

# *Academic Freedom International Study*

**BURMA**

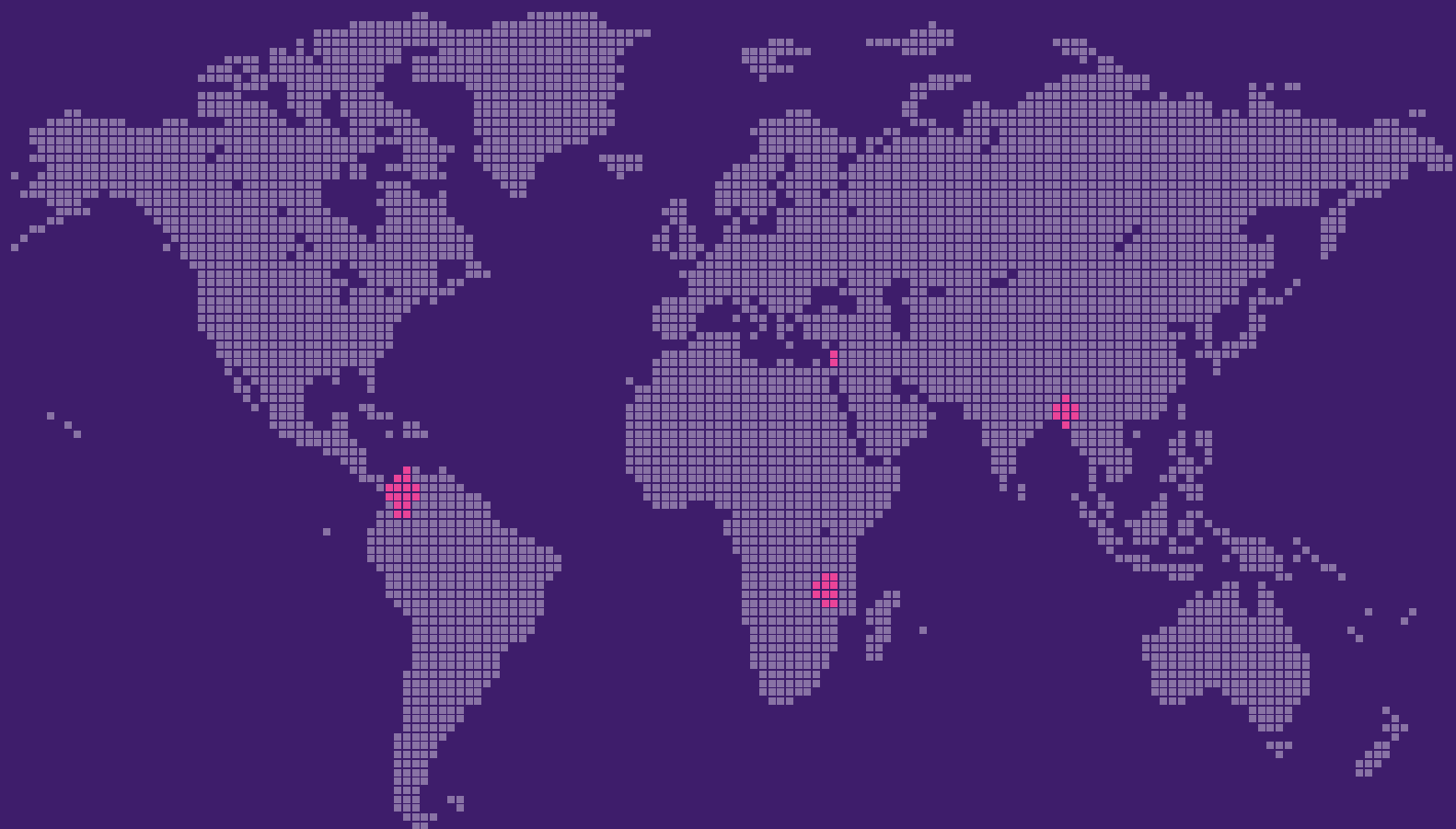
**COLOMBIA**

**ISRAEL**

**PALESTINE**

**ZIMBABWE**

James Cemmell *May 2009*



**UCU**  
University and College Union



Education International  
Internationale de l'Éducation  
Internacional de la Educación

**This paper about **Burma** is a chapter from a larger report looking at academic freedom in five countries (the others are **Colombia**, **Israel**, **Palestine** and **Zimbabwe**), which has been made available as five individual 'single country' chapters for quicker downloading and easier reading. The other four chapters, as well as the whole report, can be downloaded from UCU's website at [www.ucu.org.uk](http://www.ucu.org.uk).**

### **Author's biographical note**

**James Cemmell** ([jamespearl@hotmail.com](mailto:jamespearl@hotmail.com)) presently works as a regulatory consultant in London, UK. His longstanding interest in internationalism in the higher education sector was stimulated while a student at the University of Leeds. Upon graduation in 2000 he was elected as the sabbatical Education Officer at Leeds University Union and was subsequently elected as Convenor of West Yorks Area NUS. He completed a four year appointment at ESU/ESIB (European Student Union) to a committee concerned with emerging policy practices and regulatory frameworks in international education. Along the way he completed an MA in International Development at the University of Bradford and spent a year at the University of Bristol in the Graduate School of Education Centre for Globalisation, Education and Societies where he pursued diverse interests in the GATS, Bologna and higher education reform issues in Kosovo. When time, family and injuries permit, James pursues interests in Shotokan Karate.

*James Cemmell asserts his moral right to be identified as the author of this study.*

<b>Foreword</b>	
Sally Hunt <i>general secretary, UCU</i>	<b>1</b>
<b>Preface</b>	
Fred van Leeuwen <i>general secretary, Education International</i>	<b>1</b>
<b>Introduction</b>	<b>3</b>
<b>Matrix of academic freedom components</b>	<b>5</b>
<b>Burma</b>	<b>7</b>
Annex 1 <i>Recent human rights violations compiled by Altsean during March 2009</i>	<b>14</b>
Annex 2 <i>IAU overview of the higher education sector in Burma 2005</i>	<b>15</b>
Annex 3 <i>Description of the higher education sector from Yangon City Municipality</i>	<b>17</b>
Annex 4 <i>Breakdown of higher education institutions by sector</i>	<b>17</b>
References	<b>18</b>
<b>Colombia</b>	<b>19</b>
Annex 1 <i>IAU sector description</i>	<b>29</b>
References	<b>30</b>
<b>Israel</b>	<b>31</b>
Annex 1 <i>The Balfour Declaration</i>	<b>41</b>
Annex 2 <i>IAU sector description</i>	<b>41</b>
References	<b>43</b>
<b>Palestine</b>	<b>44</b>
Annex 1 <i>Abridged review of Palestine since 1948</i>	<b>55</b>
Annex 2 <i>Electoral law reform</i>	<b>56</b>
Annex 3 <i>IAU sector description</i>	<b>56</b>
References	<b>57</b>
<b>Zimbabwe</b>	<b>59</b>
Annex 1 <i>AUP Zimbabwe HE sector</i>	<b>67</b>
Annex 2 <i>State of the education sector in Zimbabwe: ZINASU monthly briefing paper (March 2009)</i>	<b>68</b>
References	<b>69</b>

