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Opening Up Remedies in Myanmar

Understanding the Range of Options for Dealing with Myanmar’s Past

This year has been pivotal for Myanmar: Elections were held in November and an 18-month negotiation process between the government and ethnic armed organizations resulted in a partial Nationwide Ceasefire Agreement signed in October.¹ Despite the many limitations of each, the elections and ceasefire represent a step toward democracy and sustainable peace, and there is a general feeling that a better future is possible in Myanmar. However, systems of oppression and the legacy of impunity act as some of the biggest barriers to this future.

Whenever a challenge or mild opposition arises, security forces default to their brutal traditions of violence and repression. For instance, memories of the 1988 protests and crackdown surfaced during the repression of student protests in March 2015, fueling public outrage and fear. Efforts to end decades of armed conflict between ethnic armed groups and the Myanmar military are also impacted by the past. Broken promises, conflicting narratives and the refusal to acknowledge grave abuses committed by the military lead to mistrust among leaders and between civilians and the government.

Further, the culture of impunity leads to continuing human rights violations, including sexual violence and torture, which fuel conflict. Victims and their families suffer enormous physical, psychological, social, and economic impacts from violations that do not ease with time. These violations also contribute to displacement, as civilians flee their homes and communities to avoid not only direct conflict but the accompanying abuses against civilians. Fear of retribution for past misdeeds lurks behind the military’s refusal to give up their constitutionally mandated 25 percent of parliamentary seats.

In spite of existing misgivings, a measured and responsible process of dealing with the past could help break the cycle of violence and human rights violations. An honest and open acknowledgment by the government of past violations and its responsibility to provide a remedy, combined with practical steps to fulfill that responsibility, would go a long way toward building trust and promoting reconciliation.

Between Revenge and Avoidance

There is common misunderstanding among Myanmar’s political elites that transitional justice means revenge and/or only criminal justice. While that view is evolving in

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¹ The Nationwide Ceasefire Agreement was meant to include all ethnic armed organizations operating in Myanmar, but in the end the government would not allow six groups to sign; others chose not to sign due to concerns about the lack of inclusivity.

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some cases, there is still a significant lack of understanding about the range of options available for dealing with the past. Local civil society organizations have started to advance proposals that fall between the perceived dichotomy of revenge and immediate forgiveness, but have struggled to engage policy makers in meaningful discussion. The most common of these proposals is for the government to acknowledge and apologize for abuses committed in the past. On a societal level there is also much emerging advocacy and activity around reparations and truth telling, in order to build solidarity and understanding among different ethnic and religious groups.

Military Dominance and Fear of Retribution

Despite a constitutional amnesty for members of current and previous governments covering any acts committed in office, top leaders appear to worry about retribution. This fear for personal security, finances, and well-being is part of the reason that the military is intent on holding their power and preventing any discussion of past human rights violations. Unless the military refrains from blocking measures to address the past and perhaps even actively decides to support them, governments will continue to be restrained in what they can accomplish.

The next government, to be led by the National League for Democracy (NLD), will have to walk a delicate balance with the military in order to govern effectively, constrained in part by the military's fear of retribution for the past. There is a risk that this balancing act will lead to an agreement to leave the past unaddressed, and in fact NLD leader Aung San Suu Kyi has recently implied that such an arrangement is acceptable to her.

At this point, retribution against perpetrators is far from the minds of most civil society activists and politicians who are interested in addressing the past. They are quite careful to stress that they do not want revenge and do not want to punish. They recognize that some victims may be angry and may want to take revenge, while others reasonably want justice for past violations to which they are entitled. For these activists, the range of opinions demonstrates the importance of finding a middle path between seeking revenge and avoiding all mention of the past.

Local organizations working on transitional justice have started to take up the task of breaching the gap and showing government leaders that the transitional justice they are advocating for is not a threat. They intend to show that addressing the past can help to build trust, consolidate democratic institutions, and demonstrate a commitment to guaranteeing the rights and the dignity of the people.

There is a risk that if the government does not engage with victims and civil society on their offers of compromise positions will become more extreme and the government will have lost the opportunity for a productive, meaningful process of dealing with the past that can contribute to reconciliation.² Continuing to deny the truth about a past that is slowly becoming more accessible and well known will prevent the government from building much-needed legitimacy and civic trust and risk political polarization at a time when national reconciliation is a high priority.

