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Half Empty: Burma's political parties and their human rights commitments

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1. FOREWORD



By Tomás Ojea Quintana, former UN Special Rapporteur on the situation of human rights in Myanmar

When, in 2011, I had the opportunity to be the first foreigner to visit the new Parliament in Myanmar, I was able to perceive the caution and fear of the representatives of the political parties not associated with the government. When exchanging ideas, their silence was revealing. Decades of military rule and systematic human rights abuses, where freedom of expression was punished with prison and torture, were not easily forgotten.

Some years have gone by and, in spite of the shortcomings, the political transition in Myanmar now offers a unique opportunity for civil society organizations and, more so, for political parties that represent different social, ethnic, and regional interests, to become real participants in the construction of their country and define the political and economic course.

It is time to preserve and promote the human rights agenda, which is key for transition. Political parties have a fundamental role to play, because once elected, they will have not only the responsibility to control the government against abuses, but also their own obligation to respect and promote human rights.

For this, the political parties should deepen their knowledge of and commitment to human rights, which is why the survey developed by the International Federation for Human Rights (FIDH) is not only a fitting project, but also very timely.

Already some data is revealing. First, 58% of the respondents share the idea of establishing a truth and reconciliation commission to address the issue of accountability for past crimes committed by state-actors. This tendency indicates that to address the role of the military in government, it is first necessary to deal with crimes from the past. Another result is symptomatic: when asked how to address discrimination against Muslim Rohingya, 42% preferred not to respond.

Ultimately, the results of the survey will provide invaluable information for all stakeholders working on human rights issues in Myanmar. This report will be useful in testing the commitments of the political parties after the election, and also to keep the human rights agenda alive.

2. EXECUTIVE SUMMARY

On 8 November 2015, Burma's electorate will vote for the representatives who will sit in Parliament from 2016 to 2021. The polls are anticipated to usher in a Parliament that will be markedly different from the body that was installed as a result of the November 2010 election and the April 2012 by-elections. This will be due to the significant number of seats that the National League for Democracy (NLD), the party led by Daw Aung San Suu Kyi, is expected to win.

The November 2010 election was tainted by a flawed legal framework, a lack of inclusiveness, widespread corruption, irregularities, and voter fraud, and was boycotted by the NLD.¹ As expected, the military-backed Union Solidarity and Development Party

¹. ALTSEAN-Burma, *Burma Issues & Concerns Vol. 6: The generals' election*, January 2011

(USDP) overwhelmingly won the polls. Dominated by the USDP and military-appointed members of Parliament (MPs), Parliament failed to amend or repeal many of Burma's oppressive laws and blocked key constitutional amendments. In many cases, newly enacted legislation contained provisions that ran counter to international human rights standards. Other new laws prioritized political and economic interests over human rights. In addition, MPs rejected numerous proposals aimed at addressing important human rights issues.

The likelihood that the next Parliament's make-up will be substantially different from the current one does not necessarily mean that lawmakers will be more effective in addressing key human rights issues.

This report, based on a survey of the human rights commitments of Burma's political parties, found that parties generally favored actions aimed at tackling critical issues that have a negative impact on human rights. However, in several of those instances, the report shows that parties failed to identify and prioritize the specific measures that would address key human rights concerns in a direct and effective way. This was particularly true in the areas of legislative reform, ethnic minority rights, and women's rights, where political considerations seemed to take precedence over human rights concerns.

The report's findings also reflect the disturbing situation regarding religious intolerance in Burma. Forty-two percent of the political parties refused to make any commitments on ways to address discrimination against Muslim Rohingya. More troubling was the fact that several parties aligned themselves with the government's official position that denies the existence of Rohingya as one of Burma's ethnic groups. In the final analysis, the alarming result was that almost three quarters of the political parties refused to support the amendment of the 1982 Citizenship Law to give Muslim Rohingya equal access to citizenship rights. In addition, responses in favor of the repeal of recently enacted legislation, misleadingly labeled 'Race and Religion Protection Laws,' garnered little support among the political parties.

The report provides numerous recommendations to MPs, based on statements and reports issued by various UN special procedures as well as resolutions adopted by the UN Human Rights Council (UNHRC) and the UN General Assembly (UNGA). These recommendations provide a clear agenda for parliamentary action to deal with important human rights issues that, if left unaddressed by the newly elected MPs, risk seriously undermining the country's reform process.

3. METHODOLOGY

The survey's findings are based on the responses provided between 20 August and 27 September 2015 by 19 of the 91 political parties that will run in the 8 November election [See *Appendix 2: Political parties contesting the 8 November election*]. The 19 political parties that participated in the survey are representative of Burma's eight main ethnic groups and are based in 10 of the country's 14 states and divisions.

The survey is based on a questionnaire that contained 13 questions on a broad range of human rights issues [See *Appendix 1: Survey's complete results*]. For each question, the questionnaire gave a brief explanation for most of the options provided as possible responses. A space was also left for political parties to include additional comments. The questionnaire allowed political parties to select multiple answers for each question.

All of the political parties contacted were informed of the purpose of the survey and the ways in which the information would be used.

BURMA'S POLITICAL PARTIES AND THEIR HUMAN RIGHTS COMMITMENTS

19 political parties answered our questions about their human rights commitments

POSITIVE TRENDS



ACCOUNTABILITY FOR PAST CRIMES

58%

58% would establish a truth and reconciliation commission



DEATH PENALTY

53%

More than 53% would abolish the death penalty



MEDIA FREEDOM

58%

58% would amend or repeal the 2014 Printing and Publishing Law (law restricting freedom of expression)



HALF
EMPTY

NEGATIVE TRENDS



ROLE OF THE MILITARY

21%

Only 21% of the political parties would significantly reduce the budget allocated to the military



ROHINGYA AND RELIGIOUS INTOLERANCE

42%

42% refused to respond to the question on how political parties would address discrimination against Muslim Rohingya

74%

74% would not amend the 1982 Citizenship Law to ensure Muslim Rohingya have equal access to citizenship rights

Which of the following measures does your political party think the next government should take as a matter of priority?



