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Myanmar Update Report

January 2013 REPORT

This report seeks to provide an overview of the developments in January 2013 that relate to the status of human rights in Myanmar. It also reviews the response of the international community to the Myanmar's current situation, in particular status of sanctions regime.

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I. International Community and Sanctions

In January, international lenders stepped up their support for Myanmar as a reward for the wave of political and economic reforms that have helped remove the country from the ranks of the world's pariah nations.

Despite remaining concerns surrounding smoldering ethnic conflicts, Japan has been particularly optimistic about Myanmar's reform process. The country lent significant support to the Southeast Asian nation in January by facilitating negotiations between the Asian Development Bank, the World Bank and Myanmar's government to help relieve the poor country's staggering debt burden. Many analysts believe that without significant contributions on the part of the international community, Myanmar's massive debt load will be a significant obstacle to increased investment and growth.

While international financial institutions have offered technical help in recent years, they have been prevented from doing more by debt arrears accumulated under the military since 1987, when Myanmar stopped making any payments. Myanmar ran up \$8.4 billion of debt during the socialist government of Gen. Ne Win from 1962 to 1988, and \$2.61 billion of debt after a new military junta took over in 1988, making for a total of a little more than \$11 billion.¹ Under the rules governing the World Bank and other international development lenders, these arrears made any additional lending activity impossible.

After many months of work, the World Bank announced in a statement² on January 27th that the Japan Bank for International Cooperation, the country's overseas development bank, has agreed to provide a bridge loan to Myanmar to allow it to cover outstanding debt to the World Bank and the Asian Development Bank.

The Manila-based ADB said bridge financing provided to Myanmar by the Japan Bank for International Cooperation (JBIC) this month allowed the government to pay off arrears to the ADB of about \$500 million. The World Bank, in its statement from Washington dated January 27, said its new loan would be used in part to "help the government meet its foreign exchange needs", which included repaying the JBIC bridge loan.³

The ADB, which reopened an office in Yangon in April 2012, said the clearing of arrears allowed it to provide its first loan to Myanmar in more than 30 years. The ADB and World Bank committed to lend \$512 million and \$440 million, respectively. Stephen Groff, vice president of the ADB said the bank's loan will help Myanmar lay the foundation for sustainable growth "which will ultimately lead to major investments in road, energy, irrigation and education projects, as well as investments in other sectors".⁴

Furthermore, the Paris Club, an informal grouping of creditor nations that helps poor nations restructure their debts, agreed on January 28 to relieve Myanmar of half the arrears it owes the group. The Paris Club, which has 19 permanent members including the US, UK, Germany, France and Australia⁵, has thereby unburdened the country of approximately \$2.2 billion in debt. The group also agreed to reschedule the payment of the remaining principal over a period of 15 years.⁶

According to a press release⁷ issued by the state-run New Light of Myanmar, Japan and Norway went a step further than the Paris Club by forgiving additional bilateral debts. With individual concessions from Japan, which canceled half of the \$6 billion in debt owed to it by Myanmar, and Norway, which canceled all \$534 million in arrears, Myanmar is now effectively relieved of more than 60% of its foreign debt.⁸ “The numbers here are really quite staggering,” said Sean Turnell, a Myanmar expert at Macquarie University in Sydney. “It is a sign of the goodwill that is there for Myanmar—they have got that fresh start that they wanted.”⁹

II. Civil and Political Rights

A. Press and Media Laws

Reflecting recent changes in Myanmar’s media climate, a leading international media watchdog has given the country its best ranking in over a decade. According to the World Press Freedom Index, released by Paris-based Reporters Without Borders on Wednesday, Myanmar now ranks 151st in the group’s ranking of 179 countries, rising 18 places from its previous position. Previously, it had been in the bottom 15 every year since 2002 but now, thanks to the unprecedented reforms of the “Burmese spring”, it has reached its best-ever position.¹⁰

This section of our report examines the legal framework and reform agenda of the Myanmar government as well as the status of the changes carried out by the government. In order to provide context for these important developments, we have expanded our discussion beyond the developments of the past month to highlight noteworthy changes since the beginning of the democratic transition.

The government’s main task has been to overhaul legislation governing the print and broadcast media. A series of measures since the summer of 2011 led to the lifting of prior censorship in August 2012. The government has at the same time begun to draft a new media law. However, human rights organizations and journalists are concerned that certain repressive laws from the junta era remain in place and may be used by the government to curtail freedom of expression.