## Foreword

Academic freedom is a core value of higher education, one which provides the basis for the integrity of university teaching and research. The trade unions in the sector give a high priority to the defence of academic freedom. We welcome this report by James Cemmell, which sets out the range of threats to academic freedom in some of the most difficult environments in the world, where to be an academic or a trade unionist may be literally to put your life on the line

The report has its origins in the interest taken by the University and College Union in the United Kingdom, in academic freedom in five of those countries, expressed in motions to the UCU Congress in 2008. UCU has commissioned this piece of independent research from Education International, and James Cemmell was employed to carry out the research and prepare the report. The report will be used to inform and carry forward UCU policy, and will be presented to UCU annual Congress at the end of May, and we hope that it will also underpin EI's global work on academic freedom. We wish to pay tribute to the work James has done to produce a thorough and authoritative report against a very tight time deadline. We hope it will be widely read and used by colleagues in the higher education sector in the United Kingdom and elsewhere.

### Sally Hunt

*General secretary, UCU*

## Preface

Academic freedom is a long-standing principle in higher education, which for centuries has put the responsibility on higher education teaching personnel to exercise their intellectual judgment and to explore avenues of scientific and philosophical discovery for the benefit of their discipline, their institutions, their immediate society and the international community.

As advocated by the 1997 UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel, *academic freedom lies at the very heart of higher education and provides the strongest guarantee of the accuracy and objectivity of scholarship and research.*

The 1997 recommendation expresses concern regarding the vulnerability of the academic community to untoward political pressures which could undermine academic freedom. This study demonstrates that regrettably, such pressure remains a reality in a number of countries. Throughout the past decade, there has also been an increasing trend towards the commercialisation of education, which has posed itself as a further threat to academic freedom.

Education International has worked tirelessly on this issue. It is a matter of extreme importance to higher education staff and unions worldwide. EI publishes reports on the implementation of the academic rights enshrined in the 1997 Recommendation on a three-year basis. These reports are presented to CEART (the Joint UNESCO/ILO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel) and are used for CEART's report on the application of the mentioned recommendation.

EI welcomed the approach by the University and College Union to commission research on academic freedom in five countries in which academic freedom faces particularly severe challenges. This comprehensive study will be used as input for EI's next report to CEART, which is due in the coming months. EI would like to thank UCU for taking this initiative and for their collaboration on this project and James Cemmell for the extensive work that he has done.

### Fred van Leeuwen

*General secretary, Education International*

**...there is strong evidence that economic and political freedoms help to reinforce one another... Similarly, social opportunities of education and health care, which may require public action, complement individual opportunities of economic and political participation and also help to foster our own initiatives in overcoming our respective deprivations.\***

*Amartya Sen, 1998 Nobel Laureate*

This study was written over five weeks in Spring 2009 and highlights key constraints on the availability of academic freedom in five countries: Burma, Colombia, Israel, Palestine<sup>†</sup> and Zimbabwe. The choice of countries to be profiled was purposeful—each provides, due to the specifics of the national situation, a clear illustration of the interplay between society and the academy’s ability to operate properly and free from unwarranted interference.

The forces exerted on the higher education (HE) sector vary with each national setting. In each country study, demonstrable acts of resistance by the university sector to maintain and uphold academic freedoms can be seen. Unfortunately it is also possible to provide evidence in each national setting of severe restrictions on academic freedoms whereby resistance has either not been effective or is not in evidence. Extreme examples include the use of paramilitary organisations as strike breakers in Colombia, the forcible re-education of university teachers in Burma, the conduct of party political violence on campus in Palestine, the absence of job security for many junior faculty in Israel and the summary detention of student activists in Zimbabwe.

### **Interdependence of freedoms**

The country profiles consider that freedoms within a society are mutually reinforcing. As a consequence, the availability of economic, political, social and cultural freedoms have a bearing on pedagogical and academic freedoms. The profiles consider the national political and social situation in order that the debates concerning academic freedom can be considered in an appropriate context; as a result, each profile differs in structure. However, the basic outline is to consider the national situation, the trade union situation and then the higher education sector. The cases profiled demonstrate key polarizing elements of the national situation—such as the presence of armed movements in Colombia and the restrictions on movement in and between the West Bank and Gaza caused by Israeli actions.

Trade unions, as key social actors, operate in a position of contest within societies. As a consequence, much can be understood about the availability of academic freedoms by considering the situation in which trade unions operate in

within the country. It is significant that in countries where there are severe restrictions on academic and political freedoms—such as in Zimbabwe, and Colombia, national resistance has formulated around trade union actors. Similarly, student and academic movements have formed the vanguard of resistance in countries considered in this study, such as Burma, but also in other countries outside of the present study such as Serbia, South Africa and China.

### The role of UNESCO

The 1997 UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel provides an important regulatory instrument for assuring free and fair conduct of academic livelihoods. Appended to the Recommendation are fifty international conventions and other legislative instruments which, if implemented, ensure that the academy can operate in a responsible and autonomous manner.

The status of the Recommendation is reviewed jointly with the ILO through the Committee of Experts on the Application of the Recommendation concerning the Status of Teachers (CEART) which meets every three years—the next session will be held this year. CEART is an influential mechanism that provides for national cases to be referred for additional study and has previously considered representations made with respect to countries such as Ethiopia and Japan.

Recognising the global nature of HE, there are incremental benefits to all academics from the redress of restrictions on academic freedoms in any individual country. It should also be noted that the availability of academic freedoms requires a balance to be maintained within politics the economy and society. As such, academic freedoms are permanently under threat: even in enabling and more just societies. Surveillance of the status of academic freedoms for consideration by the CEART takes on an important function in the nurturing of democratic practices in different societies that has impact beyond the livelihoods of higher education personnel.

### Process

The review was carried out over a five week period in Spring 2009 and considered available data without the benefit of a dedicated country visit. As a consequence of the time

restrictions, the profiles should not be considered as exhaustive reviews—it has not been possible to explore all possible data sources and I have had to make sometimes difficult decisions to include or omit certain illustrative cases in the country profiles.