Behind the NLD's victory in November are thousands of activists, monks, and others who have sacrificed their freedom, health, education, family life, careers, citizenship, and, all too often, their lives so that one day Aung San Suu Kyi and the NLD would have a chance to govern the country. The NLD cannot forever count on the support of its core

² This process of increasing polarization can be seen in land confiscation cases in which victims first try to seek a remedy through existing institutions but, when they are ignored, their demands take the form of protests, sit-ins, and even self-immolation.

constituency if it is seen to betray their sacrifices and deny their experiences. On the other hand, there are thousands of communities in conflict-affected areas where people are now asking whether the NLD can be counted on to stand up for them in the face of the institutions that have oppressed them for decades. Recognizing their suffering and taking steps to heal the wounds of the past would go a long way to demonstrating that an NLD-led government is not another Burman oppressor.

Taking the lead on a well-managed process of addressing the past and recognizing victims could reduce some of the threat of retribution that some in the military feel hanging over them. More importantly, it would contribute to a culture of respect for human rights and demonstrate that Myanmar finally has a government that prioritizes the people's well-being over the desires and fears of the elite.

Initial Steps to Address the Impact of the Past

Dealing with the past does not immediately require large, comprehensive policies and mechanisms. In the short term, the Myanmar government could take small steps toward reparative justice by working with civil society to assist victims while recognizing its own responsibility and role in causing harm. Although this would not necessarily fully discharge the government's obligations to provide a complete remedy, these steps would help to build trust on both sides and demonstrate that addressing the past does not need to be threatening or economically destabilizing.

Civil society organizations are already providing much-needed material and psychosocial support to victims of human rights violations. One crucial needed step is for the government to allow these organizations to do their work without interference. Human rights defenders who are helping victims seek remedies, whether informally or through the legal system, face harassment and restrictions on their work. Trauma centers and those offering counseling services face similar restrictions on their operations and movements as well as difficulties registering and securing property. In addition, groups are often denied permission to use public spaces for events to support survivors. Accepting the legitimacy of these organizations and their activities would go a long way towards building trust with the dedicated and active citizens who run these organizations.

A second and equally important step involves promoting cooperation between state services and civil society organizations and ensuring that survivors have access to adequate state services. Victims with serious medical needs, including disabled torture survivors, face barriers to accessing medical care. This includes the hesitation of some medical care providers to deal with former political prisoners due to a perceived security risk. Children of displaced communities cannot access public education; when they seek to re-enter the formal system, their years of private education are not recognized, making the process even more tedious and unnecessarily difficult. Ensuring equal access to state services for victims of human rights violations, including addressing the unique challenges they face, would help to demonstrate the state's commitment to treating all citizens equally and would be a step toward taking responsibility for violations.

Apology and Acknowledgment

Apology and acknowledgment have long been the baseline demands of many victims of human rights violations in Myanmar. These measures are often described as necessary for national reconciliation.³ For instance, monks who were beaten and arrested during

³ ICTJ Interviews 2, 8, 12, 16, 17, 18, Yangon and Mae Sot, Dec. 2013–March 2014.

the Saffron Revolution have called for an apology, linking it to showing respect for the population.⁴ Student groups have also publicly called for an apology for the 1988 crackdown on peaceful protests.⁵ The parents of a young girl killed during the 1988 protests have said that they feel ready to forgive the perpetrators if they were to apologize.⁶ Similarly, victims of violations in ethnic areas have often asked for an apology and acknowledgement, in addition to other remedial actions.⁷

To date, official government responses to allegations of human rights violations have often repeated the same denials or offered the same justifications that were given by the former military regime. More often, the violations of the past are simply ignored.

The few exceptions to the refusal to acknowledge human rights violations stand out as isolated cases. Local police officials apologized for the violent crackdown on protesters of the Letpadaung copper mine in 2012.⁸ Thein Sein described the '88 student movement as an important part of the country's history;⁹ however, he stopped short of acknowledging or apologizing for the brutal violence committed by the military against the protesters and did not mention his own role, which has been the subject of much speculation.¹⁰

While apologies from individual perpetrators may be meaningful to some victims, they are rare and often viewed as insincere. An official apology for specific events of mass violence and for widespread violations committed during the various ethnic conflicts would help to recognize the victims as rights-bearing citizens and help build trust in the government. It would also clearly demonstrate that the government stands on the side of the victims, not on the side of the abusers. Official apology and acknowledgment should come from the head of the government, as a representative of the state, regardless of personal responsibility.

