

Status of Human Rights and Sanctions in Myanmar

FEBRUARY 2013 REPORT

This report seeks to provide an overview of the developments in February 2013 that relate to the status of human rights in Myanmar. It also reviews the response of the international community to Myanmar's reform efforts and other related issues.

I.	International Community and Sanctions	2
A.	UN Special Rapporteur Visit	2
B.	Thein Sein Visit to Europe	2
C.	Other Sanctions Related Developments	3
II.	Civil and Political Rights	5
A.	Election-Related Laws and Acts	5
B.	Press and Media Laws/Restrictions	6
1.	<i>Regulatory Developments</i>	6
2.	<i>Political Developments</i>	6
C.	Official Corruption	7
D.	Women in Government	7
III.	Political Prisoners	7
IV.	Economic Development	8
A.	Legal Framework of Economic Development	8
B.	Foreign Economic Interests and Economic Development Projects	9
_Toc350352021C	Land Seizures
10		
V.	Ethnic Violence	12
A.	Kachin State	13
B.	Rakhine State	14
C.	Mon State	15

I. International Community and Sanctions

A. UN Special Rapporteur Visit

Raising concerns as to torture and other abuse allegations in Kachin and Rakhine, a UN Special Rapporteur visited Myanmar this month. “The reforms in Myanmar are continuing apace, which is a good sign for the improvement of the human rights situation in Myanmar,” said the Special Rapporteur on the human rights situation in the country, Tomás Ojea Quintana, after his latest visit.¹ However, he warned that “there are significant human rights shortcomings that remain unaddressed.”² During his five day trip, Ojea Quintana met with Daw Aung San Suu Kyi, government officials, refugees, prisoners, the National Human Rights Commission, former political prisoners, and others. He was accompanied by UN Resident and Humanitarian Coordinator Ashok Nigam.³ His seventh overall, this was Ojea Quintana’s first visit to Myanmar since August of 2012, when he highlighted violence in Rakhine state and challenged Myanmar’s related citizenship policies.⁴

Respecting Kachin, he noted: “The ongoing large military presence, which remains beyond the reach of accountability mechanisms, means that serious human rights violations are continuing there,” adding that “resolution of the conflict will need to address the role played by ethnic minorities in the reconstruction of the nation”.⁵ According to the Bangkok Post, Ojea Quintana specifically raised concern over the Myanmar army’s “arbitrary arrest and torture during interrogation” of men accused of being Kachin rebels.⁶ He welcomed the China-brokered ceasefire talks between the government of Myanmar and the Kachin Independence Army (KIA).⁷

The Special Rapporteur also stressed that the conflict was limiting humanitarian access and relief within the state, and extensively addressed the ethnic conflict in Rakhine. Regarding the Rakhine conflict generally, he noted that: “The facts of what has happened need to be established and those responsible for human rights violations held to account, which I hope the Investigation Committee established by the President will help to do in its upcoming report which should be made public.”⁸

B. Thein Sein Visit to Europe

During his first visit to Brussels, President Thein Sein asked the EU to eliminate sanctions on Myanmar, pledging to continue with reforms.⁹ Currently, EU sanctions are merely suspended, with the exception of active EU embargoes vis-à-vis arms, munitions, and equipment which could be used to “suppress” citizens. The suspension mechanism was implemented to allow the EU to quickly reinstate sanctions if Myanmar’s government discontinued reforms.

Thein Sein asked the EU to quickly approve a proposal to restore Myanmar’s preferential trade status, which it lost in 1979 due to violations of international agreements on forced labor under military junta leadership.¹⁰ The measure would grant Myanmar duty-free and quota-free access to the European market for all types of products except arms and ammunition.¹¹

EU President Herman Van Rompuy and European Commission President Jose Manuel Barroso stated that they would examine the possibility of a “bilateral investment agreement” with Myanmar, without committing further.

Thein Sein planned visits to five European countries during his tour, including Norway, Finland, Austria, Belgium (see above), and Italy.

C. Other Sanctions Related Developments

On February 22, 2013, the US Treasury Department eased sanctions on four Myanmar banks. More specifically, the US Office of Foreign Assets Control (OFAC) issued a general license to authorize additional U.S. economic activity in Myanmar. The general license allows individuals, companies, and financial institutions to conduct most transactions, including opening and maintaining accounts and conducting a range of other financial services, with four of Myanmar's major financial entities: Myanma Economic Bank, Myanma Investment and Commercial Bank, Asia Green Development Bank, and Ayeyarwady Bank. This action will give U.S. companies and non-governmental organizations greater access to some of the largest Burmese banks and allow these financial entities to access the U.S. financial system. Today's general license supports the July 2012 easing of U.S. economic sanctions on Myanmar that authorized new investment in Myanmar by U.S. persons and encourages additional U.S. economic involvement in Myanmar."¹²

