

Update Briefing

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Not a Rubber Stamp: Myanmar's Legislature in a Time of Transition

I. Overview

Myanmar's new legislature, the Union Assembly formed in 2011 on the basis of elections the previous year, has turned out to be far more vibrant and influential than expected. Both its lower and upper houses have a key role in driving the transition process through the enactment and amendment of legislation needed to reform the outdated legal code and are acting as a real check on the power of the executive.

Yet, some bills moving through the legislature have raised concerns that the authorities, both legislative and executive, may not be ready to give up authoritarian controls on the media, on civil society organisations and on the right to demonstrate. More broadly, the role of the 25 per cent military bloc and its impact on the legislature have been questioned. Serious individual and institutional capacity constraints and unclear procedures serve as a brake on effective, efficient lawmaking.

Several controversial pieces of legislation are being developed. The association bill under consideration would provide a framework for the registration and operation of social organisations and international non-governmental organisations (NGOs). Initial drafts were considered by local organisations and international experts to be highly restrictive and far short of global best practice. At the same time, there has been legislative willingness to consult with those local groups and listen to expert advice. The latest version is far less restrictive and addresses the majority of civil society concerns.

The law on peaceful assembly promulgated in 2011 has been widely criticised for imposing criminal penalties on those who demonstrate without permission. Scores of activists have been charged and dozens imprisoned under it, raising serious questions about the true extent of Myanmar's new freedoms. Senior lawmakers have acknowledged that such imprisonment is inconsistent with the president's pledge that there will be no more political prisoners by the end of the year. A proposal to amend the problematic provisions has been drawn up.

New media legislation to replace the old draconian restrictions is being debated. Again, some problematic provisions have been carried over into the draft bills, including the power to issue and revoke publishing licences and broadly-worded restrictions on content. There has been consultation with media representatives, including the press council, but so far it is not clear to what extent their concerns will be taken into

account. The government has expressed some unease about having an unregulated media when many journalists still do not well understand professional and ethical standards.

What emerges is a picture of a lawmaking process with flaws but in general willing to consult with stakeholders and make use of expert inputs. Authoritarian reflexes and concerns in some quarters about opening up too far, too fast are now tempered, though not erased, by other considerations, such as public demands for consultation and a desire to meet international standards. The shape of media legislation and whether the announced amendments are made to the peaceful assembly law will be the next concrete tests of whether it is the old reflexes that hold sway or the new openness.

The 25 per cent of seats reserved for the military under the constitution has been a source of concern to many. While the reservation is not consistent with fundamental democratic principles, the military bloc has generally taken positions supportive of the reform process. There have been some tensions with other lawmakers, as the bloc has sometimes voted in support of the executive and the president and against the majority Union Solidarity and Development Party (USDP), established by the old military regime.

More broadly, lawmaking is constrained by representatives' lack of experience and institutional weaknesses in what is the first independent legislature in Myanmar for 50 years. Lawmakers have little knowledge of democratic practice, and there is very little institutional support. Without offices or staff, with no policy and research help, and with committees lacking internal experts to report on and analyse the issues, efficient, effective lawmaking is impossible. Under such circumstances, and with a crowded legislative agenda, it is impressive how much has been achieved. But as the transition proceeds, far greater investments are needed if this critical branch of government is to meet public expectations.

II. The Legislative System

A. Background

The 2008 constitution provides the basis for the legislative system.¹ Following the November 2010 elections, both houses of the Union Assembly were convened on 31 January 2011, the same day the constitution came into force.² That session ended on 30 March, the day on which power was formally transferred from the military regime to the government of President Thein Sein.³ Since then, the two houses have been in session most of the time, apart from brief recesses.

This is the first functioning legislature since the democratic period of 1948-1962. During that time, despite much political infighting and widespread insurgency, there

¹ For analysis of the 2008 constitution, see Crisis Group Asia Report N°174, *Myanmar: Towards the Elections*, 20 August 2009.

² For previous Crisis Group reporting on Myanmar since the present government took power, see Asia Briefings N°140, *A Tentative Peace in Myanmar's Kachin Conflict*, 12 June 2013; N°136, *Reform in Myanmar: One Year On*, 11 April 2012; and N°127, *Myanmar: Major Reform Underway*, 22 September 2011; also Asia Reports N°251, *The Dark Side of Transition: Violence Against Muslims in Myanmar*, 1 October 2013; N°238, *Myanmar: Storm Clouds on the Horizon*, 12 November 2012; N°231, *Myanmar: The Politics of Economic Reform*, 27 July 2012; and N°214, *Myanmar: A New Peace Initiative*, 30 November 2011.

³ The upper and lower houses ended their first sessions on 23 March, with the joint Union Assembly concluding a week later.

were regular multi-party elections to a bicameral legislature, in accordance with the 1947 constitution.⁴ Following the 1962 coup, General Ne Win abrogated the constitution and assumed full legislative, executive and judicial powers. A new constitution that came into force in 1974 established a socialist one-party state, with a unicameral legislature, that served as a rubber stamp for the policies of Ne Win, who remained head of state. During military rule from 1988 to 2011, there was no legislature, and all powers were again vested in the junta; no constitution was in force, and the results of the 1990 elections were never implemented.

B. *Structure*

The 2008 constitution provides for a bicameral national legislature, the Pyidaungsu Hluttaw (Union Assembly). This is made up of a 440-seat lower house, the Pyithu Hluttaw (People's Assembly),⁵ and a 224-seat upper house, the Amyotha Hluttaw (Nationalities Assembly). Three-quarters of the seats in both houses are elected, with the remainder reserved for military officers appointed by the commander-in-chief. There are also local legislatures in each of Myanmar's fourteen regions and states.⁶

The constitution strictly separates national-level powers; individuals cannot simultaneously hold legislative and executive posts.⁷ A member of the legislature appointed as president, vice president, minister, deputy minister or to another executive job, must resign, and the seat is filled at the next by-election.⁸ Each house of the legislature is led by a speaker and deputy speaker. For the current five-year term, the lower house speaker is Shwe Mann (a former four-star general and third-ranking member of the military regime); the upper house speaker is Khin Aung Myint (an ex-culture minister). Khin Aung Myint also served as Union Assembly speaker for the first 30 months; in accordance with the constitution, Shwe Mann took over at the end of July 2013 for the remaining 30 months.

The functioning of the legislature is also governed by a number of laws and regulations, all initially promulgated in 2010 by the military regime, prior to the elections, and amended or replaced since 2011.⁹ The changes have not altered their basic elements, which are in line with the constitution. These are in need of further overhaul, drawing on comparative experience, to regulate the flow of work and the allocation of time and resources among members and party blocs. For matters that require a vote, the rules set out three methods, with the choice left to the speaker: (i) electronic secret ballot; (ii) paper secret ballot (presumably as a back-up to the electronic system); and (iii) voting by standing up.¹⁰

⁴ After a 1958 coup, the legislature was abolished for eighteen months, until elections in 1960 returned power to civilian hands.