The unwillingness to admit the truth in the face of evidence harkens back to the military governments' attempts to be the sole source of information, a similarity that does not go unnoticed. By denying the truth about the past, the government continues to disrespect the victims, their families, and the general public, bringing back memories of previous brutal regimes.

4 Kyaw Thu, "Myanmar Monks Demand Official Apology for Saffron Revolution Crackdown," Radio Free Asia, September 18, 2013, www.rfa.org/english/news/myanmar/monks-09182013183020.html?searchterm=utf8:ustring=Myanmar+Monks+Demand+

5 Nay Rain Kyaw, "Myanmar Students' Group Demands Apology for Brutal 1988 Crackdown," Radio Free Asia, August 17, 2013, www.rfa.org/english/news/myanmar/students-08072013215834.html

6 Lawi Weng, "Thein Sein Makes Rare Comments on 1988 Uprising," The Irrawaddy, September 2, 2013, www.irrawaddy.org/burma/thein-sein-makes-rare-comments-on-1988-uprising.html

7 ICTJ Interviews 2, 16; See also John Zaw and Thomas Toe, "Balancing Reconciliation and Justice in Myanmar," UCA News, August 19, 2013, www.ucanews.com/news/balancing-reconciliation-and-justice-in-myanmar/6904. To quote Bo Kyi, joint-secretary of the Assistance Association for Political Prisoners: "If [the former military rulers] reveal the truth and admit their wrongdoing in the past, I believe Myanmar people will forgive them. Only then can we carry out trust-building and move toward the goal of reconciliation." See also Samantha Michaels, "Burma Support Withheld on UN Pledge to End Sexual Violence," The Irrawaddy, September 26, 2013, www.irrawaddy.org/women-gender/burma-support-withheld-un-pledge-end-sexual-violence.html; Shwe Yee Saw Myint, "Women Call for Justice Over Sexual Violence," Myanmar Times, October 7, 2013, www.mmtimes.com/index.php/national-news/8394-women-call-for-justice-over-sexual-violence.html

8 Phyo Wai Kyaw and Than Naing Soe, "Myanmar Makes Apology to Monks over Copper Mine Crackdown," Myanmar Times, December 24, 2012, www.mmtimes.com/index.php/national-news/mandalay-upper-myanmar/3650-union-ministers-apologise-to-monks-over-november-29-raid.html

9 Lawi Weng, "Thein Sein Makes Rare Comments on 1988 Uprising," The Irrawaddy, September 2, 2013, www.irrawaddy.org/burma/thein-sein-makes-rare-comments-on-1988-uprising.html

10 A leaked U.S. Embassy diplomatic cable from October 20, 2004, indicates that Thein Sein, then-commander of the Light Infantry Division-55, "distinguished himself" during the crackdown on the 1988 uprising. (See Amnesty International, "Myanmar: Four Years On, Impunity is the Kachin Conflict's Hallmark," Burma Partnerships, June 9, 2015, www.burmapartnership.org/2015/06/myanmar-four-years-onimpunity-is-the-kachin-conflicts-hallmark/)

Addressing the Past in the Peace Process

The political dialogue process following the October 2015 signature of the National Ceasefire Agreement constitutes a major opportunity to discuss the past and its impact on the country on a national level. For the past few years, the peace process has been widely considered the first formal opportunity to discuss the substance of many important political issues in Myanmar, including how to address massive human rights violations of the past. Parallel processes that are part of the peace process, such as the return and reintegration of internally displaced persons and the release of detainees charged with “unlawful association,” also present opportunities to begin to address the past.

The representatives involved in creating the Framework for Political Dialogue, which includes an agenda of issues to discuss, have until mid-December 2015 to finalize the framework. National reconciliation and transitional justice are agenda items on several dialogue frameworks proposals. Dealing with the violations that occurred during conflict is an essential part of creating sustainable peace, because massive human rights violations are not only effects but also drivers of conflict.