1. Abolition of Prior Censorship

The government’s first concession to media freedom was its June 2011 decision to exempt about 180 “non-political” newspapers (about 60 per cent of the print media) from the obligation to submit articles to the Press Scrutiny and Registration Division (PSRD), the country’s censorship bureau, before publication. The following month, the government granted permission to print photos of Aung San Suu Kyi on front pages. Until then, publication of her image has been limited to inside pages and a maximum size of about 7 by 12 cm. The lifting of prior censorship was extended to business and legal publications in December 2011 and to educational and literary publications in March and May 2012, respectively. Finally, on August 20, the government announced the end of prior censorship for all of Myanmar’s news weeklies, ending a 48-year-old practice. In practical terms, the change is significant. The constant to-ing and fro-ing between the weeklies and the PSRD has ended.¹¹

Although news weeklies no longer have to submit their articles to the PSRD before publication, most journalists say this has not meant a radical change in their activities. Journalists

continue to censor themselves for fear of government reprisals. At least four lawsuits were brought against privately-owned news weeklies from January to August 2012, mostly by government officials. The censorship bureau still has certain prerogatives such as summoning journalists to its headquarters and making them sign statements. Because it registers newspapers and controls publication licenses, the PSRD can easily suspend a newspaper for publishing “forbidden” content. The PSRD has threatened several newspapers with suspension since the start of 2012. The National League for Democracy weekly *D-Wave*, for example, was reprimanded in the run-up to the April 2012 by-elections because of a cartoon that was regarded as overly critical of the government.¹²

2. *Legacy Repressive Laws*

All of the laws restricting freedom of expression and information are still in place and seem to constitute the main obstacle to an improvement in media freedom in Myanmar. It was under these laws that journalists, bloggers and dissidents were jailed for years.¹³

The piece of legislation most often used to arrest and convict news providers is the Electronic Transaction Law. Adopted in 2004, it makes using the Internet and digital technology to carry out or support anti-government activities, including “distributing any information relating to secrets of the security of the state,” punishable by 7 to 15 years in prison.¹⁴

The 1962 Printers and Publishers Registration Law is also the subject of much criticism. It obliges every printer and publisher to register and submit copies of books, magazines and newspapers to a Central Registration Board before publication. Since 1989, when the penalties were increased, any contravention has been punishable by up to seven years in prison. Despite the abolition of censorship, the law is still in force and its regulation on registering new publications and renewing licenses continue to be applied.¹⁵ The government pledged in January to amend the 1962 law, but will stop short of abolishing the legislation. In January 2013, the country’s first sex education magazine was banned by the censorship board for publishing material deemed “near pornographic” under the 1962 law. A further six publications — *Media One*, *The Farmer*, *Ad World*, *Myanandar*, *High Speed Car*, *New Blood* and *Aesthetics* — were told they would be monitored for one month after publishing “irrelevant” content.¹⁶

Another suspect law is the 1950 Emergency Provisions Act. Under article 5-(j), any published content “liable to affect the morality or conduct of the public or a group of people in a way that would undermine the security of the Union or the restoration of law and order” is punishable by five years in prison.¹⁷ This broadly worded piece of legislation is particularly susceptible to arbitrary interpretation and enforcement.

Journalists continue to call for the repeal of other, more fundamental legal restrictions, including article 505-(b) of the Criminal Code and article 354 of the 2008 Constitution, which state that freedom of expression and the right to publish one’s beliefs and opinions are guaranteed as long as they are “not contrary to the country’s laws, security, law and order and public decency.”¹⁸

The Irrawaddy reported this month that the new Myanmar Press Council (see below) is to mediate between the government and two journals, *The Voice* and *Snapshot Journal*, for the

withdrawal of government lawsuits against the publications. The Ministry of Mining and the Rangoon Division government lodged formal complaints against the journals last year.¹⁹

The Voice Weekly had quoted a report from the auditor general's office to the Parliament's Public Accounts Committee last year that found that several ministries, including the Mining Ministry, had been involved in misuse of state funds and other illegal transactions. The paper was sued by the Mining Ministry at Rangoon's Dagon Township Court.

