodic Review (UPR), the process by which the UN Human Rights Council reviews the human rights records of all 192 UN Member States every four years. Of the 281 recommendations made by 93 countries, the government accepted 135 and noted 146. The third cycle of the UPR is tentatively scheduled for 2020.

2.44 In December 2017, the government withdrew country access for and cooperation with Yanghee Lee, UN Special Rapporteur on the situation of human rights in Myanmar, for the duration of her tenure. The decision was in response to Lee's statement following her July 2017 visit to Myanmar.

2.45 The UN Human Rights Council resolution 34/22, adopted on 24 March 2017, established the independent international fact-finding mission on Myanmar "to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar". The UN Fact-Finding Mission focused on the situation in Kachin, Rakhine and Shan States since 2011, reflecting the resumption of hostilities in Kachin State and escalation in Shan State in 2011, and the outbreak of major violence in Rakhine State in 2012. The UN Fact-Finding Mission released its findings in September 2018.

2.46 In September 2018, the UN Human Rights Council adopted a resolution that established an independent mechanism to collect evidence of the most serious international crimes committed in Myanmar. It also extended the mandate of the UN Fact-Finding Mission until September 2019.

National Human Rights Institution

2.47 Myanmar established the government-funded Myanmar National Human Rights Commission (MNHRC) in 2011, with a broad legal mandate to protect and promote human rights. The *Myanmar National Human Rights Commission Law (2014)* enables the MNHRC to receive public complaints, investigate human rights abuses, hold the government accountable for the treaties and conventions to which Myanmar is a party, and make recommendations on additional treaties and conventions for accession. It also allows MNHRC to undertake inspections to prisons, detention centres and other places of confinement. Following its investigations, the MNHRC refers its recommendations to the relevant government department for action, but has no power to ensure recommendations are implemented.

2.48 Administrative and financial independence from the government is limited. However the MNHRC has recently taken steps to reform its financial procedures, including submitting its 2016-17 budget to the parliament through the Ministry of Finance (rather than obtaining Presidential approval on the budget as per previous practice). The selection process for commissioners is opaque. There are currently 10 commissioners (including the Chairperson who heads the MNHRC), most of whom are former civil servants, and three of whom are former military employees, which has raised questions about the MNHRC's ability to operate independently. The MNHRC appointed a female commissioner in April 2018, after a period of having only male commissioners. Civil society representatives described their engagement with the MNHRC as neither regular nor substantive, and public confidence for the MNHRC as limited.

2.49 The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights currently classifies the MNHRC as a 'B status institution', meaning that the MNHRC is not fully compliant with the Paris Principles relating to the Status of National Institutions, which set out the minimum international standards required by human rights institutions to be considered credible and to operate effectively. The MNHRC has been criticised for refusing to investigate human rights abuses in conflict areas, particularly those reportedly committed by the Tatmadaw, on the basis that it is not part of its mandate. Its prioritisation of human rights promotion over protection was the subject of parliamentary criticism in July 2016. In November 2018, the Asia Pacific Forum for National Human Rights Institutions conducted a capacity assessment for the MNHRC, with a view to develop staff capacity and improve the effectiveness and efficiency of internal processes.

SECURITY SITUATION

2.50 Conflicts between ethnic groups and the state have been ongoing since independence in 1948. In recent decades, conflict has mostly been restricted to contested areas in the border states and regions; the ethnic Bamar heartland has been largely unaffected by conflict.

2.51 Of the 21 active EAOs, 15 were included, or chose to participate, in negotiations for a Nationwide Ceasefire Agreement (NCA). Of these, only eight signed the agreement in October 2015, despite all 15 subsequently agreeing to draft text in March 2016. The eight signatories were the Chin National Front, the All Burma Students' Democratic Front, the Arakan Liberation Party, the Restoration Council of Shan State, the Karen National Union (KNU), the KNU/Karen National Liberation Army (KNLA) Peace Council, the Democratic Karen Buddhist Army, and the Pa-O National Liberation Organization. Two more EAOs, the New Mon State Party (NMSP) and the Lahu Democratic Union, signed on to the NCA in early 2018, taking the total number of signatories to 10. While not all EAOs signed the agreement, the partial signing of the NCA marked a significant step towards advancing the peace process in Myanmar. At present, however, forward momentum on political dialogue under the NCA is challenging, with two major EAOs (the KNU and the Restoration Council of Shan State) suspending all participation in NCA-linked formal dialogue in late 2018.

2.52 Many EAOs also remained outside the NCA negotiation process, including the powerful United Wa State Army (UWSA, with 30,000 personnel) and the Kachin Independence Army (KIA, around 10,000 personnel). While these and other groups chose not to participate, the military excluded three EAOs because of their involvement in clashes with the Tatmadaw during negotiations: the Myanmar National Democratic Alliance Army (MNDAA), the Arakan Army (AA), and the Ta'ang National Liberation Army (TNLA). Recently, however, there have been signs that the government, including the military, are willing to negotiate with these three groups. In December 2018, the Commander-in-Chief, Senior General Min Aung Hlaing, called a temporary unilateral ceasefire effective in active conflict areas in north and northeast Myanmar until April 2019 in order to progress negotiations; notably this did not include the AA in Rakhine State (see [Rakhine State](#)). Despite this, conflict between the AA and the Tatmadaw has increased including outside Rakhine State, and the prospects for peaceful negotiations with the AA appear unlikely.

2.53 Linked to the NCA, in August 2016, the government held the first Union Peace Conference or the '21st Century Panglong Conference', a reference to the Panglong Conference held in 1947 and led by General Aung San, which led to the formation of the Union of Burma. Attendees included the government, the Tatmadaw, signatory and non-signatory EAOs (but not the MNDAA, AA or TNLA), and civil society representatives. Political dialogue with signatories to the NCA made early progress, agreeing 37 principles, addressing political, economic, environmental and social issues signed as the first part of the Union Peace Accord. Two further conferences have been held, reaching agreement on 51 principles of a Union Peace Accord. Following the third conference in July 2018, discussions are focused on more contentious issues, primarily federalism and security sector reform. Substantive progress on these issues has not been achieved to date and trust between warring parties remains low.

2.54 Despite the NCA, parts of the country remain affected by ongoing conflict. In some areas, the government does not exercise control and EAOs continue to clash with government forces. These conflicts, which occur predominantly in border areas in southern Kachin State, northern Shan State, and recently in southern Chin State and Rakhine State, have displaced significant numbers of the local population and further eroded trust in the peace process (see [Kachin and Shan States](#) and [Rakhine State](#)). Of the EAOs currently involved in hostilities in Kachin and Shan States, only the Shan State Army-South has signed the NCA, but the group continue to clash with the Tatmadaw.

2.55 While the NCA committed all parties to end the use of landmines and cooperate on mine-clearance operations, new landmines have reportedly been laid in recent years. The UN recorded 199 casualties (including 42 deaths) in Kachin State, and 182 casualties (including 48 deaths) in Shan State from landmines from 2016 to April 2018. In 2017, at least two deaths in Chin State were attributed to the indiscriminate laying of landmines by the AA. Landmines were also reported to have been planted by the Tatmadaw in and around Rohingya villages as part of the 2017 security operations in Rakhine State, and along border crossing points in northern Maungdaw Township, resulting in death and injury.

2.56 In March 2017, the UN Human Rights Council established the UN Fact-Finding Mission to investigate alleged recent human rights violations in Rakhine, Kachin and Shan States. Their investigation was informed by 875 interviews with victims and eyewitnesses in Bangladesh, Indonesia, Malaysia, Thailand and the UK (but not in Myanmar, as the government did not provide permission to enter). The UN Fact-Finding Mission found sufficient evidence of violence perpetrated by the Tatmadaw in northern Rakhine State to conclude that war crimes, crimes against humanity, and, potentially, genocide occurred. The government did not accept these findings and is conducting its own Independent Commission of Enquiry, the eighth internal enquiry into events. The Commission is expected to report in August 2019.

2.57 In addition to the larger-scale conflicts in Rakhine, Kachin and Shan States, recent clashes were also reported in southern Chin State and Karen State. Fighting in Chin State between the AA and Tatmadaw has been ongoing since 2015. The worst clashes reported in November 2017 and May 2018 led to approximately

1,300 people and 1,200 people respectively fleeing Chin State for India. DFAT is aware of reports of indiscriminate killings, cruel, inhuman and degrading treatment including the use of ethnic Chin as human shields, forced labour and forced displacement by the AA and the Tatmadaw in Paletwa Township. While historically AA activities have been predominantly confined to Paletwa Township, other areas of Chin State, particularly Matupi Township, are reported to have become increasingly militarised by the Tatmadaw since 2017 and clashes between the AA and Tatmadaw escalated over November and December 2018, including in northern Rakhine. As at February 2019, clashes between the AA and Tatmadaw continued.

2.58 The KNU and Karen civil society have alleged that since 2017 the Tatmadaw has been expanding its presence in some parts of Karen State in violation of the NCA. In March 2018, clashes between the Tatmadaw and the KNU/Karen National Liberation Army (KNLA) displaced over 1,500 people from 15 villages in Hpapun district, which constituted the largest forced displacement since the KNU signed a bilateral ceasefire in 2012, and a violation of the NCA. Civil society groups reported that the Tatmadaw shot at villagers. Clashes also broke out in March between the NMSP and KNU, which are both NCA signatories. A smaller clash between the Tatmadaw, KNU and a Democratic Karen Benevolent Army Splinter group also occurred in Hpapun in August 2018, but the KNU has subsequently reaffirmed its commitment to the NCA, despite suspending formal participation in NCA-linked dialogue (it maintains it is focusing on informal discussions to build agreement).

Rakhine State

2.59 The security situation in Rakhine State deteriorated rapidly after two outbreaks of violence in 2012. These affected ethnic Rakhine (mostly Buddhists) and minority Muslim communities (both the population that identify as Rohingya and the Kaman) across 12 townships. The UN Fact-Finding Mission reported that the security forces, sometimes in cooperation with Rakhine civilians, committed serious human rights violations against Rohingya and Kaman across Rakhine State between 2012 and 2013, including the burning of houses, looting of shops and extrajudicial and indiscriminate killings, including of women, children and the elderly. Violence decreased between 2014 and late 2016, although the situation was extremely fragile with significant impacts on the rights of communities (see [Rohingya](#) and [Muslims](#)).

2.60 On 9 October 2016, the Arakan Rohingya Salvation Army (ARSA), an insurgent group based in Rakhine State, carried out its first attack on three Border Guard Police (BGP) facilities in Maungdaw Township, northern Rakhine State. According to the authorities, nine police officers and eight ARSA members were killed, and ARSA seized guns and ammunition. The security forces, led by the Tatmadaw, launched a major 'clearance operation' in response to the attacks, sealing off a large area of northern Maungdaw. The presence of security forces increased and movement of the Rohingya population was tightly controlled through ongoing movement restrictions, curfews and checkpoints. There were widespread and systematic arson attacks against Rohingya villages with over 1,500 buildings destroyed between October and December 2016. The UN Fact-Finding Mission reported a range of serious human rights violations against the Rohingya population by the security forces during the 2016 security operations, including arbitrary arrests, ill-treatment and torture, forced disappearances and sexual violence. Around 87,000 Rohingya fled to Bangladesh.

2.61 On 25 August 2017, ARSA launched coordinated attacks on a military base and up to 30 security force outposts across northern Rakhine State. A small number of armed leaders with limited training were supported by a much larger group of untrained villagers with knives and sticks, and 12 security force personnel were killed. The security force response, launched within hours of the attack, was disproportionate, encompassing almost the total Rohingya population across Maungdaw, Buthidaung and Rathedaung Townships. Despite the geographic spread of the security operations, the strategy was consistent – Tatmadaw soldiers, other security forces, Rakhine men, and in some cases, men from other

ethnic minorities, attacked villages with gunfire and arson. The same violations used by security forces in 2016 were again employed against men, women and children, on a significantly larger scale, including targeted and indiscriminate shootings, extreme sexual violence and gang rapes, and widespread arson attacks. Mass killings, some cases involving hundreds of people, reportedly occurred in at least five villages, including Min Gyi (Tula Toli) (see [Rohingya](#)). According to a Tatmadaw statement in March 2018, there were 100 to 200 ARSA members per village in 40 villages in Maungdaw at the time of the August 2017 attacks.

2.62 Médecins Sans Frontières (MSF) estimated at least 9,400 Rohingya died in the initial month following 25 August; the UN Fact-Finding Mission has described this as a conservative estimate. Satellite imagery corroborates first-hand accounts of the systematic and targeted destruction of Rohingya villages across the three townships. At least 392 villages (40 per cent of all settlements in northern Rakhine) were partially or totally destroyed. By August 2018, close to 725,000 people, mostly Rohingya, had fled to Bangladesh. The UN Fact-Finding Mission reported a build-up of armed forces in Rakhine State in the months leading up to the 2017 security operations and an increase in anti-Rohingya rhetoric during this period, including by civilian leaders. It also determined that the nature, scale and organisation of the security operations indicated a clear strategy of the Tatmadaw leadership to address the “Bengali problem”, as the Commander-in-Chief described the Rohingya during the security operations.

2.63 Following the August 2017 violence in Rakhine State, the government restricted all humanitarian access to northern Rakhine State. In central Rakhine, UNHCR regained access to some IDP camps and rural Muslim villages in January 2018, but did not regain access to northern Rakhine until months later. In January 2018, ARSA claimed responsibility for an ambush against Myanmar security personnel in northern Rakhine State that injured five people. This was the first attack claimed by ARSA since the August 2017 attacks against security outposts, but the security force response was limited. In December 2018, Reuters published satellite imagery taken over different periods in 2018 which showed new security infrastructure and Buddhist housing built on the site of cleared Rohingya villages including in Inn Din, Thit Tone Nar Gwa Son and Done Paik.

2.64 The frequency and severity of armed clashes between the Tatmadaw and the AA in Rakhine State increased from November 2018. In January 2019, coordinated attacks by the AA on four police outposts in Buthidaung Township, Rakhine State, killed 13 police officers and wounded nine others. DFAT considers credible reports of the Tatmadaw threatening and detaining civilians they accuse of supporting the AA, and blocking transport routes to areas of central Rakhine, resulting in food shortages. Civilians have reportedly been used as human shields and porters, with at least one civilian being shot and wounded.

2.65 As at February 2019, thousands of people were estimated to be displaced in Rakhine State as a result of the conflict. The majority of the displaced were reported to have fled in late December 2018, indicating that despite reports of additional deployment of Tatmadaw battalions and activity, there had not been a large-scale escalation in fighting. As at February 2019, clashes between the AA and the Tatmadaw were ongoing, and reports of human rights violations including forced labour and arbitrary detention continued.

Kachin and Shan States

2.66 In 2011, a 17-year ceasefire between the KIA and the Tatmadaw collapsed. Fighting between the KIA and the Tatmadaw reignited in 2015, with clashes intensifying from late 2017. Approximately 100,000 people remain in IDP camps due to ongoing fighting. In December 2017, the Tatmadaw conducted several offensives against the KIA, with counterattacks by the KIA. Credible sources reported the Tatmadaw used aerial bombings, mortars, surface-to-surface missiles, landmines and artillery, hostages and human shields. Fighting is influenced by the control of natural resources. Jade, amber, gold, timber and iron are abundant in

the region and are controlled by various interests, including the Tatmadaw and its associates, EAOs and militias.

2.67 Fighting was particularly intense in Tanai Township from late January 2018, with the Tatmadaw using airstrikes and heavy artillery, including in areas close to civilian populations and IDP camps. Local humanitarian organisations estimated close to 3,000 civilians fled the immediate conflict area, and up to 500 civilians (primarily migrant workers) were trapped in the battle zone, without access to food, shelter or health services. Individuals were screened at military checkpoints in Samat (along the sole escape route) to ensure they were not KIA, resulting in only 200 to 300 people being allowed through each day. Hundreds of civilians were also displaced in other parts of Kachin, and media reported 21 people were abducted by KIA fighters in January 2018, with some people subsequently released.

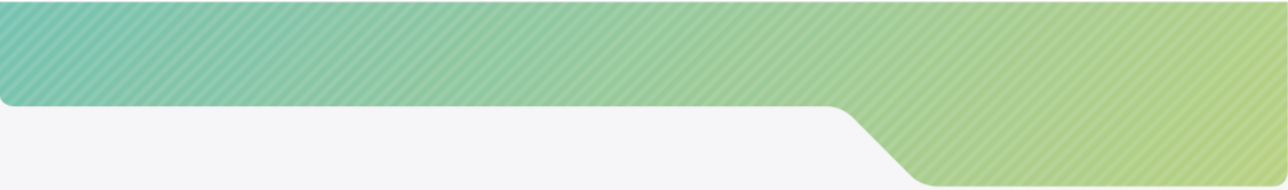
2.68 According to humanitarian organisations, clashes heightened in February 2018, resulting in civilian casualties and the displacement of thousands of people, including from long-term IDP camps. Civilians were trapped in the conflict zone for extended periods, and local and international humanitarian organisations were restricted by the government in KIA-held areas (where around 50 per cent of people are displaced). Even in government-controlled areas, access by humanitarian organisations is severely limited; UN international staff have not been able to reach IDPs beyond towns since 2016, though some local staff have greater access. DFAT does not have information on whether people outside of IDP camps and towns are able to access any assistance or protection beyond their own means. Both the Tatmadaw and the KIA have been accused of failing to distinguish between civilians and combatants in their operations, and actions from both parties have prevented humanitarian access to people in need.