Political Detainees and Disappeared Civilians

One aspect of the Nationwide Ceasefire Agreement that may have an immediate impact on civilians is a provision under Confidence-Building Measures requiring that any person charged with associating with the signatory ethnic armed organizations under the Unlawful Associations Act be released from detention.¹¹ Narrowly construed, the provision would have limited impact, as many civilians detained under the act are also charged with offenses under the Explosives Act and other violent acts.¹² It also only applies to signatories; therefore, it would leave out significant numbers of civilians detained in Kachin and parts of Shan States.

One way that this provision could be broadened is to release those charged under the Unlawful Associations Act and other laws. Some ethnic leaders are reportedly pushing for this option. Ideally, this would be accomplished through a process that reviewed whether the other charges are legitimate or were imposed for political reasons. However, it is more likely that those detainees would be released with no acknowledgement of the wrongfulness of their detention, similar to the way in which political prisoner releases have been handled in the past.¹³

Acknowledgment of the wrongfulness of the detention of these prisoners is important because it can help to build trust and demonstrate a changed mindset on the part of the

11 At the time of writing, the scope of this provision was being contested in the Joint Implementation Coordination Meeting, a set of meetings held by representatives of the government, military, and ethnic armed groups that signed the Nationwide Ceasefire Agreement to discuss and oversee the implementation of the agreement, including establishing the Joint Ceasefire Monitoring Committee, drafting a Code of Conduct, and establishing the Union Political Dialogue Joint Committee.

12 It should also be mentioned that not all of those detained for association were innocent bystanders, but in fact some are accused of serious human rights violations. In most cases, however, detainees were arrested for belonging to an armed group and/or committing acts of violence against the state, and not for the human rights violations they may have committed against civilians. The most notorious of such cases are alleged perpetrators of the torture and killing of suspected spies by the All-Burma Student Democratic Front (ABSDF) from 1991–92. At least one of those named as most responsible in the ABSDF's internal Truth and Justice Committee report, released in 2015, is currently in Burmese prison, and could be released under this provision. Victims and their family members have filed legal cases against the perpetrators of those crimes in local courts, and it remains to be seen how such cases will impact the release of detainees. These cases demonstrate the importance of reviewing the political nature of charges against detainees and the need for a separate accountability process for perpetrators of serious human rights violations on all sides of the conflicts.

13 Most releases of political prisoners in Myanmar have been executive orders of release without an official pardon or acknowledgement of the political nature of the detention. Those released are subject to conditions which, if violated, could trigger reimposition of the original sentence. The way that releases have been handled thus far have led to accusations that the government is using political prisoners as pawns to gain international or local approval at key moments.

government toward ethnic armed organizations, their supporters, and ethnic minority citizens in general. Unfortunately there is nothing in the text about how the detainees would be verified or the process for appeals or submission of names, so it appears to be left up to the discretion of the president and military leadership.

The requirement to release certain detainees could also be used to seek the truth about enforced disappearances committed in ethnic areas. Throughout the conflict, civilians have been detained by the military without transparency or oversight. In some cases, they are released after a period of detention, but in others they are suspected to have been killed or to have died in detention. Families and civil society organizations have unsuccessfully sought information about those cases for years. These cases of disappearances could potentially fall under this provision, and some ethnic armed organizations are reportedly pressing for investigations and publication of the truth about those cases as part of the detainee release process, arguing that, to the best of their knowledge, they have been detainees and if they cannot be released there should be an explanation as to what happened.

Reparations for Victims of Conflict-Related Abuses

While other aspects of transitional justice are focused on the perpetrators, government institutions, and society as a whole, reparations are intended to address and repair—to the extent possible and feasible—the harm suffered by victims. Reparations help to address the most pressing impacts of the past, while avoiding some of the concerns in demanding other transitional justice mechanisms at this point in the political shift.

There are two groups of victims who are priority targets for reparative measures that could be discussed during political dialogue and included in a final agreement: displaced persons (both internally displaced persons and refugees) and victims of serious human rights violations, including torture and sexual violence. Both categories of victims are emblematic of the effects that conflict and repressive rule had on civilians. Furthermore, many victims and their families experience the continuing impact of violations, preventing them from fully participating in social, economic, cultural, and political life.