Snapshot Journal published a photo of the body of an ethnic Arakanese girl, with face blurred out, who was raped and murdered by three Muslim men. The photo came out in 2012 as violence between Buddhist and Muslim communities erupted in Arakan State. The Rangoon Division government subsequently laid criminal charges against the *Snapshot Journal* for publishing material that could provoke acts of public mischief.²⁰

Khin Maung Aye, chairman of Myanmar Press Council, said the council was responding to the requests of the two member media organizations to help resolve the complaints by the government bodies. "They asked for help. The Press Council made a request to the government. Whether lawsuits will be withdrawn or not is up to the authorities. We are trying to negotiate," said Khin Maung Aye.²¹

3. *New Legislation*

The government began drafting a print media bill, usually referred to as the "media law" at the start of 2012. A presidential order in May 2012 announced that a "Press Council" would be created the following month and asked various journalists' associations to name five representatives, allowing the government to name 15 non-journalists as its other members. The presidential order added that the Press Council would be under the PSRD's control and its purpose would be to ensure that the media did not threaten the interests of the people, the state and Myanmar's sovereignty. Journalists were outraged, and the next day the journalists' associations announced that they would not take part in such a council. A new Press Council with 30 members, of whom only 10 were appointed by the government, was finally formed on September 17th and was accepted by all of Myanmar's journalists. The new Press Council is now in charge of the drafting, which is expected to take several more months, probably delaying adoption until the end of 2013.²²

Despite the delay, everything indicates that it will be adopted before all of the military government's old laws are repealed. The coexistence of two contradictory laws could be problematic even if the media community has so far hardly referred to the possibility. There is concern that the government could use the new, internationally acceptable media law to cajole the international community to continue its political and economic easing, while continuing to use the surviving repressive laws to hound journalists.²³

B. Official Corruption

Myanmar's recently retired telecommunications minister and former and current employees from his ministry are under investigation for alleged corruption, an official familiar with the case said on January 24, 2013. The probe into former Minister for Communications, Posts and Telegraphs Thein Tun is the first known case of a Cabinet minister in the civilian

government of President Thein Sein being investigated since taking office almost two years ago.²⁴

The government announced last week that Thein Tun was being allowed to retire voluntarily. Such announcements that Cabinet ministers are being permitted to step down are commonly taken to mean they were forced to quit. Thein Tun, a former major-general and deputy telecoms minister under the previous military regime, took the same post in Thein Sein's elected government.²⁵

C. Demonstrations and Public Gatherings

The state-run *Myanma Ahlin* newspaper reported on January 29, 2013 that the government had abolished Order No 2/88, a ban on public gatherings of more than five people that was ordered in 1988 on the day a military junta took power after crushing nationwide pro-democracy protests. The order had been applied selectively to crush dissent against the military regimes that held power until the elected government of President Thein Sein took office in 2011.²⁶

The order had declared “gathering or marching in processions and delivering speeches on the streets by a group of 5 or more people are banned.” The junta used many catch-all or vaguely defined orders and laws as a means of suppressing dissent, and courts generally handed out stiff sentences, jailing thousands of political prisoners. Most have been freed under amnesties promulgated by President Thein Sein.²⁷

As described in previous reports, President Thein Sein signed the “Law Relating to Peaceful Gathering and Peaceful Procession” in December 2011. The law provides citizens with the right to peaceful assembly; however, demonstrators must seek permission five days in advance from their local police station or face criminal penalties for unauthorized assembly.²⁸

Human Rights Watch (HRW), however, reiterated this month that actual progress has yet to be made on the ground. “Myanmar’s leaders may be saying the right things at global forums and in bilateral talks, but their reform rhetoric rings hollow on the streets and in the fields where protesters assemble,” said Phil Robertson, the Deputy Asia Director at HRW. “The government’s prosecution of peaceful demonstrators reveals troubling limits on Myanmar’s respect for basic rights.” HRW called on Myanmar’s authorities to drop charges against nine activists who participated in peaceful protests in Rangoon in September 2012 against the war in Kachin State. Since September, authorities have denied protest applications in Rangoon and Monywa, violently cracked down on anti-mining protests near Monywa in Sagaing Division, and used the Peaceful Assembly law to prosecute rather than protect those exercising their basic rights, HRW said.²⁹

III. Political Prisoners

According to the Thailand-based Assistance Association for Political Prisoners – Burma (“AAPP”), 222 political prisoners remain incarcerated in Myanmar, while over 100 are currently facing trial.³⁰ Before President Thein Sein began political reforms in Myanmar in 2011, approximately 2,000 political activists were locked up.³¹ Ko Bo Kyi, Joint Secretary of