⁵ These constituencies are based on township boundaries, which can result in very different populations and, therefore, unequal representation.

⁶ The constitution designates the senior military commander, not the head of state, as commander-in-chief. The local legislatures will not be discussed in this report.

⁷ Regional assembly members, however, can also be ministers in their region/state government.

⁸ By-elections are not automatically triggered by a vacancy. The Election Commission decides to hold them from time to time. Polls are then conducted for all vacant seats.

⁹ Each chamber has a procedural law (eg, the 2012 Pyithu Hluttaw Law that repealed and replaced a same-name 2010 law) and an election law (eg, the 2010 Pyithu Hluttaw Election Law, amended in 2011), as well as rules (sometimes called "by-laws") associated with each of these laws (eg, the 2013 Pyithu Hluttaw Rules).

¹⁰ 2013 Pyithu Hluttaw Rules (6 February 2013), Rule 19(p) and appendices (c) and (d), and corresponding provisions of the rules for the other chambers. Matters requiring a vote are the appoint-

C. *Committees*

Each chamber has established four standing committees, as well as ad hoc committees and commissions.¹¹ A committee is made up only of legislative representatives; a commission's membership may include others. The standing committees, each of which has a maximum of fifteen members and reports to the speaker of its legislative chamber, are as follows:

Bill Committee. It has the responsibility to vet all bills to determine their compatibility with the constitution and existing laws, as well as with Myanmar's international obligations; whether they align with national priorities; whether they serve the interests of the nation and people; whether they could pose a risk to national security; whether they are consistent with current realities; and whether their provisions can be implemented in practice.¹² Due to its heavy workload and specific procedures, many observers describe this committee as a bottleneck in the lawmaking process, a situation that could be partly addressed through adjustments in its working methods, drawing on international practice.¹³

Public Accounts Committee. It is responsible for vetting, including through visits and inspections, government expenditures and reports of the auditor-general to ensure that such expenditures were for the approved purpose and effectively utilised; vetting the operations of state-owned enterprises; and scrutinising government revenues.¹⁴

Hluttaw Rights Committee. It is tasked with considering alleged violations of the rights of the legislature, a committee or a member; deciding whether a violation has taken place; and recommending action to the legislature. The committee is also responsible for verifying credentials of members, resignations, ethical and disciplinary violations and disqualifications.¹⁵

Government's Guarantees, Pledges and Undertakings Vetting Committee. It determines, including through visits and inspections, the extent to which commitments made by the government and top executive bodies have been implemented in a timely manner.¹⁶

There are more than 40 ad hoc committees and commissions, including those in the lower and upper houses, as well as joint bodies. They cover specific sectors, such as health, education, monetary policy and international relations, as well as broader thematic areas like human rights, peacemaking, reform and modernisation and legal affairs. In addition to the Bill Committee, draft laws are usually also considered by the relevant ad hoc committee. Particularly noteworthy are:

ments of speakers and deputies, their removal from office and resolutions concerning proposals and bills submitted to it.

¹¹ These four standing committees are designated in the constitution and procedural laws and exist for the full legislative term; ad hoc committees are formed for a limited time.

¹² Section 59, 2013 Pyithu Hluttaw Rules; corresponding section, Amyotha Hluttaw Rules.

¹³ Crisis Group interview, Myanmar-based international electoral expert, Yangon, December 2013.

¹⁴ Sections 68-70, 2013 Pyithu Hluttaw Rules; corresponding sections, Amyotha Hluttaw Rules.

¹⁵ Sections 85, 87, 2013 Pyithu Hluttaw Rules; corresponding sections, Amyotha Hluttaw Rules.

¹⁶ Sections 96, 98, 2013 Pyithu Hluttaw Rules; corresponding sections, Amyotha Hluttaw Rules.

Legal Affairs Assessment and Special Issues Commission (lower house). This influential body was the first commission formed, in November 2011. It is chaired by the lower house deputy speaker and has 54 members, of whom eighteen are elected (including four from opposition parties), three are from the military bloc and the rest are outside experts, including respected legal, economic and other professionals. It is tasked to recommend laws that should be amended, repealed or replaced and also functions as something of a think-tank for the lower house speaker.¹⁷

Rule of Law, Peace and Stability Committee (lower house). Formed in August 2012, it is chaired by National League for Democracy (NLD) leader Aung San Suu Kyi and made up of members from various political parties. Apart from its subject matter, this was significant in giving a formal legislative role to the opposition leader, shortly after her election to the legislature; the majority of committees are chaired by senior members of the USDP.

Constitutional Review Committee (joint). It was established in July 2013, is chaired by the lower house deputy speaker and has 109 members – 25 from the military bloc, the rest drawn from the parties in the legislature in about the same proportion as their share of seats.¹⁸ It is tasked with reviewing possible amendments to the 2008 constitution and making recommendations to the Union Assembly. The deadline for submitting its report is 31 January 2014, at which point its term ends. Its decisions are by majority vote, which implies that the USDP has a major influence but cannot decide unilaterally. Its terms of reference require it to take as its starting point three key considerations: (i) ensuring the national interest; (ii) supporting the peace process; and (iii) maintaining the pace of democratic transition.¹⁹ It may only recommend; the house is free to agree or not, so its report will be just a first step in any constitutional amendment process.

D. *Balance of Power*

The elections held under the military government in 2010 were widely regarded as deeply flawed.²⁰ They were boycotted by the NLD, and the pre-election playing field was tilted heavily in favour of the USDP, which won a landslide, with few seats going to opposition and ethnic parties. The April 2012 by-elections, held after the transfer of power to the present government, were broadly free and fair, and the NLD secured a landslide. The NLD's entry into the legislature was highly symbolic, but since there were by-elections for only a small number of seats, the balance of power was not significantly shifted. Both houses remain dominated by the USDP, which has over 50 per cent of the seats in the Union Assembly; the military bloc has 25 per cent and the NLD (the next largest) 7 per cent.²¹

¹⁷ Crisis Group interviews, commission members, Naypyitaw, November 2012; commission adviser, Yangon, August 2013.

¹⁸ The USDP has 52 lower house seats, the NLD seven and other parties 25; some of the smallest parties have less than 1 per cent of the lower house seats but have a representative on the committee, which is why the latter has more than 100 members.

¹⁹ Pyidaungsu Hluttaw (Union Assembly) Notification no. 41/2013, 25 July 2013. Its term was subsequently extended by one month to allow more time for public consultation.

²⁰ See Crisis Group Asia Briefing N°118, *Myanmar's Post-Election Landscape*, 7 March 2011.

²¹ See Crisis Group Briefing, *Reform in Myanmar*, op. cit.