Displaced Persons

Ethnic and religious conflicts in Myanmar have resulted in an estimated 1.1 million civilians displaced internally and across international borders. Many civilians from ethnic areas were systematically targeted and forcibly displaced. Some displacement can be expected in any armed conflict; however, the vast scale of these movements throughout Myanmar and the involvement of governmental institutions have caused great concern. There is evidence of a military policy to resettle entire villages into government-controlled areas and tactics designed to scatter the civilian population.

Return and resettlement of internally displaced persons and refugees is a priority for most stakeholders, including the government. Displacement has also been the lens through which many local humanitarian organizations, peace advocates, and human rights defenders have discussed the impact of the conflicts on civilians. The issue of internally displaced persons, in particular, appears to have generated the most public attention and sympathy outside of conflict areas, inspiring fundraising drives, peace marches, and benefit concerns in Yangon and other urban centers.¹⁴ This public concern outside

14 *Kachinland News*, "Burmese Youths Organize a Fundraising Event for Kachin and Rakhine Children," August 16, 2012, <http://kachinlandnews.com/?p=22175>; Sean Havey, "From Kachin State to Rangoon, Activists Raise Awareness of Long-Running War," *The Irrawaddy*, June 10, 2013, www.irrawaddy.org/multimedia-burma/from-kachin-state-to-rangoon-activists-raise-awareness-of-long-running-war.html; and Peter Aung, "Artists Launch Peace Movement and Fundraising Campaign for IDPs in Kachin State," *Burma Partnership*, May 15, 2012, www.burmapartnership.org/2012/05/artists-launch-peace-movement-and-fundraising-for-idps-in-kachin-state/

conflict areas has been important to galvanize political will to address displacement and keep the issue on the agenda.

Myanmar urgently needs to implement reparations that focus on harms that still negatively impact the lives of victims of forced displacement. This includes addressing the physical and mental health needs of civilians in conflict areas who have suffered human rights violations that prevent them from leading a normal life. It also includes the restoration of citizenship and its accompanying rights, while also providing access to education, health care, and other state services for the displaced. Further steps to remedy the harms of displacement include recognizing the nonformal education that many displaced persons received from non-government sources during displacement and providing identity cards and other legal documents, like land titles, that many displaced due to prolonged displacement and cannot be easily re-obtained due to the lack of government administrative control and services in most conflict-affected areas.

Victims of Serious Violations

One major principle of a transitional justice approach to the peace process is addressing the serious violations that were committed during the conflict, by each side. In addition to forcible displacement, the Myanmar military carried out a campaign of human rights violations against ethnic civilians that spread fear among communities, punished perceived support of ethnic armed organizations, and forced populations to move out of conflict-affected areas. Some ethnic armed organizations have also been accused of forced recruitment, forced displacement, and other serious abuses against civilians, particularly those from communities who are not part of the dominant ethnic group in a given area. Direct victims often fled their home villages after violations, and other civilians fled from areas close to military bases or in conflict zones after hearing of the violations suffered by their neighbors.

The failure to acknowledge and provide redress for these serious violations contributes to displaced persons' mistrust of the state and other ethnic groups common in rural conflict-affected areas and their hesitancy to return. Addressing these violations would signal to displaced communities that the government is taking civilian security seriously and that this peace process is different from those of the past.

Reparations for serious crimes, such as sexual violence, torture, and forced labor, could involve providing a number of measures, from health care for injuries and illnesses caused by the violations, psychosocial counseling programs, livelihood training, education, and other rehabilitative measures to direct monetary compensation. These programs should be based on consultation with potential recipients to determine their needs, priorities, and preferences.

Political Prisoners

The arrest and torture of political activists is perhaps the most serious example of a government that accepted no criticism or political opposition and that sacrificed its citizens in order to stay in power. Outside of prison, the military dictatorship's harassment and defamation campaign against democracy activists led their family members, neighbors, and former associates of political prisoners to see them in a negative light—as troublemakers, criminals, and subversives.

Since 2011, hundreds of political prisoners have been released, a move that was welcomed but also criticized as selective.¹⁵ However, as mentioned previously, releases

¹⁵ The significance of the releases should not be understated. Releases resulted in the freeing of hundreds of activists, many of whom currently play important roles in politics, civil society, the press, the arts, and other aspects

have been conditional and those who have been released continue to face restrictions on their activities as well as limitations on their political and civil rights. These restrictions include the monitoring of their activities, withholding passports and other official documentation, and failing to return professional licenses that were confiscated at the time of imprisonment.¹⁶ The government's taking steps to restore their full citizenship and professional status is crucial to building trust with the pro-democracy movement.

