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Myanmar Update Report

JULY 2012 REPORT

This report seeks to provide an overview of the developments in July 2012 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

Extraordinary democratic reforms have swept across Myanmar since President Thein Sein came to power in March 2011. In response to Myanmar's reform efforts, a wave of nations have eliminated or relaxed sanctions against the impoverished Southeast Asian nation, providing Myanmar an opportunity for greater diplomatic and economic engagement. While the Myanmar government has taken promising steps towards democracy, including the initiation of ceasefire talks with ethnic rebels, the release of hundreds of jailed political prisoners, and dialogue with the National League for Democracy (NLD), recent events demonstrate the fragility of Myanmar's reform process.¹ Despite intense ethnic fighting, ongoing sectarian violence, and recent protests, President Obama announced on July 11 the "broadest and most controversial easing yet of sanctions on the former pariah."²

A. Targeted Easing by the U.S.

On July 11, President Barack Obama officially eased financial and investment sanctions against Myanmar.³ Obama acknowledged recent progress towards democratization, noting that "[e]asing sanctions is a strong signal of our support for reform, and will provide immediate incentives for reformers and significant benefits to the people of [Myanmar]."⁴ Nevertheless, the President emphasized the need for further political and economic reform, citing the lack of financial transparency and the military's economic involvement.⁵ Pursuant to his executive order, the Treasury Department's Office of Foreign Asset Control (OFAC) issued two general licenses authorizing the exportation of financial services to and investment in Myanmar.⁶ This "conditional suspension" effects the administration's announcement last May that the U.S. was adopting a "step-by-step process" for easing sanctions against Myanmar.⁷

As a result of Obama's recent executive order, U.S. companies can now invest in "one of Asia's last untapped markets" for the first time in approximately fifteen years, with some exceptions.⁸ New investment is not authorized "with the [Myanmar] Ministry of Defense, state or non-state armed groups (which includes the military), or entities owned by the foregoing."⁹ Rachel Shoemaker, head of Asia forecasting at Exclusive Analysis, has observed that the connection between local businesses and the Myanmar military "will be hard to spot," predicting that it will be a challenge to avoid doing business with the military "given the extent of the army's influence and power."¹⁰ Transactions with individuals currently on the Specially Designated National (SDN) list, as well as transactions with entities that are at least 50 percent owned by an individual on the SDN list, are also prohibited.¹¹

Additionally, U.S. companies that invest over \$500,000 in Myanmar are required to report annually to the State Department, outlining their human rights, labor, and environmental policies, as well as anti-corruption efforts and land acquisitions, among other disclosures.¹² All U.S. companies conducting business in Myanmar must comply with international corporate governance standards, a requirement that U.S. Ambassador Derek Mitchell recently highlighted as "unprecedented for anywhere else in the world [U.S.] companies do business."¹³ The Under Secretary for Economic, Energy and Agricultural Affairs, Roberts Hormats similarly noted that these measures are "very different from anything [the U.S. has] done in the past," emphasizing that Myanmar is "a complicated country."¹⁴ Nevertheless, these measures have been criticized

as too weak for the reforming nation. Arvind Ganesan, Business and Human Rights Director of Human Rights Watch (HRW), has noted that “[t]he US government should have insisted that good governance and human rights reform be essential operating principles for new investments in [Myanmar].”¹⁵ Ganesan emphasized that, although useful, public reporting “is not a deterrent to prevent businesses from becoming involved in human rights abuses or corruption in a country with such a poor track record.”¹⁶

As described in last month’s report, during her trip abroad, Aung San Suu Kyi emphasized the lack of transparency within the state-owned Myanmar Oil and Gas Enterprise (MOGE).¹⁷ Despite Suu Kyi’s warnings and the strongly voiced concerns of many U.S. politicians and activists, U.S. companies are now permitted to invest in the former junta’s “main source of revenue.”¹⁸ If a U.S. energy company does business with MOGE, it must report this investment to the U.S. government within 60 days.¹⁹ Many have criticized the U.S. for taking a stance that seems to “undercut Aung San Suu Kyi and others in [Myanmar] who are promoting government accountability.”²⁰ Others, such as Human Rights Watch, criticize the decision as “premature,” while Ka Hsaw Wa of EarthRights International (ERI) has emphasized the link between the oil and gas sector and “corruption, human rights abuses, environmental destruction and forced displacement of communities.”²¹ By taking a divergent stance from the democracy icon on such a critical issue, the U.S. may now be “more accountable for the [Myanmar] military’s continued violence against ethnic minorities, as well as...the [Myanmar] people’s dashed expectations for lasting political change.”²² The strong relationship between Suu Kyi and U.S. officials like Secretary Clinton also “may become strained.”²³

The decision to allow largely unregulated investment in Myanmar, a country that spent “years in the international wilderness,” has been strongly criticized by U.S. politicians and advocacy groups, illustrating that “maintaining broad-based support for [U.S.] Myanmar policy is getting trickier.”²⁴ A consortium of nine advocacy groups, including Freedom House, Physicians for Human Rights, U.S. Campaign for Myanmar, and United to End Genocide, issued a joint declaration following the issuance of Obama’s executive order that voiced “grave concern” about U.S. investment in Myanmar and urged the U.S. “to retain its leverage until real reform occurs.”²⁵ The U.S. Campaign for Myanmar has stressed that “investment in many of the most attractive sectors of the Burmese economy is likely to worsen the human rights situation while directly benefiting individuals and entities responsible for rights abuses.”²⁶ Experts from Freedom House have noted that “suddenly funneling money into the country’s opaque, scandalously corrupt business environment is no way to help [Myanmar] progress economically or politically.”²⁷ The Obama administration’s decision seems particularly “ill-timed” with the current sectarian violence, as well as ongoing ethnic fighting in Kachin, as the unfortunate backdrop.²⁸