III. Heading in the Right Direction?

A. *Initial Functioning*

While the Union Assembly is dominated by the USDP, the speakers of both houses, who have considerable power under the current rules, have taken a rather inclusive approach in running legislative affairs. Opposition and ethnic party representatives are included on all committees and commissions, in some cases as chairs, which is not required under the rules.²² They have also been prominently involved in many debates and in introducing resolutions and questioning government ministries and departments. This has produced discussions – although not necessarily concerted action – on such contentious issues of national importance as the ethnic conflict and citizenship, including the status of the Rohingya minority. The speakers have likewise encouraged lawmakers to put broader national interests above narrow party-political considerations; a consequence is that USDP representatives often support opposition motions and vice versa. Also, parties do not have a systematic whip system in place for voting and frequently do not vote as a bloc.²³

Speaker Shwe Mann, in particular, has positioned the lower house as an influential body that actively seeks to check executive power. This is in part because he is very powerful – at third most senior in the old military regime, he was above President Thein Sein, who ranked fourth – and was widely tipped to become president after the transfer of power.²⁴ His assignment to the legislature, regarded as likely to be a weak institution, was a surprise, but it became his power base, and he set about turning it into as strong and effective a platform as he could. The result was that both houses of the Union Assembly have defied expectations and become vibrant bodies of debate and lawmaking, albeit with many institutional flaws.

B. *The Role of the Military Bloc*

The role of the 25 per cent military bloc has also been somewhat unexpected. It has generally taken positions supportive of the reform process. One of the first indications came in August 2011, when its members supported an opposition motion calling on the president to amnesty political prisoners.²⁵ Members, mostly captains and majors with a few more senior officers, are rotated regularly. That they are legislators for only a short period is probably related to two factors. First, they remain on active duty, and staying too long away from their regular positions could affect their careers. Secondly, the armed forces are unlikely to want the same officers to stay in the legisla-

²² For example, as noted above Aung San Suu Kyi chairs the Rule of Law, Peace and Security Committee in the lower house. Ethnic party representatives chair the upper house committees dealing with ethnic affairs, human rights, natural resources and rural development, and a representative from the opposition National Democratic Force chairs the upper house committee on non-governmental organisations. The speakers have discretion to make such appointments.

²³ Crisis Group interviews, legislative representatives from both houses, Naypyitaw, October 2013. The frequently used electronic voting system is secret. While no record is produced of how individual representatives voted, only totals, the voting machine button that a member presses (“yes”, “no” or “abstain”) remains illuminated until the vote is completed, so is visible to nearby representatives.

²⁴ The State Peace and Development Council (SPDC) hierarchy was Senior General Than Shwe (SPDC chairman and commander-in-chief of the armed forces); Vice-Senior General Maung Aye (SPDC vice-chairman and deputy commander-in-chief); General Shwe Mann (joint chief-of-staff); General Thein Sein (prime minister).

²⁵ Reported in “Second regular session of First Pyithu Hluttaw continues for fifth day”, *New Light of Myanmar*, 27 August 2011, p. 7.

ture for too long lest the bloc develop its own interests and agenda that might begin to diverge from those of the military.

The military does sometimes vote as a bloc, particularly on issues it sees as of direct concern, or of national political importance in line with its responsibility for “safeguarding the constitution”.²⁶ In such cases it has often gone against the USDP – the party established by the former regime – including supporting positions of the executive and the president. Prominent examples are:

Impeachment of the Constitutional Tribunal. In this highly-charged issue in September 2012, USDP and NLD representatives voted for impeachment, while the military bloc supported the president by voting against. Legislators saw the tribunal as siding with the president on a constitutional status matter that could have undermined the ability of committees to compel the appearance of ministers.²⁷

Provisions for recall of elected representatives. Similarly, the USDP and NLD voted in August 2013 to suspend discussion of a controversial bill for recall of legislators, submitted by the Union Election Commission (an executive body). The military argued that, since the constitution requires a law on this issue, the bill should be discussed. The draft would implement a constitutional provision that a complaint by 1 per cent of the original voters in a constituency is sufficient to trigger an investigation by the Election Commission into whether the (very broadly worded) constitutional grounds for recall were met. It is controversial because a majority of representatives consider that a 1 per cent threshold is far too low and open to abuse and could lead to legislative instability.²⁸ The Election Commission has received recall complaints against at least five representatives but cannot act without a law.²⁹

On issues that it does not regard as central to its interests, the military bloc does not take a collective position. In principle, its members can vote according to their own views. In practice, this is not straightforward for mostly middle-rank officers trained to follow orders. They sometimes appear to reach consensus among themselves without guidance.³⁰ At other times, they refrain from taking any position, and this seems to be emerging as their default position, prompting strong criticism from the speaker of the upper house and even a threat to eject them from the chamber.³¹ During a July 2013 debate on the telecommunications bill, he became frustrated at their repeated silence when he asked for verbal reaction on each section of the bill. He reportedly said:

Military representatives are to say “yes” if you agree and “no” if not. You have a responsibility to answer when I ask you Regarding your indecisive actions, you have been warned indirectly several times. If you do not indicate “yes” or “no”, I can order you to stay out of the chamber for this session.³²

²⁶ 2008 constitution, Section 20(f).

²⁷ For detailed discussion, see Crisis Group Report, *Myanmar: Storm Clouds on the Horizon*, op. cit., Section II.B.

²⁸ “Election commission pushes Hluttaw on ‘recall’ bill”, *Myanmar Times*, 1 September 2013.

²⁹ Crisis Group interview, individual briefed by the Election Commission, Yangon, August 2013.

³⁰ Crisis Group interviews, lawmakers, Naypyitaw, October 2013.

³¹ Under the legislative rules, speakers can eject representatives from the chamber for disciplinary violations, for a day or the entire session. Section 19, 2013 Pyithu Hluttaw Rules, and corresponding sections of the rules governing the other chambers.

³² Crisis Group interview, legislative representative present on the occasion, Naypyitaw, October 2013. “Military MPs chided for silence on telcoms bill”, *The Irrawaddy*, 3 July 2013.

Tensions between the military bloc and elected representatives have on occasion played out on the floor. Some members feel the officers look down on them or lecture them inappropriately.³³ Legislators from the armed forces have stated and hinted during debates that their elected counterparts are “undisciplined”, chewing betel in the building and arriving late for sessions. This came to a head during a lower house debate on the recall bill on 23 August. Military members were in favour; most elected members were against. One of the latter – Maung Toe (USDP, Minhla constituency) – pointed out that recall only concerned elected members (there is no recall provision for the military), so was not the business of the officers. Elected members were representatives of the people, so should be accorded greater respect and not criticised like recruits at a military training course. He added that a time would come in the future when the military bloc would be removed from the legislatures.³⁴ At the time, there was no formal response from the armed forces.