4. OUTGOING PARLIAMENT DISAPPOINTS ON HUMAN RIGHTS

The outgoing MPs, who were elected in the November 2010 general election and the April 2012 by-elections, have been conspicuous for their unwillingness to exercise legislative power to address key human rights issues.

Since convening in January 2011, Parliament, dominated by USDP and military-appointed MPs, has failed to amend or repeal many oppressive laws that are inconsistent with international human rights standards. Of the 16 laws identified by the former UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana as not in line with international standards, Parliament has only repealed three: the 1934 Wireless Telegraphy Act; the 1962 Printers and Publishers Registration Act; and the 1988 Law Relating to Forming of Organizations [See *Box 1: Laws identified as not in line with international standards*].²

Box 1: Laws identified as not in line with international standards

Still in effect

1. 1908 Unlawful Association Act
2. 1923 State Secrets Act
3. 1950 Emergency Provisions Act
4. 1975 State Protection Law
5. 1982 Citizenship Law
6. 1985 Television and Video Law
7. 1996 Computer Science Development Law
8. 1996 Motion Picture Law
9. 2004 Electronic Transactions Law
10. 2011 Peaceful Gathering and Demonstration Law
11. Criminal Code Articles 143, 145, 152, 295(a), 505, and 505(b)
12. Criminal Procedure Code

Repealed

13. 1934 Wireless Telegraphy Act
14. 1962 Printers and Publishers Registration Act
15. 1988 Law Relating to Forming of Organizations
16. Law 5/1996³

Source: FIDH

2. The 16 laws identified by the former UN Special Rapporteur on the situation of human rights in Burma Tomás Ojea Quintana as not in line with international standards: the Unlawful Association Act (1908); the State Secrets Act (1923); the Wireless Telegraphy Act (1934); the Emergency Provisions Act (1950); the Printers and Publishers Registration Act (1962); the State Protection Act (1975); the Citizenship Law (1982); the Law Relating to Forming of Organizations (1988); the Television and Video Law (1985); the Computer Science Development Law (1996); the Motion Picture Law (1996); Law 5/1996; the Electronic Transactions Law (2004); the Peaceful Gathering and Demonstration Law (2011); Criminal Code Articles 143, 145, 152, 295(a), 505, and 505(b); and the Criminal Procedure Code. Law 5/1996 was repealed by President Thein Sein's executive order on 16 January 2013.

3. Repealed by President Thein Sein's executive order on 16 January 2013.

In addition, MPs rejected numerous proposals aimed at addressing important human rights issues and repealing outdated repressive legislation. On 25 August 2011, National Democratic Force (NDF) MP Thein Nyunt introduced a proposal aimed at drafting a Prisons Act that would “guarantee human dignity.” However, the Lower House rejected the proposal four days later.⁴ On 30 August 2011, the Lower House overwhelmingly rejected – by a vote of 336 to eight, with 41 abstentions – a proposal introduced by NDF MP Thein Nyunt to repeal the 1950 Emergency Provisions Act.⁵ On 6 November 2012, the Upper House shelved a proposal to amend the 1982 Citizenship Law introduced by USDP MP Tin Mya, following objections from several MPs.⁶ On 25 September 2014, the Lower House rejected a proposal made by New National Democracy Party (NNDP) MP Thein Nyunt to repeal the 1923 State Secrets Act.⁷

Parliament also blocked key constitutional amendments. Amendments to the Constitution require a vote by more than 75% of the total number of MPs. On 25 June 2015, military-appointed MPs, who hold 25% of the seats in Parliament, played a crucial role in the body’s rejection of important proposed amendments to four articles of the Constitution [See *Table 1: Amendments to articles of the Constitution rejected by MPs on 25 June 2015*].⁸ On 8 July 2015, amendments to 21 more articles of the Constitution failed to garner enough favorable votes for their amendment.⁹ They included the amendment of Article 261, which outlines provisions for the appointment of chief ministers of states and divisions by the President. The amendment of Article 261 was strongly supported by ethnic minority MPs.

4. New Light of Myanmar, *Fourth-day second regular session of First Pyithu Hluttaw takes place - Questioning, replying, discussing and submitting prop.*, 26 August 2011; New Light of Myanmar, *First Pyithu Hluttaw second regular session goes on for sixth day - Questions raised and answered, proposals and bills submitted for approval*, 30 August 2011; Myanmar Times, *Government to submit new jail law: minister*, 5 September 2011

5. New Light of Myanmar, *First Pyithu Hluttaw second regular session goes on for seventh day - Questions raised and answers, proposals and bills submitted for approval*, 31 August 2011; Democratic Voice of Burma (DVB), *Parliament rejects reform of emergency act*, 31 August 2011

6. New Light of Myanmar, *Proposal to revoke Myanmar Citizenship Law - 1882 put on record*, 7 November 2012; Eleven Media Group, *MPs block amendments to 1982 Citizenship Law*, 7 November 2012

7. New Light of Myanmar, *Priority given to upgrading bridges on Taunggyi-Kengtung road: Deputy Minister*, 26 September 2014; Mizzima News, *MPs stay quiet on Official Secret Act debate*, 26 September 2014; Thein Nyunt was elected in 2010 with the NDF but formed the NNDP in 2011.