On the other hand, one of the Vice Presidents of the Chamber of Commerce, which lauded recent decision-making, noted that “[e]nsuring U.S. companies have a strong presence in Myanmar will help raise labor and environmental practices and corporate social responsibility.”²⁹ The State Department similarly announced that “the participation of U.S. businesses in the [Myanmar] economy will set a model for responsible investment and business operations as well as encourage further change, promote economic development, and contribute to the welfare of the [Myanmar] people.”³⁰ Senator Jim Webb was “pleased that the administration has followed

through on its commitment to expand economic engagement with [Myanmar],” noting that recent steps “will incentivize positive conduct, while ensuring that so called ‘bad actors’...will not benefit from economic relations with the United States.”³¹ Senator James Inhofe, who applauded the decision, also expressed concern that MOGE might be “informally carved-out,” debilitating the U.S. companies’ ability to compete with big energy stakeholders from China, Russia, and the European Union, among others.³² Suu Kyi and the NLD offered cautious approval.³³

Notably, the European Union, which relaxed sanctions on Myanmar in April, does not currently impose any monitoring requirements on companies doing business within Myanmar’s largely uncertain economic terrain.³⁴ High Representative Catherine Ashton noted that the EU “very much welcome[d]” recent changes in the U.S. sanctions regime.³⁵

Also on July 11, Obama signed an executive order expanding the ability of the Office of Foreign Asset Control (OFAC), the branch of the Treasury Department that oversees sanctions, to impose sanctions on “individuals or entities that threaten the peace, security, or stability of [Myanmar], including those who undermine or obstruct the political reform process or the peace process with ethnic minorities, those who are responsible for or complicit in the commission of human rights abuses in [Myanmar], and those who conduct certain arms trade with North Korea.”³⁶ The Burmese Directorate of Defense Industries and Innwa Bank were recently sanctioned by OFAC.³⁷

The U.S. ban on imports from Myanmar, codified in the Burmese Freedom and Democracy Act (BFDA), expired this month.³⁸ As we reported in June, Senators Mitch McConnell and Diana Feinstein and Representatives Joseph Crowley and Peter King introduced resolutions to maintain the import ban on Southeast Asia’s fourth largest economy.³⁹ On July 18, the Senate Finance Committee voted to extend the U.S. ban on imports for an additional three years, through July 2015.⁴⁰ Although Suu Kyi urged Senator Mitch McConnell on a July 16 telephone call to ease trade sanctions and the International Crisis Group criticized renewal because of its potential “serious impact on Myanmar’s economic recovery,” the legislation to reauthorize import sanctions had “wide support...and [was] expected to be renewed” by Congress.⁴¹ Nevertheless, on July 26, the renewal legislation failed to pass the Senate despite widespread support because of the Senate’s inability to agree on the African trade provision that was included in the bill, as well as some Senators unwillingness to isolate the import ban from this African trade provision.⁴² Because the legislation could have been withdrawn at any time, renewal would have provided the U.S. government flexibility and leverage vis-à-vis its Myanmar policy.⁴³

This month, Secretary of State Hillary Clinton travelled to Cambodia to attend the US-ASEAN Business Forum.⁴⁴ On July 9, before arriving in Cambodia, Secretary Clinton announced that “[t]he heart of our [Asia] strategy, the piece that binds all the rest of it together, is our support for democracy and human rights.”⁴⁵ While in Cambodia, Clinton reiterated the “mutually reinforcing” roles of economics and human rights.⁴⁶ Clinton urged Myanmar and other Asian nations to “embrace human rights and political openness as crucial components in attracting investment and driving economic growth.”⁴⁷ Clinton also highlighted U.S. business interest in Myanmar but emphasized that “[g]reater openness, the rule of law and respect for human rights are key to these companies’ willingness to invest.”⁴⁸

On July 13, Secretary Clinton and President Sein met in Siem Reap.⁴⁹ Clinton reaffirmed the U.S.'s commitment to reform in Myanmar, but expressed concern about the recent detention of U.N. workers, detainment of political prisoners, military cooperation with North Korea, and treatment of Rohingyas, whom she referred to as internally displaced persons (IDPs).⁵⁰ President Sein expressed satisfaction that bilateral relations were improving and expressed a desire to expand information technology and the production capabilities of the Myanmar economy.⁵¹ He also emphasized peace agreements with armed groups, voiced Myanmar's goal of raising life expectancy and improving child and maternal health, denied nuclear military ties with North Korea, and reiterated the "dangerous" situation in Rakhine State.⁵²

In Cambodia, Secretary Clinton also introduced President Sein to executives and company representatives of 38 U.S. corporations, including Baker & McKenzie, Boeing, Chartis, Cargill, Caterpillar, Chevron, Coca Cola, FedEx, Ford Motor Co., General Electric, General Motors, Goldman Sachs Google, and IBM.⁵³ Following the business forum in Cambodia, 70 company representatives travelled to Myanmar with U.S. officials to meet Myanmar officials and explore economic opportunities.⁵⁴ This was the first high-level U.S. government and business delegation to travel to Myanmar in over 25 years.⁵⁵ On July 31, Under Secretary Hormats noted that his "baseline scenario is [that Myanmar leaders] will continue to move in the direction of reform," particularly in light of widespread "social pressure" to keep Myanmar on a path towards economic and political transformation.⁵⁶ However, Hormats emphasized that "a rush of America capital" is unlikely because of the "complex" economic landscape.⁵⁷