Two months later the question of the military's role in politics and lawmaking was discussed in a rare and remarkably frank interview given by a senior military commander, Lt-General Myint Soe, head of the special operations command for the north. He said the military bloc was needed, due to “historical and political conditions”, to “give balance to politics”. He added that this could be amended in the future but also suggested that to date the military bloc had not acted in a problematic or interventionist way in the legislature.³⁵

C. *Populism and Protectionism*

The house speakers have pushed lawmakers to think about the national interest when taking positions. They have also tried to steer the chambers toward consensus-based decisions. At the same time, there has been a clear emergence of populist and protectionist sentiment, the drivers of which appear to be twofold. First, the lower house speaker clearly has political ambitions – having declared his intention to stand for president at the next elections – and is casting himself as a committed reformer, responsive to the public's demands and concerns.³⁶ Many members are also keen to demonstrate to their constituents that they are delivering. Combined, this makes the legislature disposed toward populist positions.

Secondly, defending the “national interest” is often associated with protectionism. In part this is due to reflexes built up over decades in Myanmar's old economy that advocated “import substitution” combined with subsidies and highly protectionist trade policies.³⁷ In part, it is because industry bodies and entrepreneurs have been effective at lobbying legislators to adopt protectionist positions.

But populism, protectionism and sound policy are not always compatible. Two recent examples highlight some tensions:

Telecoms deregulation. Steps have been taken to open the mobile phone sector to foreign operators through a tender for two licences. This deregulation and an end to the state monopoly will dramatically lower costs and improve quality, something that

³³ Crisis Group interviews, legislative representatives, Naypyitaw, October 2013.

³⁴ Ibid. See also interview with Maung Toe, *The Irrawaddy* (Burmese), 5 September 2013.

³⁵ “The army doesn't need to change”, *Myanmar Times*, 11 November 2013.

³⁶ “Myanmar's Speaker Shwe Mann says he'll contest presidency”, Radio Free Asia, 10 June 2013.

³⁷ Stuart Larkin, “Myanmar at the crossroads: Rapid industrial development or de-industrialization”, Ms., January 2012.

will be highly popular and could also give a major boost to the economy.³⁸ A strong case can be made that this populist policy is in the national interest. However, there was a protectionist push-back from the legislature, which tried on the eve of announcement of the tender results to introduce a local-partner requirement for the international licences. This would have significantly reduced the scope for foreign investment.³⁹ The push failed, as the legislature had limited authority to delay or alter the process and was apparently reluctant to be seen as scuppering a popular initiative.⁴⁰

Proposed rice purchasing scheme. Earlier in 2013, the legislature proposed as part of a farmer protection bill that the government step in to buy from rice growers if the market rate dropped below a minimum threshold. This was highly popular with many farmers but could have proved disastrous for the national economy. After months of debate and criticism from Myanmar economists and agronomists, the bill that passed in October did not mandate the scheme.⁴¹ Strong economic arguments, common sense and considerations of the national interest appear to have trumped populism and protectionism.

Several commentators have suggested another trend in lawmaking, toward continued authoritarian control in certain areas, even while the country moves to allow freedoms denied for decades. Such an authoritarian push-back has been seen regarding laws or bills dealing with freedoms of association, the media and assembly.⁴² Section IV below considers each of these areas and the extent to which there is evidence of intent to maintain authoritarian controls in new laws.

IV. Case Studies

A. *A New Association Law*

The 1988 Law Relating to Forming of Organisations⁴³ severely curtailed freedom of association, requiring registration with the home affairs ministry and including criminal penalties (up to five years in prison) for membership of an unregistered group. Since the coming into force of the Labour Organisation Law in March 2012, which provided freedom of association for unions and employer bodies for the first time in decades, the 1988 law applied only to social organisations. A new association law is being drafted to replace that restrictive law.

³⁸ See “Myanmar’s Moment: Unique Opportunities, Major Challenges”, McKinsey Global Institute, 2013, pp. 53-67.

³⁹ There is already provision for two licences to be issued to local companies that are likely to partner with foreign firms in order to secure access to credit and technology. “Last-minute jitters in the lower house over network tender”, *Myanmar Times*, 27 June 2013.

⁴⁰ Crisis Group interview, individual close to the process, Yangon, June 2013.

⁴¹ “The Enhancing Economic Welfare of Farmers Bill”, draft, published in *Myanma Alin* (Burmese), 30 June 2013, pp. 8-9. Myint, “Comments, views and suggestions on ‘draft law on enhancing the economic welfare of farmers’”, Ms., 6 July 2013. “Revised farmer protection law quietly comes into effect”, *Myanmar Times*, 3 November 2013.

⁴² See, for example, Sean Gallagher, “Burma’s lower house passes restrictive press law”, Index on Censorship, July 2013; “Burma: Revise or reject draft association law”, Human Rights Watch, 25 August 2013; and “Burma: Continued prosecutions of human rights defenders”, Asian Human Rights Commission, 24 September 2013.

⁴³ State Law and Order Restoration Council Law no. 6/88, 30 September 1988.

Drafting began in early 2012, by the lower house's Public Affairs Management Committee in consultation with the government.⁴⁴ Inputs were solicited from civil society from the start, and public hearings were held in August 2012. Civil society saw this as an encouraging degree of openness and willingness to consult; an ad hoc coalition even submitted a proposed text.⁴⁵ However, as successive versions were drafted, in particular a July 2013 text released by the legislature "for public consultation", concerns arose about certain provisions, including criminal penalties (imprisonment for up to six months) for joining an unregistered organisation and broad discretion for the home affairs ministry to deny or cancel registrations.⁴⁶

Civil society organisations continued to consult, meeting with the committee in June and August 2013 to discuss drafts. While there was initially some unhappiness in the committee that these groups were highly critical of aspects of its drafts, the constructive approach, together with the negative public and media reaction to the July text, seemed to convince it that significant amendment was needed and that civil society had the technical capacity to help improve the bill. As a result, civil society representatives were invited to a joint meeting of lawmakers from both houses, the home affairs minister and officials. Their detailed suggested amendments were welcomed, including inputs from a foreign legal expert who they brought along to advise on international best practice.⁴⁷

As a result, the committee drew up a new bill incorporating a majority of the civil society inputs and differing markedly from earlier drafts. All penalties were removed, as was the compulsory registration requirement, meaning organisations may but are not obliged to obtain the benefits of registration, such as the right to receive support from the state, international NGOs and other sources; legal personality; organisational bank accounts; logos and trademarks.⁴⁸ On 29 October, the lower house shelved the previous version and decided to debate only the revised version endorsed by the Public Affairs Management Committee.⁴⁹ This has been widely welcomed, and reaction to the new draft has been positive; legislators see it as setting a new standard of best practice for lawmaking.⁵⁰

A question arises as to why, after initial openness to consultation, the process went through several iterations with an apparently much more restrictive approach, including rigid controls and criminal sanctions reminiscent of the old military-era law, before criticism and further inputs resulted in a draft that addressed the most serious concerns of social organisations. In some ways, this can be seen as good lawmaking and a huge change from the authoritarian past: a new openness to soliciting stakeholder inputs, together with willingness to amend drafts in their light. In other ways, it reveals the legacy of that authoritarian past.