A first step toward providing reparations for those who have experienced political detention, torture, and other inhumane treatment would be to officially recognize and define the category of political prisoner. The Joint Political Prisoners Scrutiny Committee, established by the president in 2013, worked on a case-by-case basis to identify political prisoners for release without a guiding definition. This has led to many cases of disagreement and the delegitimization of the committee after its members failed to come to an agreement on the remaining cases. Recognizing political prisoners as such and developing programs to provide reparations will require a carefully considered definition that can provide guidance for determining the fates of what could be thousands of cases.

Some political prisoner organizations, including the Assistance Association for Political Prisoners and the Former Political Prisoners Society, have come up with a draft definition in consultation with political parties, human rights organizations, legal experts, and others, but they have had little traction with the government on discussing or adopting it. In July 2015, these efforts were set back by the announcement from the Deputy Minister for Home Affairs that the use of the term political prisoner is unconstitutional because it would "create inequality within the correctional system" and deny prisoners "equal rights and protection under the law."¹⁷

Once released, political prisoners have urgent rehabilitation needs that the government has the responsibility to address. Many former political prisoners were tortured in ways that continue to damage their health or have they developed other illnesses or conditions that were poorly treated during detention or that received inadequate or no medical care. There are also severe psychosocial needs stemming from detention (often solitary), torture, and the isolation and blame from family and friends on their release.

Finally, many activists were arrested before completing their education, and their applications to continue their studies have often been rejected. They have been out of the workforce for many years and face physical and psychosocial challenges to maintaining employment. Employers are also hesitant to hire former political prisoners to avoid any political risk. For all of these reasons, former political prisoners have serious livelihood needs that must be addressed with a combination of education/vocational training, financial support, and employment opportunities.

Inter-Communal Truth Telling

Transitional justice in Myanmar is not only relevant for addressing the relationship between the state and its citizens, but also for effective truth telling between various ethnic and religious groups, a process that could be started by civil society and

of Myanmar life. The release of political prisoners was one of the major conditions for the international community's re-engagement with the country and a major factor in their lifting sanctions, increasing aid and investment, and improving diplomatic relations with the government. Perhaps most importantly, the releases could have been used to acknowledge, albeit tacitly, that the prisoners should not have been imprisoned in the first place and that the participation of these activists was important for national reconciliation. However, the modalities under which the release was "conditionally" granted has vanished that purpose.

¹⁶ "World Report 2013: Burma," Human Rights Watch, www.hrw.org/world-report/2013/country-chapters/burma

¹⁷ Thant, Htoo and Pyae Thet Phyo, "Home affairs ministry defiant on political prisoner definition," *Myanmar Times*, July 22, 2015, www.mmmtimes.com/index.php/national-news/15609-home-affairs-ministry-defiant-on-political-prisoner-definition.html

eventually backed by the government. The government, and to a lesser extent many nonstate armed groups, have spread their conflicting narratives of the causes and impact of conflict in schools, through the media, and at public events.¹⁸ The strict state control of media and other forms of information sharing over the past decades, combined with the inaccessibility of information in conflict areas, means that people in one part of the country are rarely aware of the conflicts and human rights violations that have taken place in other regions.

People who work with victims in remote, conflict-affected areas report that victims often blame all Burmans for their suffering, directing a lot of anger and mistrust towards them.¹⁹ Similarly, the average resident of central Myanmar knows little about ethnic minorities and the civil war aside from the minimal, often-biased media coverage and unverified content on social media.²⁰ In areas where a variety of ethnic minority groups live in close proximity there are also deep divisions and grievances that have been generally suppressed in the name of ethnic unity against the central Burma state. With ceasefires and increased mobility in some areas, there will be increased contact between different ethnic groups whose lack of knowledge and understanding about past conflicts and the experiences of other groups could lead to serious social conflict, while old grievances are likely to resurface.