In a sign of improving diplomatic relations, the first U.S. Ambassador to Myanmar in 22 years, Derek Mitchell, arrived in Yangon on July 11.⁵⁸ Mitchell noted that his appointment "speaks to the commitment now of [the Obama] administration, of the United States generally, even our Congress, to take the relationship [with Myanmar] to another level."⁵⁹ Since arriving in Myanmar, Mitchell has announced three million dollars in aid for the U.N. World Food Program's efforts in Kachin and northern Shan States, and disaster risk reduction projects led by USAID.⁶⁰ Mitchell recently announced that maintaining sanctions is desirable as "an insurance policy for the future in case things reverse."⁶¹ On July 30, recently appointed Myanmar Ambassador to the United States, Than Swe, participated in an Ambassador Credentialing Ceremony at the White House.⁶²

While at dinner with U.S. company executives and U.S. officials, including Secretary Clinton, President Sein announced that "[i]t is regrettable that we do not receive any assistance from any international monetary institutions," including the World Bank, the International Monetary Fund (IMF), the Asian Development Bank (ADB) and the United Nations Development Programme, noting that sanctions were a roadblock to "seek[ing] technical know-how and to set[ting] up economic engagement with other countries."⁶³ Stephen Groff, one of five ADB Vice Presidents, recently reported that the U.S. may begin to face pressure to ease funding restrictions on the World Bank and ADB vis-à-vis Myanmar.⁶⁴ Groff predicts that donors and shareholders will want these institutions "to move forward a little bit more aggressively than [they] can under the current constraints."⁶⁵ The IMF recently announced plans for a new office in Thailand "aimed at supporting [the IMF's] technical assistance for Myanmar."⁶⁶

Also this month, the U.S. government announced it will be awarding Suu Kyi the Congressional Gold Medal—the government’s highest civilian honor—during her September visit to the U.S.⁶⁷

B. Developments in the Broader Sanctions Community

On June 29, the UN published a report which highlighted several attempted arm shipments to Myanmar from North Korea, which continues to violate UN sanctions. No transfers or attempted transfers of nuclear weapons were reported.⁶⁸

On July 10, Surin Pitsuwan, ASEAN Secretary-General, “expressed frustration that international sanctions have not been removed.”⁶⁹ Notably, Myanmar is scheduled to chair ASEAN in 2014.⁷⁰

Also this month, Czech Foreign Minister Karel Schwarzenberg announced that “[EU] sanctions will be [permanently] lifted if the EU is convinced after two years or something the way [of reform] is irreversible.”⁷¹ Schwarzenberg added that he “think[s] developments are better than [the EU] could have imagined.”⁷² As noted in the June report, the EU is considering granting exports from Myanmar preferential access to its markets.⁷³

Schwarzenberg travelled to Myanmar this month, where he met with President Sein.⁷⁴ The two leaders discussed Myanmar-Czech relations, potential trade relations between the two nations, and the Czech Republic’s own reform period post-communism.⁷⁵ He also met with opposition leader Suu Kyi, former political prisoners, and student leaders, among others.⁷⁶ Schwarzenberg noted that he is “convinced that the Constitution has to be changed,” acknowledging that this is a “heavy task.” Schwarzenberg also had remarks about the military, noting that he “understand[s] that they are defenders of the nation but the army in its commanding structure must come within democracy.”⁷⁷ The Czech Republic may open a diplomatic office in Yangon.⁷⁸

In July, the UK opened a trade and investment department office in Yangon with aims to “forge links with one of the last unexploited markets in Asia.”⁷⁹ Also this month, a delegation of British company executives, including representatives from Anglo American, British Petroleum (BP), British Gas, Ernst & Young, Rolls Royce and Shell, travelled to Yangon and Naypyidaw.⁸⁰ While the UK government has emphasized “ethical and sustainable investment,” the “unseemly rush” into Myanmar’s largely untapped economy has been criticized vis-à-vis ongoing human rights abuses.⁸¹ This month, Anna Roberts, Executive Director of the Myanmar Campaign UK, called for the UK to withdraw its invitation to President Sein because of ongoing sectarian violence in his country.⁸²

Earlier this month, Canada announced plans to open an embassy in Myanmar.⁸³ Canada’s Foreign Affairs Minister, John Baird, recognized recent developments and improvements but emphasized that more reform was needed.⁸⁴ The Canadian government’s announcement occurred the same day that the UN announced that ten aid workers, including three UN staff members, were being detained in Myanmar.⁸⁵ These detentions are further described in Section IV. As a result of Myanmar’s shifting economy landscape, International

Trade Minister Ed Fast and a Canadian business delegation will travel there this September.⁸⁶

In early July, ten Myanmar parliamentarians traveled to India for a week-long orientation program hosted by the Bureau of Parliamentary Studies and Training.⁸⁷ During their week in India, parliamentarians “interact[ed] with senior Indian parliamentarians and parliamentary officers on issues such as legislative process, questions and other procedural devices, budgetary process, committee system, parliamentary privileges, and support services for MPs.”⁸⁸ Members of India’s Parliament praised Myanmar’s “transition to democracy,” which “has given a new look to the Myanmarese parliament, giving voice to diverse groups.”⁸⁹

On July 22, President Sein travelled to Thailand to meet with Prime Minister Yingluck Shinawatra and Princess Maha Chakri Sirindhorn.⁹⁰ Thailand, which is Myanmar’s second largest trade partner, entered into several economic agreements, including three memoranda of understanding, with the former pariah.⁹¹

On August 1, the World Bank, International Finance Corporation, and Asian Development Bank opened offices in Myanmar.⁹² The World Bank also announced \$85 million in development grants, while a representative from the ADB stated that assistance for Myanmar was “just around the corner.”⁹³ Notably, the resumption of lending, after a fifteen year pause, “require[s] clearance of arrears and also a shift in the US position.”⁹⁴

II. Government Restructuring, Political Participation, and Questions of Secession

On July 9, Suu Kyi attended her first parliamentary session after being elected in April.⁹⁵ The most recent session of parliament is set to discuss press freedom, a new foreign investment law, and repeal of the Unlawful Associations Act.⁹⁶ On July 26, Suu Kyi addressed parliament, calling for support of new legislation proposed by the Union Solidarity and Development Party (USDP) to protect ethnic groups within Myanmar.⁹⁷ These recent events demonstrate how far Myanmar has come in the past few months.