⁴⁴ This is a fifteen-member ad-hoc committee, chaired by former Home Affairs Minister Maung Oo (USDP, Tatkon constituency).

⁴⁵ Crisis Group interview, civil society leader closely involved in the process, Yangon, September 2012.

⁴⁶ "Association Bill", draft version for public consultation published in *Myanma Alin* (Burmese), 27 July 2013, p. 21. See also "A statement from civil society organisations on Associational Law (draft bill)", Local Resource Centre, Yangon, 31 July 2013.

⁴⁷ Crisis Group interview, leading member of civil society involved in the meetings, Yangon, November 2013.

⁴⁸ "Association Registration Bill", fifth draft, August 2013, Sections 7, 20-24.

⁴⁹ Crisis Group observation of lower house session, Naypyitaw, 29 October 2013.

⁵⁰ Crisis Group interview, leading member of civil society, Yangon, November 2013. See also "Civil society and MPs draft 'progressive' Association Registration Law", *The Irrawaddy*, 21 October 2013; and "New NGO bill 'best' law to date: MPs", *Myanmar Times*, 3 November 2013.

Given the long absence of a legislature, lawmakers have little experience or insight about how open democratic societies function. With a heavy workload and little technical and research support, they rely on reflexes developed under decades of military rule. In drafting, they tend to use as reference points old domestic laws (mostly developed by the colonial power or the military regime) or laws from elsewhere in the region that often fall far short of international best practice. The association law experience suggests that problems relate to the challenges of an authoritarian legacy, rather than authoritarian intent on the part of the legislature or executive.

B. *The 2011 Peaceful Assembly Law*

Another measure widely regarded as having problematic authoritarian provisions is the 2011 peaceful assembly law. It was among the first in a series of new laws enacted to permit basic freedoms for the first time in decades.⁵¹ It was welcomed as another reform sign in a country that had cracked down on any dissent, including in 2007, when the army fired on peaceful, monk-led demonstrations – though human rights groups criticised the law as below international standards.⁵²

The most problematic provision, Section 18, provides for a fine and/or prison term of up to one year for an unauthorised demonstration or procession. Police have used this to target organisers of peaceful protests. According to an activist who is a member of the government-appointed political prisoners committee, there have been at least 265 instances of charges under Section 18.⁵³ At least 57 persons are known to have been imprisoned.⁵⁴ The many violations are in part because the rules for seeking permission are cumbersome; the police have wide discretion to reject applications; and it is often difficult to obtain timely permission; in part they are also because some activists deliberately reject aspects of the law by demonstrating without seeking permission.⁵⁵

It is indicative of the pace of Myanmar's reforms that a law enacted two years ago and seen by legislators as ground-breaking is now increasingly viewed as anachronistic. The chair of the lower house's Legislative and Judicial Affairs Committee, Aung Ko (USDP, Kanpetlet constituency), has indicated he plans to introduce amendments that would remove the possibility of jailing peaceful protesters and require organisers merely to inform the authorities in advance of a demonstration.⁵⁶ President Thein Sein likely will pardon many of those charged under Section 18, in fulfilment of his pledge to release all political prisoners by the end of 2013; such amendments would make it easier for him to do so.⁵⁷

⁵¹ "The Right to Peaceful Assembly and Peaceful Procession Law", 2 December 2011 and its associated Rules (issued 5 July 2012). The Labour Organisation Law, providing freedom of association in line with international standards, including the right to form unions and strike, was enacted on 11 October 2011 and came into force on 9 March 2012, once the associated rules were issued.

⁵² "Myanmar parliament passes law allowing protests", Reuters, 24 November 2011; "Myanmar: Law on assembly and procession inconsistent with human rights", Article 19, 20 September 2012; "Burma: New law on demonstrations falls short", Human Rights Watch, 15 March 2012.

⁵³ Bo Kyi, Assistance Association for Political Prisoners, quoted in "Committee for scrutinizing political prisoners meets", *New Light of Myanmar*, 24 November 2013, p. 16. Fewer than 265 individuals are involved, because some have been charged multiple times.

⁵⁴ "Rangoon court sentences 6 more activists under peaceful assembly law", *The Irrawaddy*, 21 November 2013.

⁵⁵ See, eg, "Police charge 4 people for illegal candle protest", *The Irrawaddy*, 7 November 2013.

⁵⁶ "MPs seek to take sting out of protest law", *Myanmar Times*, 10 November 2013.

⁵⁷ Several were released in an amnesty on 11 December. "Burma releases 41 more political prisoners", *The Irrawaddy*, 11 December 2013.

C. *New Media Laws*

As with freedom of association, media rights have long been severely curtailed. A 1962 law required all printers and publishers to register and submit copies of all publications in advance to a censorship board that imposed draconian restrictions on what could be published. Any violation was subject to criminal penalties, including up to three years in prison. Given the advance censorship, the only dailies were those published by the state; weekly journals became the predominant source of independent news and information.

Print media censorship ended in August 2012, the censorship board was abolished, and drafting began on a new law. It was announced that the state-owned dailies would transform into public service media.⁵⁸ Licences were also issued for some 30 privately-owned daily newspapers, of which nine are in operation.⁵⁹ Three media laws are being developed: the Printing and Publishing Bill, Public Service Media Bill and Broadcast Media Bill. The first has been the most contentious, though concerns have also been expressed about provisions of the others that appear aimed at retaining some government control over the media.⁶⁰ The Broadcast Media Bill would establish an oversight committee, including representatives of the home affairs ministry and the military's unfortunately named Department of Public Relations and Psychological Warfare – perhaps because the armed forces control a television channel.⁶¹ A media representative has suggested that the reason there may be interest in controlling broadcasters is that, unlike with print outlets, substantial potential advertising revenues are involved.⁶²

Most concern has focused on the Printing and Publishing Bill. In September 2012, following abolishment of the censorship board, an Interim Press Council was formed, the majority of whose members are working journalists, together with publishers, academics and legal experts. It was charged with drafting a code of conduct for journalists and providing inputs to new media legislation.⁶³ Specifically, it was asked by the information ministry to develop a first draft of a News Media Bill. Unknown to the press council, the ministry was preparing its own law in tandem, the Printing and Publishing Bill. In early 2013, the ministry presented its bill and asked the press council to bring its draft as close as possible to the ministry's. To confuse matters further, the ministry undertook to amend its own work, with the intention that the two revised bills would be submitted to the legislature for resolution of any divergences.⁶⁴

Then, in February 2013, the ministry unilaterally submitted its own unamended draft to the lower house, with several provisions that the press council was unhappy with, such as authority for the government to issue and revoke publishing licences and broadly-worded restrictions on content.⁶⁵ The relevant technical committee (Sports,

⁵⁸ "Myanmar state media to become 'public service' press", *Agence France-Presse*, 20 October 2012.