8. BBC, *Myanmar parliament votes to keep military veto*, 25 June 2015

9. Irrawaddy, *Charter Push for Decentralization, Stronger Parliament Falter*, 9 July 2015

Table 1: Amendments to articles of the Constitution rejected by MPs on 25 June 2015

Article 59(f)	Stipulates that the President, his/her parents, spouse, or children cannot be foreign nationals.	371 YES (58.61%) 212 NO (33.49%) 50 Abstentions (8%)
Article 60(c)	Outlines the provisions for the election of the Vice-Presidents.	386 YES (60.98%) 197 NO (31.12%) 50 Abstentions (8%)
Article 418(b)	States that all those assigned duties by the Parliament, with the exception of the President and Vice-Presidents, are removed from these duties in the event of a state of emergency.	386 YES (60.98%) 197 NO (31.12%) 50 Abstentions (8%)
Article 436(a)	Requires more than 75% of votes in Parliament and 50% of votes in a national referendum to amend specific articles in Chapters I-VI and XI-XII of the Constitution.	388 YES (61.31%) 195 NO (30.81%) 50 Abstentions (8%)
Article 436(b)	Requires more than 75% of votes in Parliament to amend articles not listed in Article 436(a) of the Constitution.	388 YES (61.31%) 195 NO (30.81%) 50 Abstentions (8%)

Source: *Global New Light of Myanmar*

In addition, newly enacted legislation has provisions that run counter to international human rights standards concerning the right to freedom of opinion and expression, the right to freedom of peaceful assembly, and the right to freedom of association. These laws include: the 2011 Peaceful Gathering and Demonstration Law; the 2013 Telecommunications Law; the 2014 Printing and Publishing Law; and the 2014 Media Law.

The four so-called ‘Race and Religion Protection Laws,’ adopted by Parliament between April and August 2015, are also contrary to international human rights standards related to freedom of religion or belief, non-discrimination, and women’s rights [See *Table 2: ‘Race and Religion Protection Laws’*]. These laws discriminate against Muslim Rohingya and other religious minorities, and infringe on a woman’s right to marry outside her religion and impose limits on the frequency of her pregnancies. The drafting of the four laws, spearheaded and heavily lobbied by the extremist Buddhist organization ‘Association for the Protection of Race and Religion’ (*MaBaTha*), was backed by President Thein Sein.

Table 2: 'Race and Religion Protection Laws'		Approved by Parliament
		Signed into law by President Thein Sein
Population Control Healthcare Law	The Population Control Healthcare Law allows the government to designate areas, based on socio-economic indicators, in which they can impose restrictions on "birth spacing" for women, requiring a 36-month interval between pregnancies. Designation criteria, enforcement, and punishment for those who violate the law have not been specified.	6 April 2015
		19 May 2015
Religious Conversion Law	The Religious Conversion Law requires anyone wishing to convert to another religion to file an application to a state-governed body. Anyone found guilty of violating provisions of the law could face six months to two years in prison.	21 August 2015
		26 August 2015
Monogamy Law	The Monogamy Law criminalizes extra-marital relations for a man or woman who remarries or lives "unofficially" with another person before an existing union is dissolved. Punishments include a seven-year prison sentence and a fine under Article 494 of the Criminal Code.	21 August 2015
		31 August 2015
Interfaith Marriage Law	The Interfaith Marriage Law requires Buddhist women and men of other faiths who wish to marry to apply for permission from local authorities. Violators of the law could face prison terms and/or fines. The final version of the law is yet to be made public.	24 August 2015
		26 August 2015

Source: FIDH

Other new laws have prioritized political and economic interests over human rights. In 2012, Parliament passed the Foreign Investment Law, the Farmland Law, and the Vacant, Fallow and Virgin Lands Management Law. All were drafted and adopted without adequate and prior consultation with relevant stakeholders and failed to provide effective safeguards against violations of economic, social, and cultural rights.

Parliament also endorsed steady increases in military spending. This has allowed the *Tatmadaw* [Burma's Armed Forces], Southeast Asia's second largest military after Vietnam, to acquire more military hardware and to continue to deploy troops for military operations in ethnic minority areas. The escalation in military offensives in many ethnic areas has resulted in increased attacks against civilians and serious human rights violations. Beginning in 2011, Parliament passed five National Budget Bills that increased military spending each year. The 1.19 trillion kyat military budget in the 2011-12 Fiscal Year (FY) increased to 2.75 trillion kyat in the 2015-16 FY – a 131% increase [See *Table 3: Military spending from 2011-12 FY to 2015-16 FY*].

Table 3: Military spending from 2011-12 FY to 2015-16 FY (figures are in kyat)

	2011-12	2012-13	2013-14	2014-15	2015-16	% increase 2011-15
Total expenditure	7.6 trillion	13 trillion	16.7 trillion	19.29 trillion	20.6 trillion	+171%
% increase from previous year	N/A	+71%	+28%	+15.5%	+6.8%	
Military expenditure	1.19 trillion	1.88 trillion	2.24 trillion	2.61 trillion	2.75 trillion	+131%
% of the budget	16%	14%	13.4%	13.5%	13.4%	
% increase from previous year	N/A	+58%	+19%	+16.5%	+5.4%	

Source: FIDH

5. SURVEY FINDINGS: HUMAN RIGHTS PRIORITIES NEGLECTED

The survey provides an overview of the position of Burma's political parties on important human rights issues. It was designed to create awareness of significant human rights issues and encourage political parties to opt for specific, actionable, and measurable commitments to resolve them.

The survey found that political parties generally favored actions aimed at tackling critical issues that have a negative impact on human rights. However, in several of those instances, parties failed to identify and prioritize the specific measures that would address key human rights concerns in a direct and effective way. This was particularly true in the areas of legislative reform, ethnic minority rights, and women's rights, where political considerations appeared to take precedence over human rights concerns.

The survey's findings also reflect the disturbing situation regarding religious intolerance in Burma. A significant number of the political parties refused to make any commitments on ways to address discrimination against Muslim Rohingya. In addition, responses in favor of the repeal of recently enacted legislation, misleadingly labeled 'Race and Religion Protection Laws,' garnered little support among the political parties.

Below is an analysis of noticeable patterns that emerged from the political parties' responses to the survey. The information has been organized by selected human rights issues. Percentages refer to the responses given by political parties to the question mentioned in each sub-heading, unless otherwise specified.

5.1 - Media freedom (Question #1)



© AFP PHOTO / Ye Aung Thu
Newspapers with a black front page (L) are displayed at a stall in Rangoon on April 11, 2014, after the conviction of a Democratic Voice of Burma journalist on charges of trespassing and “disturbing a civil servant”.