2.69 Conflicts in April 2018 newly displaced more than 5,000 people, in addition to the 100,000 people that have been displaced since 2011. While some IDPs were able to return to their villages of origin by June, they required humanitarian assistance, including food and livelihood support as they were displaced during the growing season. Those displaced were not able to travel freely. In addition to conflict between the Tatmadaw and the KIA, there has also been increased inter-ethnic tension between the Kachin and Shanni (Red Shan) groups in south-west Kachin State, and Kachin and Shan groups in the south of Kachin State.

2.70 In Shan State, conflict has been characterised by a complex mix of armed actors and shifting territorial control. It has also fuelled the illicit drug economy, with drug production occurring in safe havens held by militias and other paramilitary units associated with the Tatmadaw, as well as in areas controlled by EAOs. Sporadic fighting between the Tatmadaw and EAOs primarily occurs in northern Shan, the most ethnically diverse, administratively fragmented and disputed region of Myanmar, and fighting intensified in December 2017 and again in mid-2018. The Myanmar Institute for Peace and Security reported 52 armed clashes and six mine incidents across 14 townships in Shan State in July and August 2018, which represented a relatively high number of clashes for the rainy season. In August 2018, fighting between the Tatmadaw and the TNLA moved into Lashio Township, northern Shan, which had not previously been affected by conflict.

2.71 While fighting in Shan State has primarily occurred between the Tatmadaw and EAOs, clashes have also occurred between the TNLA and Shan State Army-South, sometimes with assistance from Shan State Army-North (backed by the UWSA). For example, 300 civilians reportedly fled Mongton Township in March 2018, following clashes between the two EAOs. Civilians were also reportedly trapped in the crossfire and evacuated by aid workers. Furthermore, fighting between the TNLA and Shan State Army-South in August 2018 occurred in close proximity to civilian areas, including IDP camps, and displaced more than 900 people in Namtu Township. Both local and international humanitarian organisations reported limited access to conflict areas.

2.72 As at October 2018, more than 2,000 civilians had been displaced in northern Shan due to armed clashes between the Tatmadaw, KIA, TNLA, and the Shan State Army-South and North, including 1,400 civilians still displaced in Lashio Township. In October 2018, 40 civilians were reportedly recruited by



Northern Alliance EAOs (AA, KIA, MNDAA and TNLA) in Kutkai Township, and landmines injured several civilians in Namhsan and Nankham Townships.

2.73 While large numbers of IDPs in Kachin and Shan States have been able to return to their places of origin, the UN Fact-Finding Mission reported that as at August 2018, around 97,000 people in Kachin and 9,000 people in Shan remained in displacement camps or camp-like situations. Many have been displaced for prolonged periods of up to seven years, and some displaced multiple times. At the time of publication, the government was developing a national strategy for closing IDP camps in Kachin, Shan, Rakhine and Karen States.

2.74 The UN Fact-Finding Mission reported that most EAOs fighting in Kachin and Shan States have, to different extents, committed international humanitarian law violations. DFAT assesses that the abuses committed by EAOs in both Kachin and Shan States has been lesser in number and severity than those committed by the Tatmadaw. DFAT further assesses that many of the reported tactics and violations by the Tatmadaw in Kachin are comparable to those in Rakhine State (see [Rakhine State](#)), although on a smaller scale and without the incitement of intercommunal violence seen in Rakhine.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 The Myanmar government recognises eight major ethnic groups (the Kachin, Kayah/Karenni, Karen/Kayin, Chin, Bamar, Mon, Rakhine and Shan) as part of 135 'national races', and the law grants full citizenship to members of these races. Under the Citizenship Law, an ethnic group must have been present 'in any of the territories included within the State' continuously since 1823 for its members to be entitled to full citizenship. The law restricts members of other groups from full citizenship (see [Documentation](#)). The Constitution recognises those national races with greater than 0.1 per cent of the national population ('National races with suitable population') by allocating seats in state and regional parliaments to members of these groups.

3.2 The Bamar are the majority ethnic group in Myanmar, comprising approximately 68 per cent of the population. Bamar people dominate the bureaucracy and the political system, and are often appointed to leadership positions in states or regions even where other ethnic groups form the majority. The central plains of Myanmar have a higher concentration of Bamar than remote areas, including major cities. The vast majority of ethnic Bamar people are Buddhist.

3.3 The Rohingya are not among the 135 recognised ethnic groups, nor are people of Indian, Chinese, Anglo-Burmese or Nepali descent. The formal restrictions on people who do not hold full citizenship are broad. Proof of citizenship is usually required to access state-funded health and education services, although in practice, those with the ability to pay can sometimes secure access to these services. They typically cannot work for state, regional or central governments.

3.4 Identity in Myanmar is complex, involving elements of ethnicity, religion, language and geographic location. Different members of the same family may identify as belonging to different races, and people's officially recognised race or religion may be different to how they self-identify. Marriages between different ethnic groups are common, particularly between people who are of different ethnicity but share a religion.

Rohingya

3.5 DFAT acknowledges that there is debate in Myanmar around the origins and historical validity of the term 'Rohingya'. Many in Myanmar, including the ethnic Rakhine (mostly Buddhist) population, contest this term and claim that the Rohingya are illegal immigrants from Bangladesh and should be recognised and known as 'Bengali'.

3.6 The vast majority of Rohingya are Sunni Muslim, and live in Rakhine State (formerly known as Arakan State), particularly the northern area that encompasses the townships of Maungdaw and Buthidaung. Prior to the 2017 violence, both Maungdaw and Buthidaung had significant Muslim majority populations (around

75-90 per cent). Following the mass displacement of Rohingya to Bangladesh, population figures are no longer known. Rohingya in northern Rakhine typically do not speak Burmese, only Rohingya and sometimes Rakhine languages. There are smaller communities of Rohingya in many other townships in Rakhine State, including Sittwe, Pauktaw and Myebon. In Sittwe and other towns, Rohingya interact with ethnic Rakhine (also known as Arakanese) and can speak both Burmese and Rakhine language, though interaction is limited by a number of factors including movement restrictions (see [Rohingya](#), Freedom of Movement). The UN Fact-Finding Mission reported that the majority of the Rohingya and Rakhine they interviewed described productive relationships between the two ethnic groups before the 2012 violence, including business interactions and friendships.

3.7 Official figures of the size of the national Rohingya population are not available, as this group was excluded from the 2014 census on the basis that their ethnicity was not recognised. However, the census used mapping data to estimate the size of the population not counted in Rakhine State. This mapping process indicated that approximately 1.1 million people were ‘not counted because they were not allowed to self-identify using a name that is not recognised by the government’. This estimate is broadly in line with most credible estimates of the Rohingya population in Rakhine State before the August 2017 violence. The UN Fact-Finding Mission estimated that at September 2018, between 200,000 and 240,000 Rohingya remained in the northern townships of Rakhine State (including around 5,000, of the former 40,000 population in Rathedaung), and 360,000 in central Rakhine (of these, 129,000 are confined in IDP camps). In addition, UN Office for the Coordination of Humanitarian Affairs (OCHA) reported more than 900,000 Rohingya remained in Bangladesh at the end of 2018 (for further information on the Rohingya population in Bangladesh, see DFAT’s [Country Information Report on Bangladesh](#), published on 2 February 2018). Up to 6,000 Rohingya were reported to be stranded on the ‘zero line’ on the Myanmar side of the border in February 2018.

3.8 DFAT assesses that official and societal discrimination on the basis of ethnicity against Rohingya in Rakhine State is high, endemic and severe. They typically lack citizenship, face severe restrictions on their freedom of movement and are the subject of systemic extortion and harassment. These issues combine to restrict this community’s access to livelihoods and to essential services, including in education and health. Rohingya have also been subjected to extreme violence by the security forces, and to a lesser extent, the ethnic Rakhine population (see [Security Situation](#) and [Rohingya](#), Violence). The UN Fact-Finding Mission reported episodes of violence between Buddhists and Muslims across the country in recent years, primarily in Rakhine State, and high levels of religious and ethnic tensions remain at the time of publication. DFAT assesses there is a high risk of further violence for the remaining Rohingya in Rakhine State.

Citizenship

3.9 Up until the late 1980s, all Myanmar citizens were issued formal identity documentation known as National Registration Cards (NRCs), and many residents of Rakhine State, including Rohingya, held NRCs. Non-citizens were issued Foreign Registration Certificates. In 1989, the government carried out a ‘citizenship scrutiny’ exercise as part of the implementation of the Citizenship Law. During this process, NRCs were replaced with full, naturalised or associate Citizenship Scrutiny Cards (CSCs). Under the Citizenship Law, many Rohingya are formally eligible for associate or naturalised citizenship, but very few have been issued CSCs of any type following the citizenship scrutiny exercise. While this is largely due to the unwillingness of government officials to provide citizenship to Rohingya, many Rohingya also reject the categories of associate or naturalised citizenship, on the basis that they implicitly deny the existence of Rohingya in Myanmar before 1823, and legally reinforce what Rohingya see as the inaccurate view that Rohingya are immigrants from Bangladesh. Associate and naturalised citizenship categories confer fewer rights than full citizenship (see [Documentation](#)).

3.10 In 1995, the government began to issue Temporary Registration Cards (TRCs) (known as ‘white cards’) to those who identified as Rohingya. However in 2015 then-President Thein Sein declared white cards invalid, thus removing the only formal identity documentation available to the Rohingya. Temporary Approval Cards (known as ‘white card receipts’) were given out in exchange for TRCs, reportedly as part of a plan to reinstate identification documents at a later date. However, these were not accepted as valid documentation for the purposes of voting in the 2015 elections, or to stand as candidates, or form political parties.

3.11 From June 2015, the government began issuing a new ‘identity card for national verification’ (ICNV). DFAT understands that as few as 1,000 people were issued this card in 2015. Rohingya applicants were required to identify as ‘Bengali’ on the ICNV, and rights associated with the ICNV, including its limited two-year validity, were unclear. The UN Fact-Finding Mission described a campaign to coerce Rohingya to accept the ICNV, and increased restrictions on those with white card receipts in parts of northern Rakhine State.

3.12 From 2016, the government restarted the process to determine who is a citizen under the Citizenship Law. Rohingya were requested to undergo a ‘citizenship verification process’ (as opposed to the ‘citizenship process’ for members of the 135 recognised ethnic groups), and issued National Verification Cards (NVCs). The NVC does not specify religion or ethnicity, it has no expiry date and it is the current form of identity documentation required for Rohingya by the government. Reports of coercion to accept the NVC increased following the October 2016 violence, however as at January 2017, only around 6,000 NVCs had been issued in Rakhine State, compared with nearly 400,000 white cards which were surrendered, in part reflecting the decreased trust in the authorities from the Rohingya population.

3.13 In August 2017, the Advisory Commission on Rakhine State, a government established body chaired by former UN Secretary General Kofi Annan, made a number of recommendations to improve the government’s citizenship verification process for Rohingya, including making the process voluntary. However the government has specified that Rohingya seeking repatriation from Bangladesh will be required to undergo citizenship verification and receive NVCs (see [Conditions for Returnees](#)). In addition, from October 2017 authorities began requesting NVCs to permit fishing in central Rakhine, which is a key source of income for many Rohingya.

3.14 Despite these restrictions specified by authorities, the rights provided by the NVC remain opaque. In theory, NVC holders are permitted to travel anywhere in Myanmar, however in practice this is limited by the rules and regulations of local areas (see Freedom of Movement, and [Movement restrictions in Rakhine, Kachin and Shan States](#)). In February 2018, the government advised DFAT that a NVC is required by Rohingya in order to access basic services such as health and education. Despite this, most Rohingya remain unwilling to participate in the citizenship verification process and accept NVCs on the basis that it may remove their right to remain in Myanmar long-term, or establish them as a lower class of citizen with fewer rights. As a result, the vast majority remain undocumented – or holding a white card receipt – and are effectively stateless. This is having significant implications in particular for the registration of new births in the Rohingya community (see [Birth and Death Certificates](#), and [National Identity Cards](#)). Credible sources reported that Rohingya also face difficulties in legally obtaining passports.

Violence

3.15 According to Human Rights Watch, large-scale violent attacks against the Rohingya have occurred repeatedly since Myanmar’s independence, and Rohingya have migrated across the region in large numbers to escape violence. Violence against the Rohingya by security forces, including torture, indiscriminate killings, and mass rapes were reported during and following the 2012 and 2016 outbreaks. However these occurred on an unprecedented scale in the August 2017 security operations. Multiple credible sources have reported the widespread, large-scale and extreme violence against the Rohingya in northern Rakhine State in 2017, by

security forces, groups affiliated with the security forces and ethnic Rakhine mobs, based on interviews with victims and eyewitnesses, satellite imagery, documents, photographs and videos.

3.16 The US Department of State reported that the security operations explicitly targeted Rohingya, while neighbouring non-Rohingya sites (for example Buddhist stupas), and critical infrastructure (including mobile phone towers) were undamaged. Other credible sources in Myanmar reported that villages with mixed Muslim and ethnic Rakhine populations were mostly unaffected. During the operations, Rohingya homes and property were destroyed, and thousands of Rohingya killed and injured. Violence typically lasted between one to four days, depending on the size of the village, and patterns of violence across locations indicated pre-meditation. In some villages, warnings about the impending violence were issued to Muslim community leaders from local Tatmadaw and police, and in others ethnic Rakhine neighbours were witnessed leaving before the outbreaks of violence.

3.17 In March 2018, MSF estimated at least 9,400 people died in Rakhine State between 25 August and 24 September 2017 of which at least 6,700 were due to violence, including at least 730 children under the age of five. MSF reported the main cause of violence-related deaths during this period was gunshots (70 per cent), including for children under five (59 per cent). Around 9 per cent were burned to death in their homes, higher (around 15 per cent) for children under the age of five who died violently. Five per cent of people who died violently were beaten to death, three per cent from sexual violence and one per cent from landmines. MSF concluded that the estimated number of deaths was conservative given their survey methodology, and information collected by the UN Fact-Finding Mission corroborated this statement. While the month following the ARSA attacks has been described as the most violent, multiple credible sources recorded a high number of violent incidents against Rohingya in northern Rakhine State continuing until November 2017, despite the official conclusion of security operations by the government on 5 September 2017. Some violent acts constituted torture (see [Torture](#)).

3.18 Credible sources report that Rohingya were both targeted (including community or religious leaders), and indiscriminately shot at. This was mostly while fleeing, as evidenced by the high proportion of bullet entry points in victims' backs, and corroborated through testimony. Rohingya were also injured and killed by bladed weapons, yielded by both security forces and ethnic Rakhine. Many others were killed in arson attacks, including the elderly, persons with disabilities and young children who were unable to escape; in some villages, people were forced into burning houses, or locked into buildings then set on fire. The US Department of State described various tactics used to create mass casualties, including fencing off entire villages before shooting into the crowd.

3.19 All of the above forms of violence were reported to be used in the mass killings in the village of Min Gyi (Tula Toli), Maungdaw Township. Human Rights Watch and the UN Fact-Finding Mission both documented the process of villagers in Min Gyi being gathered together by security forces and ethnic Rakhine, before men and boys were separated and killed. Women and girls were then reportedly taken to nearby houses, gang raped, then killed or severely injured, including from being set on fire in locked houses. Few survived this violent attack, and an estimated 750 people died in Min Gyi. Mass killings were also reported in Maung Nu, Chut Pyin, Gu Dar Pyin, and villages in Koe Tan Kauk village tract. In February 2018, the Associated Press reported on at least five mass graves in Gu Dar Pyin village, northern Rakhine State, based on interviews and footage from displaced Rohingya in Bangladesh. The government denied the existence of the mass graves and reported that ARSA militants had attacked the village on 28 August, which resulted in the killing of 19 ARSA members by security forces. The government acknowledged the existence of a mass grave in Inn Din, but claimed those killed by the Tatmadaw were terrorists (see [Media](#) and [Extrajudicial Killings](#)).

3.20 Human rights groups have reported the deliberate use of large-scale sexual violence, including rape, by the security forces against Rohingya women and girls. Sexual assaults were reported during home

searches, and mass rapes in fields, mosques and schools, by the Tatmadaw in the 12 months leading up to the August 2017 security operations. Sexual violence was reported to increase in scale during the attacks on villages as part of the security operations, and MSF reported over three per cent of interviewees had directly experienced or witnessed sexual violence between 25 August and 24 September, but acknowledged sexual violence may be underrepresented as it is typically underreported due to social stigma in Rohingya culture. The US Department of State documented a much higher number (45 per cent) of its interviewees who witnessed women and girls being raped, including 20 per cent who witnessed gang rape. The UN Fact-Finding Mission reported gang rape by Tatmadaw soldiers occurred in at least ten village tracts of northern Rakhine State.

3.21 The UN Fact-Finding Mission reported that women and girls aged 13 to 25 were targeted for sexual violence, but MSF documented victims from nine to 50 years of age. Women were severely injured before and during rape, including by having their breasts cut off, genitals mutilated or from being raped using knives and sticks. In some cases, victims died from the brutality of the rape and accompanying violence, and in many others perpetrators were reported to have shot, hanged or stabbed victims after raping them. Rapes were often in public, including in front of families and the community. Perpetrators also reportedly left victims' bodies, with visible signs of rape, in public view. There are also credible reports of men and boys being subjected to genital mutilation, rape, and sexualised torture.