I would like to thank the following for helpful discussion and direction with regard to specific countries: for Burma, Martin Gemzell and Susanna Lif, formerly of the Olof Palme International Centre; for Israel, Yaniv Ronen, a researcher at the Knesset and Bar-Ilan University; and for Zimbabwe, Simon Chase of ACTSA. The above mentioned provided valuable input on a personal basis and are not responsible for any errors, omissions or inaccuracies in the text which remain my sole responsibility.

In addition, the teams from Education International (EI) and the University and College Union (UCU) provided clear direction while demonstrating sensitivity to the time constraints of the project: at UCU, Paul Bennett and Paul Cottrell; at EI, Monique Fouilhoux and Nina Gustafsson.

Bastian Baumann, Secretary-General of the Magna Charta Observatory, Almira Zejnilagic of GPW Ltd and Chris Weavers, generously made themselves available for helpful discussion.

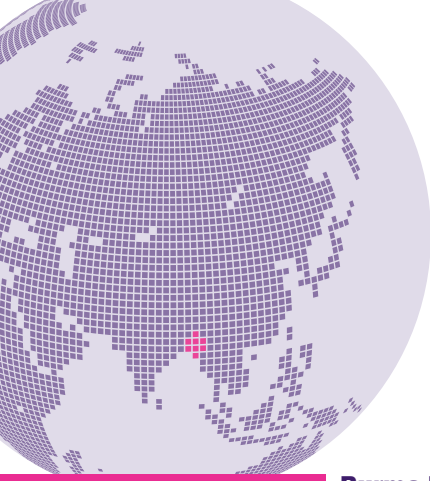
\* Extract from Amartya Sen, 'Development as Freedom', OUP 1999.

† Palestine is the name listed in the UN lists of Missions: <http://www.un.int/protocol/documents/HeadsofMissions.pdf>. Other UN agencies, such as UNDP and UNICEF have used the common term 'Occupied Palestinian Territories': see <http://www.undp.ps/en/aboutundp/aboutpapp.html>, <http://www.unicef.org/infobycountry/oPt.html>

# MATRIX OF ACADEMIC FREEDOM COMPONENTS

## Examples of autonomy/freedom issues by category

	HEIs/Teachers	Students
Political	<p>Statutory enabling provisions for the protection of academics ● Participation in governance and legislative structures ● Formal status of representative bodies ● Appointment / dismissal process ● Freedom to pursue research ● Restrictions or mandatory syllabus that must/forbade to be taught ● Protest/association rights</p>	<p>Access to decisionmaking structures ● Position in decisionmaking structures (limitations on representation/grievances adhered to) ● Protest/association rights</p>
Economic	<p>Freedom of the institution to enter into contracts ● Freedom to fundraise / set fees ● Living wage ● Collective bargaining ● Properly resourced to do research ● Fixed/ permanent contracts ● Participation in budget process</p>	<p>Access free of economic constraints (fees, books, accommodation, ICT) ● Resources provided (study space, facilities, journals) ● Advice/counselling available ● Scholarships available (for who) ● Parity with private sector</p>
Cultural	<p>Teaching in native language ● Minorities included in the institution ● Local content (eg history, local text books) provided/required/restricted?</p>	<p>Access to instruction in local language ● Local language textbooks/content available ● Minorities treated fairly/encouraged ● Refugees catered for ● Religious restrictions/requirements eg Catholic HEI</p>
Social	<p>Disabled staff enabled ● Gender balance ● Racial minorities protected/subject to specific programmes</p>	<p>Age to attend ● Demographics ● Gender dimension addressed ● Disabled students enabled ● Minorities protected</p>
Pedagogic	<p>Access to ongoing training ● Access to pertinent academic networks ● Standards upheld by proportionate and effective means</p>	<p>Exams conducted fair/transparent ● Burdensome/disproportionate assessment procedure ● Transparent assessment and completion process</p>



## BURMA

**Burma has been governed by martial law for the past four decades. The ruling junta has**

**proven resilient to protest and has successfully managed to transfer power through three successive government formations to the present incarnation, the SPDC. The junta has violated a number of international agreements including those that protect human rights, including labour rights, and enabling rights of academic freedoms for which they have been sanctioned by both the UN and the ILO. Following protests in 1988 ('8888 Uprising') and 2007 ('Saffron Revolution'), the general human rights situation in the country worsened with particularly strong measures enacted against students, teachers and student groups. The junta operates an overtly oppressive regime that has a particular impact on already disadvantaged minority groups such as the Rohingya Muslims.**

**Due to the severe restrictions on academic freedom and freedom of association, active groups organise mainly in exile. These groups carry out awareness raising activities with the international community, undertake capacity building initiatives to enable government to function should a democracy be attained and aid the dissemination of information within the country. However, due to the severe penalties that exist for organised activity within the country, union activities cannot be conducted on a scale comparable with that evidenced in more democratic countries.**

**Elections are planned for 2010 and are not expected to be either free or fair. This is evidenced by the junta's conduct during the constitutional review process and its ongoing refusal to cede power to the NLD party, lead by Aung San Suu Kyi, who won the 1990 election with 80% of the seats. An annex of recent human rights violations visited on student and other activists is included in an annex to this chapter; limited examples are provided within the main text.**

### Government structure

The Union of Burma (named 'Myanmar' by the military regime) is a military junta with totalitarian rule discharged by a military dictatorship. Senior General Than Shwe has lead the junta's governing arm, the State Peace and Development Council (SPDC) since 23 April 1992. SPDC has full formal control over the executive and exercises de facto influence over the judiciary; the 485 seat legislature has not convened following elections held 27 May 1990. The elections returned the National League for Democracy (NLD) with 392 seats, the Shan Nationalities League for Democracy (SNLD) with 23, the pro-junta National Unity Party (NUP) with 10, and 60 other. Burma has a significant proportion of ethnic minorities with Burman accounting for 68%, Shan 9%, Karen 7%, Rakhine 4%, Chinese 3%, Indian 2%, Mon 2%, other 5% (CIA 2009<sup>4</sup>).

### From independence to military rule

Burma gained independence from Britain in 1948 before which it was administrated as an Indian province, an act which endowed Burma with a minor ethnic Indian population. Military rule has been enforced since 1962 when General Ne Win first came to power leading the Burma Socialist Programme Party (BSPP). Following popular uprisings and a coup in 1988 known as the 8888 uprising, a new junta was installed, SLORC (State Law and Order Restoration Council) lead by Than Shwe. National elections were held in 1990 in which the junta expected to be returned. Following NLD's gaining 81% of the allocated seats, SLORC refused to cede power. The election was reclassified as pertaining to a committee to determine the scope of the new constitution and Aung San Suu Kyi (the leader of NLD) was subjected to house arrest—she was subsequently awarded the Nobel Peace Prize in 1991. Announcement 1/90 by SLORC was made two weeks after the elections and provided a public justification for the action.