Almost 58% of the political parties selected the amendment or repeal of the 2014 Printing and Publishing Law as a step to improve media freedom.

The Printing and Publishing Law requires all print media to register through the Ministry of Information and authorizes the Ministry of Information to revoke publishing licenses and ban the publication of material that insults religion, undermines the rule of law, or harms ethnic unity. During the former military regime, authorities used similar and overly broad clauses to prosecute journalists. Since its enactment, the Printing and Publishing Law has rarely been used to restrict press freedom. However, the content of the law is still problematic and authorities can use it anytime to impose restrictions on publications. In September and October 2014, authorities ordered four Chin newspapers to cease operations because they had not received official registration.

Only 26% of the political parties wanted to abolish criminal defamation (Articles 500 and 501 of the Criminal Code) and just 21% planned to repeal the 1923 State Secrets Act. In July 2014, five media workers from the *Unity* weekly news journal were sentenced to 10 years in prison each under the State Secrets Act.



© AFP PHOTO / Soe Than Win
Internally displaced man (C) wears a t-shirt with “Rohingya” written on it during a census at an internally displaced camp at Theechaung Village, Arakan State, on April 1, 2014.

5.2 - Religious discrimination (Question #2)

Question #2, related to the ways in which political parties would address discrimination against Muslim Rohingya, was arguably the most controversial part of the entire survey. Forty-two percent of the parties refused to respond, with several aligning themselves with the government’s official position to deny the existence of Rohingya as one of Burma’s ethnic groups. As a result, almost three quarters of the political parties did not support the amendment of the 1982 Citizenship Law to give Muslim Rohingya equal access to citizenship rights. This finding is consistent with the outgoing Parliament’s rejection of a proposal to amend the Citizenship Law in November 2012 [See above *Outgoing Parliament disappoints on human rights*].

In addition, the analysis of the responses to several questions that involved the so-called ‘Race and Religion Protection Laws’ showed that political parties expressed little support for the repeal of the blatantly discriminatory legislation.¹⁰ Under Question #2, the repeal of the 2015 Population Control Healthcare Law ranked last – with support from only 5% of the political parties – among the measures that parties could choose to address discrimination against Muslim Rohingya. Under Question #5, the 2015 Interfaith

10. When the questionnaire was distributed among the political parties, the Religious Conversion Bill and the Monogamy Bill had not yet been approved by Parliament.

Marriage Law ranked second-to-last among the laws that political parties could opt to amend or repeal. Under Question #6, the repeal of the Interfaith Marriage Law was the political parties' least-preferred option to strengthen the protection and promotion of women's rights.

Finally, responses to Question #13, which asked political parties what issue they thought the next government should address as a matter of priority, confirmed the troubling situation regarding religious intolerance in Burma. Only 21% of the political parties believed that addressing acts of discrimination and intolerance against religious minorities should be a priority for the next government.

5.3 - Role of the military (Question #3)

No constitutional amendment to reduce the role of the military in Burma's civilian affairs received consideration by a majority of the political parties. More than 47% of the political parties wanted to amend Article 20 of the Constitution in order to bring the military under civilian control. Almost 37% favored amendments to the Constitution to reduce or eliminate the 25% parliamentary quota for military-appointed MPs. About 26% favored amending Article 232 of the Constitution to make civilians eligible for the positions of ministers of Defense, Home Affairs, and Border Affairs.



© AFP PHOTO / Ye Aung Thu
Military-appointed MPs sign registration book at Parliament in Naypyidaw on August 25, 2015.

Most political parties did not consider reversing the trend that has seen Parliament adopt five consecutive national budgets that have steadily increased military spending a priority [See above *Outgoing Parliament disappoints on human rights*]. Only 21% of the political parties backed parliamentary action to significantly reduce the budget allocated to the military.

5.4 - Accountability for past crimes (Question #4)

The majority of the political parties (almost 58%) were in favor of establishing a truth and reconciliation commission to address the issue of accountability for past crimes committed by state-actors during successive military regimes. On various occasions, former UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana "encouraged" Parliament to establish a "truth commission" as a step towards ensuring truth, justice, and accountability for past crimes.¹¹

Less than 16% said they would support the formation of a parliamentary Commission of Inquiry. However, support for the establishment of such a body increased considerably with regard to investigations into allegations of rape and sexual violence committed by military personnel against ethnic minority women and girls. Responses to Question #6, related to the measures that would strengthen the protection and promotion of women's rights, showed that more than 52% of the political parties supported the establishment of a parliamentary Commission of Inquiry to probe such allegations.

11. UN General Assembly – 68th session, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, 23 September 2013, UN Doc. A/68/397; UN Human Rights Council - 25th session, *Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana*, 12 March 2014, UN Doc. A/HRC/25/64

5.5 - Legislative reform (Question #5)

The 2015 National Education Law was the piece of legislation that the majority of political parties (more than 52%) wanted to change as a matter of priority.

The amendment or repeal of laws that authorities have frequently used to arbitrarily arrest and imprison activists and human rights defenders garnered tepid support among the political parties. Forty-two percent of the political parties said they would amend or repeal the 2011 Peaceful Gathering and Demonstration Law and the 1908 Unlawful Association Act. Twenty-one percent of the political parties opted to amend or repeal Article 505(b) of the Criminal Code (disturbing public tranquility).

Only 26% of the political parties favored the amendment or repeal of the 2015 Interfaith Marriage Law.

5.6 - Women's rights (Question #6)

The majority of the political parties (more than 52%) supported the protection of women's rights through the establishment of a parliamentary committee to investigate allegations of rape and sexual violence committed by military personnel against ethnic minority women and girls.

In addition, a significant share of the political parties (more than 47%) wanted to introduce and adopt legislation on the prevention of violence against women, including domestic violence, with a provision that criminalizes marital rape. Only 26% wanted to repeal the 2015 Interfaith Marriage Law.