3.22 There are credible reports of security forces, and in some cases ethnic Rakhine, targeting pregnant women, children and babies. Soldiers were reported to attack women, and their infants, during or immediately after childbirth. Several witnesses from different villages also reported soldiers raping and killing pregnant women by slashing their stomachs and removing their fetuses. Soldiers and police were reported to remove infants from their mother's arms and kill them through various means, including gunshot, knifing, stomping on them, beating them or throwing on the ground. Infants and children were also reportedly thrown into fires, rivers and into village wells. Most of these events occurred in August and September 2017, and were often carried out in front of the child's mother.

3.23 The UN Fact-Finding Mission found sufficient evidence of violence perpetrated by the Tatmadaw in northern Rakhine State to conclude that war crimes, crimes against humanity, and potentially, genocide occurred. Given the multiple incidents of extreme violence against the Rohingya in recent years, DFAT assesses that Rohingya in Rakhine State continue to face a high risk of violence, predominantly from security forces.

Freedom of movement

3.24 The movement of Rohingya in Rakhine State is limited by government-imposed regulations, informal rules implemented by authorities, and self-imposed restrictions by communities who fear for their safety outside of their townships. All Rohingya living in Rakhine State require official permission to travel between townships, and outside of Rakhine State.

3.25 Following the widespread violence in Rakhine State in 2012, local authorities and the Ministry of Home Affairs moved some communities into camps and implemented severe movement restrictions. Around 129,000 people remain displaced in camp-like settings in central Rakhine, primarily Rohingya, but also ethnic Kaman (a recognised 'national race' whose members are Muslim, see [Muslims](#)). They remain segregated, restricted to camps and displacement sites, unable to return to their place of origin and without freedom of movement.

3.26 In August 2017, the Advisory Commission on Rakhine State recommended the government establish a plan to close all IDP camps in Rakhine State. According to the Ministry for Social Welfare, Relief and Resettlement, three IDP camps (housing Rohingya, Kaman and Rakhine IDPs) were closed in 2017. However

efforts to close camps have been inconsistent, have not addressed movement restrictions or concerns about the government provision of services to IDPs, nor have all IDPs been given the option of returning to their places of origin. For example, in Rohingya camps that have been “closed”, IDPs have not been relocated or given increased freedom of movement. Instead, shelters have been upgraded and in some instances camp boundaries have been expanded. These “closed” camps are now referred to as “villages”, however residents continue to experience movement restrictions and do not have improved access to land or livelihoods. By comparison, ethnic Kaman IDPs were relocated to Yangon (rather than to their places of origin, as IDPs requested) and issued a stipend, and Rakhine IDPs were largely relocated to an agreed location with newly built homes and infrastructure, including water and electricity. An additional four camps have been identified as priorities for closure, including two in Sittwe Township. The Advisory Commission on Rakhine State also recommended immediate improvements to living conditions within the camps but at the time of publication, conditions remained very poor, including from shelter disrepair, overcrowding, and poor lighting.

3.27 Other Rohingya in central Rakhine, including those in villages or in separate official ‘Muslim enclaves’ such as Aung Mingalar in Sittwe, also face severe restrictions including on freedom of movement. Approximately 4,000 Rohingya and Kaman live in the Aung Mingalar quarter, which has been guarded by armed police, checkpoints and barbed wire since the 2012 violence. With the exception of emergency medical treatment, resident movements are restricted to the displacement camps and sites in rural Sittwe, where a limited number of people can sometimes access markets and buy food. Residents are required to use only a shuttle escorted by police, and to pay the police for the transport.

3.28 Rohingya who live in northern Rakhine State are not permitted to travel outside of northern Rakhine, except for medical emergencies, and restrictions are enforced through curfews and checkpoints. Rohingya are required to obtain travel approval to move even short distances. In December 2017, UNHCR reported that the process for obtaining travel permission had become more stringent. Individuals now require a form of identity card, namely the NVC, NRC or a citizenship document, where previously alternate travel authorisation procedures were available for those who did not hold documentation. Credible sources told DFAT that obtaining travel permits and then using these documents to pass through checkpoints required the payment of ‘informal fees’ at every stage. This can include payment in the form of forced labour. The size of informal payments varies and can be linked to the perception of an individual’s capacity to pay. Amnesty International reported that in addition to extortion, Rohingya are regularly harassed by checkpoint officers with threats and physical violence. There are credible reports that Rohingya remaining in northern Rakhine following the 2017 violence have been prevented from travelling between village tracts, and Maungdaw and Buthidaung Townships, on the basis of security concerns from the authorities.

3.29 The restrictions on movement for Rohingya prevent access to healthcare, education, and income-generating activities. Health services in Rakhine State are generally poor quality. Undeveloped transport infrastructure and discrimination in the delivery of services further impede access to healthcare. For example, Sittwe General Hospital does not allow Rohingya access to the general medical services provided to the rest of the population. Access to the hospital for Rohingya is limited to emergency cases, and treatment is provided in a segregated ward of only 20 beds with lower-standard facilities compared to the rest of the hospital. Rohingya patients are under continual surveillance by security guards, and all require a female guardian (reportedly due to security concerns) who speaks Burmese or Rakhine language to be admitted. Few Rohingya women speak either language, which means families need to pay for a female translator.

3.30 Very basic levels of healthcare are provided in IDP camps. Depending on the camp, clinics are open between one and 25 days per month, during specified hours only. Most large camps have a clinic visit at least one day per week. There is a small permanent health centre inside the Sittwe camp periphery that can provide some out-of-hours care and emergency referrals to Sittwe Hospital. Sittwe is one of the only hospitals that consistently accepts Rohingya for treatment. Rohingya in other parts of the state are referred

to Sittwe Hospital even when their local hospital is closer, because several local hospitals do not accept Rohingya for treatment. People in IDP camps are often reluctant to go to hospital (a process which requires a police escort and transportation costs), meaning treatment is often delayed, leading to higher death rates. Access to safe water and sanitation facilities is poor, including in IDP camps. The restrictions on freedom of movement and access to quality healthcare for Rohingya are contributing to poorer health outcomes. While official data on Rohingya are not collected, a wide range of credible sources in Rakhine State told DFAT that malnutrition rates among the Rohingya population are very high, leading to high stunting rates. Maternal health outcomes are also reportedly much poorer for Rohingya compared with the ethnic Rakhine population.

3.31 Movement restrictions also prevent many Rohingya from attending state-run schools. For the approximately 60,000 displaced children in IDP camps in central Rakhine, access to education is limited by a lack of schools, and Rohingya (and Kaman) children in central Rakhine have physical access to only one high school in Thet Kae Pyin, Sittwe Township. University students without CSCs (see [National Identity Cards](#)), including Rohingya and some religious minorities, are permitted to attend classes and sit examinations, but are unable to graduate and receive qualifications. Rohingya students have been unable to enrol at Sittwe University since 2012. Movement restrictions for Rohingya in central and northern Rakhine, and additional restrictions on access to fishing, agricultural lands and forests, limit Rohingya access to livelihood opportunities, markets and employment outside their immediate areas. Where travel is permitted (with the required documentation), some Rohingya will choose not to cross checkpoints due to fear of harassment and extortion.

3.32 Rohingya also face restrictions in travelling outside of Rakhine State. Travel permission is only granted to Rohingya holding official identity documents (mostly NVCs, though some still hold NRCs), meaning very few Rohingya are able to travel legally outside of Rakhine State. The process to obtain travel permission from the Rakhine State government is onerous, and involves submitting a copy of their household list, recommendation letters from their Village or Ward Administrator and township police station, and permission from the Township Immigration Office. Permission is restricted to 45 days, and two 'guarantors' are required to ensure the applicant returns to Rakhine State before the permission expires. Guarantors are reported to face penalties if this does not occur. Credible sources suggest that Rohingya have been able to obtain travel permission through the payment of bribes. Prior to the 2016 security operations, Rohingya from northern Rakhine State were able to travel to Bangladesh for business or to access healthcare. Immigration and customs officials issued an official document (known as a 'blue book') that allowed regularised movements of people, including Rohingya, between Myanmar and Bangladesh. DFAT understands blue books are no longer in use. Following the security operations in 2016 and 2017, one-way, irregular people movement from Myanmar to Bangladesh has dramatically increased, but regular movement between the two countries has been restricted.

Other restrictions on Rohingya in Rakhine State

3.33 A number of other discriminatory official practices, typically enforced through local orders (applicable only within local townships) affect almost all aspects of private life for the Rohingya in Rakhine State. In August 2018, the Union Government announced the abolition of eight local orders mainly targeting the Rohingya, including six issued by the Border Area Immigration Control Headquarters (*Na Sa Ka*). Information about the specific orders or the implementation of their removal is limited; the below information is based on DFAT's understanding of local orders at the time of publication.

3.34 Local orders restrict the ability of Rohingya to gather publicly in groups of more than five people, which limits their freedom to worship and can impinge on their ability to work. Restrictions also relate to marriage, and the number and 'spacing' of children. The marriage authorisation procedure reportedly

involves Rohingya seeking permission, paying high fees, and making a commitment to use contraception to prevent having more than two children (see [Women](#)). In 2016, the BGP in Buthidaung Township, northern Rakhine State, were reported to issue additional requirements for marriage permits for Rohingya. This included a letter from the district immigration authorities verifying the couple were of legal age to marry; a letter from a station commander showing the couple was free of criminal offenses; and a letter from a health assistant assuring the couple was free of communicable diseases. Authorisation has taken up to two years in some cases, and credible sources told DFAT that this has contributed to fewer cases of marriage orders than in the past. Rohingya couples who marry without official marriage permission risk criminal punishment, including fines, and any children risk exclusion from the household list (see [Household Registration Lists](#)). The *Population Control Healthcare Law* (2015) also allows township officials to “organise” couples to practice 36-month birth spacing. Rohingya children have also been denied equal access to birth registration (see [Birth and Death Certificates](#)).

Rohingya outside Rakhine State

3.35 There are a number of Rohingya living outside of Rakhine State, particularly in Yangon, but the size of the Rohingya population outside Rakhine State is unclear. This is due to both a lack of official statistics that recognise the Rohingya as an ethnic group, and also as some Rohingya in Yangon and other large cities in Myanmar reportedly conceal their ethnic identity, including through attempts to identify as Kaman or other Muslim groups. Anecdotal evidence suggests there are approximately 20,000 Rohingya living in Yangon. Rohingya outside of Rakhine State are not subject to local orders restricting freedom of movement as Rohingya in Rakhine State, however they may choose to live in particular locations due to concern of negative societal attitudes. In February 2018, Rohingya in Yangon described Buddhist neighbours and friends increasingly expressing sympathy with the government’s approach to the Rohingya in Rakhine State.

3.36 Rohingya outside Rakhine State generally have higher incomes and better access to resources than those in Rakhine State, and are typically able to obtain identity documentation that allows them to live and work without facing the high levels of discrimination otherwise experienced by Rohingya in their day-to-day life. Typically, Rohingya in Yangon are registered as ‘Burmese Muslims’ or ‘Bamar Muslims’. A person willing to record their ethnic group as a Burmese/Bamar Muslim is generally able to access either full, associate or naturalised citizenship (depending on their family history, see [Documentation](#)), including national identity cards and residency documents which provide a legal right to a passport. Local sources reported that Rohingya can also pay bribes to officials to obtain a Kaman identity card. University students without CSCs (see [National Identity Cards](#)), including Rohingya and some religious minorities, are permitted to attend classes and sit examinations, but are unable to graduate and receive qualifications.

3.37 DFAT assesses that Rohingya who live outside of Rakhine State experience moderate levels of societal and official discrimination on a day-to-day basis. While they are officially denied citizenship rights, Rohingya who choose to identify as Kaman or other Muslim groups face a similar level of discrimination to that experienced by other Muslims (see [Muslims](#)).

Chin

3.38 Chin comprise around three percent of the national population. While ‘Chin’ is a recognised ethnic group, Chin people are ethnically and linguistically diverse, with at least six primary Chin tribal groups. The majority of Chin are practicing Christians.

3.39 In June 2018, UNHCR announced its decision to end the refugee status of Chin refugees from Myanmar residing in Malaysia and India. UNHCR stated the decision had been informed by political, social and security analyses of Chin State over several years, and concluded that Chin State is stable and secure for

the purposes of refugee protection. Since 1 August 2018, Chin refugees have been given the option of extending their existing UNHCR identity card (without interview), which provides them UNHCR protection until 31 December 2019. Alternatively, refugees have been able to request an assessment if their protection needs stand, with a decision delivered within approximately two months. Based on the assessment decision, refugee status would be either confirmed (and the identity card renewed), or automatically terminated. From 1 January 2020, only individuals UNHCR confirms are still in need of international protection will remain registered.

3.40 UNHCR's decision has been met with resistance by refugee and Chin rights groups, who have questioned the assessment of the stability and security of Chin State. In September 2018, the Chin Human Rights Organisation reported that their primary concerns related to restrictions on religious freedom (see [Christians](#)), ongoing human rights abuse associated with conflict in ceasefire areas by state and non-state actors (see [Security Situation](#)), and the lack of observance of safeguards for land, resources and communities in development activities. In February 2019, UNHCR reported escalating violence and a deteriorating security situation in southern Chin State, which had led to both internal displacement and departures to Bangladesh (see [Exit and Entry Procedures](#)).

3.41 Chin living both in and outside of Chin State reported incidents of discrimination in accessing rights and services. Chin in Chin State reported routine bribery for any engagement with local officials (usually Buddhist), including police, the GAD and Ministries of Forestries and Agriculture. The Chin indigenous judicial system is used to settle disputes, but anecdotal evidence suggests that access typically requires bribes to be paid to court officials and judges. Chin also reported instances of mistreatment in public hospitals in Yangon, including medical staff refusing to treat Chin patients. Chin in and outside of Chin State described problems accessing identity documentation. In Chin State, Chin have been pressured by officials to record their religion as Buddhist, and experienced delays in receiving identity cards. Anecdotal evidence suggests many Chin in Yangon are not recorded on household lists, as local authorities typically request expensive bribes to update household lists.

3.42 DFAT assesses that Chin in Myanmar face a low risk of official discrimination on the basis of their ethnicity. Chin living in southern Chin State, including Paletwa and Matupi Townships, face a moderate risk of forced displacement or violence due to both outbreaks of conflict and development projects.

Karen

3.43 The Karen make up seven per cent of Myanmar's population, and comprise a number of ethnic groups with Tibetan-Central Asian origins who speak 12 related languages. The majority of Karen are Buddhists, although large numbers converted to Christianity during British rule and Christians are estimated at around 30 per cent of the Karen population. Karen primarily reside in the eastern border region of the country, particularly Karen State, Tenasserim Division, eastern Pegu Division, Mon State and the Irrawaddy Division.

3.44 Parts of northern and southern Karen State are primarily controlled by EAOs (the KNU and NMSP respectively). Conflict between the Tatmadaw, the KNU and other EAOs since 1984 has led to thousands of Karen seeking protection in Thailand, but some Karen have returned to Myanmar since 2017 through an UNHCR-managed voluntary repatriation program (see [Conditions for Returnees](#)).

3.45 The Karen living in Karen State can generally access services, though this is restricted during periods of active conflict (see [Security Situation](#)). Basic services, including health and justice, are provided through parallel structures of government and non-state actors, however there has been greater cooperation in some sectors. For example, education was previously provided by the Karen Education and Cultural Department, the KNU and the KNLA, but in recent years some KNU community schools have been brought

under the Ministry of Education system. In Karen State, both the KNU and Myanmar government land governance systems are used, and this complexity increases local community vulnerability to land confiscations. Major infrastructure development projects supported by both the government and the KNU, including road construction and hydropower dams, have the potential to increase land tenure insecurity and community displacement in Karen State. The Karen Women's Organisation, a community-based organisation, has an officially mandated role in the KNU structure at different administrative levels and delivers services for women.

3.46 DFAT assesses that Karen in Myanmar face a low risk of official and societal discrimination on the basis of their ethnicity. Karen living in Karen State face a low risk of forced displacement or violence due to both outbreaks of conflict and development projects.

RELIGION

3.47 Section 34 of Myanmar's Constitution entitles all Myanmar citizens to 'freedom of conscience and the right to freely profess and practice religion subject to public order, morality or health'. Section 361 of the Constitution 'recognises the special position of Buddhism' as the faith professed by the majority of citizens; this applies only to Theravada Buddhism. The government bans any organisation of Buddhist monks from outside the nine monastic orders recognised under the *Law Concerning Sangha Organisations* (1990). Section 362 of the Constitution further recognises Christianity, Islam, Hinduism and animism as 'the religions existing in the Union at the day of the coming into operation of this Constitution'. There are several other provisions in the Constitution that prohibit discrimination against citizens on the basis of religion, including section 352 which bans discrimination in the employment of public officials.