*'...a political organization does not automatically obtain the three sovereign powers of legislative, administrative and judicial powers by the emergence of a People's Assembly. These powers can only be obtained based on a constitution. ... the representatives elected by the people*



*are responsible for drafting a constitution for the future democratic state. Drafting an interim constitution to obtain state power and to form a government will not be accepted in any way, and if it is done, effective action will be taken according to the law.'* (SLORC quoted by Pedersen 2007<sup>2</sup>)

SLORC extended Aung San Suu Kyi's detention in 1995 once she became eligible for release. Her convoy was attacked on May 2003 in an assumed assassination attempt (ASEAN Interparliamentary Myanmar Caucus<sup>3</sup>) where a number of leading NLD figures were arrested. The junta justified the offensive as required due to NLD's involvement in planned treasonous acts. In 1997, SLORC was reformed as SPDC, Than Shwe remained the head of state, and Burma was granted entry to ASEAN.

### Recent history

In 2007, government fuel subsidies were removed with a resultant increase in fuel prices—gas prices increased up to 500% (Democratic Voice of Burma 2007<sup>4</sup>). Mass demonstrations, known in some media as the 'Saffron Revolution' due to the colouring of the monk's robes, were harshly repressed by the SPDC with several thousand protesters arrested.

In May 2008, Cyclone Nargis hit the Irawaddy delta leaving an estimated 130,000 dead or missing (Medicine Sans Frontiers 2008<sup>5</sup>). The SPDC initially refused access to the World Food Programme and other international relief organisations in a move that was condemned by a number of sovereign parliaments (for example European Parliament resolution of 23 October 2008 on Burma<sup>6</sup>).

On 24 May 2008, in the midst of relief efforts, a referendum was held on a proposed constitution. The constitution was passed with 92.48% positive turnout—despite opposition by a number of groups at the timing so soon after the cyclone and the conduct of the referendum—new elections will be held in 2010. The new constitution requires that 25% of parliamentary seats and six cabinet seats be reserved for the military, that the head of state be familiar with military affairs and that they have resided in Burma for the previous 20 years (Ministry of Information 2008<sup>7</sup>). This

last measure would disbar Aung San Suu Kyi from holding office. Moreover, many observers of Burma do not believe that the forthcoming elections will be either free or fair. Human Rights Watch have commented that:

*'There is no reason to believe or even hope that the vote in 2010 will be free and fair. The point of the election is to put a civilian face on a military regime by handpicking the winners. This is likely to be the USDA or a similar group.'* (HRW 2008<sup>8</sup>)

### Political groupings and exile political activity

Due to the severe constraints on political mobilisation within Burma, a number of political groupings exist outside of the country, the majority with a base in Thailand. Example groupings include the National Coalition Government of the Union of Burma (NCGUB) who maintain a shadow government with appointed ministers. The Ethnic Nationalities Council (ENC) and the Federation of Trade Unions Burma (FTUB) maintain presences in Thailand. The Forum for Democracy in Burma (FDB) represents an umbrella grouping of critical, predominantly student bodies such as the All Burma Federation of Student Unions (ABFSU) and the YCOWA union. DPNS, Democratic Party for a New Society is also included under the auspices of FDB. DPNS functions as a political party of the left wing and was formed by student activists. DPNS is a significant actor within Burma and comprise the second largest pro-democracy party after the NLD with a claimed membership of 250,000 (DPNS 2009<sup>9</sup>).

The Karen National Union, Karenni National People's Party and Kachin Independence Organisation all represent various ethnic interests. It should be recognised that the situation between SPDC and Karen groups such as the Karen National Liberation Army (KNLA), a militarised Karen political group, is an active, violent conflict that has run since 1949.

Student groupings have been particularly active among the opposition to the Junta. As well as the aforementioned ABFSU<sup>10</sup>, the Students' and Youth Congress of Burma (SYCB<sup>11</sup>) is active in organising student and youth groups as an umbrella body. Membership is diverse and represents different Burmese national groupings.

### Condemnation by the United Nations

The junta in its various incarnations (BSPP, SLORC, SPDC), has attracted significant criticism from international bodies. The UN General Assembly has debated violations of international agreements made by Burma on a number of occasions. On 17 December 1991, the General Assembly by A/RES/46/132 welcomed the recent granting of the Nobel Peace Prize to Aung San Suu Kyi and urged *‘the Government of Myanmar to allow all citizens to participate freely in the political process in accordance with the principles of the Universal Declaration of Human Rights’* (UN GA 1992<sup>12</sup>).

Resolution A/RES/60/233 was adopted by the General Assembly on 23 March 2006 and indicated that little had changed in the intervening 15 years. The Resolution reviewed a number of concerns ranging from the ill treatment of displaced persons, use of sexual violence against women, refusal to engage with the international community and the refusal to grant the standard compliment of political rights. The Resolution affirmed

*‘that the will of the people is the basis of the authority of government and that the will of the people of Myanmar was clearly expressed in the elections held in 1990,’*

and welcomed:

*‘(d) The release by the Government of Myanmar of two hundred and forty- nine political prisoners on 6 July 2005, while noting that over one thousand, one hundred political prisoners remain incarcerated;’* (UN 2006<sup>13</sup>)

and expressed ‘grave concern’ regarding a catalogue of breaches of foundational principles of a number of UN bodies. The Resolution noted that the military junta had violated the human rights of the citizens of Burma both as citizens and as minorities with impunity. A Resolution of this clarity and breadth is nearly unparalleled within the UN system:

*(a) The ongoing systematic violation of the human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar, including violations of the right to an adequate standard of living, discrimination and violations suffered by persons belonging to*

*ethnic nationalities, women and children, especially in non-ceasefire areas, including but not limited to extra-judicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces, continuing use of torture, deaths in custody, political arrests and continuing imprisonment and other detentions; forced relocation; forced labour, including child labour; trafficking in persons; denial of freedom of assembly, association, expression and movement; wide disrespect for the rule of law, continuing recruitment and use of child soldiers, use of landmines, and the confiscation of arable land, crops, livestock and other possessions; (UN GA 2006<sup>14</sup>)*

The SPDC remains contemptuous of UN structures and international law. Altsean reported a recent example in February 2009:

*A court in Insein prison sentences NLD elected MPs Nyi Pu and Tin Min Htut to 15 years in prison for writing an open letter to the UN (reported in an Altsean compendium Feb 2009<sup>15</sup>).*

### ASEAN membership

Burma joined the ASEAN grouping in 1997, following increasing moves towards a deeper regionalisation arrangement by ASEAN members. ASEAN membership had taken on an increased relevance due to developing trade flows and the liberalising of trade mechanisms between participating countries (IDEA 2001<sup>16</sup>). Further, Burma’s ASEAN membership had taken on a regional importance due to significant pre-existing trade ties with Singapore–Burma’s membership of the WTO as of 1997 indicates that commitments to a liberalised trade regime has formed a long standing policy of the junta that remains enshrined in the 2008 constitution.