Almost 58% of the political parties also expressed their commitment to adopt a quota for female candidates to run in parliamentary elections as a way to strengthen the protection and promotion of women's rights. Regrettably, this pledge does not seem to be reflected in practice. The number of women fielded as candidates in the upcoming 8 November election is a mere 13% of the total (791 of the 6,074 candidates) – well below the 30% voluntary quota that many political parties across the world have introduced.¹² In Burma, women currently occupy only 4.7% of the parliamentary seats at the national level. In contrast, the world average is 22.5%.¹³

5.7 - Death penalty (Question #7)

More than 52% of the political parties said they would introduce or vote in favor of legislation that abolishes the death penalty. Almost 37% would oppose such a move, and about 10% did not answer.

Over the past four years, the abolition of the death penalty has been notably absent from the parliamentary debate. In a rare mention of capital punishment, on 21 October 2013, Parliament's Lower House rejected, by a vote of 330 to 19, a proposal introduced by NNDP MP Thein Nyunt to amend the 1993 Child Law and prescribe the death penalty for child rape.

12. Myanmar Now, *Despite record numbers, women candidates still face hurdles in Myanmar's male-heavy election*, 1 October 2015; Institute for Democracy and Electoral Assistance (IDEA), *Voluntary Political Party Quotas*, available at: <http://www.quotaproject.org/systemParty.cfm>

13. Inter-Parliamentary Union (IPU), *Women in National Parliaments - Situation as of 1st September 2015*, available at: <http://www.ipu.org/wmn-e/classif.htm>

Box 2: Death penalty in Burma - Quick facts

Country status: *De facto abolitionist*

Year of last execution: 1988

Death penalty for drug-related offenses: Yes

Number of reported death sentences since January 2011: 67

Number of death row inmates: 17

Official moratorium on executions: No

Vote on the latest UNGA resolution on a moratorium on the death penalty (2014):
Abstained

Source: FIDH

5.8 - Ethnic minority rights (Question #8)

With regard to the ways in which the political parties would promote the rights of ethnic minorities, more than 84% said they would amend Article 261 of the Constitution in order to allow for the election of the chief ministers (the head of local governments in Burma's 14 states and divisions) by state and divisional Parliaments. The current provisions of Article 261 of the Constitution stipulate that the President directly appoints the chief ministers of states and divisions.

Forty-two percent of the political parties opted to amend Article 450 of the Constitution to introduce legislation that legalizes the teaching of ethnic minority languages in public schools.

The least preferred option for the promotion of the rights of ethnic minorities was the repeal of the 1908 Unlawful Association Act – chosen by less than one third (32%) of the political parties. Surprisingly, the percentage of the political parties in favor of repealing the Unlawful Association Act decreases to 26% if the analysis considers only the responses given by ethnic minority-based parties. Authorities have often used the Unlawful Association Act to arbitrarily arrest and detain individuals belonging to ethnic minorities for their alleged ties to ethnic minority armed groups.

5.9 - Ratification of international treaties (Question #9)

The International Covenant on Civil and Political Rights (ICCPR) was the international treaty whose ratification received almost unanimous support from the political parties (more than 89%), followed by the Convention Against Torture and other cruel, inhuman, or degrading treatment or punishment (CAT) (53%).

The ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), was supported by 42% of the parties. Of these five treaties, the ICESCR is the only one that Burma has already signed.

5.10 - Human rights defenders (Question #10)

With regard to measures aimed at protecting human rights defenders (HRDs), the majority of the political parties (almost 58%) said they would create a parliamentary supervisory committee on the situation of HRDs. More than 47% of the political parties favored the introduction and adoption of legislation that makes the 1998 Declaration

on HRDs a national legal instrument. Forty-two percent of the parties expressed their commitment to hold regular meetings with HRDs and conduct fact-finding missions in areas where they operate.

5.11 - Development, investment, and infrastructure projects (Question #11)



© AFP PHOTO / Soe Than Win
Landless villagers hold placards during a protest against land confiscation in Rangoon on September 23, 2013.

Responses showed that there was no clear preference for one particular measure that political parties would take to limit the negative impact that development, investment, and infrastructure projects could have on local communities.

Almost 58% of the political parties said they would study other countries' experiences in developing environmental legislation and mechanisms to regulate industrial development and management.

More than 52% of the political parties wanted to amend existing relevant legislation to ensure that it is consistent

with international human rights standards with regard to evictions, the right to food and adequate housing, and the protection of indigenous people's rights. The same percentage of political parties supported legislative action to establish an effective, independent, and transparent dispute resolution mechanism for handling land conflicts.

Finally, 47% of the political parties favored amending the draft Myanmar Investment Law to establish a mandatory system for public participation in relevant decisions regarding investment projects.

5.12 - Next government's top priorities (Question #13)

In the last question of the survey, political parties were asked to identify the measures that the next government should implement as a matter of priority.

Ensuring adequate remedies to all victims of land confiscation and other land rights-related violations topped the list of measures, with the approval of more than 63% of the political parties.

The release of all political prisoners and the creation of a safe environment for the voluntary return of all refugees and IDPs to their homes received support from more than 47% and almost 37% of the political parties, respectively.

The two least-preferred measures were addressing the lack of independence of the judiciary from the executive (favored by 32% of the political parties) and tackling acts of discrimination and intolerance against religious minorities (backed by 21% of the parties).

6. RECOMMENDATIONS TO ELECTED MPs

Legislative reform

1. Introduce and adopt laws aimed at repealing legislation that is not in line with international standards, including: the 1950 Emergency Provisions Act; the 1975 State Protection Act; the 1985 Television and Video Law; the 1996 Computer Science Development Law; the 1996 Motion Picture Law; the 2004 Electronic Transactions Law; Articles 143, 145, 152, 295(a), 505, and 505(b) of the Criminal Code; and the Criminal Procedure Code.

2. Amend the 2011 Peaceful Gathering and Demonstration Law to remove criminal sanctions for violators of the law and replace the prior authorization system for peaceful assemblies with a system of voluntary notification.