3.48 There are four laws known as the 'protection of race and religion laws', which concern interfaith marriage, religious conversion, monogamy and population control. These were originally proposed by the Committee Protection of Nationality and Religion (an organisation led by nationalist Buddhist monks, commonly known as *Ma Ba Tha*), and passed by government in 2015. The *Buddhist Women Special Marriage Law* (2015) requires the notification and registration of marriages between non-Buddhist men and Buddhist women, and penalties for non-compliance. The *Religious Conversion Law* (2015) allows conversion through an extensive application and approval process. The *Population Control Law* (2015) designates special zones in which population control measures can be applied, including authorising local authorities to implement three-year birth spacing. The *Monogamy Law* (2015) bans polygamy, which was already criminalised under the *Penal Code* (1861). The UN Special Rapporteur for human rights in Myanmar has criticised the laws for undermining the rights of women, children and religious minorities, particularly Muslims (see [Muslims](#)). The laws remain in force.

Christians

3.49 Approximately six percent of Myanmar's population are Christians, primarily Baptists, Roman Catholics, and Anglicans, along with several small Protestant denominations. Christianity is the dominant religion of the Chin, Kachin and Naga ethnic groups, and is practiced widely amongst the Karen and Karenni ethnic groups. There are several Christian theological seminaries and Bible schools across the country. Major Christian festivals, including Christmas and Easter, are national holidays and are observed in most parts of Myanmar. Christians are rarely promoted to senior levels in the government, military or police, however second Vice President Henry Van Thio is a Chin Christian.

3.50 There are credible reports of local authorities blocking the ownership of land for Christian worship, leading Christians to worship in illegal house churches. In 2017 in Mandalay, Christians reported that the

local GAD office required them to attest prayer activities would not be undertaken in a requested new place of worship. Christians also reported that the local GAD office had advised that permits for new religious buildings were suspended due to incidents in Yangon related to “illegal mosques and prayer activities leading to social unrest.” Christian communities in Chin and Kachin States reported significant delays (some spanning several years) to or the loss of applications to local authorities for property registration, construction, and renovation. There were reports of restrictions on other religious activities, including Sunday school and funeral processions.

3.51 Christians reported threats, intimidation and mob violence from local communities in 2017 and 2018. On some occasions, this was reportedly supported by local authorities and Buddhist monks. Community violence was more prevalent where Buddhists and Christians live in close proximity, including parts of Sagaing Region, Magway Region and Rakhine State. In July 2017, 150 Buddhists, including monks, reportedly attacked a group of newly converted Christians in Sagaing Region, injuring seven and damaging property. Local police, monks and villagers reportedly attempted to stop the attacks. International media reported that several Christian clergy members were detained by the UWSA in September 2018. Those held were reportedly questioned regarding their religious practices to determine if they were proselytising. The UWSA had issued a statement a few weeks prior which stated that all churches, missionaries, school teachers, and clergy members must be investigated and that a list of all churches in Wa-controlled areas must be developed. The statement also banned the teaching of religious lessons or beliefs at government schools.

3.52 Christian communities in ethnic border areas, including Chin and Kachin States and the Naga Self-Administered Zone, have reported cases of conversion to Buddhism in the Tatmadaw-run Border Areas National Races Youth Development Training Schools, more commonly known as *Na Ta La* schools. According to Ministry of Border Affairs statistics, there were 33 *Na Ta La* schools in 2016, the majority in Chin State. Since 1994, the schools have reportedly provided free education and boarding to children of poor families in border areas, and students must learn Buddhist worship, culture and literature. Christian students in *Na Ta La* schools are not permitted to attend church, and access to families is restricted. Students are guaranteed government employment upon graduation, on the condition that they officially convert to Buddhism, including on their national identity cards.

3.53 DFAT assesses that Christians in Myanmar face a moderate risk of societal and official discrimination, and a low risk of violence on the basis of their religion.

Hindus

3.54 Hindus are a minority religious group, comprising only 0.5 per cent of the national population. According to 2014 census data, Hindus resided in almost all regions with the highest population in Bago. There are also populations concentrated in Yangon and Mandalay.

3.55 The Hindu community is reported to lack both political representation and economic opportunity, commonly working in the lowest paid jobs. Anecdotal evidence suggests that Hindus are prevented from advancing into senior positions of government, due to societal discrimination. Local sources described accounts of people of South Asian appearance, including Hindus, experiencing discrimination in the issuance of identity documents. Like other minorities, Hindus reported difficulties accessing NRCs, including delays and extensive administrative processes not applied to the majority of the population. Hindus also reported requests to change their ethnicity in the application.

3.56 Hindus are reported to be granted the most freedom of religion of Myanmar’s religious minority groups, however a small number of incidents of authorities restricting Hindu practice were reported in

recent years. According to the US Department of State, a Hindu group in Mandalay reported delays in the issuance of a permit for a new religious building from the GAD, who advised permits had been suspended.

3.57 Hindus also experienced the violence of the August 2017 ARSA attacks and subsequent security operations in Rakhine State. In May 2018, Amnesty International attributed the massacre of up to 53 Hindus and the disappearance of 46 others in August 2017 in northern Maungdaw, Rakhine State, to ARSA. Prior to Amnesty International's report, the government had also blamed ARSA for these deaths, and many international observers acknowledged that ARSA had committed atrocities during the August 2017 violence. ARSA denies involvement in the killings, and the UN Fact-Finding Mission was unable to verify the details of this event. The UN Fact-Finding Mission also documented some cases of Hindus perpetrating violence, including in Buthidaung Township. 1,200 Hindus were reported to be internally displaced in Maungdaw and Sittwe, and in September 2017, the government announced it would build new villages for some Hindu communities displaced by the August 2017 violence. Smaller numbers fled to Bangladesh, and the Government of Bangladesh estimated 500 refugees from Myanmar in Bangladesh as at December 2017 were Hindu. 508 Hindus were amongst the first group of returnees proposed for repatriation to Myanmar in January 2018, but the repatriation did not proceed. As at the time of publication, no Hindus had been formally repatriated from Bangladesh, though DFAT is aware of reports of a small number of Hindus returning to Myanmar informally.

3.58 The All Myanmar Hindu Central Council, an umbrella organisation of Hindu groups across the country issued a statement in September 2017 which rejected the term 'Rohingya Hindu' used in some international reporting on the violence in Rakhine State. The statement said that this term did not exist in the history of Hindus in Myanmar, and that Hindus prefer not to be described using this term. Anecdotal evidence suggests that following the August 2017 violence, more Hindus are now wearing *tilaka*, a red facial marking practiced in Hinduism, to avoid being mistaken for Muslims.

3.59 DFAT assesses Hindus in Myanmar face a low risk of official and societal discrimination, and a low risk of violence on a day-to-day basis, on the basis of their religious identity or perceived association with the Rohingya.

Muslims

3.60 There are several distinct Muslim communities living throughout Myanmar, with different cultural and ethnic backgrounds. At the time of the 2014 census, Muslims made up approximately four per cent of the population, and the majority lived in northern Rakhine State. However the Muslim population has decreased following the mass movement of Rohingya to Bangladesh in 2017 (see [Rakhine State](#), Security Situation and [Rohingya](#)). Most Muslims in Myanmar are of the Sunni sect, and Islam is practiced widely around the country including in Yangon, Irrawaddy, Magwe, and Mandalay Divisions by some Bamar and ethnic Indians as well as ethnic Kaman and Rohingya. Aside from the Rohingya, most Muslims speak Burmese or the dominant local dialect in their place of residence, and/or their language of origin. In Karen State, for example, many Muslims have integrated into Karen communities, speak Karen language, and sometimes refer to themselves as 'Black Karen'.

3.61 Muslims are underrepresented in the public sector; there are no Muslim members of parliament, and Muslims have been excluded from a range of government jobs, including as public school teachers and health personnel. Businesses owned by Muslims have reported issues in procuring government contracts without a Buddhist interlocutor.

3.62 Muslims experience a range of limitations on their ability to practice their faith freely. In recent years, authorities have blocked the rebuilding of mosques and madrassas that have been either damaged, destroyed or sealed. Requests for new religious buildings were delayed, and even when approved some

decisions were reversed. Under the 'Preservation of Race and Religion Laws', a Muslim man is not allowed to marry outside of the religion, however Muslim women can with community permission.

3.63 Muslims have also been denied access to basic rights and services. The Burma Human Rights Network documented multiple incidents of Muslims of all ethnicities being refused NRCs. Reasons varied, ranging from the Muslim applicant being unable to provide extensive and often difficult to obtain documentation to prove family lineage before 1824, and the refusal of immigration authorities to register a Muslim person as Bamar, the majority ethnicity. Some have been required to choose a "foreign" ethnicity to self-identify as Muslim on applications for citizenship cards. Some Muslims have also reported an unwillingness to engage with the justice system when needed, due to a perceived discrimination on the basis of their religion, and a preference to resolve matters informally.

3.64 Anti-Muslim sentiment is prevalent in Myanmar, especially outside of major cities, and is circulated through social media, some state institutions and mainstream news websites. A prominent Buddhist nationalist monk, Ashin Wirathu, has led an anti-Muslim campaign since the 2012 violence in Rakhine State. Myanmar's highest Buddhist authority, the State Sangha Maha Nayaka Committee (or *Ma Ha Na*), imposed a one year preaching ban from March 2017 on Wirathu for spreading hate speech with the potential to incite violence. During the ban, Wirathu continued to post online videos and comments on social media, although Facebook removed his account in February 2018 for "consistently sharing content promoting hate". Wirathu was a leading member of the Ma Ba Tha. In May 2017, the Ma Ha Na also imposed a ban on Ma Ba Tha activities, and the group were ordered to disband and remove its anti-Muslim propaganda from across the country. In response to the ban, the group rebranded as the Buddha Dhamma Parahita Foundation. In July 2018, the Ma Ha Na again ordered the group to cease its activities. DFAT is not aware of any recent activities of the group.

Non-Rohingya Muslims in Rakhine State

3.65 The Kaman are the second largest Muslim group in Rakhine State, after the Rohingya. The 2014 census recorded 28,700 Muslims in Rakhine State, which are likely mostly Kaman as the Rohingya were not counted. The Kaman primarily live in central Rakhine State, and are the only Muslim group to be recognised as one of Myanmar's 135 ethnic groups. This means that Kaman can theoretically access the basic services unavailable to the Rohingya population. However in practice, despite their distinct identity, Kaman in Rakhine State are subject to official and societal discrimination on the basis of their perceived association with the Rohingya, or because of broader anti-Muslim sentiment. Key areas of discrimination include access to public services, employment opportunities and official identity documentation. In various parts of Rakhine State, ethnic Rakhine have also declared 'no Muslim' zones where Muslims are not permitted to enter.

3.66 Kaman experienced violence perpetrated by security forces, ethnic Rakhine and anti-Muslim groups (see Security Situation, [Rakhine State](#)) in 2012, and the 2013 violence in Thandwe, Rakhine State, specifically targeted the Kaman community. The UN Fact-Finding Mission reported increased discrimination and marginalisation against the Kaman on the basis of their Muslim identity, in Rakhine State following the 2012 violence. Many Kaman in central Rakhine are still displaced, prevented from returning to their places of origin and instead segregated with Rohingya in IDP camps and displacement sites without freedom of movement and access to livelihoods, education and health services. Given the 2017 violence was concentrated in northern Rakhine and most Kaman live in central Rakhine, DFAT expects that the Kaman did not experience the same level of violence as the Rohingya, however DFAT is unable to verify this. Following the 2017 violence, Kaman in central Rakhine experienced an increase in hostility directed toward Muslims from Rakhine communities.

3.67 Movement of non-displaced Kaman is also tightly controlled by the security forces, local authorities and communities. The Kaman (and Rohingya) require a temporary travel permit for all travel between

townships in Rakhine State, per a 1997 directive by the Rakhine State Immigration and National Registration Department that is applied to all “Bengali races”. Other than the travel permit, most restrictions on freedom of movement are not formally defined, but are monitored informally by communities. Muslims (Rohingya and Kaman) are not permitted to travel to Sittwe town or other major towns in central Rakhine, except in exceptional circumstances, such as medical emergencies (the same process as for Rohingya, see [Rohingya](#)). Muslims are also prevented from entering many Rakhine villages in central Rakhine State. Kaman who attempt to travel in central Rakhine beyond locally accepted boundaries, are reportedly arrested and subjected to ill-treatment. The US Department of State reported that individuals stereotyped as appearing Muslim by security forces face additional scrutiny of movements within Rakhine State, regardless of their actual religion.

3.68 Access to tertiary education is very limited for Muslim students in Rakhine State, who are not permitted to travel outside the state to attend university. As at February 2018, only eight Muslim (presumably Kaman) students were enrolled in Sittwe University, central Rakhine State, but communal tensions and the security situation meant Muslim students could not physically attend the university.

3.69 DFAT assesses that Kaman in Rakhine State face high levels of official and societal discrimination and a moderate risk of violence, on the basis of their religion and perceived association with the Rohingya.

Muslims outside Rakhine State

3.70 According to the 2014 census (which excluded the Rohingya), the largest Muslim populations are in Yangon and Mandalay regions and Mon State. In 2014, there were 345,612 Muslims in Yangon Region (comprising 4.7 percent of the population), 187,785 in Mandalay Region (three percent) and 119,086 in Mon State (5.8 percent).

3.71 Muslims outside of Rakhine State can generally access a similar level of government services to other religious minorities, however local sources told DFAT that Muslims in Yangon and Mandalay often experience delays and are required to pay informal fees for routine government processes, such as updating household lists (see [Household Registration Lists](#)). As the periods of time and payments vary depending on the individual applicant and township officer processing requests, DFAT assesses that these incidents generally represent informal discrimination by mostly Bamar Buddhist public officials, rather than formal policy. Like the Rohingya outside of Rakhine State, other Muslim university students without CSCs (see [National Identity Cards](#)) are only permitted to attend classes and sit examinations, and are unable to graduate or receive qualifications.

3.72 Muslims in Yangon have described increasing restrictions on their ability to practice their faith in recent years. Public events marking Islamic days were cancelled by authorities in Yangon (and Bago, Bago Region) in 2017, due to pressure from Buddhist nationalist groups. In April 2017, authorities closed two madrassas that educated several hundred primary school students in Thaketa Township, Yangon. The closure was in response to protests by a group of up to 100 Buddhist nationalists who claimed the schools were illegally operating as mosques. At the time of publication, the madrassas remained closed. In June 2018, a large community prayer in Thaketa was banned by authorities, and police charged the Muslim prayer leader and two other community members with failure to obtain a permit to organise prayers, punishable by a fine or up to six months in prison. Some Muslims restrict their religious practices for fear of discrimination. Muslims in Yangon described to DFAT their decision to practice a less conservative form of Islam, including changing their dress and beards, to avoid visibly demonstrating elements of Bangladeshi or Indian Islam.

3.73 The reduced tolerance for Islamic faith activities has been, at least in part, propagated by a rise in anti-Muslim sentiment at both the official and societal level. In its most extreme form, this has resulted in violent incidents against the Muslim community. In May 2018, local media reported that nationalist monks

raised concerns with police of Rohingya hiding illegally in Mingala Taungnyunt Township, Yangon. The reports stated that when police investigations found no one to be living illegally in the neighbourhood, monks and Buddhist community members violently attacked the Muslim community, injuring at least two people. Police arrested eight individuals for their involvement. Several credible sources described a case in January 2018 of a young man being harassed and beaten in the street by plain clothed police in Yangon reportedly because of his Muslim appearance.

3.74 While Muslims outside of Rakhine State generally have greater freedom to travel, they continue to face restrictions on travel into and out of Rakhine State. Muslims are also not permitted to enter some villages designated by communities as ‘Muslim-free zones’. The Burma Human Rights Network documented at least 21 Buddhist villages across Myanmar from 2012 to 2017 whereby villagers, with support from local authorities, had erected signposts warning Muslims against entering the village. In September 2017, authorities in Karen State issued an order requiring all Muslims in the state to report planned travel. While the Karen State Chief Minister later described the order as an “administrative error”, travel restrictions reportedly remained in place for months. In March 2018, the government’s decision to resettle 55 Kaman households from displacement camps in Rakhine State to Yangon was publically opposed by a USDP MP, who likened the Kaman to ‘a spreading cancer’. The proposal was voted down in the lower house of parliament, 236 to 136 votes on the basis that the Kaman are citizens who hold NRCs that allow them to move freely within Myanmar.

3.75 DFAT assesses that Muslims outside of Rakhine state face moderate levels of official and societal discrimination and a low risk of societal violence on a day-to-day basis, on the basis of their religion.

POLITICAL OPINION (ACTUAL OR IMPUTED)

3.76 Restrictions on freedom of speech and political commentary were lifted after a civilian government was established in 2011. Many former political prisoners and exiled activists are now politically active; around 115 NLD MPs elected in 2015 are former political prisoners. The government has a policy to release all political prisoners, and has pardoned scores of political prisoners since assuming power in 2016. According to the Assistance Association for Political Prisoners, as at October 2018, 27 convicted political prisoners were in detention. A further 262 people were facing trial for charges related to political activity.

3.77 The government generally accepts peaceful political dissent, but some laws restricting political activism remain and protesters continue to be arrested. The *Peaceful Assembly and Peaceful Procession Law* (2011) governs citizens’ rights to protest. In 2014, the law was amended to reduce some penalties, and again in 2016 to remove the requirement to seek permission to protest and change it to a process of 48 hours notification before a planned protest. Despite public criticism, amendments to the law passed the upper house in March 2018. This included the creation of a new offence of providing support to a protest with ‘the intention to break national security, rule of law, public order or public morals’, punishable by up to two years imprisonment or a potentially unlimited fine. These represented a significant regression from progress to date on freedom of assembly. Protestors were arrested and charged under the Peaceful Assembly and Peaceful Procession Law as recently as May 2018, when nine human rights defenders were charged for organising multi-city protests calling for civilian protection and an end to the conflict in Kachin State. In December 2018, three ethnic Kachin activists were each sentenced to six months imprisonment and fines of MMK 500,000 (approximately AUD 460) for defamation under Section 500 of the Myanmar Penal Code, after participating in demonstrations in Kachin State about the ongoing conflict.