However, the US has maintained¹³ and enlarged¹⁴ its proscribed list of Specially Designated Nationals ("SDN"). "Asia Green Development Bank is owned by Tay Za, who was described by the U.S. Treasury in 2008 as an arms dealer and financial henchman of the former military regime. Ayeyarwady Bank is owned by Zaw Zaw, who was described as 'one of Myanmar's up-and-coming cronies' in a June 2009 leaked diplomatic cable from the U.S. Embassy in Yangon. He has not been publicly linked to arms or drug dealing."¹⁵ While Ayeyarwady bank was added to the SDN list on February 22, 2013, and many others remain listed or proscribed,¹⁶ OFAC General License No. 19 essentially allows diverse transactions and business vis-à-vis the above four banks. Leaving these four banks on the SDN list enables the US government to respond quickly if the Myanmar government backslides on reforms. See also above (EU suspension). In addition to other financial and commercial entities, US companies are still prohibited from doing business with Myanma Foreign Trade Bank, Innwa Bank, and Myawaddy Bank.¹⁷ Moreover, the US still prohibits any specific transactions with any of the SDN listed individuals, even where such transactions are carried out via a bank listed in OFAC General License No. 19. "The Treasury Department still prohibits investment in entities with ownership connections to the Ministry of Defense or any military group. President Obama also gave the Treasury Department the right to levy sanctions against individuals or firms that undermine the reform process, engage in military relations with North Korea, or contribute to ethnic conflict."¹⁸

On the same date, February 22, 2013, the US Chamber of Commerce launched a business delegation to Myanmar to explore opportunities for trade and investment. Over 50 representatives of U.S. companies including Chevron, General Motors, Target Corp., ConocoPhillips, Caterpillar, General Electric International, Honeywell and eBay were scheduled to spend the week with Myanmar government officials and business people.¹⁹ On February 25, Yangon hosted a United States-Myanmar Trade and Investment Conference that brought together business executives and government officials.²⁰ As one commentator noted of the event: "Flanked by national flags, Win Aung, the president of Myanmar's main business association, and U.S. Assistant Secretary of State Jose Fernandez shook hands in Yangon and agreed to deepen business ties between their countries. . . . The awkward part? The United States still dubs Win Aung a "crony" who allegedly used his close ties to Myanmar's old military rulers to build one of the country's biggest business conglomerates. He remains on a blacklist of entities U.S. citizens and companies are banned from doing business with... You can't do a lot of direct

investment if there's the specter of it being taken away tomorrow," said Darren Brooks, senior corporate counsel for Caterpillar Asia, addressing the dilemma of renewed sanctions. "It's a little bit of a minefield. We're trying to tiptoe around it and do things correctly." This commercial tentativeness may be contrasted somewhat with rapid investment by large commercial firms from Japan, South Korea, and Vietnam.

On February 28, 2013, Michael Posner, Assistant Secretary, Bureau of Democracy, Human Rights, and Labor of the US Department of State, testified before a Congressional human rights commission. He addressed specific sanctions (including those maintained) and the US government's general strategy regarding both (i) sanctions easing and (ii) maintaining appropriate levels of leverage in the ongoing dialogue with the government of Myanmar. His specific observations and allegations may illuminate US policy to some extent:

Some critics allege that the country's natural wealth, auctioned off to highest bidder, continues to be siphoned to offshore accounts rather than flowing into the national budget. Investment in many natural resources are still controlled and financed by military controlled enterprises, such as the Myanmar Economic Corporation and the Myanmar Economic Holdings Limited or their sub-entities. Our sanctions remain in place on these entities for this reason.²¹

See above, re SDNs. The specific sanctions mentioned by Posner are targeted to these specific entities and their affiliates. Posner does not mention specific sanctions similarly maintained against certain individual commercial entities and persons allegedly involved in corruption and other abuses. After noting Myanmar's efforts to increase transparency and join to join both the Open Government Partnership and the Extractives Industries Transparency Initiative, Posner continues:

President Thein Sein's government has pledged to do business differently, and the United States has committed to supporting these efforts through our calibrated easing of economic sanctions to support political and economic reforms. In 2012, we broadly authorized new investment in Myanmar for the first time in 15 years, including in Myanmar's multi-billion dollar oil and gas sectors. However, to ensure that military-owned enterprises would not benefit from this opening, investment in military-owned companies remains off limits. Similarly, U.S. companies are not authorized to make payments to the military to provide security for their investments, as the military is the primary driver of the worst human rights abuses. We also instituted the Reporting Requirements for Responsible Investment, which require U.S. persons making investments over \$500,000 to report on their human rights, environmental, labor, and anti-corruption due diligence procedures. Companies without such due diligence procedures in place may nevertheless invest in Myanmar, provided they report that they do not have these policies in place. Our expectation is that companies that report a lack of adequate human rights policies will face pressure from civil society actors

here and in Myanmar to develop them, and our hope is that companies will develop policies in collaboration with these groups.