A. Personality Politics

Last month, Suu Kyi, who continues to call her country Myanmar, was criticized for not “respecting the constitution.”⁹⁸ After Suu Kyi was told to stop referring to her country as Myanmar, she touting democratic principles such as freedom of speech and political participation said “I assume that I can use whatever I want to use as I believe in democracy.”⁹⁹ The rift over Myanmar’s name has raised alarm bells that disagreement between Suu Kyi and President Sein about the country’s name “is symptomatic of deeper differences that could yet endanger Myanmar’s transformation into a relatively liberal and well-run state.”¹⁰⁰ One commentator has noted that “Myanmar seems to be getting embroiled more in semantics than on substantive issues.”¹⁰¹ Notably, Secretary Clinton did not refer to the country by name during a speech during an ASEAN meeting.¹⁰²

B. Government Restructuring

On July 4, President Sein announced Vice President Tin Aung Myint Oo's resignation.¹⁰³ The resignation of a military hardliner is viewed positively, although the vacant Vice Presidential position will likely be filled by an active-duty general.¹⁰⁴

Likely orchestrated so that President Sein can implement his "second wave of reforms," the resignation of Myint Oo was the first in a broader "cabinet realignment to remove or sideline cabinet hardliners from the former military government."¹⁰⁵ On July 9, President Sein's office announced that the government was reassigning six deputy ministers.¹⁰⁶ Some "believe a cabinet reshuffle could increase the pace of reform, especially long-awaited economic legislation."¹⁰⁷ One commentator emphasized that these reshuffles are "not related to any factional struggle or ideological struggle—it's purely about performance and trying to make sure the president's agenda is carried forward as effectively as possible."¹⁰⁸

C. Secession

Aung Min, Railway Minister, "trusted advisor" and ceasefire negotiator, is seen by some as a potential presidential successor that President Sein may support into office.¹⁰⁹

Suu Kyi is arguably Myanmar's leading political star. After Suu Kyi's trip abroad last month, it has been hard not to notice that the "idolatry is back." However, widespread praise for Suu Kyi has meant that "[a]lternatives within the democratic opposition are again marginalised."¹¹⁰ Smaller parties and parties representing Myanmar's minority groups in particular are "on the fringe of debate."¹¹¹ Moreover, the structure of the NLD, dominated by Suu Kyi and "[o]ctogenarian 'uncles,'" ensures that young, idealistic members have little influence.¹¹² To reform its structure and encourage young leadership, the NLD must overcome a seemingly insurmountable obstacle—Suu Kyi's untarnished image, as well as her "democratic pedigree and strong charisma."¹¹³ Recently, however, Suu Kyi has been criticized for her silence on ethnic violence and discrimination towards Rohingyas, described in Section III.¹¹⁴ Her response in the upcoming months to this violence and discrimination is seen as critical to her career and Myanmar's transition.¹¹⁵

Furthermore, the wider narrative surrounding Myanmar's reengagement with the international community, specifically, the "simplistic portrayal of [Myanmar's] politics as a battle between a charismatic woman and a cabal of murderous generals could undercut efforts to bring a new generation of democracy leaders to the fore."¹¹⁶

III. Ethnic Violence

Last month, we reported on violence among Myanmar's minority groups, which continued unabated into July, with no end in sight.

A. Rakhine State

Violence in Rakhine State between Muslim Rohingyas and Buddhist Rakhines continued in July. The violence stems from May attacks on Buddhists that were blamed on Muslim Rohingyas. The attacks since then have been "primarily one-sided," with Buddhist Rakhines and police forces attacking Muslim Rohingyas, according to Benjamin Zawacki, a Bangkok-based

Amnesty International researcher.¹¹⁷ The attacks have left at least 80 dead,¹¹⁸ although unofficial estimates of casualties exceed 100, Amnesty reported.¹¹⁹

The violence against the Rohingya began after Thidar Htwe, a 26-year-old Buddhist woman, was raped and murdered on May 28, allegedly by Rohingya Muslims.¹²⁰ A newspaper published a graphic photograph of the woman's corpse; Sein suspended publication of the paper using censorship laws in response.¹²¹ However, the newspaper's actions reflect a larger stirring of religious tensions by media, with many sources accusing al Qaeda and Muslim terrorists of staging violence in order to spread Islam into Asia.¹²²

After the June 10 declaration of a state Amnesty International reported that Muslim Rohingyas continue to be targeted in killings, rapes and other forms of physical abuse, with attacks occurring at an increasing frequency.¹²³ The state's government spokesman, Win Myaing, contradicted Amnesty's report, stating that Amnesty's claims were "totally opposite of what is happening on the ground" and calling the allegations "groundless and biased."¹²⁴