3.78 DFAT is aware of recent peaceful protests, including about the conflicts in Kachin and northern Shan States, being closed down, disrupted by thugs, or relocated to the outskirts of Yangon. In 2017, the Ministry of Home Affairs issued a ban against protests being held in downtown Yangon; the directive remains in place.

Despite this ban, Buddhist monk Wirathu was permitted to lead a march in downtown Yangon in October 2018 condemning the international community's involvement in domestic affairs, and supporting the Tatmadaw. Protests that proceed face strict conditions, including the provision of advance notice to authorities of slogans, flags, signs or banners that will be used. Violations are punishable through minor fines and up to three months imprisonment. In January 2018, a series of demonstrations were held by students on university campuses demanding an increase to the education budget. Up to 56 students from universities around Myanmar were reportedly expelled.

3.79 State surveillance and laws regarding online speech constrain open political discussion (see [Media](#)). Activists DFAT spoke with in Myanmar indicated a willingness to openly discuss some political issues (such as the situation of the Rohingya), but a strong reluctance to voice dissenting views about the government (civilian or military). A low level of societal intolerance towards differing political opinions exists. For example, laws allowing for greater freedom of speech have led to an increase in hate speech, which has incited discrimination and violence, particularly against the Rohingya and other minority groups. The UN Special Rapporteur on Human Rights noted in March 2018 that hate speech, particularly on social media, is stifling sensitive and unpopular opinions.

3.80 DFAT assesses that in the course of normal events, Myanmar citizens face a low risk of official or societal harassment, discrimination, violence or imprisonment on the basis of their actual or imputed political opinion. People who organise or actively participate in public protests against the government or the Tatmadaw face a moderate risk of being arrested and detained.

GROUPS OF INTEREST

Human Rights Organisations

3.81 The Constitution provides for freedom of association and various laws allow citizens to form associations, however the government imposes restrictions on some organisations. The *Association Registration Law* (2014) provides a voluntary registration procedure for local and international NGOs without restrictions or criminal punishments for non-compliance. In practice, many organisations choose not to register, both because the process is onerous, and registration would bring organisations under the purview of the Ministry of Home Affairs.

3.82 The US Department of State reported that in 2017 civil society groups and community based organisations were able to operate openly, including in discussing human rights and political issues, but with state surveillance. Local sources reported regular police surveillance and recording of local NGO events in 2017. Civil society organisations working in Kachin and Shan States are monitored more closely and are routinely visited by security forces. The UN Fact-Finding Mission reported increased security concerns when these organisations release reports incriminating the Tatmadaw. In 2018, international organisations working in Kachin State were required to undertake complex approval processes for access from union and state level authorities, which created lengthy delays in assisting communities.

3.83 Local sources described a shrinking democratic space for civil society. In March 2018, the parliament considered the draft *International Non-Government Organisation Law*, aimed at regulating both local and international NGOs operating in Myanmar. If passed, the law would allow the government to monitor NGOs at the central and state level, and suspend and terminate NGO activities. It also empowers the government to compel citizens employed by international NGOs to report on the activities of their organisations.

3.84 Restrictions are also placed on individual rights advocates and activists. Human rights activists and advocates, including representatives from international NGOs, are routinely issued short-term visas that require periodic departure from Myanmar in order to be renewed. Freedom House reported incidents of individual activists being monitored by the Ministry of Home Affairs in 2017. Myanmar staff working for international NGOs are also closely monitored, and some senior staff of NGOs who work in support of the Rohingya reported receiving death threats from Buddhist nationalists.

3.85 Advocates working on other sensitive issues, including land and the environment, risk harassment, arrest and violence. The US Department of State reported arrests of groups of farmers (and their supporters) who were demanding the return of land recently seized by authorities and private sector organisations, and previously seized by the military under the former government. The UN Special Rapporteur on Human Rights reported incidents of villagers in Karen State facing threats to personal safety by quarry operators, following community concern over the impacts of the new quarry at Mount Lun Nya on their livelihoods and the environment. In late 2017, Htay Aung, an activist who challenged illegal land grabs in northern Shan State, was beaten to death by around 20 villagers while visiting disputed territory on the invitation of local officials. At the time of publication, those responsible had not been held to account.

3.86 In January 2017, Ko Ni, a prominent Muslim lawyer, democracy advocate, and advisor to the NLD, was assassinated at Yangon airport, in what was considered a warning to democracy and rights activists. In February 2019, the assassin Kyi Lin and his co-conspirator Aung Win Zaw were sentenced to death for Ko Ni's murder. Another co-conspirator, Zeya Phyo, received a five-year jail sentence for falsifying evidence. The fourth defendant, Aung Win Tun, was sentenced to three years for harbouring a suspect. The lengthy trial was widely criticised, including due to the court's failure to hear key witnesses that could point to Tatmadaw involvement, suspected Tatmadaw involvement in the police investigation, and the incorrect identification of a deceased individual as a suspect. Moreover, the whereabouts of former Tatmadaw officer and suspected mastermind, Aung Win Khine, remains unknown.

Media

3.87 Myanmar's Constitution provides for freedom of expression, and media freedom has improved since official government censorship and pre-publication approval ceased in 2012. The number of news outlets in Myanmar has increased significantly since the licensing of media outlets opened up in 2013. The news market is highly competitive, but this is generally due to a lack of profitability, rather than any government-imposed restrictions. However, under the *Printers and Publishers Registration Law* (2014) the authorities are able to withhold licenses to outlets whose reporting is considered harmful to national security or religion. Myanmar is ranked 137th out of 180 countries in the Reporters Without Borders 2018 World Press Freedom Index, a drop in six places since 2017. Similarly, Freedom House assesses Myanmar's media sector as 'Not Free'.

3.88 Local sources told DFAT that the biggest constraints facing journalists in Myanmar are access to information and self-censorship. Access to official information is tightly controlled in Myanmar. The government has appointed a specific spokesperson for each ministry, but they are often not fully informed or able to provide information when requested. Media access to northern Rakhine State was heavily restricted by the government following the August 2017 violence, on the basis of insecurity, and instead eight state-run media visits to northern Rakhine State were provided to the international community from August 2017 to February 2018. Self-censorship is practiced, including when reporting on the Tatmadaw or military-controlled government portfolios such as the Ministry of Home Affairs, Ministry of Border Affairs and Ministry of Defence, and on other topics deemed sensitive, including Rakhine State, the peace process and Buddhist extremism.

3.89 Surveillance of journalists by the Home Affairs Ministry remains common, and journalists who do report on sensitive issues risk surveillance, harassment and imprisonment. Associated Press local journalist, Esther Htusan, left Myanmar in late 2017 following death threats issued in response to her critical reporting on various sensitive topics, including Tatmadaw operations in Rakhine and Kachin States. At the time of publication, she remained out of the country

3.90 Local sources reported a notable decline in the operating environment for media workers in recent years, including due to the increased use of a number of anti-press laws and other laws against journalists since 2016. In 2017, 20 journalists were prosecuted, mostly under the Section 66(d) of the *Telecommunications Law* (2013) in cases of online defamation. The parliament amended the law in 2017 to reduce the maximum prison sentence from three years to two. However key restrictive elements remain, including the requirement for the Ministry of Transport and Communications to provide permission to file charges under the law. Observers have noted an increased use of the law under the civilian government, and from other parties including politicians, Tatmadaw officers and Buddhist monks, to suppress criticism online from both journalists and social media users.

3.91 In June 2017, three journalists covering an event hosted by the TNLA were arrested in Shan State under the *Unlawful Associations Act* (1908). The journalists were reportedly held incommunicado in a secret location for two days. They could face up to three years imprisonment if convicted, but at the time of publication, the case had not concluded. The arrest demonstrates that the provision in the *News Media Law* (2014) that exempts journalists from detention while covering conflicts is not being upheld by authorities. Credible sources reported that this case redefined the boundaries of acceptable behaviour for journalists, and has contributed to an increasingly opaque operating environment. According to Amnesty International, the Unlawful Associations Act is used most frequently in ethnic and religious minority areas.

3.92 The most high profile case against Myanmar journalists in recent years involved two Reuters journalists, who were convicted in September 2018 under the *Official Secrets Act* (1923) and sentenced to seven years imprisonment for their investigation of a massacre in Inn Din, northern Rakhine State, in late 2017 (see [Rohingya](#), Violence and [Extrajudicial Killings](#)). In November 2018, Reuters lodged an appeal against the convictions, based on the prosecution's failure to prove necessary elements under the Official Secrets Act, the failure of the court to recognise compelling evidence of a police set-up, and serious due process violations. The case drew international condemnation, and was widely considered to represent a regression for democracy and rule of law in Myanmar.

3.93 Foreign journalists report difficulties in receiving government approval of visas, and local sources told DFAT that there were fewer English language reporters operating in Myanmar compared to recent years. Some news outlets which publish in both Burmese and English are more conservative in their Burmese publications, particularly when covering Rakhine State.

3.94 Internet access was previously limited by official restrictions and poor telecommunications infrastructure. Social media use, especially Facebook, is now rapidly increasing in Myanmar. Credible sources reported increased polarisation between international media and social media reporting, which worsened following the August 2017 violence in Rakhine State. The Tatmadaw and Ma Ba Tha have used Facebook to stir anti-Muslim sentiment (see [Muslims](#) and [Military](#)).

3.95 Overall, DFAT assesses that journalists in Myanmar who report on sensitive issues, including the government and the Tatmadaw, face a moderate risk of being prosecuted through the judicial system and receiving sentences that could be considered high by international standards. DFAT assesses that, in general, journalists face a low risk of physical violence as a result of their reporting.

Women

3.96 Article 348 of the Constitution prohibits state discrimination against any Myanmar citizen based on their sex. Cultural and societal norms define politics and business as the realm of men, and women as mothers who are not active in the formal sector of the economy. While women do work in government, business and civil society, they are underrepresented in senior positions in both the public and private sectors. With the notable exception of Aung San Suu Kyi, few have gained ministerial appointments. While the 2015 elections saw an unprecedented number of women elected to Myanmar's parliament (64 of 491 elected representatives), women currently constitute just over 10 per cent of parliamentarians. Men earn around 25 per cent more than women, and there are barriers to women accessing finance and land use rights.

3.97 Under the Penal Code, rape is illegal in Myanmar. Marital rape is legal except where the wife is under 14 years of age (the legal age for female marriage). There is no specific legislation outlawing spousal abuse or domestic violence. Abortion is illegal, including for a rape-induced pregnancy. A new law on gender-based violence (GBV) has been under development since 2012, but there is reportedly some resistance from within the civil service, judiciary and parliamentarians. The draft law is intended to protect women from all forms of violence, including domestic violence, marital rape, sexual violence, harassment in the workplace and public spaces, and violence through customary practice. It will also provide survivors of violence with more effective legal and health services. The draft law reportedly would allow women to abort rape-induced pregnancies, albeit subject to the agreement of a (currently all male) health committee. The draft law is reported to carry a life sentence for the rape of girls under the age of 18 and disabled women, and up to five years imprisonment for those found guilty of marital rape. At the time of publication, the bill had not yet been passed.

3.98 While reliable national data on the prevalence of violence against women is unavailable, reports confirm violence in all its forms is perpetrated against women and girls. Local sources reported this is higher in communities affected by conflict or disaster. Media outlets regularly report stories of physical and sexual abuse of women, often involving underage victims as young as six years old, with the perpetrators of violence usually members of the victim's family or local village. According to the UN Fact-Finding Mission, there are also reports of military officials and EAOs committing rape and other acts of sexual violence in Kachin, Shan and Rakhine States. Authorities often do not investigate these crimes (see [Rohingya](#), Violence).

3.99 Local sources told DFAT that women rarely seek justice for violence, including rape, through formal legal mechanisms. Under the current legislation, women need to provide medical records to pursue a rape case, but the lack of doctors in rural areas and the requirement to go to the police before undergoing a medical examination make successful prosecution difficult. Credible sources described women's general lack of trust of security forces in Myanmar. Many police stations nationwide do not have officers trained to appropriately deal with GBV cases. There have been recent incidents of the police sharing details of GBV victims on their Facebook pages; while this is common practice for other crimes in Myanmar, it demonstrates a lack of understanding of the sensitivity of gender-based crimes amongst the police force, and disregards the privacy of the victims. Women are even less likely to seek formal justice when violent crimes are perpetrated by authorities, in part due to impunity. The UN Fact-Finding Mission described a 2018 rape case in Shan State where the punishment of the soldier responsible was 10 slaps, and compensation of MMK 200,000 (approximately AUD 180) to a male family member of the victim. The Legal Clinic Myanmar provides free legal aid, mostly to women and children.

3.100 More often, redress for victims of GBV is sought through customary laws, particularly in Muslim communities. Customary processes often promote community harmony over the individual woman's wellbeing, and typically involve the victim discussing the incident with other women and, if it is deemed sufficiently serious, with the men in the family. If the male family members agree that the incident was

unacceptable, they then take it up with local leaders. In some communities, the solution often takes the form of an apology rather than a punishment; for example, an animal may be killed and used to feed the whole village. In Kachin State, village-based committees typically deal with disputes, which are usually resolved through mediation or compensation. In the case of a rape, the victim and her family are typically required to ‘cleanse’ the village, by holding a ceremony and feeding the whole village. Often GBV victims are returned to their families and provided inadequate support. According to the US Department of State, the government operates five centres for women and children victims of violent crime (including trafficking).

3.101 Health services in both rural and urban areas lack expertise in sexual and reproductive health. A UN assessment of sexual, reproductive, maternal, newborn and adolescent services in Myanmar in 2016 found that effective coverage was as low as 24 per cent nationally, with considerable disparities between state and regions, ranging from 48 per cent in Karen State to 9 per cent in Chin State. Access to contraception remains limited. While abortion is illegal, it is reportedly common, and contributes to Myanmar’s high maternal mortality rates. The reluctance of women to report crimes of sexual violence also prevents women receiving timely medical services, including to prevent pregnancy or HIV/AIDS.

3.102 In 2017, the government reportedly investigated 185 cases of trafficking, with most related to sex trafficking or the involuntarily domestic servitude of Myanmar women, including through forced marriages to Chinese men, primarily in Kachin State. There have been, however, credible reports that government officials have facilitated or profited from both sex and labor trafficking of women and girls, including by hindering law enforcement efforts against the perpetrators. In 2018, the US Department of State downgraded Myanmar to a Tier 3 (the lowest category) country in its Trafficking in Persons report, largely because of the government’s management of the Rohingya crisis. According to the report, many Rohingya who fled Rakhine State have been subjected to exploitation, or transported to other countries for sex trafficking following their displacement. The report identifies Rohingya women in the displacement camps in Bangladesh as being particularly vulnerable to trafficking within Bangladesh and to India. Local sources told DFAT that investigations into trafficking are typically inadequate, and there are limited opportunities for justice.

3.103 Rohingya women in Rakhine State face multiple levels of discrimination. In addition to the official and societal discrimination faced by Rohingya people in general (see [Rohingya](#)), Rohingya society is conservative and women often face familial or community-based restrictions on their movements and activities. Rohingya girls over the age of 13 are often prevented from leaving their homes until they are married. Violence against Rohingya women is reportedly highly prevalent, particularly intimate partner violence. Rohingya women in Rakhine State also face additional restrictions on their marital and reproductive rights. Local authorities prohibit Rohingya families from having more than two children, although this is inconsistently enforced. Local authorities also require Rohingya to obtain a marriage permit (not required for other ethnic minorities), which can take up to two years and bribes to process (see [Rohingya](#), Other restrictions on Rohingya in Rakhine State).

3.104 Overall, DFAT assesses that women in Myanmar face moderate levels of societal discrimination, and Rohingya women in Rakhine State face high levels of official and societal discrimination on the basis of their gender. Women throughout Myanmar face a moderate risk of GBV, particularly domestic violence.

LGBTI

3.105 Article 377 of the Penal Code prohibits ‘carnal intercourse against the order of nature with any man, woman or animal’, with a punishment of a fine and up to ten years’ imprisonment. This is interpreted, *inter alia*, as criminalising sex between men; sex between two women is not considered to be covered under Article 377. There have been two prominent cases where authorities have used this provision against

members of the LGBTI community: a transgender person who was sentenced to five years imprisonment in 2011 (released after three years), and an unsuccessful attempt to prosecute a gay couple who held a civil ceremony in 2014. Authorities also use Article 377 to prosecute perpetrators of child sexual offences and same-sex rape (provisions in the Penal Code only discuss rape of a female victim by a male perpetrator), thus conflating homosexuality and paedophilia. There have been no recent prosecutions under Article 377, and local civil society representatives told DFAT that this provision is primarily used by the police to extort money, particularly from gay and transgender men.