Some have argued that these reporting requirements are too onerous and discourage investment, while others argue that they are too permissive and do not providing adequate human rights safeguards. But we've also heard from large American companies and members of Burmese and U.S. civil society who strongly support them. Our intention is to strike a balance, guarding against an economic free-for-all that would funnel investment to the military and its companies while still incentivizing responsible investment that contributes to Myanmar's economic modernization, job creation, and widely-shared prosperity.²²

Significantly, even before an audience of US lawmakers, Posner strikes a tone of collaboration with Myanmar; while pulling no punches with respect to allegations of military abuses and corruption.

II. Civil and Political Rights

A. Election-Related Laws and Acts

The UN's Special Rapporteur for Human Rights in Myanmar, Thomas Quintana, urged the parliament again this month to amend the 1982 Myanmar Citizenship Law to give equal citizenship rights to all nationals.²³ He made the demand during a meeting with local and foreign officials on Saturday, February 16th, stating “[d]ialogues with mutual respect would not emerge as long as there are discriminations based on national citizenship and faith.... That's why I want to reiterate that the parliament should amend the 1982 Citizenship law so that everyone in the country can have equal rights to become citizens.”²⁴

The 1982 Citizenship law recognizes three categories of citizens: citizens, associate citizens, and naturalized citizens.²⁵ Full citizens are those individuals who are descendants of people who lived in Myanmar prior to 1823 or were born to parents who were citizens at the time of their birth.²⁶

Quintana's demands drew negative feedback from legal experts and members of Parliament.²⁷ “This law is vitally important for our national people... Myanmar is located between China with a population of 1.3 billion, India with over one billion people and Bangladesh with 160 million people,” stated Thein Nyunt, a member of parliament.²⁸

These calls for change echo similar proposals that took place at the end of last year.²⁹ During a parliamentary session of the Upper House last November, the ruling Union Solidarity and Development Party proposed amending the 1982 Citizenship Law, but resistance to change was strong and the proposal was swiftly rejected.³⁰ Resistance to change the law is, in part, fueled by parliament members' unwillingness to recognize the Rohingya, as discussed in the November report, as citizens of Myanmar.³¹ The Rohingya, considered by the UN to be one of the most persecuted minorities in the world, are viewed by the Myanmar government as illegal immigrants from Bangladesh, and are afforded no citizenship rights.³²

Myanmar is under international pressure, however, to amend its law and give the Rohingya citizenship rights and the chance to have a political voice. On February 20th, Jose Ramos-Horta and Muhammad Yunus, writing for the Huffington Post, made the following appeal to the Myanmar government: “You must amend the infamous 1982 law, and welcome the Rohingya as full citizens of Myanmar with all attendant rights. In doing so you will end the possibility of the radicalization of the Rohingya and channel their energies for the development of Myanmar. You will remove the impetus for extremism and terrorism being generated by the current mistreatment of this vulnerable minority. A strong, stable and democratic Myanmar is not only in the interest to countries of the region, but will serve the cause of global peace and stability as well.”³³

B. Press and Media Laws/Restrictions

1. Regulatory Developments

Foreign reporters will soon be able to work for up to a year in Myanmar on short and long-term journalist visas after new regulations were introduced this month aimed at ensuring wider press freedom. The new rules are intended to give local and foreign reporters greater access to government officials and will come into effect around mid-April, according to deputy minister for information and presidential spokesman U Ye Htut.³⁴

The move means reporters will no longer have to use tourist visas or file under pseudonyms. The new media regulations will require journalists to submit a CV and letter of recommendation from their media outlet for official approval. If granted, reporters will be issued free press cards, as well as visas for the period of time they intend to work in Myanmar. Journalists travelling in and out of the country could be granted multi-entry visas of between three and six months, the minister said, while visas of up to one year will be given to those intending to open a foreign news bureau. Local reporters will be granted their own press cards through the Press Council around April as well.³⁵

2. Political Developments

A defamation case brought by Myanmar’s mining ministry against *The Voice Weekly* for reporting graft allegations was dropped in February, in the latest sign of easing pressure on the nation’s long-muzzled media. A Yangon court agreed to withdraw charges against *The Voice* at the ministry’s request, following mediation by the recently-formed Press Council, according to Judge Khin Thant Zin. In an article last year *The Voice* reported a corruption probe linking the ministry to a Chinese co-owned copper mine, which has seen a series of protests over allegations of land-grabbing and environmental damage.³⁶