AAPP, stated “Myanmar will have a better image in terms of political change, if the government releases all remaining political prisoners. More foreign investment would come after that...”³²

Leaders of a prominent armed group, the All Burma Students’ Democratic Front (“ABSDF”), have called on Myanmar’s government to unconditionally release all remaining political prisoners.³³ Than Kae, a spokesman for the ABSDF, stated to reporters that after submitting a list of political prisoners to government officials during earlier peace negotiations, 10 prisoners were released.³⁴ Than Kae has indicated, however, that 24 members of the group still remain in the prisons, with over 80 years of prison sentences.³⁵ Nine ABSDF representatives are on a two-week visit to Myanmar which will also include a stop in the capital, Naypyidaw.³⁶

Additionally, former political prisoners organized a fundraising event for Myanmar’s remaining prisoners of conscience and for the victims of the ongoing Kachin conflict in Yangon.³⁷ The event was attended by approximately 200 people and, according to Nyo Tun, a former political prisoner and leading member of the League of Political Ex-prisoners, the event was difficult to organize as the government only gave its permission at the very last moment.

Ko Bo Kyi, Joint Secretary of AAPP, has also been vocal recently with regard to the challenges political prisoners continue to face in Myanmar, even after they are released.³⁸ In an interview with Karen News this month, Bo Kyi stated that former political prisoners are often denied access to their former jobs, as the government refuses to give them a license due to their past political affiliations.³⁹ Additionally, he stated that large NGOs and the United Nations are reluctant to hire former political prisoners in their Myanmar departments for fear that it will “upset” the government.⁴⁰

Progress on human rights and the detainment of political prisoners remain central factors in the U.S. Congress’s ongoing decisions about whether to lift sanctions on Myanmar, according to a report published by the Congressional Research Service.⁴¹ According to the report, the 113th Congress, which convened on January 3rd, “may decide to examine the status of the implementation of existing U.S. sanctions on Myanmar. It may also assess the political prisoner issue, either in isolation or as part of a broader consideration of human rights in Myanmar.”⁴² The report cites Myanmar’s detention of political prisoners as a major reason for the United States to continue to impose sanctions on the country.⁴³ For example, the Customs and Trade Act of 1990, which gave the President power and authority to impose sanctions on Myanmar, was passed after Myanmar’s ruling military junta refused to honor the results of the May 1990 parliamentary elections and detained Suu Kyi and other opposition leaders.⁴⁴ The report also informed lawmakers that although President Thein Sein has granted pardons for some political prisoners, the government reportedly continues to arrest and imprison political opponents on weak charges of illegal activity.⁴⁵

IV. Economic Development

A. Developments in the Legal Framework of Economic Development

1. Reform Proposals and Naypyidaw Conference

In mid-January an international conference was held in Myanmar's capital, Naypyidaw, at which President Thein Sein unveiled a long list of proposed economic reforms, ranging from granting independence to the country's central bank to lifting the ban on motorcycles in Yangon.⁴⁶ Other reforms on the list of proposals included removing all exchange and non-tariff trade restrictions; recognition of the need for sector-by-sector transparency in foreign investment decisions (rather than *ad hoc* determinations); disclosure of information regarding state mining revenue; a goal of 80% mobile phone penetration by 2015; relaxing visa restrictions to promote tourism; raising the threshold for income tax and introducing a value-added tax; and permitting banks to offer mortgage financing.⁴⁷ The mortgage financing reform would end the limitation on bank loans to one year terms.⁴⁸

Some of these reforms appear to have moved well beyond the planning stages. For instance, legislation granting independence to Myanmar's central bank is expected to be examined by lawmakers in coming weeks. Along with development loans from the ADB and World Bank, this is an important step on the road to reform in Myanmar's banking system. The potential reforms could include permitting foreign banks to open branches by 2015.⁴⁹