3.106 There are credible and recent reports of police harassment, extortion, physical and sexual abuse of LGBTI people. Section 35 (c) of the *Police Act* (1945) and Section 30 (c) and (d) of the *Rangoon Police Act* (1902) (known as the 'Shadow and Disguise Acts') are also used to intimidate and arrest LGBTI individuals. These provisions allow the police to detain a person located on the street between sunset and sunrise, with a covered face or being otherwise disguised, and unable to give a satisfactory account of oneself. LGBTI people are increasingly being detained at patrol sites, rather than being taken to police stations, and forced to pay fines of around MMK 50,000 (approximately AUD 45) for release. As police officers are frequently the perpetrators of harassment, a victim's ability to seek legal recourse is limited. When victims do file cases at police stations, officers are frequently uncooperative in gathering evidence and identifying perpetrators. Furthermore, the majority of documented cases cannot proceed to court due to an insufficient number of qualified lawyers being equipped and willing to advise in cases involving LGBTI individuals. A recent report from a LGBTI rights group identified 13 organisations and 15 lawyers around the country who provide legal aid to LGBTI people, mostly in or near the larger cities.

3.107 The LGBTI community has become increasingly visible in Myanmar in recent years, but societal discrimination persists, particularly in rural areas. Most Myanmar people hold conservative views about gender roles, and the open discussion of sex in Myanmar is considered taboo. Traditional Buddhist beliefs consider homosexuality a result of karma. In remote and rural areas, religious groups (Buddhist, Muslim and Christian) have a high level of influence, and perpetrate societal discrimination against LGBTI, particularly transgender individuals. Some LGBTI individuals relocate from rural areas to avoid social stigma, and to seek employment opportunities. Forced heterosexual marriage occurs, particularly involving gay and transgender men. LGBTI people can cohabit in major cities, with large numbers of LGBTI people living in Yangon and Mandalay. Some restaurants, hotels and other venues in these major cities openly identify as LGBTI friendly; however, these venues can face some resistance from more conservative parts of the community, including religious organisations.

3.108 Public violence by the community against LGBTI individuals is rare, however credible sources told DFAT that parents often use corporal punishment to 'correct' behaviour in young children that does not align with traditional gender roles or heterosexual norms. Some parents are also reported to support teachers to discriminate against their LGBTI children at school. In school, LGBTI individuals are bullied by both peers and teachers, and there are high rates of school drop-out in the LGBTI community. There are restrictions on dress for transgender men in some universities. However, some recent improvement in the education system has been made, including the development of sexual orientation and gender identity content for the school curriculum by LGBTI rights groups and the Ministry of Education in 2017.

3.109 LGBTI people, particularly transgender, have limited employment prospects, including in large cities. Gay men are not permitted to take up senior positions in the police force or Tatmadaw. Employment in the beauty and entertainment industries is generally socially accepted for gay men and transgender women, but is often seasonal and poorly paid. Outside of these industries, most transgender women are required to dress as men in their workplace. Transgender men often work in low-paid manual jobs, including as construction workers or rickshaw drivers. Research by LGBTI rights groups indicate that there are gay and lesbian individuals working in government and the private sector, but they choose not to disclose their sexual orientation in the workplace for fear of discrimination. Workplace discrimination as experienced by

lesbians and transgender men is not as well-documented as that experienced by gay men and transgender women. However, LGBTI rights organisations report it is higher due to the double disadvantage of being biological female in a patriarchal society. For example, transgender men have reported being given heavy workloads in manual jobs, while receiving the lower wages of a woman.

3.110 LGBTI people, particularly transgender, routinely experience discrimination in accessing health services. LGBTI people typically prefer to seek medical treatment in clinics operated by NGOs, especially in rural areas, due to experiences of discrimination on the basis of their sexual orientation and gender identity in government hospitals, including compulsory HIV/AIDS testing of transgender patients. Some of these NGO clinics provide antiretroviral therapy to HIV/AIDS patients. There are no fertility services for LGBTI individuals, and hormone replacement therapy for transgender women is often self-administered using contraceptive pills due to a lack of endocrine specialists. Sexual reassignment surgery is permissible in Myanmar with a doctor's recommendation; without this, a transgender individual could be charged under Section 312 of the Penal Code that relates to sterilisation by surgery. DFAT is aware of only one case, in 2005, of a transgender woman successfully changing her identity documentation following sexual reassignment surgery.

3.111 Media coverage of LGBTI issues is often negative, but visibility of LGBTI issues is increasing, particularly in urban centres. For example, in 2018 the fourth 'PROUD' Yangon LGBTI film festival attracted around 5,000 people, after it was first held in 2014. Social media has helped to increase awareness of LGBTI issues, but has also been a medium for hate speech targeting the LGBTI community. There is an active LGBTI civil society in Myanmar; the Myanmar LGBTI Rights Network is a group of around 20 civil society organisations advocating for LGBTI rights. These groups have permission to operate from the government, but can be subject to threats and intimidation.

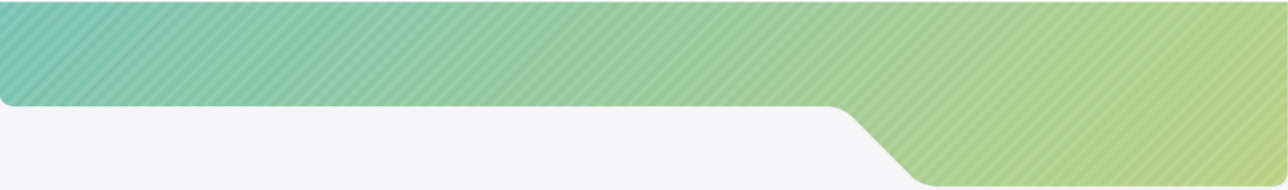
3.112 DFAT assesses that LGBTI people in Myanmar face a moderate risk of official and societal discrimination on a day-to-day basis. DFAT further assesses that LGBTI people in Myanmar face a low risk of violence due to their sexual orientation or gender identity.

Children

3.113 Myanmar's *Child Law* (1993) defines a child as a person under the age of 16, which contravenes the Convention on the Rights of the Child to which Myanmar is a signatory. The law sets the minimum age of criminal responsibility at seven years, well below the 12 years considered acceptable under international law. DFAT understands these issues are under consideration in the draft Child Rights Law, which was under parliamentary review at the time of publication.

3.114 Myanmar is a source country for children subjected to forced labour and sex trafficking, both in Myanmar and abroad. While the government raised the minimum age for work in shops, establishments, and factories to 14 years in 2016, child labour remains prevalent. Poverty drives some parents to remove their children from school to contribute to household earnings. In cities, children commonly work as street vendors, refuse collectors, restaurant and teashop attendants, and domestic workers. In rural areas, children routinely work in family agricultural activities. Children are vulnerable to forced labour or sex trafficking (including through debt bondage) in teashops and other small business, in the agricultural and construction sectors, and through begging.

3.115 There are also recent accounts of the Tatmadaw and EAOs recruiting children as soldiers or in other support roles. The UN Country Task Force on Monitoring and Reporting (CTFMR), the official mechanism for monitoring and reporting grave violations against children, reported 15 complaints (unverified at the time of publication) of child soldier recruitment in 2017, including in Yangon and Mandalay. The US Department of State reported 13 cases of children working in support roles for the Tatmadaw and its affiliate militias, including cleaning, portering, and cooking. One of these cases was reported to involve more than 200



children. While the government released 49 child soldiers in 2017 under the 2012 joint plan of action between the government and the UN to end recruitment of child soldiers, children who flee military service or are demobilised outside of the official CTFMR process are at risk of arrest and imprisonment on charges of desertion while their cases are investigated by the Tatmadaw. Some EAOs abduct or recruit children, including from IDP camps, to fight against the Tatmadaw. EAOs known to recruit child soldiers include the KIA, Democratic Karen Benevolent Army, KNLA, KNLA Peace Council, Karenni Army, Shan State Army-South, and the UWSA. The Ministry of Social Welfare, Relief, and Resettlement, UNICEF, and civil society organisations provide reintegration services and support to discharged children.

3.116 For information on domestic violence against children, see [Corporal Punishment](#). For information on violence against Rohingya children, see [Rohingya](#), Violence.

4. COMPLEMENTARY PROTECTION CLAIMS

ARBITRARY DEPRIVATION OF LIFE

Extrajudicial Killings

4.1 Extrajudicial killings were reported across the country, concentrated in areas of active conflict. The UN Fact-Finding Mission reported extrajudicial killings in 2016 and 2017 in Kachin, Shan and Rakhine States. It described killings in the context of military operations, forced labour, the executions of persons in Tatmadaw custody (see [Deaths in Custody](#)), and targeted killings of individuals who share the ethnicity of EAOs. For example, in July 2018, six female TNLA medics were killed extrajudicially while in Tatmadaw custody, but the Tatmadaw has denied involvement. Extrajudicial killings by the Tatmadaw and BGP were widespread during the security operations in Rakhine State in August 2017. In Inn Din, Maungdaw Township, security forces were responsible for the extrajudicial killing of at least 10 Rohingya men. The Tatmadaw confirmed the killings following the discovery of a mass grave, but claimed the men were terrorists. Inn Din is one of at least five locations in northern Rakhine State where DFAT assesses there are credible reports of widespread civilian killings as part of the 2017 violence (see [Rohingya](#), Violence).

4.2 There are credible reports of Tatmadaw soldiers intentionally killing individuals for trying to escape from or for refusing to participate in forced labour, or because they were physically unable to continue working. For example, in January 2017 in Muse Township, Shan State, two villagers were reportedly killed (one beaten, one shot) when they were no longer able to carry heavy materials in forced portering work. The UN Fact-Finding Mission reported several accounts of individuals, particularly men between 18-40 years, with the same ethnic background as EAOs being killed by the Tatmadaw. In March 2016 in Manton Township, Shan State, the Tatmadaw allegedly shot a Ta'ang man, who was suspected of being a member of the TNLA.

4.3 Extrajudicial killings were also reported in other parts of Myanmar. In April 2018, the Tatmadaw were reported to have fatally shot a Karen community leader and environmental activist, Saw O Moo, in Karen State while he was riding his motorbike with a KNLA soldier. The Tatmadaw denied any wrongdoing on the basis that the man was suspected of planting mines. Amnesty International also reported the killing of four ethnic Karenni men by Tatmadaw soldiers in December 2017 in Kayah State.

Enforced or Involuntary Disappearances

4.4 The UN Fact-Finding Mission reported multiple accounts of enforced disappearances by the Tatmadaw and the Myanmar Intelligence Office (commonly known as the *Sa Ya Pa*). Disappearances were reported to occur typically in the context of a lack of compliance with procedural safeguards for detention. This frequently resulted in family members being unaware of the whereabouts of their detained relatives until they escaped, were released, or transferred to official places of detention, which in some cases was

weeks or months later. In other cases, individuals arrested by the Tatmadaw never returned and their families remain uninformed of their whereabouts. Two Kachin IDPs from Mansi Township were missing for over a month after reportedly being arrested by the Tatmadaw in January 2018, before their bodies were found buried in the jungle close to their village. The Tatmadaw reportedly refused permission for community leaders to search for the missing IDPs following their disappearance. The UN Fact-Finding Mission also received multiple accounts of cases where individuals were detained by the Tatmadaw and, after family members searched for them, were found dead, often buried, and sometimes with ropes binding their wrists.

4.5 Amnesty International and the UN Fact-Finding Mission reported multiple cases of enforced disappearances carried out by EAOs or insurgent groups, including as a means of coercion to participate in their operations, for collaborating with the Tatmadaw, or for otherwise opposing an EAO. According to Amnesty International, the enforced disappearances of ethnic Rakhine and Mro villagers in August 2017 in Rakhine State were attributed to ARSA. In October 2017 in Nankham Township, Shan State, the TNLA reportedly abducted the father of a young man who was absent when the TNLA attempted to recruit him, who was held until the man returned and was recruited. The KIA was also reported to have abducted civilians as a means to coerce participation in their operations, including abducting and holding hostage a 12 year old girl in Kutkai Township, Shan State, because her brother had resisted recruitment.

Deaths in Custody

4.6 The UN Fact-Finding Mission reported numerous killings of civilians and members of EAOs, both men and women, while in Tatmadaw custody. The pattern of behaviour typically involved the Tatmadaw detaining individuals, questioning them regarding their occupations and possible affiliations with EAOs, or the whereabouts of members or bases of EAOs (often using torture or ill-treatment), and the victims subsequently being killed. In January 2018, five men were reported to be fatally shot by Tatmadaw soldiers in Tanai Township, Kachin State, while detained by the Tatmadaw following clashes between the Tatmadaw and the KIA. In November 2016, Tatmadaw soldiers reportedly arrested and detained up to 80 men in a military camp in Muse Township, Shan State. Witnesses reported a 90 year old man was killed by the Tatmadaw when he attempted to escape during fighting between the Tatmadaw and the Northern Alliance.

4.7 There were also recent accounts of deaths in police custody. For example, the MNHRC was reported to be investigating the case of a man who was allegedly beaten to death by Yangon police while being interrogated in September 2018. The MNHRC also reportedly investigated a case of a man suspected of stealing a fishing net who died in police custody in Irrawaddy Region in August 2018, and recommended to the Ministry of Home Affairs that action be taken against the inspector and police officers involved.

DEATH PENALTY

4.8 While no executions have been carried out in Myanmar since 1988, courts continue to impose death sentences under Article 368 of the *Code of Criminal Procedure* (1898). A mandatory death sentence is imposed for murder, drug trafficking and drug possession. Criminals who receive the death penalty from district courts can appeal their sentences in higher courts. In July 2018, the Prisons Department reported that 33 (of 66) criminals who had received the death penalty since 2016 were appealing their sentences. As a final measure, criminals can plead for presidential clemency. No death sentences have been commuted to life imprisonment since the Thein Sein government (2011-2016).

TORTURE

4.9 The Penal Code outlaws the use of torture, however local sources reported that the Tatmadaw and police continue to use torture to elicit confessions and other information. The most common methods of torture reported were beatings and deprivation of food, water and sleep.

4.10 In general, torture and other abuses by authorities tended to occur most frequently in conflict-affected areas against people suspected to be members or supporters of EAOs, or who have participated in military operations. The UN Fact-Finding Mission identified Tatmadaw soldiers as the primary perpetrators of torture in Kachin and Shan States, during military operations, patrols or forced labour. In some cases they were reportedly accompanied by militias including the *Pyithu Sit* (armed groups of civilians trained by the Tatmadaw, known as 'People's Militias'), or the Sa Ya Pa. The UN Fact-Finding Mission described torture victims in Kachin and Shan States as mostly men aged between 18-40 years old (of 'fighting age'), typically of the same ethnic group as fighters with whom the Tatmadaw was engaged in conflict.

4.11 For example in June 2017, the Tatmadaw reportedly detained and tortured a man suspected of being a TNLA member in Namhsan Township, Shan State. The man's body was found the day after his reported torture in a TNLA uniform. The UN Fact-Finding Mission also reported incidents of torture of older men, usually village administrators or community leaders, who were accused of collaborating with EAOs. In August 2017, Tatmadaw soldiers reportedly tortured an elderly male IDP in Kutkai Township, Shan State, who was suspected of being a messenger for the TNLA. The torture was reported to last for more than 24 hours in multiple locations and involved interrogations with severe beatings, rope binding, hot wax burns and the breaking of a limb. Women and children were also reported to be subjected to torture, including rape or other forms of sexual violence, by the Tatmadaw in Kachin and Shan States. The cases typically involved the use of torture in order to obtain information or confessions regarding EAO activities, or as punishment for perceived sympathy for the Tatmadaw's opponents.

4.12 There are also credible reports of torture by authorities and some civilians against Rohingya people, including children, in Rakhine State, with the majority of incidents occurring in the period around 25 August 2017 (see [Rohingya](#), Violence). According to the US Department of State, one in 10 Rohingya refugees interviewed in Bangladesh had witnessed acts of mutilation or possible torture against Rohingya by Tatmadaw soldiers and civilians during the 2017 security operations. Acts of mutilation included the cutting and spreading of entrails, severed limbs or hands/feet, pulling out nails or burning beards and genitals to force a confession, or being burned alive. 33 Rohingya interviewed by the US Department of State also reported groups of Rohingya being forced to stay outside for hours, both as a form of punishment or as part of interrogations, during the security operations. Rohingya who were in prison prior to the events of 25 August also experienced or witnessed torture, particularly during interrogation. Amnesty International documented cases of torture against 17 Rohingya men and two teenage boys which primarily took place while in custody on BGP bases in Rathedaung Township and Buthidaung Township in the period around 25 August. During interrogations, the detainees were subjected to severe beating, burning, stress positions for prolonged periods, and in at least five cases, sexual violence including the burning and mutilation of genitalia. Some detainees were also deprived of water for days, and food for over a week. According to Amnesty International and the US Department of State, authorities rarely carry out investigations into incidents involving torture or punish the alleged perpetrators. The US Department of State also noted that authorities rarely take action to investigate allegations of torture by the Tatmadaw or police forces, or to punish the alleged perpetrators.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Arbitrary Arrest and Detention

4.13 The Code of Criminal Procedure requires court permission for detentions exceeding 24 hours. In 2017, the authorities used the Unlawful Associations Act to arrest persons, often in ethnic and religious minority areas, on an arbitrary basis. The law allows authorities to extend sentences after prisoners have completed their original sentences. It also allows authorities to detain suspects without charge or trial if they believe an individual is performing, or may perform, an act that endangers the sovereignty and security of the state or public peace and tranquillity. According to the US Department of State, there were multiple cases to demonstrate that both the civilian government and the Tatmadaw continued to interpret the law broadly to detain activists, student leaders, farmers, journalists, and human rights defenders. It also reported that the government generally did not permit detainees to challenge the legal basis of their detention in court before the two-week pre-trial detention period.