3. Repeal the four so-called 'Race and Religion Protection Laws': the 2015 Population Control and Healthcare Law; the 2015 Religious Conversion Law; the 2015 Monogamy Law; and the 2015 Interfaith Marriage Law.

Freedom of information

4. Repeal Articles 500 and 501 of the Criminal Code (criminal defamation and libel) and the 1923 State Secrets Act.

5. Amend the 2014 Printing and Publishing Law by replacing registration for all print media through the Ministry of Information with a notification procedure.

Transparency

6. Promote greater transparency of parliamentary proceedings by establishing: a calendar of sessions and meetings; and a public and up-to-date online repository of all bills, laws, transcripts of parliamentary proceedings, and any other relevant documents.

7. Ensure adequate and effective input by interested stakeholders during the legislation-drafting process by holding public parliamentary hearings.

8. Allow unfettered access to Parliament for media workers to cover parliamentary proceedings.

Discrimination against Muslim Rohingya

9. Amend the 1982 Citizenship Law to replace race and ethnicity as determining factors in the granting of citizenship with objective criteria that comply with the principle of non-discrimination, such as birth in the territory and descent.

10. Introduce and approve proposals for the ratification of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

11. Introduce and approve legislation that abolishes all orders that violate the basic human rights of Muslim Rohingya.

Accountability for past crimes

12. Establish a parliamentary Commission of Inquiry or a truth and reconciliation commission aimed at addressing the issue of accountability for past crimes.

Women's rights

13. Prioritize the completion of the draft Bill on Violence Against Women and ensure it protects women from domestic violence and criminalizes marital rape.

14. Form a parliamentary committee tasked with investigating allegations of rape and sexual violence committed by military personnel against ethnic minority women and girls.

15. Amend Article 312 of the Criminal Code to allow abortions in cases of rape, incest, fetal impairment, and to preserve a woman's physical and/or mental health.

16. Introduce and adopt legislation aimed at establishing quotas for female MPs at the national and local levels as well as quotas for women on the political parties' candidate lists.

Death penalty

17. Introduce and adopt legislation aimed at permanently removing clauses that prescribe the death penalty for criminal offenses, including relevant articles of the Criminal Code as well as Article 20 of the Narcotic Drugs and Psychotropic Substances Law.

18. Introduce a resolution that calls for the establishment of an official moratorium on all executions.

Ethnic minority rights

19. Repeal the 1908 Unlawful Association Act.

20. Amend Article 450 of the Constitution and introduce and adopt legislation that legalizes the teaching of ethnic minority languages in public schools.

Ratification of key international human rights instruments

21. Introduce and approve proposals for the ratification of key international instruments, including: the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention Against Torture and other cruel, inhuman or degrading treatment or punishment (CAT); the Convention on the Elimination of All Forms of Racial Discrimination (ICERD); and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

Human rights defenders

22. Create a parliamentary supervisory committee on the situation of human rights defenders.

23. Introduce and adopt legislation that makes the 1998 Declaration on Human Rights Defenders a national legal instrument.

24. Hold regular meetings with human rights defenders and conduct fact-finding missions in areas where they operate.

Investment, development, and infrastructure projects

25. Amend the draft Myanmar Investment Law to establish a mandatory system for public participation in relevant decisions regarding investment.

26. Amend existing relevant legislation to ensure that it contains adequate safeguards with regard to evictions, the right to food and adequate housing, and the protection of indigenous peoples' rights.

27. Amend existing relevant legislation to establish an effective, independent, and transparent dispute resolution mechanism for handling land conflicts.

7. APPENDIXES

7.1 - APPENDIX 1: SURVEY'S COMPLETE RESULTS

(Total percentages can add up to more than 100% as the questionnaire allowed political parties to select multiple answers for each question.)

1. What steps would your political party take to improve media freedom?

- 57.89%** Amend the 2014 Printing and Publishing Law.
- 26.32%** Introduce legislation that abolishes the Ministry of Information.
- 26.32%** Abolish Article 500 and 501 of the Criminal Code (criminal defamation and libel).
- 21.05%** Repeal the 1923 State Secrets Act.
- 10.53%** *No answer.*

2. How would your political party address discrimination against Muslim Rohingya?

- 42.11%** *No answer.*
- 26.32%** Amend the 1982 Citizenship Law to ensure Muslim Rohingya have equal access to citizenship rights.
- 21.05%** Support the signature and ratification of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
- 10.53%** Introduce legislation that abolishes all orders that violate the basic human rights of Muslim Rohingya.
- 5.26%** Repeal the 2015 Population Control Healthcare Law.

3. What would your political party do in relation to the military's role in the country's affairs?

- 47.37%** Amend Article 20 of the Constitution in order to bring the military under civilian control.
- 36.84%** Amend Articles 109 and 141 of the Constitution in order to reduce or eliminate the 25% quota for military-appointed MPs.
- 26.32%** Amend Article 232 of the Constitution in order to make civilians eligible for the positions of ministers of Defense, Home Affairs, and Border Affairs.
- 21.05%** Significantly reduce the budget allocated to military expenditure.
- 10.53%** *No answer.*

4. How would your political party address the issue of accountability for past crimes committed by state-actors during State Law and Order Restoration Council (SLORC) and State Peace and Development Council (SPDC) rule?