⁵⁹ Crisis Group interview, newspaper publisher, Yangon, November 2013.

⁶⁰ Crisis Group interview, representative of private broadcast media organisation, Yangon, October 2013; also "Critics slam media legislation prohibiting ownership of dual-operation", *Eleven Media*, 2 October 2013.

⁶¹ Myawaddy television is controlled by the armed forces.

⁶² Crisis Group interview, representative of private broadcast media organisation, Yangon, October 2013.

⁶³ "New Interim Press Council formed", *The Irrawaddy*, 17 September 2012.

⁶⁴ Crisis Group interview, member of the Interim Press Council, Yangon, November 2013.

⁶⁵ While the subjects of some of these rules, such as obscenity and inciting public disorder, were understandable, vague phrasing led to concerns the government would retain broad censorship powers; some felt that in any case a ministry should not have such restrictive powers.

Culture and Public Relations Development) wrote a report endorsing the bill and wrongly implying that the press council had approved it. On the basis of this report, the lower house approved the bill. Many legislators became aware of the problem only when the press council went public with its concerns. It emerged that members had not had time to read the bill itself and had relied on the misleading report. The upper house then debated and passed the bill but with amendments that removed or revised some of the problematic provisions.⁶⁶

Subsequently, the press council submitted its own draft in the upper house, via a representative of a minority party. It was passed with only minor amendments and sent to the lower house, which then made more substantive changes to introduce information ministry licensing and other controls.⁶⁷ Since both bills have now been passed by both houses, the next step is for the joint Union Assembly to consider them and resolve any discrepancies. Given that it is larger, the views of the lower house normally prevail in the Union Assembly, and it has tended to be inclined toward keeping some controls over the media. The extent to which government controls will be retained is unclear, however, and two separate bills could ultimately become law, one dealing more with licensing and regulation, the other with ethics and standards.

Lack of capacity and understanding of international best practice seem to have been the major constraints with the association bill, but there was willingness to hold stakeholder consultations and obtain expert inputs to improve the draft. A similar dynamic can be seen with the proposed amendments to the peaceful assembly law, but it is not certain the same can be said of the new media laws. The lawmaking process has been similar, including consultations, but the outcome – so far at least – has not been the same. Some improvements have been made, such as removal of criminal penalties for publishers' registration violations, but there seems less willingness to move decisively to a new era of openness and freedom; government licensing powers and some content regulation remain.⁶⁸ It also appears that the press council has been seen by the government (and to some extent by the legislature) as an adversary rather than a source of advice on best practice.

Further positive changes are still possible, but if the situation continues, it will raise the question why there is apparently more concern to regulate the media than to control NGOs. Under the military regimes, "non-government organisations" were equated with "anti-government organisations" and heavily regulated, even if engaged in purely social activities. The media was regarded and regulated similarly. The new reformist administration seems to see NGOs not as a political threat but as an asset at a time when the state's social service delivery mechanisms are weak. The same may not be true of the media. There are government concerns – not compelling – about the need to have some interim regulation for a transition period, given many journalists' lack of experience and training, particularly on professional and ethical standards.⁶⁹ But there may also be concern among particular officials and lawmakers, most of whom had positions in the junta, as well as powerful economic actors, that a strong, independent media is a threat to their interests and may expose past misdeeds.⁷⁰

⁶⁶ Crisis Group interview, member of the Interim Press Council, Yangon, November 2013; "Regulating Myanmar's press: New freedoms under threat", *The Economist*, 17 August 2013.

⁶⁷ Crisis Group interview, member of the Interim Press Council, Yangon, November 2013.

⁶⁸ Ibid; "Burma amends controversial publishing law", *Democratic Voice of Burma*, 13 November 2013.

⁶⁹ See, for example, "Free speech to stay but 'discipline vital'", *Straits Times*, 27 March 2013.

⁷⁰ Several senior local journalists have expressed this view to Crisis Group.

V. How Lawmaking Works

The legislature is a key part of the reform process and has been an important driver of many of the changes over the past three years. Like other parts of government, however, its implementation has often fallen short of expectations. The reasons are complex, as the discussion in Section III and the case studies in Section IV indicate. This dynamic is not accurately captured by facile references to “hardliners” or resurgent authoritarian tendencies. Rather, a number of factors impact lawmaking to varying degrees.

Capacity constraints. These affect individuals and institutions. Given that the legislature is newly established, and there has been no such independent body – or any democratic tradition at all – in Myanmar for 50 years, individual lawmakers and the institution itself have had to start from scratch, with no experience or institutional memory to serve as a guide. When combined with an extremely congested legislative agenda – a result of the need to urgently review and replace hundreds of outdated laws, many from the colonial period – there is little time for representatives to consider bills in detail.

Lack of technical support. There is also a lack of support staff and research services, meaning that lawmakers must grapple with often highly technical issues on their own. Some rely on family members with access to the internet to do basic online research for them. The speakers and the legislature as a whole seem to give little priority to funding and developing an effective support infrastructure. Lawmakers and caucuses lack office space and staff and are not helped in this by their parties. Committees similarly have no professional staff to do research and analysis.⁷¹ Some international technical help is being provided, but it can never substitute for properly resourced institutional support, including offices and the hiring of sufficient personnel.

External influences. Lack of available research and analysis not only leaves lawmakers in a weak position to make decisions but also increases the impact of outside influences. In the absence of a clear technical rationale for a particular position, members may be swayed more than otherwise by media reporting, lobbying from commercial interests or colleagues with their own agendas.⁷² These influences exist in all legislatures and are not necessarily problematic, but they can be if not balanced by more neutral or party-specific analysis. Media freedoms are just starting to be tested, and reporting is not always accurate or professional. Commercial interests include responsible trade and industry organisations, but also crony businessmen with more narrow agendas.

Consensus lawmaking. One of the more surprising aspects of how the legislature functions is that with encouragement of the speakers (particularly Shwe Mann), party politics and combative debates, as well as use of the USDP's numerical advantage, have been eschewed in favour of consensus seeking.⁷³ A well-informed observer commented: “Shwe Mann wants a chamber that speaks with one voice”.⁷⁴ Both houses thus show a notable absence of politics: there is little strong disagreement in debates, little sign of parties trying to position themselves on issues and no party whip system on votes. There is no public record of how individual members vote; most media re-

⁷¹ Crisis Group interviews, legislative representatives, Naypyitaw, October 2013. The exception is the lower house's Legal Affairs Assessment and Special Issues Commission, which does have technical expertise and support staff (see Section II.C above).

⁷² Crisis Group interviews, legislative representatives, Naypyitaw, October 2013.

⁷³ Ibid.