4.14 The UN Fact-Finding Mission reported the widespread and targeted arbitrary arrest and detention of Rohingya across Rakhine State by the BGP and Tatmadaw. It highlighted an increase in Rohingya arbitrary arrests in northern Rakhine State between October 2016 and August 2017, which corresponded to the higher security presence during this period. Most arrested were reported to be questioned about their activities or knowledge of ARSA members, and were required to pay bribes for their release. The UN Fact-Finding Mission also reported mass arrests and detentions of civilians in Kachin and Shan States, both for forced labour and suspected links with ethnic armed organisations. In these cases, most victims were reportedly not provided a reason for their arrest, nor brought to trial.

Corporal Punishment

4.15 Corporal punishment is lawful in homes, schools and penal institutions. Article 66 of the Child Law provides for “admonition by a parent, teacher, or other person having the right to control the child”. Article 89 of the Penal Code states that “nothing which is done in good faith for the benefit of a person under twelve years of age... is an offence by reason of any harm which it may cause”. Government directives prohibiting corporal punishment in schools are inconsistent with these laws. In 2017, the US Department of State reported that corporal punishment is still widely used as disciplinary tool for children.

5. OTHER CONSIDERATIONS

STATE PROTECTION

5.1 The Constitution guarantees citizens freedom from discrimination on the basis of 'race, birth, religion, official position, status, culture, sex and wealth'. However, the law offers few specific protections to citizens to shield them from discrimination, and there are limited avenues through which citizens can pursue redress against discrimination. In addition, the law does not protect non-citizens, including the Rohingya.

5.2 The availability of state protection depends on a range of circumstances and is not necessarily determined on the basis of religion or ethnicity. Given the Bamar Buddhist majority dominates the public service, including the security forces, and widespread anti-Muslim sentiment, access to effective state protection is more difficult for Muslims, particularly the Rohingya.

Military

5.3 The Tatmadaw comprise an army, navy and air force and is led by the Commander-in-Chief of the Armed Forces, who is elected by the National Defence and Security Council of which the military controls at least six (of 11) seats. The Commander-in-Chief has broad powers, including appointing the key positions of one of the Vice Presidents, the Ministers for Defence, Home Affairs and Border Affairs, and the military representatives in the parliament. The Constitution also states that the determination of the Commander-in-Chief is final and conclusive, and in a state of emergency, the Commander-in-Chief exercises all legislative, executive and judicial powers. While official figures are not available, credible sources estimate the Tatmadaw's size between 300,000 and 500,000 personnel. Estimates also vary on the proportion of the national budget dedicated to military expenditure, but most are between 13 and 14 per cent. The military also receives funding from other sources, which makes the absolute military budget indeterminable.

5.4 Officially, there is no military conscription and all service personnel are considered volunteers. However, local sources reported that some personnel are pressed into service to avoid possible criminal convictions or to escape poverty. Myanmar has acceded to the Convention on the Rights of the Child, and has taken steps in recent years to release any children under the age of 18 at the time of recruitment (since 2012) from military service. According to the UN Secretary-General Annual Report on Children and Armed Conflict, 101 children and youth were released from the Tatmadaw in accordance with a joint action plan with the UN on the prevention of child recruitment in 2012. However, there are continued reports of the Tatmadaw occasionally using both adults and children for forced labour, particularly in conflict-affected areas, though cases have reduced in recent years (see [Children](#)).

5.5 The Tatmadaw, rather than the police forces, have been the primary source of community protection for people in Rakhine State during periods of communal violence under the declaration by the government of a special state of emergency. However, there are credible reports of the Tatmadaw failing to protect communities, including through refusing to assist Muslims who sought their protection, supporting ethnic Rakhine leading violent attacks, and perpetrating extreme forms of violence (see [Rohingya](#), Violence). Several credible sources including the International Crisis Group have suggested that the Tatmadaw applied

its 'four cuts' counter-insurgency strategy (first developed in the 1960s) in Rakhine State following the 2016 violence. The 'four cuts' describes the cutting off of food, funds, intelligence and popular support of EAOs fighting for self-determination. The strategy has been criticised by human rights groups in that it directly targets civilian populations in conflict zones. In Kachin State and northern Shan State, the Tatmadaw reportedly failed to protect civilians in conflict zones, including preventing the distribution of food and relief to conflict-affected communities in Kachin State on the basis that distributions assist KIA combatants.

5.6 Given the historical role of the military in Myanmar's government, military personnel have tended to be immune from prosecution for alleged human rights violations. There have been a small number of convictions against soldiers for murder under national law in recent years, but these have generally involved junior officers and resulted in short sentences. The highest profile conviction against the Tatmadaw was 10 years imprisonment with hard labour handed down to seven soldiers in April 2018, following the Reuters report on the Inn Din massacre (see [Media](#) and [Extrajudicial Killings](#)). This was the first time that security forces have been held accountable for violence against the Rohingya. In September 2018, the UN Fact-Finding Mission called for Commander-in-Chief and five generals to be prosecuted for genocide, crimes against humanity and war crimes with regard to their actions in Rakhine State in August 2017.

5.7 The Tatmadaw have also been directly involved in propagating hate speech, particularly against the Rohingya. Facebook's head of cybersecurity policy said it had found "clear and deliberate attempts to covertly spread propaganda that were directly linked to the Myanmar military", and in August 2018 removed several accounts of senior Tatmadaw officials, including that of the Commander-in-Chief.

5.8 Overall, DFAT assesses that while the Tatmadaw do provide protection to some civilians, others are not afforded protection, particularly the Rohingya in Rakhine State and civilians in Kachin and Shan States. DFAT further assesses that the Tatmadaw typically act with impunity.

Police

5.9 The Myanmar Police Force is responsible for law enforcement outside of conflict and ceasefire areas, and reports to the military-appointed Minister of Home Affairs. Nationally there are 75,000 police, and each of the states and regions has its own local force. The BGP are active in Rakhine State, and are responsible for border security along the Myanmar-Bangladesh border, managing checkpoints and documenting the movement of Rohingya and others within the state.

5.10 Weak rule of law is a key challenge to effective state protection in Myanmar. Successive governments have publicly committed to improving the rule of law and reforming law and order institutions, however few means exist for victims of crime to seek protection or redress. Police units are often inadequately funded, staffed, equipped and trained, which negatively affects police capability and responsiveness. Most crimes are unreported or are not investigated. Only around eight per cent of the police force are women, which can constrain the investigation of crimes such as rape and human trafficking due to a cultural reluctance by female victims to discuss such crimes with male officers.

5.11 Police complaint processes require official identity documentation to lodge complaints. This means that those without appropriate documentation, including the Rohingya, are often unable to make police complaints. Furthermore, in Rakhine State local administrators and police are almost exclusively drawn from the Rakhine Buddhist community. Police are reported to regularly extort money from civilians to supplement low pay, and often request victims of crime pay substantial bribes to undertake criminal investigations. A survey published in 2017 by Transparency International found that 49 per cent of Myanmar people who had contact with police had paid a bribe. Corruption and extortion are particularly prevalent against the Rohingya in Rakhine State (see [Rohingya](#), Freedom of Movement) and other minority groups (see [LGBTI](#)).

5.12 There are credible reports of police failing to protect civilians, including in the August 2017 security operations in northern Rakhine State, where regional police were reported to be either unable or unwilling to protect Rohingya victims, despite police protection being offered to other ethnic groups and their property. Police are also reported to have used excessive force against civilians in multiple cases in Rakhine State. The US Department of State documented BGP involvement in perpetrating violence against the Rohingya from August 2017, both independently and in coordination with the Tatmadaw (see [Rohingya, Violence](#)). Reuters reported that the paramilitary police supported the military operations in Inn Din, including the arbitrary arrest and execution of 10 Rohingya men. This report (which led to the arrest of two Reuters journalists, see [Media](#)) was informed by credible evidence, including photographs and testimony from paramilitary police. The BGP were also involved in perpetrating violence against Rohingya in the 2016 security operations. Police reportedly demoted an officer for the beating of Rohingya civilians, which was captured on video and posted on YouTube. Details of the investigation were not made public. In January 2018, police opened fire on a crowd of protesters demonstrating against a government ban on a Buddhist celebration in Mrauk-U, Rakhine State, killing seven ethnic Rakhine.

5.13 Investigations into police misconduct generally lack transparency, and charges against members of the police force need to have the support of the police leadership or a high profile public figure to have a realistic chance of success. Due to military control over the police, the police are also subject to political interference. There is substantial evidence of a police set-up in the case of Reuters journalists Wa Lone and Kyaw Soe Oo (see [Media](#)), including testimony from a police captain who was subsequently sentenced to one year imprisonment for violating the *Police Force Maintenance of Discipline Law* (1995). Civil society groups also reported that the police intentionally underinvestigated Ko Ni's case in Yangon in 2017 (see [Human Rights Organisations](#)).

5.14 Overall, DFAT assesses that police have a limited ability to provide state protection to civilians, particularly the Rohingya in Rakhine State, are vulnerable to corruption, and typically act with impunity.

Judiciary

5.15 Civilian courts in Myanmar are organised into four levels: the Supreme Court of the Union; 14 State and Region High Courts; 67 District Courts and Courts of Self-Administered Divisions and Zones; and 324 Township Courts. The Constitution provides for courts-martial (military courts) to adjudicate cases involving defence personnel independently. At the state and regional level, civil matters are often managed by the bureaucracy rather than the judiciary. Criminal cases can be tried by village magistrates or escalated to state or federal courts.

5.16 As the government appoints senior members of the federal judiciary, political bias continues to affect the judicial system and judges typically do not see themselves as independent. The highest level of the judiciary, usually reserved for legislative matters, is the Constitutional Tribunal. While the Constitution protects the decisions of the Tribunal, its members are appointed by the government. Individual decisions by the Tribunal can be revisited after the resignation or removal of its members. In 2012, all members of the Tribunal were forced to resign, reflecting the lack of independence of the judiciary as a whole. Despite constitutional and legislative provisions for judicial independence, in practice corruption and a lack of independence are ongoing and significant challenges for Myanmar's judiciary. Transparency International reported in 2017 that 39 per cent of Myanmar people who had dealt with the courts had paid bribes.

5.17 There are some efforts by both the government and the legal profession to reform the judicial system, however any reforms will likely take a long time to have a significant impact on outcomes. Public trust in the judiciary is very low and victims of crime often do not pursue legal action. The *Legal Aid Law*

(2016) allows for the provision of legal assistance to the poor, but the poverty threshold varies between state and region. Legal aid associations are organised by state and regional high courts and governments.

5.18 The Constitution contains protections against double jeopardy. Section 374 of the Constitution states, 'Any person convicted or acquitted by a competent court for an offence shall not be retried unless a superior court annuls the judgment and orders the retrial'. A similar provision can be found in Section 6 of the *Union Judiciary Law* (2010). Cases of authorities bringing charges against individuals for the same crime, though in different townships, have been reported.

5.19 DFAT assesses that the legal system in Myanmar is weak and has limited capacity to provide state protection. In cases that are politically sensitive, engage vested interests or involve the security services, the judicial system cannot be relied upon to provide an independent outcome. DFAT further assesses that corruption within the judicial system may impinge on the prospects for a fair trial.

Detention and Prison

5.20 The Correctional Department of the Ministry of Home Affairs operates around 40 prisons and 50 labour camps (formally known as 'agriculture and livestock breeding career training centres' and 'manufacturing centers'), housing an estimated 60,000 prisoners (50,000 men and 10,000 women in separate facilities). Some prisons are reported to house pre-trial detainees with convicted prisoners, and political prisoners with common prisoners. Children and members of the LGBTI community are typically held in separate wards.

5.21 In April 2018, the government announced a presidential pardon for more than 8,000 prisoners to be released, the majority of whom were sentenced on drug charges but also included 36 political prisoners. In May 2018, 259 prisoners were released, including Muslim interfaith activists Zaw Zaw Latt and Pwint Phyu Latt. As at December 2018, there were 35 political prisoners serving sentences, 56 people detained awaiting trial for political activity, and another 236 people were awaiting trial for political activity outside of prison.

5.22 The International Committee of the Red Cross (ICRC) is permitted to undertake visits to prisons and labour camps, but it faces restrictions in Rakhine and Kachin States. ICRC's reports are shared with prison authorities on a confidential basis, and it is working with the government to improve prison conditions. The MNHRC also undertakes planned inspections of prisons and detention centres, including in northern Rakhine State, with government approval.

5.23 Local sources described the conditions in both prisons and labour camps as harsh, and include the extensive use of shackling. Overcrowding remains a problem in the prison system, and in 2017, the MNHRC reported that 30 prisons collectively had a capacity of 31,500 but detained over 50,000. The government reported that the Insein Central Prison, the largest in Myanmar, housed 12,000 prisoners as at June 2018, though its official capacity was 10,000 prisoners. Some prisons have a health ward with referral systems to state hospitals, but generally prisoners have poor access to medicine and health services. Corruption is reported to be prevalent in both prisons and labour camps, with inmates bribing guards to receive water, prison uniforms, and other necessities, or to be granted positions of authority to supervise other inmates. Legal representatives are typically able to gain access to their clients in prison, and families of inmates are able to visit, provided they can prove their relationship by showing authorities their household list, though local sources indicated that legal counsel and family visits were not permitted in northern Rakhine State.

5.24 A new prison law has been under parliamentary consideration since 2015. In March 2018, the UN Special Rapporteur on the situation of human rights in Myanmar expressed concern that the draft law did not meet international standards with regard to torture and other cruel, inhuman and degrading treatment and punishment, and lacked an independent oversight mechanism for prisons.

INTERNAL RELOCATION

5.25 Article 355 of the Constitution protects the right of citizens ‘to settle and reside in any place within the Union of Myanmar according to law’. Freedom of internal travel is generally permitted except for non-citizens and for civilians in conflict areas (see [Rohingya](#), Freedom of Movement and [Movements restrictions in Rakhine, Kachin and Shan States](#)). In 2016, the *Ward or Village Tract Administration Law (2012)* was amended so that the requirement for mandatory guest registration was applicable only to guests staying in a private residence for a month or more. The residents of states where with active conflicts typically face greater restrictions on their freedom of movement than in other regions.

5.26 According to the International Organization of Migration (IOM), in 2014 9.4 million people (20 per cent of the population) migrated internally, for a variety of reasons including accessing better economic, lifestyle and education opportunities. Seasonal migration routes for improved livelihood opportunities are well-established. The 2015 election and resulting economic changes have been a key driver of rural to urban migration. Some members of minority ethnic groups do not speak Burmese, which can make relocation to Burmese-speaking areas practically difficult and likely limits relocation options to areas with a common language. There are reports of IDPs in conflict-affected areas both voluntarily moving, or being forcibly moved, into IDP camps. Once residing in a camp, IDPs are typically limited by movement restrictions.

5.27 With the exception of Rohingya and civilians in conflict-affected areas, DFAT assesses that most people in Myanmar can typically relocate within Myanmar, subject to their individual financial circumstances.

Movements restrictions in Rakhine, Kachin and Shan States

5.28 Following the 2012 violence, formal restrictions on movement within Rakhine State have increased and expanded to include Kaman and other Muslims, in addition to the Rohingya population (see [Rohingya](#), Freedom of movement). Other ethnic and religious groups, including the majority ethnic Rakhine, largely enjoy freedom of movement, within their financial means. Ethnic Rakhine may limit their travel to Muslim villages, in part due to inter-communal tensions.

5.29 The UN Fact-Finding Mission reported a range of formal restrictions on movement in Kachin and Shan States, including checkpoints, documentation checks and curfews. It also reported self-imposed movement restrictions for fear of safety from fighting or landmines. Movement is reported to be most restricted for individuals holding identification documents issued by EAOs.

Household Registration Lists

5.30 Under the Ward or Village Tract Administration Law, Village and Ward Tract Administrators throughout Myanmar are required to compile and register births and deaths and move people to and from household lists. As such, households are required to report any changes, including relocations and marriages, to Township Administration Offices. The types of documentation and the amounts of money required for this process vary across different jurisdictions. For example, Amnesty International reported in 2017 that transferring individuals from one household list to another in Rakhine State required a copy of the existing household list, a marriage certificate, a copy of their identity card, and letter of recommendation from the ward or village authority. Households are also required to present a copy of their list to authorities upon request. Household lists are issued and updated by the Ministry of Immigration and Population and the Ministry of Home Affairs.

5.31 Household registration is required for the issuance of identity documentation, school enrolment (particularly at the secondary and higher levels), accessing services (including health, electricity and water), marriage and travel permission. Since the expiration of TRCs (see [Rohingya](#), Citizenship, and [National Identity Cards](#)) in 2015, household lists have been the only form of identification for many Rohingya.