While there were positive developments in February, there were also setbacks. Myanmar was accused of hacking into the email accounts of journalists working for foreign and local media.³⁷ On Monday, February 12th, the Myanmar government denied such accusations.³⁸ At least 12 reporters, including Rangoon-based correspondent for the Associated Press, received messages from Google that said hackers may be attempting to access their accounts.³⁹ Google warned that these hackers may have been “state-sponsored attackers,” although would not divulge how they came to that conclusion.⁴⁰ This report runs contrary to, and came on the heels of, an earlier report that the World Press Freedom Index, released by Paris-based Reporters Without Borders, ranked Myanmar at 151st out of 179 ranked countries, 18 places higher than its previous position.⁴¹ The report indicated that Myanmar had made dramatic changes in 2012 and

had jumped ahead in the ranks as a result: “There are no longer any journalists or cyber dissidents in the jails of the old military dictatorship. Legislative reform has only just begun but the steps already taken by the government in favor of the media, such as an end to prior censorship and the permitted return of media organizations from exile, are significant steps towards genuine freedom of information....”⁴²

C. Official Corruption

Eight senior officials from the Ministry of Communications and Information Technology (MCIT) are under investigation for corruption and will soon be tried, according to government sources. An official from the Ministry of Home Affairs (MHA) told *The Irrawaddy* that the accused officials are currently being investigated for violating Article 409 of the Penal Code, which deals with misuse of state-owned property. They will be tried in two months and face charges under the Public Properties Protection Act.⁴³

An official from the MCIT’s Myanmar Posts and Telecommunications (MPT) also confirmed reports about the investigation and the trial, but said they are not related to anything that occurred in the ministry when the country was still under military rule. They are only related to a project of the current administration to increase the number of mobile phones in the country to 30 million, the official said.⁴⁴

In addition, sixteen employees of the Customs Department were forced to resign in February for taking bribes, according to unnamed official sources. Following an inquiry by the Bureau of Special Investigation, the customs personnel were found guilty of accepting bribes to allow the import of restricted vehicles. The investigation reportedly began last October in response to a letter of complaint received by the Ministry of Commerce. According to a Customs Department statement dated February 5, 2013, the 16 employees, including two deputy-directors and two supervisors, were sacked for violating the department’s rules and regulations.⁴⁵

D. Women in Government

Zin Mar Aung, a former political prisoner in Myanmar who is now a candidate for the country’s 2015 parliamentary elections and an activist for women’s rights, was in Washington on Tuesday, February 19th to raise awareness about the underrepresentation of women in Myanmar’s government.⁴⁶ Williams is engaged in efforts to introduce a gender quota in the legislature.⁴⁷ These efforts are proving challenging, however, because Myanmar already “has a 25 percent quota for military offices, people appointed by the commander-in-chief, and every one of them is male.”⁴⁸ Williams is encouraging the international community to use its leverage to help inspire reforms that would promote women’s political participation in Myanmar, stating: “The international community has a lot of influence over the various civil society organizations in ethnic minority areas, because most of their funding comes from international sources.”⁴⁹

III. Political Prisoners

President Thein Sein, whose government has overseen the release of hundreds of detainees since assuming the presidency in 2011, this month ordered the establishment of a “Committee on Political Prisoners”. The committee, which will be led by the Minister for the President’s Office, U Soe Thein, will be comprised of government officials, civil society actors and some political parties. The committee will be tasked with the responsibility of defining the

term "political prisoner", determining the number of such prisoners remaining in Myanmar's prisons and reviewing relevant cases.⁵⁰

One of the key obstacles to the Myanmar government's ability to realize peace with ethnic minority groups, as well as to realize the complete repeal of all international sanctions, has been the government's refusal to use the term "political prisoner" to describe those currently behind bars. According to Ye Htut, a spokesman for the president "We cannot negotiate because of this term. That's why President Thein Sein instructed to form this committee to find the definition."⁵¹

While skepticism remains in some quarters, the proposed participants are encouraging. These include members of the National League for Democracy, whose leader Aung San Suu Kyi was herself a political prisoner for many years, as well as the Assistance Association for Political Prisoners (AAPP), a prisoner rights and support group whose figures and reports have been featured prominently in our past reports. The initiative is "a good sign," said Bo Kyi, joint secretary of AAPP, which is run by former political prisoners. But he added that "we have to wait and see until more political prisoners are released."⁵²

According to Phil Robertson, deputy director of Human Rights Watch's Asia Division, human rights groups will be watching the committee closely to ensure that its proceedings are fair, transparent and comprehensive. "The [State Peace and Development Council] did not hesitate to use trumped up criminal charges to go after political activists and so not every political prisoner is in prison under one of the clear, politically related laws, like the Unlawful Associations Act or the State Protection Act."