The Naypyidaw conference was attended by senior representatives of over 30 foreign governments, as well as international organizations and NGOs. One product of the conference was the Naypyidaw Accord, which lays out guidelines for effective development cooperation between donors and the Myanmar government.⁵⁰ According to the President's office, Myanmar's high-level commitments include to: (i) "[c]ontinue to deepen consultation on development priorities and plans"; (ii) "[f]ocus on achieving national priorities including market-led growth and peace-building"; (iii) "[e]nable effective decision making"; (iv) "[f]urther develop coherent and efficient aid management systems"; and (v) "[s]trengthen public administration to enhance the transparency and effectiveness of government programs and foreign assistance."⁵¹ Development partners agreed to: (i) "[t]ake the unique local context in Myanmar as the starting point"; (ii) "[a]lign development assistance with national priorities"; (iii) "[p]articipate in and be guided by country-led coordination processes"; (iii) "[u]se conflict-sensitive and inclusive approaches to support peace and state building"; (iv) "[f]ocus on maximizing development results for the people of Myanmar"; and (v) "[w]ork with government to strengthen institutions, build capacity, reduce transaction costs and increase aid effectiveness."⁵²

2. *Myanmar Investment Commission Reform?*

As has been noted in previous reports, one of the most important questions for potential foreign investors, even after recent reforms to the Foreign Investment Law, is whether investors will be able to obtain key approvals from the Myanmar Investment Commission ("MIC") at different points in a potential investment's life-cycle. For instance, the MIC must approve investments in several sectors, approve the lease of land to foreign investors, and approve the transfer of assets upon exit from an investment.

A new set of reforms drafted for President Thein Sein includes a proposal to transform the Myanmar Investment Commission from a government-appointed body into an independent board.⁵³ Although a restructuring last year saw economists, businesspeople, former ambassadors and NGO representatives appointed to the commission for the first time since it was

established in 1994, it is still dominated by senior government officials.⁵⁴ Of course, the effect of changes to the composition, as opposed to changes to the powers, of the MIC would be ambiguous in terms of the extent to which they would be welcomed by potential foreign investors. Their impact will depend on the specific nature of the reforms and could conceivably worsen the perceptions of Myanmar among foreign investors if, for instance, they give power to incumbent industries to block potentially competitive investments.

B. Foreign Investment Developments

1. Foreign Investment Continues to Surge

Foreign direct investment in Myanmar rose 40 percent in 2012 to \$3.99 billion.⁵⁵ Foreign companies continued to move into the country in January. In the financial sector, Thailand's Kasikornbank opened a representative office there.⁵⁶ In the commodities sector, commodity producer Wilmar—the world's largest producer of palm oil and a producer of numerous other products—and commodities trader Cargill are also investing in Myanmar.⁵⁷ Wilmar is planning to invest in rice, fertilizers, sugar and vegetable oil, while Cargill is interested in importing and exporting food and livestock feed. Furthermore, Myanmar has forged ahead with some projects to develop natural resources with the assistance of foreign investors. In January, Myanmar opened up a major portion of its onshore oil blocks for bids while also preparing to open up its offshore blocks.⁵⁸ Investors in these blocks will be required to team up with state energy companies.⁵⁹

Some observers have argued that Myanmar's keen interest in investments by European governments as well as government and private-sector investments from India, Japan, and America is motivated by Myanmar's desire to rebalance away from excessive dependence on China. In any event, the feeling appears to be mutual as foreign investors remain eager to enter Myanmar's market.⁶⁰ In addition to the deals already mentioned, Japanese telephone giant KDDI and trading company Sumitomo are considering a joint venture to develop Myanmar's first foreign-backed cellular phone network, which would tap a vast potential market in which only approximately 3 million out of approximately 66 million citizens have a mobile phone.⁶¹

The government is also seeking foreign investment to address capacity constraints within the economy. For instance, a large hotel zone in Mandalay was approved in January and is expected to include the development of 100 foreign-owned hotels.⁶² Tourist visits increased over twenty percent to more than one million last year, and the tourism industry is reaching the limits of its capacity to host an increased number of visitors.⁶³

2. Land Disputes Continue to Accompany Increased Foreign Investment

One of the primary drivers of tension between the development opportunities launched by Myanmar's reform and the traditional stakeholders in society (particularly farmers) is the issue of land seizures. Disputes over land have been common, and in some cases has even lead to violent protests. Interestingly, protestors have achieved at least some of their aims through these demonstrations, and Myanmar's government has shown reluctance in many cases to crack down violently.

One of the protestors biggest coups came when a group of citizens successfully stopped a project known as the Myitsone hydroelectric project, which was being built with the help of Chinese investors.⁶⁴ In another example, construction on the Monywa copper mine (another investment involving the Chinese where a protest was not long ago violently repressed) has been called off, at least temporarily. Protestors have discouraged investor interest in the Dawei Special Economic Zone (“SEZ”) where farmers claim to have had their land expropriated.⁶⁵ Although widespread concern in Myanmar about Chinese influence may be contributing to reassessment of some of these projects,⁶⁶ the protests at the Dawei SEZ make clear that other forces are also at work.