⁷⁴ Crisis Group interview, Myanmar-based international electoral expert, Yangon, November 2013.

porting does not mention party affiliation when naming specific lawmakers. Even the arrangement of the chambers discourages party-based positioning: except for the military representatives (who are together), seating is alphabetical, not by party, thus inhibiting communication and strategising during debates.⁷⁵

This consensus-based lawmaking may create a favourable environment for pushing through the many urgent measures required in this reform period. It is the antithesis of the last democratic period, the 1950s, when politicians were combative and widely regarded as driven by narrow political concerns to the detriment of the national interest.⁷⁶ Yet, while the electorate may see consensus politics as positive in some respects, it may also consider that its elected representatives are not really fighting for their interests or challenging the status quo. Nor does it lend itself to party building and development of distinct policy platforms. With elections looming in two years, it is not clear that the nascent legislature and its methods will be well-equipped to handle the inevitable reassertion of party politics.

VI. Conclusion

Myanmar's legislature is three years old, the first such independent body for half a century. It has turned out to be far more vibrant and influential than many had expected and has a key role in the reform process. By drawing up new laws and amending existing ones, they are introducing new freedoms, modernising the legal code and providing a basis for improved economic governance.

The challenges are enormous, and the lawmaking process remains problematic – with inexperienced representatives having to deal with a large volume of often technically demanding issues in the absence of such basic institutional support as offices, staff, research services and professional advisers. Given the legacy of decades of authoritarianism, it is not surprising that the system is struggling to develop technically sound and democratically-oriented laws. The new willingness to consult with key stakeholders, listen to criticism and take on board outside expert advice is positive, but the content of media laws and amendments to restrictive provisions of the peaceful assembly law will be key tests of this.

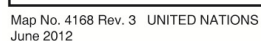
Going forward, there is need for much greater institutional investment in the legislature and the capacity to give its members necessary support. This is critical if the institution is to remain vibrant, effective and respected. It is all the more important as Myanmar moves toward elections in two years' time – potentially the first free-and-fair national polls since the 1950s. The consensus-based approach to lawmaking and the relative absence of party politics will change as new political dynamics emerge. The legislatures must ensure that they are equipped to face much higher expectations and far more complex demands.

Yangon/Brussels, 13 December 2013

⁷⁵ Ibid.

⁷⁶ Mary Callahan, "On time warps and warped time: Lessons from Burma's 'democratic era'", in Robert Rotberg (ed.) *Burma: Prospects for a Democratic Future* (Brookings Institution, 1998).

Appendix A: Map of Myanmar



Appendix B: Reports and Briefings on Asia since 2010

As of 1 October 2013, Central Asia publications are listed under the Europe and Central Asia program.

North East Asia

The Iran Nuclear Issue: The View from Beijing, Asia Briefing N°100, 17 February 2010 (also available in Chinese).

North Korea under Tightening Sanctions, Asia Briefing N°101, 15 March 2010.

China's Myanmar Strategy: Elections, Ethnic Politics and Economics, Asia Briefing N°112, 21 September 2010 (also available in Chinese).

North Korea: The Risks of War in the Yellow Sea, Asia Report N°198, 23 December 2010.

China and Inter-Korean Clashes in the Yellow Sea, Asia Report N°200, 27 January 2011 (also available in Chinese).

Strangers at Home: North Koreans in the South, Asia Report N°208, 14 July 2011 (also available in Korean).

South Korea: The Shifting Sands of Security Policy, Asia Briefing N°130, 1 December 2011.

Stirring up the South China Sea (I), Asia Report N°223, 23 April 2012 (also available in Chinese).

Stirring up the South China Sea (II): Regional Responses, Asia Report N°229, 24 July 2012 (also available in Chinese).

North Korean Succession and the Risks of Instability, Asia Report N°230, 25 July 2012 (also available in Chinese and Korean).

China's Central Asia Problem, Asia Report N°244, 27 February 2013 (also available in Chinese).

Dangerous Waters: China-Japan Relations on the Rocks, Asia Report N°245, 8 April 2013 (also available in Chinese).

Fire on the City Gate: Why China Keeps North Korea Close, Asia Report N°254, 9 December 2013.

South Asia

Sri Lanka: A Bitter Peace, Asia Briefing N°99, 11 January 2010.

Nepal: Peace and Justice, Asia Report N°184, 14 January 2010.

Reforming Pakistan's Civil Service, Asia Report N°185, 16 February 2010.

The Sri Lankan Tamil Diaspora after the LTTE, Asia Report N°186, 23 February 2010.

The Threat from Jamaat-ul Mujahideen Bangladesh, Asia Report N°187, 1 March 2010.

A Force in Fragments: Reconstituting the Afghan National Army, Asia Report N°190, 12 May 2010.

War Crimes in Sri Lanka, Asia Report N°191, 17 May 2010.

Steps Towards Peace: Putting Kashmiris First, Asia Briefing N°106, 3 June 2010.

Pakistan: The Worsening IDP Crisis, Asia Briefing N°111, 16 September 2010.

Nepal's Political Rites of Passage, Asia Report N°194, 29 September 2010 (also available in Nepali).

Reforming Afghanistan's Broken Judiciary, Asia Report N°195, 17 November 2010.

Afghanistan: Exit vs Engagement, Asia Briefing N°115, 28 November 2010.

Reforming Pakistan's Criminal Justice System, Asia Report N°196, 6 December 2010.

Nepal: Identity Politics and Federalism, Asia Report N°199, 13 January 2011 (also available in Nepali).

Afghanistan's Elections Stalemate, Asia Briefing N°117, 23 February 2011.

Reforming Pakistan's Electoral System, Asia Report N°203, 30 March 2011.

Nepal's Fitful Peace Process, Asia Briefing N°120, 7 April 2011 (also available in Nepali).

India and Sri Lanka after the LTTE, Asia Report N°206, 23 June 2011.

The Insurgency in Afghanistan's Heartland, Asia Report N°207, 27 June 2011.

Reconciliation in Sri Lanka: Harder Than Ever, Asia Report N°209, 18 July 2011.

Aid and Conflict in Afghanistan, Asia Report N°210, 4 August 2011.

Nepal: From Two Armies to One, Asia Report N°211, 18 August 2011 (also available in Nepali).

Reforming Pakistan's Prison System, Asia Report N°212, 12 October 2011.

Islamic Parties in Pakistan, Asia Report N°216, 12 December 2011.

Nepal's Peace Process: The Endgame Nears, Asia Briefing N°131, 13 December 2011 (also available in Nepali).

Sri Lanka: Women's Insecurity in the North and East, Asia Report N°217, 20 December 2011.

Sri Lanka's North (I): The Denial of Minority Rights, Asia Report N°219, 16 March 2012.

Sri Lanka's North (II): Rebuilding under the Military, Asia Report N°220, 16 March 2012.

Talking About Talks: Toward a Political Settlement in Afghanistan, Asia Report N°221, 26 March 2012.

Pakistan's Relations with India: Beyond Kashmir?, Asia Report N°224, 3 May 2012.

Bangladesh: Back to the Future, Asia Report N°226, 13 June 2012.

Aid and Conflict in Pakistan, Asia Report N°227, 27 June 2012.