Democracy activists, including Aung San Suu Kyi, have called on ASEAN to coerce Burma to deliver democratic practices and to implement human rights treaties. Aung San Suu Kyi has also called on ASEAN to recognise that a socially liberal Burma is a productive Burma and to pressure the junta to undertake liberal social reforms.

ASEAN members have traditionally been reticent to address human rights concerns to existing members, though in 2003 Dr Mahathir, the Malaysian leader, agreed that remedial measures may have to be adopted against Burma. He indicated that discussions had already taken place: *'We have already informed them that we are very disappointed with the turn of events and we hope that Aung San Suu Kyi will be released as soon as possible,'* (quoted on BBC 2003<sup>17</sup>). More recently ASEAN passed a Charter of Human Rights which entered into force December 2008; its utility is yet to be tested. However, ASEAN nations have traditionally regarded human rights issues as sovereign concerns. This can be evidenced in a 2008 ASEAN Chairman's statement made with reference to the human rights situation in Burma—specifically with regard to the initial junta's denial of entry rights to international aid agencies following Cyclone Nargis:

*'Prime Minister Thein Sein made clear that the situation in Myanmar was a domestic Myanmar affair and that Myanmar was fully capable of handling the situation by itself..*

*The ASEAN Leaders agreed that ASEAN would respect Myanmar's wishes and make way for Myanmar to deal directly with the UN and the international community on its own. ASEAN stands ready to play a role whenever Myanmar wants it to do so...*

*the Leaders reiterated that the Myanmar Government should continue to work with the UN in order to:*

- a. Open up a meaningful dialogue with Daw Aung San Suu Kyi and the National League for Democracy (NLD);*
- b. Make full use of the good offices of the UN Secretary-General and Professor Gambari in this process;*
- c. Lift restrictions on Daw Aung San Suu Kyi and release all political detainees;*
- d. Work towards a peaceful transition to democracy; and*
- e. Address the economic difficulties faced by the people of Myanmar.*

*The Leaders emphasised that they will strive to prevent the Myanmar issue from obstructing ASEAN's integration efforts, especially the ASEAN Charter and the*

*establishment of the ASEAN Community.'* (ASEAN 2008<sup>18</sup>).

As can be seen from the above ASEAN statement, autonomy is a primary tenet of the regional relationships. This has led many bodies to be sceptical about any potential influence that the ASEAN human rights charter can bring to bear on Burma.

### Trade unions

**Legal framework and extrajudicial treatment** The trade union environment in Burma is characterised by the same restrictions on rights that affect non union bodies and individuals. As a consequence, functioning trade unions—such as those found in most ILO member states and protected by the Conventions on Rights to Organise and Freedom of Association—are not permitted to operate in Burma. The legislative framework provides for severe sanctions to be brought to bear for violations of codes relating to the publication and distribution of illegal material. Article 19 outlined that after the 8888 uprising, the SLORC further restricted freedoms:

*'From the time of the September 1988 coup until September 1992, the entire country was placed under martial law. Those accused of breaching martial law provisions were tried by military tribunals, set up in July 1989, with powers to pass down only three penalties: life imprisonment, death or a minimum of three years' hard labour.'* (Article 19 1995<sup>19</sup>)

In concert with legislated restrictions, the judicial process is subject to corruption and influence from the junta. A number of case studies have been documented by groups such as Amnesty International, Article 19 and Human Rights Watch whereby activists have been subjected to extrajudicial treatment following arrest for protest actions. One such case concerned members arrested during a May Day protest in 2007:

*'Out of 33 persons originally arrested, six were held and charged. They were brought before a special tribunal inside a prison on 7 September, found guilty of sedition and illegal organising, and sentenced to between 20 and*

*28 years imprisonment. As the lawyers for the six had already resigned due to constant harassment by the prison officials, it is not clear whether or how the six might lodge appeals against their sentences.’ (Amnesty 2007<sup>20</sup>)*

**International Labour Organisation (ILO)** ILO has a long and turbulent history in Burma—the junta remains distrustful of intergovernmental organisations and has previously refused cooperation with UN agencies. This distrust has extended as far as the harassment of those accused of referring complaints to the ILO Liaison Officer for consideration (ILO 2009<sup>21</sup>). Burma has acceded to two of the five fundamental ILO Conventions, C29 concerning Forced Labour and C87 concerning Freedom of Association—both ratifications were made in 1955. Burma ratified neither C105 nor C98, additional conventions dealing respectively with Forced Labour and Freedom of Association. Burma does not enjoy normal relations by the ILO and has previously been sanctioned in December 2000 by ILO. The sanctioning process invited countries dealing with Burma to review their associations in order to ensure that they would not be complicit in violations of forced labour codes (ILO 2001<sup>22</sup>).

Resolutions of the UN General Assembly have specifically referenced violations of ILO Conventions and restrictions on political activity committed by the Myanmar military. The UN Resolution in 2006 detailed the concerns of the international community:

*‘(h) The fact that the Government of Myanmar, as noted by the 2005 International Labour Conference, has still not implemented the recommendations of the International Labour Organization Commission of Inquiry, has yet to demonstrate its stated determination to eliminate forced labour and take the necessary measures to comply with the International Labour Organization Convention concerning Forced or Compulsory Labour, 1930 (Convention No. 29), and has yet to demonstrate commitment at the highest level to a substantive policy’ (UN 2006<sup>23</sup>)*

Following a number of years of investigations into breaches of the Convention Protecting Freedom of Association, and in

light of a complaint brought by the ITUC, the ILO concluded that Burma is among the most consistent violator of the Convention globally:

*‘The Conference Committee has regularly mentioned (the last occasion of which was at the 93rd Session (June 2005) of the International Labour Conference) the application of the Convention by Myanmar in a special paragraph of its general report, thereby underlining the seriousness of the matter. These comments go to the very heart of the Convention and draw attention to the total absence of a legislative framework and climate sufficient to enable trade unions to exist in Myanmar.’ (ILO 2008<sup>24</sup>)*

**Free Trade Union of Burma (FTUB)** A restrictive legislative framework is in place which proscribes lengthy prison sentences for those involved in trade union activity or anti-governmental activities. This has forced a number of activists and trade unionists to leave the country in order to pursue their activities. Organising from exile brings many problems with both legitimacy and impact difficult to determine. The Free Trade Union of Burma (FTUB) is an exiled grouping that has been the focus of ILO demands for the junta to grant it formal recognition and rights. FTUB carries out activities such as the dissemination of information between different Burmese regions, trainings and liaison with the international media (ITUC interview with Maung Maung 2008<sup>25</sup>). Its information dissemination activities have proven unpopular with SPDC. The Director-General of the Myanmar Police Force, Brig-Gen Khin Yi, stated in a press conference in 2005:

*‘FTUB collected news on peasants, workers and others from Myanmar as much as possible and submitted these matters to ILO and trade unions in western countries for obtaining financial assistance. With these funds, the group has mobilized and utilized some Myanmar citizens in a neighbouring country and stealthily committing destructive acts and UG programmes to create unrest. With a view to launching more terrorist destructive acts within the country and obtaining more financial assistance from abroad.’ (SPDC 2005<sup>26</sup>)*

The union positions itself as an umbrella body representing the interests of nine different categories of workers through

their respective affiliated sectoral interests (FTUB 2009<sup>27</sup>). It is unclear how FTUB manages its consultation processes with the various sectoral interests and how its officers are elected/appointed – various actors have voiced concern that FTUB operates in an opaque manner. Maung Maung is general secretary of FTUB and has strong links into various opposition movements through his father who is a member of the national executive of the NLD. FTUB is an important figurehead and has been the focus of union recognition demands from ITUC and subsequently ILO.

### Higher education in Burma

Comprehensive statistics for Burma's HE sector are not included within the UNESCO Global Education Digest 2008. Moreover, accurate statistics on the higher education sector in Burma are generally held to be in sparse supply as many of the universities were closed for long periods of time following the 1988 uprising (Burma, the State of Myanmar Steinberg 2002; NEAR International 2003).

Approximately 3000 students study abroad each year in: U.S.A. (673), Japan (627), Malaysia (533), Australia (278), Thailand (255) (UNESCO 2008<sup>28</sup>). Presently the Ministry of Education lists details of 44 university and degree colleges. However, the higher education law has also constituted specialised centres of higher education to be governed by other ministries such that the total number of institutions has been recently given as 156 (Han Tin 2008<sup>29</sup>). IAU and local data is provided in annexes 2,3 and 4.

**University governance legislative framework** Higher education is governed by the 1973 University Education law. Numerous amendments have been made to the law to establish specific education facilities, 'The State Peace and Development Council Law No. 4/98', March 1998, amended the law and determined governance arrangements for universities in Burma. The law does not provide for significant autonomy of institutions. Section 9 of the law was amended to constitute a body to supervise all aspects of the university sector covering both content and process.

*'9 (a) The Government shall form the Council of University Academic Bodies in order to supervise all*

*matters relating to standard of university education, syllabus, examination and education'* (SPDC 4/98<sup>30</sup>)

The active role of the junta in the higher education sector can be evidenced in the law constituting 'The University for the Development of the National Races of the Union' (SLORC No. 9/91 1991). Chapter 3, Section f defines one of the aims to:

*'(f) to produce good educational personnel who are free from party politics and who are of good moral character'* (SLORC 9/91<sup>31</sup>)

The above protocols illustrate that the autonomy of the higher education sector is limited by legislation. The 1991 law has severe implications for academic freedoms by pre-defining that the university is responsible for producing non-partisan education personnel. However, many of the restrictions on academic freedoms in Burma can be attributed to the totalitarian formation of the junta and do not have a base in the 1973 University Law (see examples provided in annex 1).

**Restrictions on student unions in higher education** Political activity is strongly discouraged within the university sector, due to a number of the more active opposition groups, including many involved in the 1988 and 2007 uprisings, being comprised of students from the University of Yangon. It has been posited that an important driver for the proliferation of institutions and the increase in distance learning provision was to decentralise the student base and so reduce the incidence of anti-government activity (Steinberg 2002<sup>32</sup>).

Students have been targeted extensively by the junta. Student unions are generally not permitted and ILO Freedom of Association provisions are not respected. Amnesty International reported one such restriction on student union activity:

*'Amnesty International and Reporters Without Borders are calling for the release of 7 law students and a journalist detained since June 2003. Sports editor Zaw Theht Htwe and the students are believed to have been arrested because they set up a student sports union in their university without official permission'* (Amnesty 2004<sup>33</sup>).

The junta has previously taken severe action against the

university sector by undertaking measures such as closing universities, arresting students and sending lecturers for compulsory patriotic re-education. In 2006, Amnesty International reported one such case:

*'Thet Win Aung, a 34 year old student leader and one of Amnesty International's Prisoner of Conscience, died in Mandalay Prison on 16 October 2006. He was in prison since 1998 for taking part in organizing peaceful small-scale student demonstrations which called for improvements to the educational system and the release of political prisoners'* (Amnesty 2006<sup>34</sup>).

A study into educational freedoms in 1992 found that students have generally been at the forefront of both opposition activity and subsequent junta suppression measures. Article 19, a global human rights NGO, has reported that:

*'Undoubtedly the harshest treatment, however, is reserved for the students. Since 1988 thousands of young people have been arrested under the SLORC's tough martial law restrictions and many have been brutally tortured. With the constant closure of the colleges, for four years now few students have been able to either enter or graduate from university. The SLORC appears determined to prevent any resurgence of political activity in schools or on the college campuses. Right across the country virtually every democratic right of association, publishing and communication has been banned'*. (Article 19 1992<sup>35</sup>)

**Restrictions on university teachers** University teachers have faced heavy discrimination by the junta. Article 19 documented the severe repression measures that were enacted after the 1988 uprising, these included forced re-education, mass dismissals, political restrictions and significant changes in their terms of employment:

*When the universities and colleges finally reopened in September 1992, academics found they had a new set of duties. Each lecturer was given surveillance duties and made responsible for the actions of the students in their class. On many campuses, corridors and staircases have been divided into "security divisions" under the command of department heads. "It's just another form of*

*control," a foreign diplomat told Reuters. "The government is trying to keep the lid on the students by making their teachers responsible for them, so whatever they do, the teachers take the rap. It's very clever."...* (Article 19 1992<sup>36</sup>)

*'For many academics, the appearance in military uniform of the SLORC Health and Education Minister, Pe Thein, the only civilian in the SLORC cabinet, symbolizes the status of education in Burma today. A medical doctor and former Rector of Mandalay Institute of Medicine, since his appointment by the SLORC in 1988 he had started wearing a uniform and pistol with the military rank of colonel'*. (Article 19 *ibid*)

### The economic dimension

In addition, economic factors impact on the availability of academic freedoms. Burma had previously been awarded prizes for literacy by UNESCO in 1983 and 1971 (UNESCO 1998<sup>37</sup>), however, in line with a weakening in the economy, leaving Burma classified as a Least Developed Country (LDC), many institutions are poorly funded and suffer from a lack of resource. It has been reported that institutions under the defence, forestry, agriculture and irrigation ministries generally fare better—though resource gaps remain evident (Han Tin 2008<sup>38</sup>).