In some cases Myanmar’s government has been proactive in providing compensation to displaced farmers. In Shan State in Northern Myanmar, residents who will be forced to make way for a 140-megawatt hydropower dam will receive farmland as compensation.⁶⁷ In another case, farmers whose land was confiscated in December of 2012 in order to build a cement factory have cancelled a planned protest after receiving a collective \$1.2 million in compensation.⁶⁸

Despite these notable successes for protestors, many groups within Myanmar remain aggrieved about the deleterious effect of the country’s rapid economic development on their personal welfare. Furthermore, the space for protest created by the ongoing democratic reforms has also brought old land disputes to the forefront. For instance, a group of farmers are seeking reasonable compensation for land they claim to have received less-than-market price for during the period of the military junta.⁶⁹ In the Thilawa SEZ near Yangon, the government has ordered hundreds of farmers who reside in the area designated for the planned SEZ to leave their properties, which are now worth more than \$10,000 per acre. Although the government permitted the farmers to remain on the land at the time, these same farmers were compelled to sell their land to the military junta in the 1990s for \$20 per acre.⁷⁰ The aggrieved citizens maintain that the compensation for their property was not fair and should be supplemented if they are forced to leave their land.

Farmers also continue to protest about a pipeline being built across the northern part of the country in order to facilitate the delivery of natural gas from the Bay of Bengal to China.⁷¹ In addition to complaints about inadequate compensation, the farms also allege that the pipeline is not being laid at the depth called for by international standards.⁷² The major shareholders in the project have agreed to investigate the complaints, and have acted already on some of them.⁷³ Still, the pipeline is set to begin pumping at the end of May.⁷⁴

In another example of discontent, the 60-member parliamentary commission tasked with investigating land disputes has been criticized on the ground that it has inadequately investigated the questions presented to it.⁷⁵ One Commission member suggested that farmers were often victims of collaboration between rich companies or individuals and the state to seize land.⁷⁶ Many of the cases stem from the difference between the reality on the ground and defective land records, which, instead of recognizing the presence of farmers, list land as vacant.⁷⁷ In one case in Naypyidaw, farmers were arrested for trespassing on land their families had farmed for generations. The land had been sold to a company under the new Vacant, Fallow and Virgin Land Management Law.⁷⁸ Farmers have also complained bitterly about being unable to harvest their land while cases are pending before the Commission.⁷⁹

V. Ethnic Violence

Previous reports have identified the violence in several states in Myanmar—including Kachin, Karen, Rakhine, and Shan—as being the primary stumbling blocks in the ongoing reform process in Myanmar. Not only could these ethnic conflicts slow down much-needed economic development, but they also serve to emphasize the limits of the power of the elected government to impose its will in regions dominated by ethnic minorities. While government negotiators have achieved some success in reaching ceasefires in various ethnic conflicts, including with the Shan, Wa, and Karen peoples, a number of hot spots remain.⁸⁰

A. **Kachin State**

This month the situation in Kachin state in Myanmar's north deteriorated alarmingly as the government appeared poised to deliver a decisive blow to the Kachin Independence Army ("KIA"). The government has been fighting the KIA since 2011, when a seventeen-year ceasefire broke down between the central government and the political arm of the KIA. The KIA claims to advocate for autonomy within a federal state but the central government fears that a KIA victory could encourage the balkanization of the country and wants to avoid the perception the KIA is being rewarded for rejecting its authority.⁸¹

The army now appears to have decided to use all the weapons in its arsenal to achieve a decisive defeat of the KIA.⁸² The resulting intensification of the conflict was marked in January by the government unleashing airstrikes against KIA targets for the first time.⁸³ The use of airstrikes in this conflict is said to be unprecedented and to reflect the difficulty that the army has had in stamping out the KIA via other means.⁸⁴ In addition to the airstrikes, the government has also resorted to frequent shelling since the end of December around Laiza, the headquarters of the KIA as well as the home to tens of thousands of displaced civilians.⁸⁵ Indeed, approximately 100,000 displaced persons are living in camps near the city.⁸⁶