- 57.89%** Establish a truth and reconciliation commission.
- 21.05%** Amend Article 445 of the Constitution.
- 15.79%** Form a parliamentary Commission of Inquiry.
- 10.53%** *No answer.*

5. What laws would your political party amend or repeal as a matter of priority?

- 52.63%** 2015 National Education Law.
- 42.11%** 1908 Unlawful Association Act.
- 42.11%** 1950 Emergency Provisions Act.
- 42.11%** 2011 Peaceful Gathering and Demonstration Law.
- 36.84%** 1975 State Protection Law.
- 26.32%** 2015 Interfaith Marriage Law.
- 21.05%** Article 505(b) of the Criminal Code (disturbing public tranquility).
- 5.26%** *No answer.*

6. What would your political party do to strengthen the protection and promotion of women's rights?

- 57.89%** Adopt a quota within your political party for female candidates to run in parliamentary elections at the national and local levels.
- 52.63%** Form a parliamentary committee to investigate allegations of rape and sexual violence committed by military personnel against ethnic minority women and girls.
- 47.37%** Introduce and adopt a law on the prevention of violence against women, including domestic violence, with a provision that criminalizes marital rape.
- 36.84%** Amend Article 352 of the Constitution to remove the provision allowing only men to be appointed to certain positions.
- 26.32%** Amend Article 312 of the Criminal Code to allow abortions in cases of rape, incest, fetal impairment, and to preserve a woman's physical and/or mental health.
- 26.32%** Repeal the 2015 Interfaith Marriage Law.
- 10.53%** *No answer.*

7. Would your political party introduce or vote in favor of legislation that abolishes the death penalty?

- 52.63%** Yes.
- 36.84%** No.
- 10.53%** *No answer.*

8. How would your political party contribute to promote rights of ethnic minorities?

- 84.21%** Amend Article 261 of the Constitution in order to allow for the direct election of chief ministers by state and divisional Parliaments.
- 52.63%** Expand the number of issues that state and divisional Parliaments can legislate on (i.e. land administration; use of natural resources; health; education; and justice).
- 42.11%** Amend Article 450 of the Constitution and introduce legislation that legalizes the teaching of ethnic minority languages in public schools.
- 31.58%** Repeal the 1908 Unlawful Association Act.
- 5.26%** *No answer.*

9. For what key international treaties would your political party support ratification?

- 89.47%** International Covenant on Civil and Political Rights (ICCPR).
- 52.63%** Convention Against Torture and other cruel, inhuman, or degrading treatment or punishment (CAT).
- 42.11%** International Covenant on Economic, Social and Cultural Rights (ICESCR).
- 42.11%** Convention on the Elimination of all Forms of Racial Discrimination (ICERD).
- 42.11%** International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).
- 5.26%** *No answer.*

10. What would your political party do to protect human rights defenders?

- 57.89%** Create a parliamentary supervisory committee on the situation of human rights defenders.

- 47.37%** Introduce and adopt legislation that makes the 1998 Declaration on human rights defenders a national legal instrument.
- 42.11%** Amend the 2011 Peaceful Gathering and Demonstration Law.
- 42.11%** Hold regular meetings with human rights defenders and conduct fact-finding missions in areas where they operate.
- 10.53%** *No answer.*

11. What would your political party do to limit the negative impact that development, investment, and infrastructure projects could have on local communities?

- 57.89%** Study other countries' experiences in developing environmental legislation and mechanisms to regulate industrial development and management.
- 52.63%** Amend existing relevant legislation to ensure that it is consistent with international human rights standards with regard to evictions, the right to adequate food and housing, and the protection of indigenous people's rights.
- 52.63%** Amend existing relevant legislation to establish an effective, independent, and transparent dispute resolution mechanism for handling land conflicts.
- 47.37%** Amend the draft Myanmar Investment Law to establish a mandatory system for public participation in relevant decisions regarding investment.
- 21.05%** Reject trade and investment agreements and arbitration mechanisms that do not provide effective human rights protection.
- 10.53%** *No answer.*

12. On which of the following human rights areas would your political party introduce legislation?

- 68.42%** Political rights.
- 47.37%** Civil rights.
- 47.37%** Socio-economic rights.
- 47.37%** Cultural rights.
- 10.53%** *No answer.*

13. Which of the following measures does your political party think the next government should take as a matter of priority?

- 63.16%** Ensure adequate remedies to all victims of land confiscation and other land rights-related violations.
- 47.37%** Release all political prisoners.
- 36.84%** Create a safe environment for the voluntary return of all refugees and IDPs to their homes.
- 31.58%** Ensure independence of the judiciary from the executive branch.
- 21.05%** Address acts of discrimination and intolerance against religious minorities.
- 15.79%** *No answer.*

7.2 - APPENDIX 2: POLITICAL PARTIES CONTESTING THE 8 NOVEMBER ELECTION

- | | | | |
|-----|---|-----|---|
| 1. | 88 Generation Democracy Party | 24. | Ethnic National Development Party |
| 2. | 88 Generation Student Youths (Union of Myanmar) | 25. | Federal Union Party |
| 3. | Akha National Development Party | 26. | Guiding Star Party |
| 4. | All Mon Region Democracy Party | 27. | Inn Ethnic League |
| 5. | All Nationals' Democracy Party (Kayah State) | 28. | Inn National Development Party |
| 6. | Arakan National Party | 29. | Kachin Democratic Party |
| 7. | Arakan Patriot Party | 30. | Kachin National Congress for Democracy |
| 8. | Asho Chin National Party | 31. | Kachin State Democracy Party |
| 9. | Bamar People's Party | 32. | Kaman National Progressive Party |
| 10. | Chin League for Democracy | 33. | Kayah Unity and Democracy Party |
| 11. | Chin National Democratic Party | 34. | Kayan National Party |
| 12. | Chin Progressive Party | 35. | Kayin Democratic Party |
| 13. | Confederate Farmers Party | 36. | Kayin National Party |
| 14. | Daingnet Ethnic Development Party | 37. | Kayin People's Party |
| 15. | Danu National Democracy Party | 38. | Kayin State Democracy and Development Party |
| 16. | Danu National Organization Party | 39. | Kayin Unity Democratic Party |
| 17. | Dawei Nationalities Party | 40. | Khami National Development Party |
| 18. | Democracy and Human Rights Party | 41. | Khumi (Khami) National Party |
| 19. | Democracy and Peace Party | 42. | Kokang Democracy and Unity Party |
| 20. | Democracy Party for Myanmar New Society | 43. | Lahu National Development Party |
| 21. | Democratic Party for a New Society | 44. | Lhaovo National Unity and Development Party |
| 22. | Democratic Party (Myanmar) | 45. | Lisu National Development Party |
| 23. | Eastern Shan State Development Democratic Party | 46. | Modern People Party |