## Annex 1

### Recent human rights violations compiled by Altsean<sup>39</sup> during March 2009

(higher education cases in bold)

#### Arrests

- **2 March** SPDC authorities in Taungoo, Pegu Division, arrested Thein Lwin, a Thaketa Township NLD organizing committee member.

*Mizzima News (16 March 2009) Ailing NLD party worker arrested*

- **3 March** SPDC authorities in Twante Township, Rangoon Division, arrested NLD sympathizer Khin Zaw along with seven NLD supporters after they collected signatures for the release of political prisoners.

*DVB (09 March 2009) Eight people arrested after signature campaign*

- **6 March** SPDC authorities in Rangoon's Sanchaung Township arrested NLD member Sein Hlaing. He was involved in the NLD's program to support political prisoners.

*DVB (10 March 2009) Two NLD members in unspecified arrest*

- **7 March** SPDC authorities in Rangoon's Hlaing Township arrested NLD member Shwe Gyoe.

*Mizzima News (08 March 2009) Former political prisoner detained*

- **10 March** Special Branch police in Akyab, Arakan State, arrested four NLD youth members and a monk from Tawra Monastery for praying for the release of Daw Aung San Suu Kyi at the Lawkanandar pagoda.

*Kaladan News (12 March 2009) Authorities arrest NLD youth in Akyab*

- **13 March** SPDC authorities in Rangoon's Ahlone Township arrested NLD member and social worker Myint Myint San aka Ma Cho. She had been providing support to political prisoners with the NLD's Social Supporting Committee.

*AP (18 March 2009) Myanmar arrests 5 members of pro-democracy party; Irrawaddy (16 March 2009) Four NLD members arrested*

- **15 March** SPDC authorities in Rangoon arrested NLD member Kyi Lwin, 53.

*AP (18 March 2009) Myanmar arrests 5 members of pro-democracy party; Mizzima News (16 March 2009) Ailing NLD party worker arrested*

- **20 March** It was reported that SPDC Military Intelligence at a checkpoint on the Maungdaw-Buthidaung road in Arakan State detained 60-year-old retired police official Mrat Tun for providing information to a Burmese media group in Bangladesh.

*Narinjara News (26 March 2009) Retired police official arrested for connections with exiled media*

- **27 March** Police in Twante Township, Rangoon Division, arrested private tutor Aung Phe after he stood outside the Township NLD office for over five hours.

*Mizzima News (27 March 2009) Lone protestor detained*

#### Prison sentences

- **5 March** A court in Rangoon's Insein prison sentenced **88 Generation Students Win Maw, Zaw Zaw Min aka Baung Baung, and Aung Zaw Oo to an additional ten years in prison for sending news about the Saffron Revolution through the internet. They will now serve a total of 17, 12, and 22 years in prison respectively.**

*DVB (06 March 2009) Pop star imprisoned for further 10 years; UPI (19 March 2009) Cyber-thought crime in Bangkok and Rangoon*

- **11 March** A court in Insein prison sentenced relief worker Min Thein Tun aka Thiha to 17 years in jail for helping coordinate Cyclone Nargis relief efforts through the internet.

*DVB (18 March 2009) Prisoners living in dire conditions hundreds of miles from families*

- **12 March** Rangoon's North Dagon Township court sentenced six relatives of monk leader U Gambira, including his brother Aung Ko Ko Lwin, to five years in prison with hard labor.

*DVB (13 March 2009) Brother-in-law of ABMA leader sentenced to five years' hard labour; Irrawaddy (13 March 2009) Monk's family members sentenced in reprisal*

- **17 March** A court in Magwe Division sentenced lawyer Pho Phyu to four years in prison. Pho Phyu defended farmers whose land had been forcibly seized by the SPDC Army in Natmauk Township.

*AP (20 March 2009) Myanmar imprisons activist lawyer for 4 years; DVB (18 March 2009) Farmers' lawyer sentenced to four years in prison*

- **23 March** A court in Insein prison sentenced former student activists Yin Yin Waing, Tin Tin Cho, Myat Thu, and Ni Moe Hlaing to three years in prison. They volunteered as relief workers in the Irrawaddy delta and collected donations from friends and relatives following Cyclone Nargis.

*Irrawaddy* (24 March 2009) *Insein court sentences 13 more political activists*; *Mizzima News* (24 March 2009) *NLD requests meeting with party leaders*

- **23 March** A court in Insein prison sentenced NLD members Htet Htet Oo Wai, Win Myint Maung, and Tun Tun Win to five years in prison for calling for the release of Daw Aung San Suu Kyi in front of the People's Assembly building in Rangoon on 30 December 2008.

*Irrawaddy* (24 March 2009) *Insein court sentences 13 more political activists*; *Mizzima News* (24 March 2009) *NLD requests meeting with party leaders*

- **23 March** A Maungdaw district court sentenced local businessman Nyunt Maung, 45, to one year in prison for sending information to a Burmese media group in Bangladesh.

*Narinjara News* (28 March 2009) *Businessman sentenced to one year in prison for sharing information*

- **23 March** A court in Insein prison sentenced activists Aung Kyaw Oo, Zeya Oo, Htin Aung, Than Tun Zin, Tin Tun, and Myo Thant to prison terms ranging from two to seven years for distributing political leaflets in Rangoon on behalf of the 88 Generation Students on 7 August 2008.

*Mizzima News* (24 March 2009) *NLD requests meeting with party leaders*

- **24 March** A court in Twante Township, Rangoon Division, sentenced NLD sympathizer Khin Zaw and three NLD supporters to seven days in prison. [See above Arrests]

*Mizzima News* (25 March 2009) *Three NLD members framed and jailed for exposing corruption*

- **30 March** A court in Rangoon's Thingangyun Township sentenced six NLD members to five years in prison and extended the eight-year sentence of NLD member Ye Zaw Htike by an additional 10 years.

*Irrawaddy* (31 March 2009) *More NLD members receive lengthy prison sentences*

## Annex 2

### IAU overview of the higher education sector in Burma 2005<sup>40</sup>

#### *Institution types and credentials*

##### Types of higher education institutions

- Tekkatho (University)
- College
- Technical Institute

##### School leaving and higher education credentials

- Basic Education Standard Examination (Matriculation)
- Diploma
- Bachelor of Education
- Bachelor's Degree
- Bachelor's Degree (Honours)
- Postgraduate Diploma
- Master's Degree
- Doctorate

Higher education is provided by universities and specialised institutions (teacher training schools and colleges, technical and professional institutes and an Institute for Foreign Languages). They are all state institutions. Most of them are under the control of the Departments of Higher Education (one for lower Myanmar in Yangon and one for upper Myanmar in Mandalay) of the Ministry of Education. They are independent units. Each university has an academic and an administrative board. National policies are established by the Universities' Central Council and the Council of University Academic Bodies which are chaired by the Minister of Education. All universities and colleges are state-financed. A nominal fee is charged for studies.