The United States, which is bound by legislation to maintain economic sanctions against Myanmar until the U.S. Congress is satisfied that the country no longer imprisons citizens for their political beliefs, welcomed the news of the committee's formation. State Department spokeswoman, Victoria Nuland noted in a press release that "[b]y establishing an inclusive, transparent review mechanism to ensure the release of all remaining political prisoners, the government has taken an important step towards national reconciliation."⁵³

IV. Economic Development

The rapid pace of reforms in Myanmar has continued unabated this month in the economic realm. Progress has been made in improving the legal framework for future economic development and integration into the world economy. While the risk remains that average citizens may be overrun by powerful commercial interests from within the military or other politically influential circles, one of the most striking trends is the commitment and efficacy of elected representatives who are fighting for their constituents in these disputes.

A. Legal Framework of Economic Development

Kan Zaw, the Minister of National Planning, noted this month that Myanmar's second phase of reform (after the much-celebrated political reform) will encompass various utilities and public services, including education, communication, electricity, water sanitation and urban transport.⁵⁴ Following earlier-announced efforts in the telecommunications industry, Mr. Zaw emphasized that the government plans to "corporatize" the currently government-run telephone and postal bodies into four corporations.⁵⁵ This process will allow between 35% and 100% private ownership.⁵⁶

Myanmar's parliament also took the significant step of preparing to grant the country's central bank the authority to set monetary policy independent of political interference.⁵⁷ The legislation on this point, which is expected to pass, was authored with the aid of Japan, Thailand, the International Monetary Fund, the World Bank and the Asian Development Bank.⁵⁸ Besides adopting an independent monetary policy, the law would require employees of the central bank to have relevant experience, whereas currently the central bank is run primarily by military officers.⁵⁹ This law represents a move toward further stabilization of macroeconomic policy and comes after President Thein Sein has already moved to clear Myanmar's debt load and eliminated the country's fixed exchange rate policy.⁶⁰

In the key area of fighting government corruption there was an interesting recent development relating to the well-connected conglomerate, Myanmar Annawa Swan Arshin Group, the exact ownership of which is unclear. The Group was awarded the right to import \$30 million of goods duty-free in return for carrying out development work. The Myanmar Investment Commission ("MIC") then permitted the amount of duty-free imports to be increased to \$900 million without a detailed review. In response, officials at the Ministry of Finance and Revenue sent the decision back to the MIC for additional review.⁶¹ From a reformist perspective, it is good to see checks and balances within the government bureaucracy. On the other hand, it is also potentially a cautionary tale, particularly given that the MIC will have significant powers over foreign investments in the country under the new Foreign Investment Law, an issue which has been discussed in previous reports.

B. Foreign Economic Interests and Economic Development Projects

Foreign interest in Myanmar, a country often referred to as Asia's "final frontier", is growing quickly. A delegation of fifty U.S. executives went to Myanmar with a State Department representative at the end of February to attend a trade and investment symposium in Yangon.⁶² Companies represented included Chevron, General Motors, Yum Brands, ConocoPhillips, and Caterpillar.⁶³ The United States Chamber of Commerce also signed a Memorandum of Understanding with its counterpart, the Union of Myanmar Federation of Chambers of Commerce and Industry, with the hope that it would help to promote trade between the two countries.⁶⁴ The easing of sanctions on four major Myanmar banks discussed above will further contribute to the flow of commerce between the two countries.⁶⁵ However, business leaders continue to complain that too many individuals (and the organizations they control) are sanctioned by the U.S. government, making commerce difficult and hampering American business.⁶⁶

Other countries have shown similar interest. A notable European commercial deal in the past month is European brewing giant Carlsberg's agreement to acquire 51% of a joint venture with a local brewing company in order to brew and market its beer in Myanmar.⁶⁷ Japanese businesses and government agencies have continued their engagement with the country as well. Japanese businesspeople have been visiting Myanmar in large numbers, while expressing continuing concern about the extent of infrastructure development in the country.⁶⁸ Japanese government agencies have also been working closely with Myanmar authorities. In addition to the projects described in previous reports, the five-year development plan for Yangon is being mapped out in conjunction with the Japan International Cooperation Agency.⁶⁹ Japan may eventually contribute \$500 million of low-interest rate loans to help move the project forward, which would include an expansion of the industrialized area around the city.⁷⁰

International institutions have also extended their assistance. The Asian Development Bank plans to provide \$50 million for developing education, rural and urban development, tourism, non-governmental organizations, business projects and technical assistance.⁷¹ The World Bank is also considering providing gas-turbine powered electricity generation to give up to five million people access to stable electricity, something currently enjoyed by only 25% of Myanmar's population.⁷² This engagement follows on the World Bank's opening of a \$440 million credit line last month.⁷³ It would involve the creation of 120 MW of electricity-generation capacity and approximately \$165 million in interest-free long-term International Development Association loans.⁷⁴