- | | | | |
|-----|---|-----|---|
| 47. | Mon National Party | 71. | Rakhine State National United Party |
| 48. | Mro National Democracy Party | 72. | Red Shan (Tailai) and Northern Shan Ethnic Solidarity Party |
| 49. | Mro National Development Party | 73. | Shan Nationalities Democratic Party |
| 50. | Mro National Party | 74. | Shan Nationalities League for Democracy |
| 51. | Myanmar Farmers' Development Party | 75. | Shan State Kokang Democratic Party |
| 52. | Myanmar National Congress | 76. | Ta'ang (Palaung) National Party |
| 53. | National Democratic Force | 77. | Tailai (Red Shan) Nationalities Development Party |
| 54. | National Democratic Party for Development | 78. | Union Democratic Party |
| 55. | National Development and Peace Party | 79. | Union Farmer Force Party |
| 56. | National Development Party | 80. | Union of Myanmar Federation of National Politics |
| 57. | National League for Democracy | 81. | Union Pa-O National Organization |
| 58. | National Political Alliances League | 82. | Union Solidarity and Development Party |
| 59. | National Prosperity Party | 83. | United Democratic Party |
| 60. | National Unity Party | 84. | United National Congress |
| 61. | Negotiation, Stability and Peace Party | 85. | Unity and Democracy Party of Kachin State |
| 62. | New Era Union Party | 86. | Wa Democratic Party |
| 63. | New National Democracy Party | 87. | Wa National Unity Party |
| 64. | New Society Party | 88. | Women's Party (Mon) |
| 65. | Pa-O National Organization | 89. | Wunthanu Democratic Party |
| 66. | Peace and Diversity Party | 90. | Zomi Congress for Democracy |
| 67. | People Democracy Party | 91. | Zo National Region Development Party |
| 68. | People's Party of Myanmar Farmers and Workers | | |
| 69. | Phalon-Sawaw Democratic Party | | |
| 70. | Public Contribute Students Democracy Party | | |

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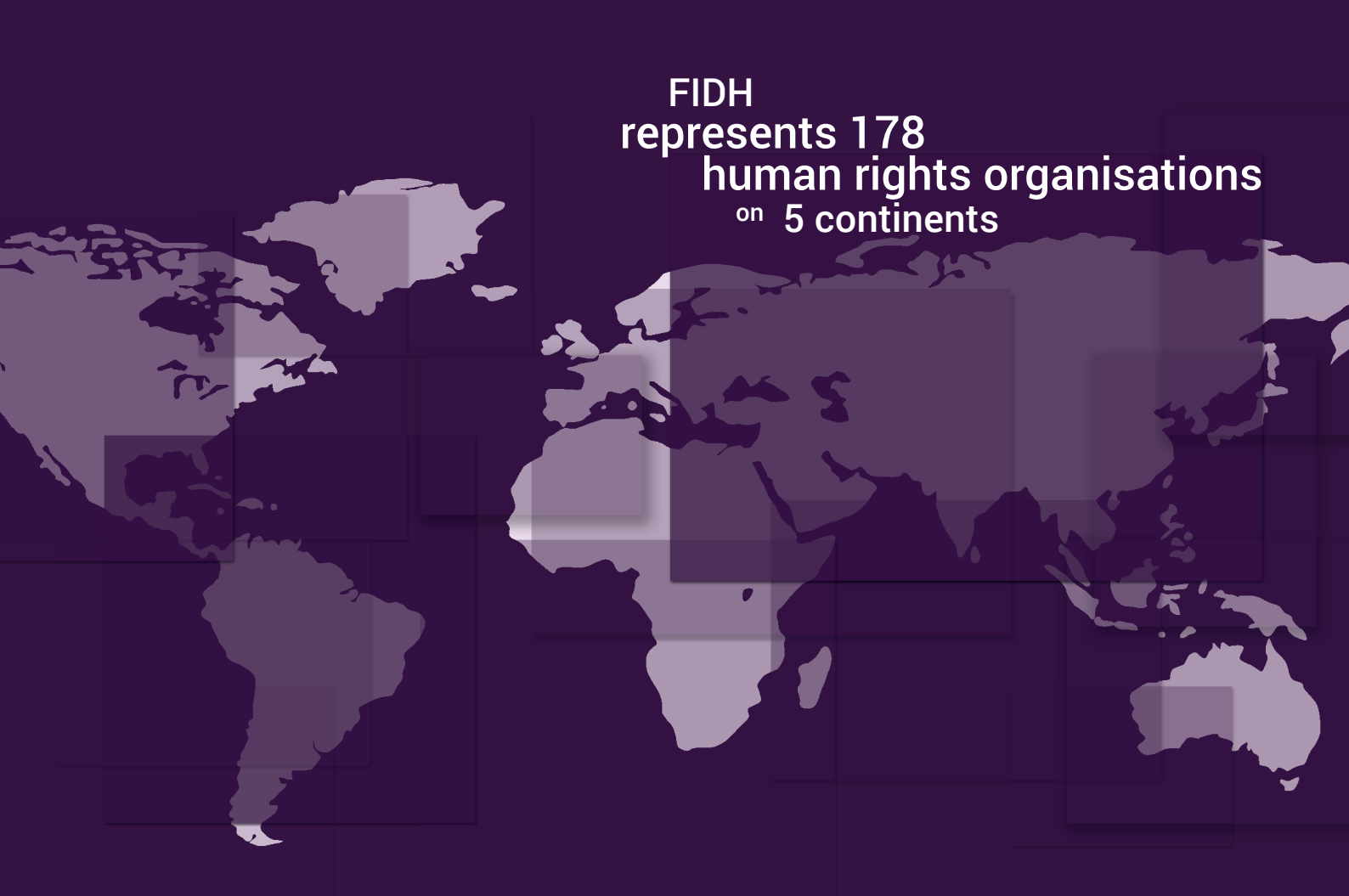
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