Sharing experiences with people outside of victims' own ethnic groups can help to build civic trust and break down misperceptions. In recent years, with many Burman democracy activists traveling to conflict areas for the first time, informal exchanges of their experiences under the military government have contributed to increased trust on an individual level.²¹ Similar exchanges have also built trust between Burmans and ethnic minorities living in exile along the border when they interacted out of necessity.²²

Acknowledging and accepting varying experiences of the conflict is necessary to establish a basic level of trust and understanding before deeper reconciliation can begin. This may require a process of truth telling whereby all groups are exposed to the experiences, perspectives, and historical narratives of other groups with whom they may not necessarily agree, but whom they can witness and learn to empathize with.

In the short to midterm, civil society can start to spread knowledge by scaling up truth-telling activities to cover new areas of the country and creating a network to promote inter-community truth telling. Civil society documentation can also help to preserve testimonies so that future generations can learn lessons from the conflicts and human rights violations of the past, something that is crucial for the youth of any country. Research should also be done with victims to determine what they want to express, what they want others to know about their experiences, and what they hope to learn about their and others' experiences.

Role of International Community

The international community has a major role to play in Myanmar in ensuring that international norms, particularly regarding victims' rights, are fully understood and

18 Matthew J. Walton, "The 'Wages of Burman-ness': Ethnicity and Burman Privilege in Contemporary Myanmar," *Journal of Contemporary Asia* (2012); Kivimaki, Timo and Paul Pasch, "The Dynamics of Ethnic Conflict in the Multiethnic Union of Myanmar," *Friedrich Ebert Stiftung* (October 2009), 37–38.

19 ICTJ Interviews 8, 9 and 20, Chiang Mai and Mae Sot, January–March 2014.

20 For instance, in a recent survey by The Asia Foundation, only 55 percent of respondents nationwide were aware that there is ongoing armed conflict in the country. See "Myanmar 2014: Civic Knowledge and Values in a Changing Society," The Asia Foundation 2014, <http://asiafoundation.org/resources/pdfs/MyanmarSurvey20141.pdf>; ICTJ Interview 20, Chiang Mai, March, 2014.

21 ICTJ Interview 8, Mae Sot, January 27, 2014.

22 ICTJ Interview 9, Mae Sot, January 28, 2014.

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implemented. Since 2010, many countries have improved relations with Myanmar—in many cases lifting sanctions imposed due to human rights concerns—but they appear to have focused more on developing economic and military relations than on human rights protections and accountability.

International involvement in support of the peace process is particularly important to facilitating a coordinated and informed approach to addressing the past. Some international actors involved in supporting the peace process have steered clear of mentioning the past, in order to refrain from threatening the fragile ceasefire negotiations and maintain relationships with government officials to enable work on other topics. While this is understandable, it reinforces the government's impression that policies to implement human rights as well as addressing with the past is threatening and/or unrequired.

Excluding transitional justice from the topics of technical assistance and capacity building suggests to the government and other stakeholders that addressing the past is not necessary for a sustainable peace. In the post-ceasefire period, addressing the past should not be seen as off-limits, particularly as stakeholders in the peace process have identified it to be an important topic for political dialogue. In order to minimize the risks faced by emerging civil society work on the past and to facilitate better cooperation, those with access to government leaders should take the opportunity to progressively introduce the idea that transitional justice could benefit them and it is not necessarily about revenge and retribution.

Conclusion

Given Myanmar's traumatic past, there is much at stake for future negotiations and government actions. The massive human rights violations of the past and present will remain a part of the country's legacy, affecting the culture and daily life of individuals unless something is done to address them.

Dealing with the impact of the past by addressing the urgent needs of victims is crucial for the government to build trust not only with victims but communities affected by conflict and human rights violations. Apology and acknowledgement, while important, would have much less impact without concrete measures to demonstrate the government's sincerity. In the short term, the government and civil society need to work together to build the confidence that addressing the past does not need to be dangerous or violent.

Myanmar needs an open, honest discussion about what happened in the past and ongoing violations. That discussion, which can be managed and conducted in stages, should start soon. Leaders from all aspects of Myanmar political life—those in government, in the opposition, in civil society, and those who provide political leadership for ethnic armed groups—should take steps to engage each other and the public in this conversation. International actors should support this process by helping to facilitate trust building, while dispelling the idea that dealing with the past is dangerous.