5.32 In northern Rakhine, household lists were reported to be updated annually by the Committee for the Prevention of the Illegal Immigration of Foreigners (commonly known as *Ma Ka Pa*) and the BGP, as recently as 2018. Annual inspections are not conducted elsewhere in Myanmar. In 2017, Amnesty International reported cases of residents who were not present during the annual checks without travel permission being removed from their household lists. It also reported that people who return from abroad after being deleted from their household list risk arrest and conviction for immigration offences. Bribes are reported to be used to prevent deletions from household lists, however the costs are considered high by local standards. In central Rakhine, some household lists have reportedly not been updated since the 2012 violence. In 2017, Amnesty International described increased difficulties for Rohingya in adding births to household lists since 2016 (see [Rohingya](#), Citizenship, and [Birth and Death Certificates](#)).

5.33 If a person is found to be unregistered, the penalty is a maximum of seven days detention at the police station, during which time the person must prove they belong to a household and be registered on their household list by the head of the household. It is unclear what would happen if a person were not claimed by a household head, and DFAT does not have any information on how often or how consistently penalties for incorrect registration are applied. The UN Fact-Finding Mission concluded that most Rohingya who departed Myanmar following security operations are unlikely to have documentation proving former residency.

TREATMENT OF RETURNEES

Exit and Entry Procedures

5.34 There are three international airports in Yangon, Mandalay and Naypyidaw. Check-in and immigration procedures for Myanmar passport-holders are functionally similar to standard international practices. Airport staff review booking details and check the name in the passport against the name on the reservation. Customs and immigration staff vet baggage, and immigration staff check that the passport photograph matches the bearer and scan the passport. There is no integration of police and immigration identity systems.

5.35 Travel to or from Myanmar by land is restricted to a limited number of official border crossing points in Thailand, Laos, China and India. Border crossings can close with little or no notice, and entry restricted to the residents of the bordering states or the immediate area or border town. However, there are lengthy stretches of unmonitored border areas where unofficial land crossings occur. A stretch of land at the international border between Myanmar and Bangladesh known as 'no man's land' is considered part of Myanmar territory.

5.36 Irregular maritime movements from Rakhine State were reported following the August 2017 violence. In April and May 2018, inconsistent reports were provided to DFAT about five Rohingya who were registered in Aceh, Indonesia, following their departure by boat from Sittwe in February. The group initially reported that their boat was intercepted by the Myanmar Navy, who beat and killed seven crew and removed the boat's engine. The group later reported that the missing crew had left the boat in an attempt to swim to shore after the Navy had intercepted the boat, physically assaulted the adult men and removed the boat's engine. The Myanmar Navy denied intercepting the boat. During November 2018, Myanmar

authorities intercepted four boats within Myanmar waters, all of which had originated from Rakhine State and were bound for Malaysia or Indonesia. The passengers were predominately Rohingya from Sittwe, and in each case the passengers were detained, questioned and returned to their port of origin. DFAT understands that on several of these boats, passengers cited a desire to access employment and better health care as the primary drivers behind their departure. The passengers were not reported to have been charged with offenses under Myanmar legislation.

5.37 In February 2019, UNHCR reported a small increase in the number of people fleeing to Bangladesh, following clashes between the AA and the Tatmadaw. This included both ethnic Rakhine and ethnic Chin who had reportedly fled military action.

Conditions for Returnees

5.38 Myanmar's Ministry of Labour, Immigration and Population is responsible for conducting interviews of returnees, with the exception of Rohingya returnees who are managed by the Ministry of Social Welfare, Relief and Resettlement (see [Conditions for Rohingya Returnees](#)). DFAT is not aware of how often these interviews are conducted and what, if any, information is passed to government security agencies.

5.39 Refugees from Thailand (primarily Karen) who return to Myanmar via a formal assisted voluntary returns process undergo 'national verification', which can take up to a year, before being issued a CSC (see [National Identity Cards](#)) which allows them to exercise rights and access services in Myanmar. The Governments of Myanmar and Thailand, UNHCR and IOM have facilitated 164 formal voluntary returns of Myanmar refugees from Thailand since 2016, including 93 returns in May 2018. UNHCR, IOM and the World Food Programme provided these returnees with information on conditions in returns areas, counselling, financial support for transport (THB 1800/AUD 80 per person), reintegration (THB 5,400/AUD 230 per adult and THB 3,600/AUD 155 per child), rations (THB 2,100/AUD 90), and basic non-food items.

5.40 By contrast, it is estimated 9,000 to 18,000 refugees have returned from Thailand informally since the 2012 signing of the ceasefire agreement between the government and the KNU. Despite the guarantee of citizenship through the formal return process, DFAT assesses the majority of refugees from Thailand prefer to return informally due to range of factors, including a continued mistrust amongst camp populations of the Myanmar government, and the lengthy process of verification, which can lead to family separation. Camp conditions in Thailand, while restricted and poor, at present compare favourably with conditions in many areas of Myanmar, and DFAT assesses this is also likely preventing greater numbers of returns.

5.41 DFAT is aware of a small number of voluntary returnees entering Myanmar via international airports during 2017 and 2018, but has not received reports of questioning of or adverse treatment toward returnees by government officials following their return to Myanmar. Returnees to Myanmar who departed the country illegally are technically subject to up to five years imprisonment for having illegally crossed a border, and DFAT is aware of, but unable to verify, reports of this provision being enforced in recent years.

5.42 In the past, the government has sought to exercise control over the travel and residence of high-profile opposition figures. On 17 August 2011, then-President Thein Sein announced that Myanmar would welcome the return of exiles who had fled the country during military rule. Former political prisoners and exiled activists are now typically able to return safely to Myanmar, however some have experienced delays from authorities when attempting to renew visas and residency permits.

Conditions for Rohingya Returnees

5.43 The governments of Myanmar and Bangladesh signed the 'Agreement of Return of Displaced Persons from Rakhine State' in November 2017. According to the agreement, Myanmar will receive former residents of Rakhine State who left for Bangladesh after the violent attacks of October 2016 and August 2017, if they can prove their former residency of Rakhine State. Myanmar and Bangladesh agreed to commence the repatriation of displaced Rohingya in January 2018 and to complete the process within two years. While the Myanmar government has formally committed to repatriating the Rohingya, there has been widespread international criticism of actions taken to date, with an almost exclusive focus on physical infrastructure for returnees and no clear plans for establishing security, providing information to potential returnees, or addressing inter-communal relations.

5.44 The government has announced that Rohingya who qualify for repatriation will be temporarily housed in one of two 'reception centres', which are reported to be secured by BGP officers and Tatmadaw soldiers. At the reception centres, returnees will reportedly undergo security checks, including body searches for weapons, and be registered and checked against township records. Returnees will have biometric information (fingerprints, retina scan and photo) taken and then be entered into an electronic identification system. Temporary identity cards will be issued. At the time of publication, the repatriation procedures require Rohingya returnees to undergo the citizenship verification process and accept NVCs (see [Rohingya](#), [Citizenship](#), and [National Identity Cards](#)). Health checks, involving a physical examination and checks for contagious diseases will also be undertaken. Returnees will stay at the reception centres for up to two nights, before being transferred to the longer-term transit camp. Returnees will then be relocated to one of 11 designated settlement areas, and required to build their own housing in the undeveloped areas through a government 'cash for work' program. DFAT understands that government infrastructure development, including the building of the centres, and some roads and houses, has mostly been led by the Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine.

5.45 According to Human Rights Watch, between December 2017 and February 2018, heavy machinery was used to level all remaining structures and vegetation in at least 55 villages in northern Rakhine State. Human Rights Watch reported in February 2018 that most destruction was in the 362 villages that were partially or fully burned following the August 2017 attacks, however two villages were intact in January 2018, prior to being bulldozed. Nearby Buddhist villages reportedly remained intact. The UN Fact-Finding Mission reported that authorities are appropriating vacant land and constructing houses for other ethnic groups, as well as for new infrastructure projects, including roads and mines. The government's position that villages are being bulldozed to improve land and housing for returnees is undermined by the land being re-purposed for security installations. In some areas in northern Rakhine, ethnic Rakhine and Buddhists from other parts of the state are being encouraged, including by ethnic Rakhine activists, to migrate and settle in a deliberate effort to change the demographic make-up of the area and resist Muslim returns. According to local media, 40 Buddhist households (approximately 100 people) migrated to Maungdaw from southern Rakhine State in early 2018, where they stayed in a monastery for some time. Reportedly, they did not have government permission to settle in this location, and the local authorities subsequently relocated them to an area near to Inn Din village, southern Maungdaw. However, the government has tolerated Buddhist repopulation in some parts of northern Rakhine. The Rakhine State parliament (controlled by an ethnic Rakhine party) passed a motion opposing the resettlement of Rohingya in southern Maungdaw, citing public demand.

5.46 In June 2018, the government signed a Memorandum of Understanding on repatriation with UNHCR and the UNDP, but implementation has been extremely slow. In September 2018, UNDP and UNHCR made initial field assessments in 23 villages and three village tracts of Rakhine State to inform the repatriation process, but to date UNHCR and UNDP have received only partial access to northern Rakhine State. OCHA, UNHCR and ICRC all made public statements in 2018 that the conditions in northern Rakhine State are

insufficient for the voluntary, safe, dignified and sustainable return of the Rohingya to Myanmar. Freedom of movement, citizenship rights and recognition as ‘Rohingya’, and access to their own land and livelihood opportunities are priorities for potential returnees from Bangladesh, but DFAT assesses none of these conditions will be met under the current return arrangements. At the time of publication, the repatriation process had not commenced.

5.47 In July 2018, the UN High Commissioner for Human Rights on Myanmar reported that some voluntary informal Rohingya returnees from Bangladesh had been detained upon return to Myanmar, and convicted on unspecified charges. In August 2018, Human Rights Watch reported that BGP officers in Maungdaw Township, Rakhine State, imprisoned and tortured six Rohingya voluntary returnees from Bangladesh in separate incidents. According to the report, officers used stress positions, beatings with fists, sticks, and rods, burning and electric shock, and food and water restrictions during pre-trial detention to force a confession of affiliation with ARSA. Plain clothed military intelligence officers were also reported to beat, punch and kick the returnees during interrogations. The returnees reported that they had no access to legal counsel, and court proceedings were undertaken in Burmese, of which they had limited understanding. The six returnees were sentenced to four years imprisonment for illegally crossing the border, but only served a month of the sentence before receiving a presidential pardon.

5.48 A press release issued by the State Counsellor in May 2018 outlined that 58 returnees from Bangladesh (which included the six Rohingya interviewed by Human Rights Watch) would be pardoned and processed in accordance with the agreement between the governments of Myanmar and Bangladesh. It reported that following their transfer to a reception centre and identity verification, the group would be relocated to a transit camp. Four more Rohingya were reportedly later added to this group, taking the total number of returnees in this group to 62. According to Human Rights Watch, the group were forced to accept the NVC provided to them, and were threatened with re-arrest if they attempted to leave the BGP compound where they were held before being transferred to a transit camp. Two groups of Rohingya, including the six interviewed returnees, reportedly fled back to Bangladesh due to fear of re-arrest and torture. The State Counsellor’s press release specified that the arrangement for the returnees only pertained to those not involved in terrorism. DFAT was told by credible sources that 77 Rohingya returnees had been arrested, and surmises that some returnees remained in detention following the pardon, but is unable to verify this.

5.49 In October 2018, media and rights groups reported the return of seven Rohingya from India back to Myanmar. DFAT understands from credible sources that at least five members of the group were not deported but returned willingly to their village of origin (location unknown), but is unable to verify if this was with informed consent.

5.50 In November 2018, Myanmar and Bangladesh announced an agreement to commence the repatriation process, but the 2,000 initial refugees identified for return were found to be unwilling when interviewed by UNHCR.

5.51 DFAT is not aware of any credible reports of mistreatment of failed Rohingya asylum seekers stemming specifically from their pursuits for asylum overseas.

DOCUMENTATION

5.52 The Citizenship Law provides for full, associate and naturalised categories of citizenship. Full citizenship is only available to people belonging to one of the officially recognised “national races”, or people belonging to ethnic groups that are considered to have settled in the country prior to 1823. Associate citizenship is available to people who had applied for citizenship before the Citizenship Law came in to effect, while naturalised citizenship is only available to people with “conclusive evidence” that they or their parents

entered or resided in Myanmar prior to 1948, or were born to at least one parent who holds some form of Myanmar citizenship.

5.53 There are variations of rights between these categories, and associate and naturalised citizens are not able to access the same rights as full citizens, including with regard to political participation, education, health, freedom of movement and property ownership. All citizens above the age of 18 in Myanmar are eligible to vote, but only full citizens whose parents were both also full citizens are eligible to stand for election. Enrolment in some university degrees, including medicine, law and engineering, is also restricted to full citizens. The government can revoke ‘in the interests of the State’ the citizenship, associate citizenship or naturalised citizenship of any person except those who are citizens by birth.

5.54 Transparency International reported in 2017 that 40 per cent of Myanmar people who had applied for identity documentation had paid a bribe for the service.

Birth and Death Certificates

5.55 The Ward or Village Tract Administration Law requires all births and deaths to be registered with ward or village tract administrators. The punishment for non-compliance is a maximum seven days imprisonment or MMK 5000 (approximately AUD 5).

5.56 Birth certificates provide citizens with access to social, education and health services. Citizens without birth certificates may be denied higher education and job opportunities. In 2014 and 2015, the government conducted nationwide campaigns to raise awareness about the procedures of birth registration, and in 2017, less than 20 per cent of children below the age of five were reported to be unregistered. While most children in urban areas are registered, few children in remote areas have a birth certificate. Children in Rakhine State are most likely to be unregistered, and local sources reported to DFAT that Rohingya face difficulties in obtaining birth certificates (see [Rohingya](#), Other restrictions on Rohingya in Rakhine State).

5.57 Myanmar’s first online birth and death registration system, managed by the Ministry of Planning and Finance, was launched in Mon State in August 2018. This pilot system allows all Township Medical Officers across Mon State to register and issue birth and death certificates using a digital mobile recording system. Deaths are reported to be underregistered, particularly in rural areas with limited access to health services.

National Identity Cards

5.58 Since Myanmar’s independence, several different identity cards have been issued under different laws:

- NRC: Often referred to as the ‘three-folding card’, NRCs were issued under the Residents of Burma Registration Act. NRCs do not include ethnicity or religion information. In 2017, the government launched a pilot project to replace paper-based NRCs with an electronic card in Naypyidaw, Mandalay and Yangon regions, and Rakhine State.
- TRC: Known as the ‘white card’, the TRC was intended as a temporary replacement for people whose NRC was lost or damaged. However, from 1995 Myanmar authorities began issuing TRCs to Rohingya and other minorities not officially recognised in the eight national races of the Citizenship Law, while their citizenship status was determined. TRCs were revoked in 2015, and replaced with a Temporary Approval Card (‘white card receipt’).
- CSC: Introduced under the Citizenship Law, CSCs were issued in accordance with the three categories of citizenship: full (‘pink card’), associate (‘green card’) and naturalised (‘blue

card'). CSCs include ethnicity and religion information. Only small numbers of CSCs have been issued to Rohingya.

- NVCs: Previously known as ICNVs, NVCs ('turquoise card') have been issued since 2016 to people undergoing citizenship verification, but are not considered an identity document or proof of citizenship. The NVC does not include ethnicity or religion information. UNHCR have reported that although many Hindus are eligible for naturalised CSCs, they often do not have a form of documentation, and those who are documented are required by the government to obtain a NVC. Biometric data has been collected with the issuance of NVCs since October 2017. NVCs have been issued in Rakhine State by the Immigration and National Registration Department, accompanied by security forces. This has largely been implemented through a door-to-door process, as many Muslims remain reluctant to approach authorities directly and apply for the card. Many Rohingya continue to be unwilling to engage in the NVC process, due to a deep distrust of the government. DFAT is aware of reports of individuals who did not voluntarily participate in the process being issued NVCs (see [Rohingya](#), Citizenship).

Passports

5.59 Myanmar introduced machine-readable passports in 2010. The government is currently working to introduce an e-passport system, which would include biometric information to help verify the identity of the traveller. Hand-written passports were issued prior to 2010 and are still considered valid if they have not yet expired.

5.60 Until 2014, there were two passport-issuing centres, located in Yangon and Mandalay. In January 2014 the government opened a further 15 passport issuing centres across the country, and there are now passport offices in every state and region. In order to obtain a passport, Myanmar citizens need to present their CSC, parent's CSC and household registration, and fill out an additional application at the issuing centre. The applicant needs to attend the office in person, where they have an official photo taken. Offices usually specify 10-15 working days for processing, however timeframes vary depending on the office. For example, DFAT was informed in 2018 that Chin passport applicants at the Hakha office commonly wait up to two months for passports to be issued. Bribes are also reported to be required for, and to expedite, passport processing (see [Prevalence of Fraud](#)).

PREVALENCE OF FRAUD

5.61 Document fraud is highly prevalent in Myanmar. Fraud can take the form of fake documentation, or genuine documentation provided on the basis of fraudulent information. The prevalence of corruption in Myanmar means that fake identity documentation can be purchased with relative ease, and identity feeder documents including birth, marriage and divorce certificates; household registration lists; and NRCs, CSCs and NVCs, are all subject to significant fraud. While passports have more sophisticated security features, it is possible to obtain a genuine passport using a fake national identity card.

5.62 DFAT is aware of reports of citizens of Myanmar and Bangladesh disposing of their identity documentation to obfuscate their identity and fraudulently apply for protection. DFAT does not have any information about the treatment by authorities of those determined to have fraudulent documents.