Sohara Khatun, a 30-year old woman, saw her father "shot dead by the Burmese military in front of me," she said, "[o]ur entire village was destroyed. We ran for our lives. I still don't know what happened to my mother."¹²⁵ Khatun said that the government attacked her village during clashes between Muslims and Buddhists.¹²⁶

Amnesty International suggests that in addition to civilian ethnic violence, security forces—including police and military—have taken part in or selectively ignored violence against the Rohingyas.¹²⁷ Tens of thousands of Rakhine residents have been forced to flee due to the violence between ethnic Buddhist Rakhine and local Muslims, not all of whom are Rohingya.¹²⁸ The Office of the UN High Commissioner for Refugees (UNHCR) estimates that 90,000 people have been affected by the violence between the two groups since early June.¹²⁹

In response to the violence, hundreds of Rohingya Muslims have crossed into Bangladesh, using unsafe craft to journey along the Bay of Bengal and across the river Naf into the neighboring country.¹³⁰ Khatun said that she and her family floated on the water "for six days," but that when they tried to reach Bangladesh, they were not allowed to enter (they eventually managed to get into the country and are living in hiding, but are afraid they'll be sent back to Myanmar if they are found).¹³¹

1. Domestic Response

In response to the ethnic violence, President Sein, has stated that refugee camps or deportation are the solution for the Rohingya Muslims.¹³² The president's official website reported that President Sein told Antonio Guterres, the UN High Commissioner for Refugees, that Myanmar would "take responsibility for our ethnic people but it is impossible to accept the illegally entered Rohingyas, who are not our ethnicity."¹³³ Instead, President Sein said the only solution was to "send them away if any third country would accept them."¹³⁴

The government has also begun conducting massive sweeps of the area using the Border Security Force (Nasaka), the army and the police.¹³⁵ Hundreds of people have been detained,

mostly men and boys, with no rights given to those detained, and most arrests appearing to be “arbitrary and discriminatory,” according to Amnesty.¹³⁶

Security forces are accused of targeting Rohingyas only, instead of calming the violence in Rakhine State, and there are increasing reports of army complicity in attacks on Muslim homes.¹³⁷ “The Burmese police were shooting only at the Muslims, not the Buddhists,” a Rohingya Muslim said, “[t]he military was just watching from the rooftop and they did not intervene.”¹³⁸

A Human Rights Watch report published on August 1 supported that accusation, reporting that government forces not only stood by while Rohingya Muslims and Rakhine Buddhists engaged in back-and-forth rounds of violence and retribution, but also joined in the violence by killing, raping, and rounding up groups of Rohingyas.¹³⁹ The report found that when Rakhine Buddhist mobs burned thousands of homes in the city of Sitte, police and paramilitary forces opened fire on Rohingya Muslims, and border guards and soldiers shot at Rohingya villagers as they tried to flee, looting food and valuables from their empty homes.¹⁴⁰

On July 25, in Suu Kyi’s first speech to Parliament since her release from house arrest, she called for new laws to protect the rights of the country’s ethnic minorities.¹⁴¹ She said such a step was necessary for the “emergency of a genuine democratic country,” urging lawmakers “to enact necessary laws or amend laws to protect the rights of ethnic nationalities.”¹⁴² Suu Kyi cited “[t]he high poverty rates in ethnic states” and “ethnic conflicts,” although she did not mention the communal violence between Rakhine Buddhists and Muslim Rohingyas in Rakhine. Her speech was interpreted as referring to larger Buddhist groups rather than the Rohingyas.¹⁴³ Analysts of Myanmar’s political system suggest that expressing support for the Muslim minority would be politically disastrous for Suu Kyi’s NLD party.¹⁴⁴

Also on July 25, reports emerged of Buddhist monks calling on people to shun the Rohingya community, emerging “in a leading role to enforce denial of humanitarian assistance to Muslims,” said Chris Lewa, a director of a regional NGO.¹⁴⁵ Both the Young Monks’ Association of Sittwe and Mrauk Oo Monks’ Association released statements urging locals not to associate with Rohingyas.¹⁴⁶

2. *International Response*

In response to Myanmar president Sein’s statement that the solution to ethnic violence was to send away the Rohingyas, Kitty McKinsey, the UNHCR’s spokeswoman, said that the UN thought the solution was for the Rohingyas “to get citizenship in Myanmar.”¹⁴⁷ Given the fact that the UNHCR is a refugee agency, and thus does not normally “participate in creating refugees,” McKinsey stated that the UNHCR “would not be very likely to assist in transporting [the Rohingyas] out of the country and housing them somewhere else.”¹⁴⁸

On July 20, Iran’s UN Ambassador issued a letter to UN Secretary-General Ban Ki-moon, urging the UN to take action to protect the Rohingyas.¹⁴⁹ The Ambassador wrote that Iran believed that “ethnic and religious cleansing against Muslims under whatever pretext is unjustifiable and inexcusable under international law.”¹⁵⁰ The Tehran Times reported that

Iranian students held demonstrations across Tehran to condemn the massacre of Muslims in Myanmar.¹⁵¹

Also on July 20, U.S. Ambassador Derek Mitchell announced that \$3 million in food aid for displaced people in the northern states of Shan and Kachin would be delivered through the UN World Food Program.¹⁵² Another \$3 million in aid for humanitarian needs in Rakhine and Kachin states was announced by the U.S. earlier in July.¹⁵³

On July 25, in response to the continuing attacks on Myanmar's Muslims, The Pakistan-based Tehreek-e-Taliban Pakistan called on the Pakistani government to cut relations with Myanmar and shut down Islamabad's Myanmar embassy in an official statement.¹⁵⁴ If such measures were not taken, the group stated that they would "not only attack Burmese interests anywhere but will also attack the Pakistani fellows of Myanmar one by one."¹⁵⁵ A spokesman also said that the group would "avenge" the "blood" of the Rohingya community.¹⁵⁶