C. Land Seizures

Activists continue to worry that economic development could lead to confiscation of land from farmers at unjust prices. For instance, the Asian Human Rights Commission told the U.N. that Myanmar faced a "land-grabbing epidemic" due to land-reform laws that allow land to be seized to serve the "national interest."⁷⁵ For instance, land can be taken for military bases, oil and gas pipelines, mining projects, and smaller industrial development, among other reasons. Myanmar is a largely agricultural country with low agricultural productivity. In developing its economy, land is being taken from low-productivity farmers for high-value uses. Land seizure by governments is necessary for economic development and happens throughout the world. The challenge for Myanmar, however, is to do so with as much procedural and substantive fairness (*i.e.* non-arbitrarily and with just compensation) as possible.

Given this imperative, it is encouraging that Myanmar's elected representatives have been publicly supporting aggrieved citizens' calls for accountability, but it is difficult to tell how far this trend will go, how effective the oversight will ultimately be or how many problems will be ignored completely. The last problem is perhaps especially acute among the country's many minorities. On the other hand, elected representatives appear to be holding the country's powerful institutions, including the military, which is probably the most frequent target of land grabbing complaints, at least partially to account.

In January, the Quartermaster General of Myanmar's military promised the parliamentary Farmland Investigation Commission ("Commission"), which has been investigating land-grabbing complaints, that it would compensate farmers for seized land.⁷⁶ He also pointed to \$1.16 million the military has paid in compensation for nearly 2000 acres of seized land.⁷⁷ However, suspicions run deep in the country and the military is still seen as grabbing land, a trend purportedly driven by the surging land prices in the country. One such example from this past month relates to a chemical plant owned by a large military conglomerate in the Sagaing region. Local farmers sued officials from the plant on the grounds that they appropriated more land for the plant than they were entitled to.⁷⁸ In another case, villagers in Shan state whose land was taken to make way for the China-backed Shwe pipeline claim that money from the Chinese pipeline company, which was supposed to be used for compensation of displaced farmers, was kept by the military.⁷⁹

In mid-February, the Commission issued a draft report calling for greater controls over the military's appropriation of land, which could be an important step in the right direction.⁸⁰ The draft report—the result of several months of investigation in which the Commission formed ten teams operating in various regions and states—made several recommendations.⁸¹ First, it noted that land appropriated for development, military bases or other projects should be returned to its owners if the project does not proceed.⁸² Second, it noted that the amount of land seized for a military base should be proportional to the size of the unit that will use it and, further, that land seized by the military for the personal use of officers should be returned.⁸³ Third, the Commission found that there should be clearer guidelines to govern land appropriation, including compensation rates based on market prices.⁸⁴

In addition to land disputes between the military and citizens, there are also many conflicts involving civil construction projects. One example of this tension is playing out in the Bago Region in central Myanmar, where farmers have claimed that up to 10,000 acres have been confiscated without compensation for government projects including highways, roads, dams and recreational facilities.⁸⁵ One farmer complained that the government destroyed his field ten days before harvest rather than wait to take his land.⁸⁶ On the other hand—and this reflects the tension between development and property rights described above—it is true that the dam project will have significant benefits for the population, providing 30 megawatts of electricity and water to irrigate 100,000 acres.⁸⁷ A legislator, caught in a frank moment, complained in one breath about both about farmers' attitudes and government officials lack of wisdom in dealing with them, noting that "[m]ost of the farmers are narrow-minded and uneducated, so the authorities have not only to compensate them, but also to comfort them after they lose their land,"⁸⁸

It is interesting to note that in the case of disputes over civil projects parliamentary activism unleashed by Myanmar's democratic reforms seems to be having an impact. One news report described how a legislator had pressed the deputy national railway minister for compensation for land that was confiscated from farmers in 1994 for a railroad that has mostly

fallen out of use. In response, the deputy minister stated that compensation would be provided.⁸⁹ Rather than merely take that commitment at face value, the legislator then pressed the deputy minister publicly to provide a specific timeline for when compensation would be made.⁹⁰

Land disputes also are accompanying private commercial development. For instance, villagers in one township in Shan state, which has been a site of ethnic conflict in the past, have been protesting the development of a hotel complex there.⁹¹ The farmers claimed they were not compensated for their land despite having receipts of tax payments made on the lease grants.⁹² As a result of the protests the farmers have been charged with obstruction and could face fines or even prison time. This has particularly aggrieved the farmers because the charges were brought while negotiations with the local government were in progress.⁹³

In this climate, potential foreign investors could face claims that they are using improperly seized land for their operations. Part of the problem is that even well-intentioned foreign companies find it difficult to identify who owns a parcel of land in Myanmar.⁹⁴ This is partly the result of confusing legal rules and outdated systems that have generated overlapping title deeds.⁹⁵ One article noted that such problems are likely to be less acute in the industrial zones, like Dawei, than in Myanmar's cities, and this could become a factor in the geography of Myanmar's economic development.⁹⁶