Election Reform in Pakistan, Asia Briefing N°137, 16 August 2012.

Nepal's Constitution (I): Evolution Not Revolution, Asia Report N°233, 27 August 2012 (also available in Nepali).

Nepal's Constitution (II): The Expanding Political Matrix, Asia Report N°234, 27 August 2012 (also available in Nepali).

Afghanistan: The Long, Hard Road to the 2014 Transition, Asia Report N°236, 8 October 2012.

Pakistan: No End To Humanitarian Crises, Asia Report N°237, 9 October 2012.

Sri Lanka: Tamil Politics and the Quest for a Political Solution, Asia Report N°239, 20 November 2012.

Pakistan: Countering Militancy in PATA, Asia Report N°242, 15 January 2013.

Sri Lanka's Authoritarian Turn: The Need for International Action, Asia Report N°243, 20 February 2013.

Drones: Myths and Reality in Pakistan, Asia Report N°247, 21 May 2013.

Afghanistan's Parties in Transition, Asia Briefing N°141, 26 June 2013.

Parliament's Role in Pakistan's Democratic Transition, Asia Report N°249, 18 September 2013.

Women and Conflict in Afghanistan, Asia Report N°252, 14 October 2013.

Sri Lanka's Potemkin Peace: Democracy under Fire, Asia Report N°253, 13 November 2013

South East Asia

Radicalisation and Dialogue in Papua, Asia Report N°188, 11 March 2010 (also available in Indonesian).

Indonesia: Jihadi Surprise in Aceh, Asia Report N°189, 20 April 2010.

Philippines: Pre-election Tensions in Central Mindanao, Asia Briefing N°103, 4 May 2010.

Timor-Leste: Oecusse and the Indonesian Border, Asia Briefing N°104, 20 May 2010.

The Myanmar Elections, Asia Briefing N°105, 27 May 2010 (also available in Chinese).

Bridging Thailand's Deep Divide, Asia Report N°192, 5 July 2010 (also available in Thai).

Indonesia: The Dark Side of Jama'ah Ansharut Tauhid (JAT), Asia Briefing N°107, 6 July 2010.

Indonesia: The Deepening Impasse in Papua, Asia Briefing N°108, 3 August 2010.

Illicit Arms in Indonesia, Asia Briefing N°109, 6 September 2010.

Managing Land Conflict in Timor-Leste, Asia Briefing N°110, 9 September 2010.

Stalemate in Southern Thailand, Asia Briefing N°113, 3 November 2010 (also available in Thai).

Indonesia: "Christianisation" and Intolerance, Asia Briefing N°114, 24 November 2010.

Indonesia: Preventing Violence in Local Elections, Asia Report N°197, 8 December 2010 (also available in Indonesian).

Timor-Leste: Time for the UN to Step Back, Asia Briefing N°116, 15 December 2010.

The Communist Insurgency in the Philippines: Tactics and Talks, Asia Report N°202, 14 February 2011.

Myanmar's Post-Election Landscape, Asia Briefing N°118, 7 March 2011 (also available in Chinese and Burmese).

The Philippines: Back to the Table, Warily, in Mindanao, Asia Briefing N°119, 24 March 2011.

Thailand: The Calm Before Another Storm?, Asia Briefing N°121, 11 April 2011 (also available in Chinese and Thai).

Timor-Leste: Reconciliation and Return from Indonesia, Asia Briefing N°122, 18 April 2011 (also available in Indonesian).

Indonesian Jihadism: Small Groups, Big Plans, Asia Report N°204, 19 April 2011 (also available in Chinese).

Indonesia: Gam vs Gam in the Aceh Elections, Asia Briefing N°123, 15 June 2011.

Indonesia: Debate over a New Intelligence Bill, Asia Briefing N°124, 12 July 2011.

The Philippines: A New Strategy for Peace in Mindanao?, Asia Briefing N°125, 3 August 2011.

Indonesia: Hope and Hard Reality in Papua, Asia Briefing N°126, 22 August 2011.

Myanmar: Major Reform Underway, Asia Briefing N°127, 22 September 2011 (also available in Burmese and Chinese).

Indonesia: Trouble Again in Ambon, Asia Briefing N°128, 4 October 2011.

Timor-Leste's Veterans: An Unfinished Struggle?, Asia Briefing N°129, 18 November 2011.

The Philippines: Indigenous Rights and the MILF Peace Process, Asia Report N°213, 22 November 2011.

Myanmar: A New Peace Initiative, Asia Report N°214, 30 November 2011 (also available in Burmese and Chinese).

Waging Peace: ASEAN and the Thai-Cambodian Border Conflict, Asia Report N°215, 6 December 2011 (also available in Chinese).

Indonesia: From Vigilantism to Terrorism in Cirebon, Asia Briefing N°132, 26 January 2012.

Indonesia: Cautious Calm in Ambon, Asia Briefing N°133, 13 February 2012.

Indonesia: The Deadly Cost of Poor Policing, Asia Report N°218, 16 February 2012 (also available in Indonesian).

Timor-Leste's Elections: Leaving Behind a Violent Past?, Asia Briefing N°134, 21 February 2012.

Indonesia: Averting Election Violence in Aceh, Asia Briefing N°135, 29 February 2012.

Reform in Myanmar: One Year On, Asia Briefing N°136, 11 April 2012 (also available in Burmese and Chinese).

The Philippines: Local Politics in the Sulu Archipelago and the Peace Process, Asia Report N°225, 15 May 2012.

How Indonesian Extremists Regroup, Asia Report N°228, 16 July 2012 (also available in Indonesian).

- Myanmar: The Politics of Economic Reform*, Asia Report N°231, 27 July 2012 (also available in Burmese and Chinese).
- Indonesia: Dynamics of Violence in Papua*, Asia Report N°232, 9 August 2012 (also available in Indonesian).
- Indonesia: Defying the State*, Asia Briefing N°138, 30 August 2012.
- Malaysia's Coming Election: Beyond Communalism?*, Asia Report N°235, 1 October 2012.
- Myanmar: Storm Clouds on the Horizon*, Asia Report N°238, 12 November 2012 (also available in Chinese and Burmese).
- The Philippines: Breakthrough in Mindanao*, Asia Report N°240, 5 December 2012.
- Thailand: The Evolving Conflict in the South*, Asia Report N°241, 11 December 2012.
- Indonesia: Tensions Over Aceh's Flag*, Asia Briefing N°139, 7 May 2013.
- Timor-Leste: Stability At What Cost?*, Asia Report N°246, 8 May 2013.
- A Tentative Peace in Myanmar's Kachin Conflict*, Asia Briefing N°140, 12 June 2013 (also available in Burmese and Chinese).
- The Philippines: Dismantling Rebel Groups*, Asia Report N°248, 19 June 2013.
- The Dark Side of Transition: Violence Against Muslims in Myanmar*, Asia Report N°251, 1 October 2013 (also available in Burmese and Chinese).

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