Suu Kyi received some criticism from international rights groups for not offering stronger support for the Rohingya.¹⁵⁷ The Asia director of Human Rights Watch, Brad Adams, stated that Suu Kyi "passed up opportunities to say good things on this" and failed to "confront it."¹⁵⁸ Adams went so far as to suggest that "[o]ne has to be suspicious or concerned about what her views are," despite Suu Kyi's speech citing the importance of protecting minority rights.¹⁵⁹

A Burmese academic at the London School of Economics, Maung Zarni, said that Suu Kyi had been "very non-committal on the issue of the Rohingya," citing other victims of the military regime who have been released from imprisonment but demonstrate a "shocking" level of racial prejudice against Muslims.¹⁶⁰

Jim Della-Giacoma of the International Crisis Group says that increased attention might not help the situation in Myanmar since the issue of what to do with the Rohingya Muslim minority was "an issue around which Burmese or ethnically Myanmar nationals rally around, and that is part of the problem."¹⁶¹ Della-Giacoma suggested that "any sort of threats from outside groups would only enforce or harden that nationalism and definitely not help the problem."¹⁶²

Bangladesh is unhappy with the influx of Rohingya refugees, and increased patrols of the river Naf have been set up to prevent Rohingyas from entering the country, said Lieutenant Colonel Zahid Hasan of the Bangladeshi border guards.¹⁶³ Although the Rohingyas deny allegations of illegal activity, Lt. Col. Hasan suggested that "[s]ometimes these Rohingya people are involved in drug trafficking, human trafficking and other anti-social activities which are really affecting the social stability in this area."¹⁶⁴

3. *The Plight of the Rohingyas*

An estimated 800,000 Rohingya Muslims live in western Myanmar, a place to which Myanmar's government argues they are recent migrants. However, neighboring country Bangladesh also believes that the Rohingya are immigrants who are unwelcome, saying that there are already 400,000 Rohingyas in Bangladesh who are there illegally. The minority is

often described as “the most neglected people in Asia,” and the group is persecuted in every country in which it is found. Human rights groups say that the Rohingya are subjected to forced labor, violence against women, and restrictions on movement, marriage and reproduction. The Rohingya Muslims are a minority group in the state of Rakhine. They have been denied citizenship since 1982, when then-military ruler Ne Win stripped them of their citizenship. Despite the gradual opening of Myanmar, foreign media are still denied access to the conflicted region.¹⁶⁵

B. Kachin Independence Organization

Since last June, more than 75,000 Kachin have been displaced from their homelands due to the ending of a 17-year cease-fire by an attack on the Kachin Independence Army near a contested hydropower dam site.¹⁶⁶ Myanmar’s army is accused of intentionally targeting civilians.¹⁶⁷

On July 13, a large number of child soldiers were found among 34 detained Myanmar government troops by the Kachin Independence Army.¹⁶⁸ Video footage of a meeting between leaders of the 88 Generation Students group and the detainees, originally organized to meet Kachin refugees, recorded the child soldiers describing being grabbed on the street and forced to enlist.¹⁶⁹

On July 19, a spokesperson for the UNHCR in Asia estimated that more than 48,000 displaced people in Kachin State had received UN assistance in the form of mosquito nets, blankets, tarpaulins and plastic floor mats, in addition to warm clothing and cooking and cleaning supplies.¹⁷⁰

On July 25, local aid workers reported that more than 1,000 displaced persons faced extreme food, medicine, and shelter shortages near the town of Pangwa, in eastern Kachin State, in a makeshift camp located in government-controlled territory.¹⁷¹ UN agencies have not yet been able to visit camps south of Pangwa, which are reportedly overcrowded and cold due to their elevation in the nearby mountains.¹⁷²

On July 27, it was reported that future peace talks between the KIO and Myanmar’s government would be held in Laos, rather than China, Thailand, or Myanmar.¹⁷³ There was no scheduled meeting in July; instead, both sides deliberated a venue for the negotiations, a decision that has now been made.¹⁷⁴

C. Other Significant Developments

Despite ceasefire agreements, clashes continue between Myanmar’s government and ethnic armed forces in Shan and Karenni states.¹⁷⁵ There has still been no concrete agreement between the government and the Karenni Nation Progressive Party on territorial borders.¹⁷⁶ The Shan people continue to be threatened by planned construction projects, including irrigation and dams, as well as a proposed oil and gas pipeline between China and Myanmar.¹⁷⁷

Part of the \$3 million pledged by the United States will also be for displaced people in Shan and Kachin states in northern Myanmar, said Ambassador Derek Mitchell, on Friday, July 20.¹⁷⁸

IV. Political Prisoners

In addition to governmental human rights violations in Rakhine State, the state of emergency has been used to effect “an about-turn on the situation of political imprisonment,” said Zawacki, Amnesty’s Myanmar researcher.¹⁷⁹ “After more than a year of prisoner amnesties and releases, the overall number of political prisoners in Myanmar is again on the rise,” Zawacki stated.¹⁸⁰

Amnesty International said that the arrests being made in Rakhine State violated rights to liberty and freedom since they were based on discriminatory grounds, and voiced its concerns that “after more than a year of prisoner amnesties and releases, the overall number of political prisoners in Myanmar is again on the rise.”¹⁸¹

Ten members of aid organization staff, including some UN workers, were detained in Rakhine in the wake of the unrest there.¹⁸² Although three workers were reported to have been charged and appeared in court, they had not yet been tried, according to an unnamed aid worker who spoke to the Agence France-Presse.¹⁸³ The workers were charged with “stimulating riots” and continue to be held, despite a visit by Guterres in early July.¹⁸⁴

On July 12, Guterres said that the UNHCR had asked to be informed of the charges against the staff members and given access, but thus far there had been no progress.¹⁸⁵ A July 13 Reuters article reported that three of the aid workers were in Myanmar working for the World Food Programme, three were working for the UN, and the remaining four work for Doctors Without Borders.¹⁸⁶

However, a July 30 article by the Washington Post reported that five of the detained workers were UN staff members, and the other five workers were in Myanmar on behalf of other international aid agencies.¹⁸⁷ That article also stated that 858 people, including the aid workers, were still detained by authorities in connection with the unrest in Rakhine State.