V. Ethnic Violence

Early this month Myanmar's government held peace talks with a federation of ethnic groups, the United Nationalities Federal Council (UNFC), to try to resolve issues including the conflict in the northern state of Kachin. This meeting laid the foundation for political dialogue aimed at finding a permanent solution to six decades of ethnic conflict in the country. The UNFC, which was formed by about a dozen ethnic groups fighting for greater autonomy in Myanmar, including the Kachin, met Myanmar's Minister of the President's Office Aung Min and other officials in the northern Thai city of Chiang Mai. Myanmar's government has reached tentative ceasefires with a number of ethnic rebel groups since taking power in early 2011 but several rounds of talks with the Kachin rebels have failed to reach a breakthrough.⁹⁷

The first meeting between the UNFC and the Myanmar government took place in November 2012, but proposals for talks in January of this year were postponed after an escalation in fighting between government forces and the Kachin Independence Army (KIA), a UNFC member group.⁹⁸ Myanmar has signed peace agreements with 10 armed ethnic groups since President Thein Sein took office in March 2011. Kachin rebels began exploratory peace talks this month with the Myanmar government in China after recent intense fighting which saw the KIA lose key positions around its headquarters in Laiza in northern Myanmar.⁹⁹

The UNFC meeting followed talks in Chiang Mai between government negotiators and ethnic Shan rebels on maintaining peace and combating the drug trade in Shan state one year after the two sides signed a ceasefire agreement. Laung Sai of the Shan State Army said the military and its political wing, the Restoration Council of Shan State, would be coordinating with other UNFC groups in negotiations with the government. "We will be working with all armed groups and we will not decide anything on our own. I told Minister Aung Min that this is our attitude," he said. He added that the two sides had discussed difficulties between the Shan State Army and government forces in efforts to eradicate drug use and trafficking in the region, where opium production has thrived during years of conflict.¹⁰⁰

That a country that is 85 percent Buddhist (the religion of peace) is known for non-stop war is a cruel historical irony in Myanmar. The Burman majority that makes up 60 percent of Myanmar's population (and staffs its army) has been engaged since the end of World War II in an ethnic cleansing campaign against 135 other ethnic minorities in Myanmar. Ethnic populations cover half of Myanmar's total land area and make up nearly half of its total population, while housing all of Myanmar's international trade routes, most of its borders and nearly all of its natural resources: from copper and silver to expensive lumber and precious minerals. "What ails Myanmar is not just about politics and human rights per se, but control of the land and the fruits of the land," says a retired American military advisor to the ethnic groups. "It is about controlling ethnic ancestral lands rich in natural resources, and not being able to jointly explore and share prosperity." According to a high profile Myanmar businessman, "[i]n the end it's about economic rights, ethnics never feel like they have (any) and the government needs to give them some". "And remember," says another local businessman, "the problem here is inefficient democracy because we've had 49 years of a different system." ¹⁰¹

The status of groups that have signed cease-fires with the government is still unresolved, while the military continues to subject ethnic minorities to religious persecution, forced labor and land seizures. ¹⁰²

According to Stanley Weiss, founding Chairman of Business Executives for National Security (a non-partisan U.S. organization of senior executives who contribute their expertise in the best practices of business to strengthen the U.S. security), there are two big roadblocks to peace. First, the Myanmar constitution rammed through in 2008 is anathema to ethnic minorities, since it mandates central government control over ethnic lands. Any change in the constitution requires a 75 percent vote plus one and the army still controls a mandated 25 percent of the parliament. According to Weiss, while some minority groups, like the Kachin, want outright independence, most want a federal system like the U.S., or better yet, Switzerland, where ethnic cantons have autonomy within a federal structure. According to the military advisor, Burmans fear that the issue of control could unite minorities and so they do everything they can to prevent unity, because they realize that the power of ethnic leaders lies in collective action. ¹⁰³

The second issue that Weiss states as a roadblock to peace in Myanmar is the army. As an Asian ambassador puts it, "the president tells the military to stop fighting, but the army keeps fighting." Under the current system, the military still answers to a murkily-defined National Security Council, not the president. Or, as a local editor explains, "the army still runs Myanmar." ¹⁰⁴