##### Main laws/decrees governing higher education

- *Decree* University Education Law (1973)
- *Decree* University Education Law (1964)  
*Concerns Universities*

**Academic year** Classes from September to August

**Languages of instruction** Burmese, English



### Stages of studies

**Non-university level post-secondary studies (technical/vocational type)** Higher vocational and technical education is provided by government Technical Institutes offering three-year courses in Building Construction, Railway Construction, Highway and Municipal Technology; Machine-tool Design Technology; Diesel Power and Heavy Equipment; Electric Power; Electronics and Mining. Entry is at post-matriculation level and is subject to success in the entrance examination. The Agricultural Institute at Pinyinmana offers post-secondary training for agricultural extension workers and teachers of vocational agriculture in high schools. Entrants must hold the Matriculation and Regional College final examinations or be junior assistant teachers. The Institute of Nursing in Yangon offers a four-year BSc course in Nursing. Two-year Diploma courses in Physiotherapy, Pharmacy, Radiography and Medical Technology are offered by the Institute of Paramedical Sciences.

**University level first stage: Bachelor's degree** The Bachelor (pass degree) is obtained on successful completion of a three-year course (four in law) and the Bachelor (honours) degree after an additional year. The Bachelor's degrees in Engineering, Architecture and Forestry require five to six years' study. In Dentistry, Medicine and Veterinary Sciences studies last for six to six-and-a-half years. In Law, the Bachelor's degree is obtained after two years' study following a Bachelor's degree in Arts, Science or Social Science, which is a prerequisite.

**University level second stage: Master's degree, Postgraduate Diploma** Master's degrees (MA, MSc, MEd, MDS, MAgrSc, MPhil etc.) are conferred after two years' study beyond the Bachelor's degree. Postgraduate Diplomas are also offered in some institutions following one or two years' study.

**University level third stage: Doctorate** A PhD is conferred by certain universities after at least four years' further study and research.

**Non-traditional studies: distance higher education** Yangon University of Distance Education and Mandalay University of Distance Education provide distance education at e-learning centres located all over the country.

**Other forms of non-formal higher education** Non-formal studies are offered by regional colleges, which provide courses for the first two years of tertiary education. An examination is taken to obtain a leaving qualification and yet another for entrance to university. Those with the best marks proceed to the final part of their degree course. There is also a Workers' College which is affiliated to the University of Yangon. Evening classes are offered by the University of Mandalay.

### Admissions to higher education

#### Admission to non university higher education studies

- *Name of secondary school credential required* Basic Education Standard Examination (Matriculation)
- *Entrance exams required* Entrance examination

#### Admission to university-level studies

- *Name of secondary school credential required* Basic Education Standard Examination (Matriculation)
- *Other admission requirements* Entrance examination at some universities

#### Foreign students admission

- *Entry regulations* Foreign students are admitted to Myanmar higher educational institutions only under officially sponsored programmes.
- *Language requirements* A good knowledge of Burmese is essential.

### Grading system

#### Main grading system used by higher education institutions

- *Full description* 0-100%
- *Highest on scale* 100%
- *Pass/fail level* 50% for major subjects, 40% for minor ones.
- *Lowest on scale* 0%

#### Data for academic year 2004-2005

### Annex 3

#### Description of the higher education sector from Yangon City Municipality<sup>41</sup>

Due to the major changes in higher education with the enactment of the University Education Law 1964 and 1973 respectively the existing unitary system of higher education the form of the University of Rangoon (Yangon) and the University of Mandalay ceased to exist and numerous University level institutes came into existence. In order to administer and the work of these institutions, the Office of Universities Administration was formed. In 1972 it was renamed the Department of Higher Education. The Department is thus the executive branch of the Ministry of Education with the responsibility for administration and coordination of higher education institutions. Academic and administrative policy matters relating to higher education are managed by the two Councils chaired by the Minister of Education. These are: the Universities' Central Council; and the Council of Universities Academic Bodies.

The Universities' Central Council is mainly responsible for the forming of broad policy and coordination of the work of universities and Colleges while the responsibility of the Council of University Academic Board lies in the adoption of all academic regulations and coordination of all academic work.

#### Tertiary education institutions

There are 58 Tertiary Education Institutions under the Ministry of Education. They are as follows:

<i>Institute of Economics</i>	2
<i>Institute of Education</i>	2
<i>Art and Science Universities</i>	16
<i>Arts and Science Degree Colleges (4 Years)</i>	9
<i>Arts and Science Colleges (2 Years)</i>	10
<i>Education Colleges</i>	19
<b>Total</b>	<b>58</b>

There are also 47 Tertiary Education Institutions under other Ministries and the Public Service Selection and training Board. For instance, The Ministry of Health is responsible for medical education and other health-related educations. The

Ministry of Agriculture and Irrigation is responsible for the Institute and the Ministry of Livestock breeding and fisheries are responsible for their respective institutions. The Ministry of Forestry, the university of the Development of National Races is administered by the Public Services Selection and Training Board, the Dragon Colleges of Nationalities Youth Resource Development are administered by the Ministry of Progress of Border Areas and national Races Development Affairs. Since 1994, new cooperation colleges and regional cooperative college have been opened by the Ministry of Cooperative.

The Ministry of Defense established the Defense Services Institute of Medicine and in 1993, the Defense Services Institute of engineering were further established.

### Annex 4

#### Breakdown of higher education institutions by sector (Han, 2008)<sup>42</sup>

Myanmar education: challenges, prospects and options (2008) Tin, Han Chapter 7 of *Dictatorship, Disorder and Decline in Myanmar* (ANU 2008)

#### Number of higher-education institutions in Myanmar (2008)

1	<i>Education</i>	64
2	<i>Health</i>	14
3	<i>Science and technology</i>	56
4	<i>Defence</i>	5
5	<i>Culture</i>	2
6	<i>Forestry</i>	1
7	<i>Agriculture and irrigation</i>	1
8	<i>Livestock, breeding and fisheries</i>	1
9	<i>Cooperatives</i>	5
10	<i>Civil Service Selection and Training Board</i>	1
11	<i>Religious affairs</i>	2
12	<i>Progress of border areas and national races and development affairs</i>	1
13	<i>Transport</i>	3
	<b>Total</b>	<b>156</b>

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