On July 3, the state-run newspaper, New Light of Myanmar, reported that the government planned to release 46 prisoners—at least 24 of whom would be political detainees—in order to “help national reconciliation.”¹⁸⁸ The prisoners’ release was confirmed by Bo Kyi, joint secretary of Assistance Association for Political Prisoners, a nonprofit organization that gathers information on political prisoners and provides assistance to them and their families in Myanmar. The organization estimates that roughly 400 people in Myanmar are still in detention for political reasons.¹⁸⁹

On July 6, roughly 1,500 participated in a demonstration in the Kachin State capital Myitkyina to demand the release of a local farmer who government authorities claimed was a captain in the Kachin Independence Army.¹⁹⁰ Most individuals convicted for affiliation with the KIO appear to have been charged with violating Article 17/1 of the Unlawful Associations Act,

but human rights groups report that large numbers of civilians and combatants are detained and held without formal charges or any kind of due process.¹⁹¹

On July 9, student leaders in Myanmar said that the government had held student leaders from the All Myanmar Federation of Student Union the previous week, ahead of the anniversary of the 1962 military crackdown on demonstrators.¹⁹² The Party General-Secretary said that she and three of her colleagues were held overnight on July 6.¹⁹³ Twenty student leaders were released on July 7, according to other reports.¹⁹⁴

On July 30, a report in *The Irrawaddy* reported that more than 100 ethnic Kachin had been detained illegally and faced possible torture by government troops, according to observers.¹⁹⁵ A peace broker between the Burmese government and KIO told *The Irrawaddy* that local people in Kachin State continued to disappear, so the issue was brought to the National Human Rights Commission in the state capital of Myitkyina on July 27.¹⁹⁶ The BBC Burmese Service was reportedly told that a Kachin family found a relative buried in the ground after being seized by government troops.¹⁹⁷

V. Codification and Implementation of Civil, Political, Economic and Social Rights

A. Media Freedoms

While the government was expected to introduce a new media law and self-regulating Press Council in July, Information Minister Kyaw Hsan recently extended the timeline for media reforms to the end of the year.¹⁹⁸ According to some journalists, the stalling of media reforms on the part of the government is a direct response to the ethnic and religious violence in Rakhine State.¹⁹⁹ “I think it is the communal violence in [Rakhine] state that has caused the delay,” said Ko Ko, the CEO of the Yangon Media Group and secretary of the Myanmar Journalists Association’s organizing committee.²⁰⁰ Since communal violence broke out in the state, the government has reneged on assurances to journalists that there would be “no more censorship in July.”²⁰¹

Journalists have protested that quite the contrary to the government’s previous assurances of greater media freedom, the government’s censorship board, the Press Scrutiny and Registration Division (PSRD), has enforced more stringent restrictions on media coverage of the situation in Rakhine State.²⁰² In a press briefing on June 10, 2012, Rangoon chief minister Myint Swe threatened to bring criminal charges against news media “undermining state security or spreading news that could cause disorder.”²⁰³ In addition, the PSRD enforced pre-publication approval practices for all news reports on communal violence in Rakhine State, reestablishing a censorship practice that had been relaxed in the first half of the year.²⁰⁴

Subsequently, Myat Khaing, the editor of Snapshot, a private weekly journal that published an image of the corpse of a Buddhist Arakanese woman who was allegedly raped and murdered by three Muslim men in late May and whose death inflamed communal violence in Rakhine State, as previously described in Section III.A, was charged with defamation with the intent of inciting violence.²⁰⁵ The charges carry a maximum sentence of seven years.²⁰⁶ The trial was set to continue on July 20, 2012, although no further news updates could be found online. In a press release in late June, Reporters Without Borders, a Paris-based media watchdog,

noted that “the ongoing conflict in [Rakhine] has shone a harsh light on the sensitivity of the media environment and the very fragile nature of the newly recovered but partial media freedom.”²⁰⁷

On July 31, 2012, the PSRD indefinitely suspended two weekly publications, Voice Weekly and Envoy, without explanation.²⁰⁸ Reporters at the publications believe that the sudden suspensions are connected to articles the magazines published on upcoming changes in Cabinet positions.