A. Kachin State

On February 4th, China hosted peace talks between the Myanmar government and ethnic Kachin rebels, as outside pressure grew on both sides to end the intense fighting of recent weeks. The one-day meeting ended without a firm commitment to stop the clashes, which have left at least several hundred soldiers dead and displaced tens of thousands of civilians in the northernmost reaches of Myanmar, near the Chinese border. But the talks were notable for China's prominent role in getting both sides to the negotiating table. China is increasingly concerned about the fighting along its southern border. Shells have landed in its territory at least twice, refugees have come across the border, and commerce has been interrupted — northern Myanmar is rich in jade and timber and is the site of many Chinese hydroelectric projects. A statement released after the talks by Kachin authorities, who have lost some strategic positions in

recent weeks, was noncommittal but appeared to show willingness for further negotiations. In contrast to aborted peace talks in October 2012, the Kachin rebels sent a senior representative, Gen. Gun Maw, to the negotiations for this meeting.¹⁰⁵

A successful outcome of the peace talks would bolster domestic and international confidence in Mr. Thein Sein's reconciliation efforts, one of the central initiatives of his government. Even so, it would be only the start of a broader political dialogue between Myanmar's central government and a dozen or so ethnic groups that are calling for a more decentralized system. The Kachin rebels' position on the battlefield has been considerably weakened in recent weeks with the loss of strategic hilltops near their headquarters at Laiza, a town on the border with China.¹⁰⁶

According to an article from the Associated Press, Myanmar will allow the United Nations into Kachin state to deliver humanitarian aid for the first time since the recent escalation of fighting between ethnic rebels and government troops. A U.N. spokesman, Aye Win, said it was "significant" that aid could be delivered for the first time since fighting escalated in December 2012. The U.N.'s last aid mission to Kachin state was in July 2012.¹⁰⁷

B. Rakhine State

As mentioned in previous reports, one area of human rights that demands immediate attention is the crisis involving a sizable ethnic and religious group, the Rohingya – one of the most persecuted minorities in the world, according to the U.N. The first action needed from the Myanmar government is to recognize 800,000 Muslim Rohingya as citizens of Myanmar.¹⁰⁸

On February 11th, Chief Minister and ministers of Rakhine State received the U.N.'s Special Rapporteur for Human Rights, Mr. Quintana, and his team to discuss the conflict and situation in Rakhine State. The U.N. envoy asked questions on the situation in Rakhine State including when Bengalis will be able to live independently within the state and when the conditions of conflict-hit areas would be stabilized. Mr. Quintana also questioned the transparency of judicial proceedings and judgments. The Rakhine minister explained that 811 Bengalis and 137 ethnic Rakhine nationals have been detained, but women and children are not under custody. The U.N. envoy also asked how the state government planned to secure peace between ethnic Rakhine and migrant Bengalis. The ministers responded that discussions are between the two groups are in progress, and clarified that the 1982 Myanmar Citizenship Act can only be amended by the parliament.¹⁰⁹

According to Mr. Quintana, nearly 120,000 people are now living in camps in Rakhine State, where access to adequate healthcare is a big problem. He further noted that conditions were worse in camps sheltering Rohingyas and other Muslims, and that harassment of medical staff by Buddhist extremists in Rakhine State was one of the main drivers of this problem.¹¹⁰

Although the international community applauded President Thein Sein for his establishment of a 27-member Internal Investigation Commission in August 2012,¹¹¹ which he tasked with identifying the root causes of inter-communal unrest after sectarian violence erupted in June 2012 between Buddhists and Muslims in Rakhine, tangible progress has, as yet, been elusive. Deplorably, not a single Rohingya sits on the commission.¹¹²

While granting citizenship to the nearly 800,000 Rohingya muslims will accelerate Myanmar's gradual shift toward universal civil liberty and political freedom, obtaining support from Buddhist monks will likely be the key to gaining popular support for the change. If the

country's Buddhist monks were to vocally support extending citizenship to Rohingya, then the stateless minority would have well-founded hope for recognition. The recent easing of U.S. sanctions against Myanmar is a goodwill gesture to encourage democratization and comes partly at pro-democracy leader Aung San Suu Kyi's request. Yet some human rights groups have harshly criticized the move as premature.

To its credit, the U.S. Department of State's Bureau of Population, Refugees, and Migration assisted Rohingya refugees in Myanmar and neighboring countries with \$24 million in aid in fiscal year 2012. While this aid alleviates suffering, humanitarianism alone will not resolve the centuries-old ethnic and religious tension between Buddhist Rakhine and Muslim Rohingya.¹¹³

C. Mon State

On Tuesday, February 26th, thousands of ethnic Mon celebrated the 66th Mon National Day in Mon State.¹¹⁴ During the event, Mon leaders called on the government of Myanmar to recognize their rights and political demands.¹¹⁵ The Mon wish to obtain political autonomy within the Myanmar federal structure and they also seek amendments to the 2008 Constitution to better protect their rights.¹¹⁶ According to Nai Htaw Mon, the chairman of the New Mno State Party, "The government delays scheduling a political dialogue by offering local development projects [instead]... They should not delay any further if they want to have peace and development in the country."¹¹⁷

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