The use of air power has not been completely costless to the government, which lost at least one helicopter in the fighting.⁸⁷ Nevertheless, the use of artillery and air power—the latter of which the government initially claimed was being employed only to clear the way for supplies to reach far-flung bases in Kachin state⁸⁸—has helped the government forces to occupy all of the strategic positions around Laiza.⁸⁹ As of now, the residents of Laiza are anxiously waiting to see whether the army will attempt to occupy the city, while KIA officers state they are ready to retreat and launch a guerilla campaign if that happens.⁹⁰

The military's occupation of strategic positions around Laiza occurred after President Sein ordered a widely reported ceasefire under international pressure from both the West and China, where Myanmar army shells launched against rebels have been landing.⁹¹ However, the ceasefire lasted only a very short time before being broken by government troops.⁹²

While the temporary and unsuccessful ceasefire lays bare the inability or insincerity of the central government in terms of its controlling events on the ground in Kachin, it also has generated important insights on the positions of key political actors in Myanmar. Aang Sun Suu Kyi disclaimed any major role in ending the fighting on the grounds that it is not

within the scope of her parliamentary committee.⁹³ Kachin organizations have sent to Suu Kyi an open letter expressly condemning her reticence to become involved.⁹⁴ In her stead, the speaker of the lower house of Parliament, Thura Shwe Mann, a former general, put a motion to vote without discussion to immediately end the fighting and called it “vital for the country.”⁹⁵

The fighting in Kachin has already driven Chinese merchants across the border to China’s Yunnan province.⁹⁶ At the same time, also in January, the Chinese forced ethnic Kachin who had fled to Yunnan province after fighting broke out in 2011 to leave makeshift camps there and return to the warzone in their homeland.⁹⁷ Some Myanmar refugees remain living in Yunnan with relatives or are checked in to hotels near the border.⁹⁸ China has also sent hundreds of security personnel to the border to monitor the situation.⁹⁹

As part of its response to international pressure, Myanmar’s government has been critical of press coverage of the violence in Kachin State. It claims that unspecified embassies, organizations, and media have released news and announcements that could cause a misunderstanding of the army and the situation in Kachin State, and have failed to mention destructive acts carried out by the KIA.¹⁰⁰

B. Rakhine State

The space between the hammer and the anvil continued to diminish for the Rohingya ethnic minority living in Rakhine state, where communal violence between the Muslim Rohingya and the Buddhist majority has been occurring for months and has displaced approximately 110,000 Rohingya. Most live under harsh conditions in temporary refugee camps in Rakhine itself.¹⁰¹ Overall, violence has left more than 180 Rohingya dead since June.

The problem for Rohingya seeking to flee the violence is finding a place to go.¹⁰² While they are accused of being illegal immigrants from Bangladesh, Bangladesh is an unwilling host and the waves of Rohingya who have fled there (many prior to the recent outbreak of communal violence) are refused refugee status and live essentially without protection by the police or, due to government restrictions, access to U.N. refugee relief and other international humanitarian resources.¹⁰³ The Bangladeshi government is afraid of creating a “pull factor” for more refugees by providing or permitting such resources to reach them and has attempted to close its borders to the Rohingya.¹⁰⁴

About 13,000 Rohingya fled by boat in 2012 and hundreds died at sea.¹⁰⁵ Some have attempted to flee to Thailand but Thailand has made clear it has no intention of accepting them. The Thai navy has said that it will not permit more Rohingya to land on its shores and will instead provide them with provisions to continue to their (unspecified) destination.¹⁰⁶ Thai Police also engaged in raids on makeshift Rohingya camps already extant in the country, and has detained hundreds of Rohingya refugees and intends to hold them for up to six months before returning them to Myanmar or sending them to third countries.¹⁰⁷ The Thai government has pushed the Organization of the Islamic Conference (“OIC”) to help address the problem.¹⁰⁸ Oman has expressed interest in organizing OIC development projects in Rakhine State.¹⁰⁹ OIC representatives have also been in contact with the government of Myanmar.¹¹⁰ However, there is no apparent effort by the OIC to resettle the Rohingya in other Islamic countries.

Most of the Rohingya who have fled are said to have gone to Malaysia by boat.¹¹¹ However, Malaysia's patience for additional Rohingya is limited, as it is currently hosting 80,000 Rohingya refugees and has made clear its intention to prevent Malaysia from becoming a "destination of choice."¹¹²

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