International media watchdog organizations have called attention to the government’s delayed timeline and urged it to continue the implementation process for media reforms.²⁰⁹

B. Religious Freedom and Citizenship Rights

The communal violence in Rakhine State, as previously discussed in Section III.A, is a religious, as well as ethnic, conflict. Amnesty International researcher Benjamin Zawacki noted that violence against Muslims has increased in the region, with attacks being “primarily one-sided, with Muslims generally and Rohingyas specifically the targets and victims... Some of this is by the security forces’ own hands, some by Rakhine Buddhists with the security forces turning a blind eye in some cases.”²¹⁰ In addition, the security forces and police have conducted massive arrests in Rohingya populated areas. In a July 19, 2012 press release, Amnesty International protested the arrests, noting that “[w]hile the restoration of order, security, and the protection of human rights is necessary, most arrests appear to have been arbitrary and discriminatory, violating the rights to liberty and to freedom from discrimination on grounds of religion.”²¹¹ On August 1, 2012, Human Rights Watch released a scathing report of the government’s response to the crisis, stating that “Burmese security forces committed killings, rape, and mass arrests against Rohingya Muslims after failing to protect both them and Arakan Buddhists during deadly sectarian violence in western Myanmar in June 2012.”²¹²

In addition to ensuring freedom from religious and ethnic discrimination, human rights activists have called on the government to amend or repeal the 1982 Citizenship Law to provide citizenship for the currently stateless Rohingyas, many of whom have resided in Myanmar for generations but are considered by the government to be illegal immigrants from Bangladesh. In its press release, Amnesty International declared that “[u]nder international human rights law and standards, no one may be left or rendered stateless. For too long Myanmar’s human rights record has been marred by the continued denial of citizenship for Rohingyas and a host of discriminatory practices against them.”²¹³ Along with 33 other human rights organizations, Myanmar Campaign UK also released a statement noting, “[t]he 1982 Citizenship Law should be repealed, and replaced with a new law founded on basic principles of human rights. The new law should honour equality and non-discrimination, and help create an inclusive and tolerant Myanmar.”²¹⁴

In a meeting convened on July 11, 2012, between President Sein and Guterres, the UN High Commissioner for Refugees rejected President Sein’s request for the resettlement of the Rohingyas to a different country or the U.N.’s acceptance of caretaking responsibility for the Rohingyas.²¹⁵ Of his July trip to Myanmar, Guterres noted that “I had the opportunity in my visit to also suggest that, independently of the improvements that the Nationality Law might

deserve, it would be important to effectively grant Myanmarese nationality to all those members of the Muslim community that have the right to it according to the law. And to find for the other members of the community a legal status allowing them to enjoy fully the rights that are necessary to lead a normal life.”²¹⁶

Eva Kusuma Sundari, the president of the Asean Inter-Parliamentary Myanmar Caucus (AIPMC), criticized President Sein’s suggestion to the U.N. in an opinion piece in *The Nation* newspaper, writing, “[t]he Rohingya who have lived in Myanmar for generations must be recognised and granted citizenship. The [Myanmar] government has a duty to protect and provide for these people. Seeking to unload responsibility onto the UN is not an acceptable solution and the suggestion from the country’s president betrays the systematic persecution of the Rohingya population for generations.”²¹⁷

The United States and European diplomatic corps have also been monitoring the situation. During her meeting with President Sein as part of her mid-July tour of Southeast Asia, Secretary Clinton raised concern over the treatment and situation of the Rohingyas.²¹⁸ In addition, Michael Mann, the spokesperson for the European Union Foreign Policy Chief Catherine Ashton, has noted that has confirmed that “EU diplomats got in touch with officials in Myanmar following a directive of Catherine Ashton. Experts from the ECHO (European Community Humanitarian Office) were dispatched to Myanmar to determine the urgent needs of the Muslims.”²¹⁹

C. Economic Reform

According to Kan Zaw, deputy minister of National Planning & Economic Development, the joint session of parliament will debate the new foreign investment law during the current session.²²⁰ The draft law will revise the Foreign Investment Law established in 1988. The planned revisions will allow foreign investors to lease land from private owners for 50 years, provide tax breaks to foreign companies and remove local partnership requirements.²²¹ As for the timeline, Kan Zaw commented that “[n]ormally it takes about two months, up to September... After it’s approved by the Union parliament, then it will take effect the next day.”²²² The investment law revision is part of President Sein’s economic-centered “second wave of reforms.”²²³

In addition, the government has revealed its intention of liberalizing key sectors of the economy such as telecommunications, electricity, energy, forestry, education, health and finance.²²⁴ The first Myanmar Mining Summit was held in Yangon on July 23, 2012. At the industry conference, attended by 300 participants from 25 countries, top officials from the Ministry of Mines encouraged foreign firms to invest in the country’s mining industry. A top official at the ministry noted that investors could apply to the government for permission to “confirm the reserve of a deposit or to start with the grassroots exploration operations in a virgin land.”²²⁵

In response to the government’s reforms, on August 1, 2012, both the World Bank and the Asian Development Bank opened offices in Yangon after prolonged absences. The World Bank ceased its lending to the country in 1987 and the Asian Development Bank ceased its operations in the country in 1988. The World Bank has announced that it will offer up to \$85

million in grants after it assists Myanmar clear \$397 million in arrears, a process that could be finalized as early as next year.²²⁶ The Asian Development Bank will “expand its analytical work in selected priority sectors, and provide technical assistance initially for capacity building and institutional strengthening.”²²⁷

D. Other Significant Developments

In late June, the Land Core Group, a coalition of over 30 non-governmental organizations working on farmers’ rights issues, launched a two year campaign to protect the land use and ownership rights of smallholder farmers.²²⁸ The Land Core Group Program Plan, which is expected to run until the end of 2014, is “meant to serve as a framework to guide all agencies and actors seeking to promote pro-poor land reform.”²²⁹ As part of its mission, the coalition’s outlined activities include “direct and indirect lobbying of MPs, government agencies and political parties to capacity building among farmers and departmental official.”²³⁰ The coalition’s launch of its new plan is particularly timely considering that the Farmland Law and Vacant, Fallow and Virgin Land Management Law, while already approved, are currently stalled until the Ministry of Agriculture and Irrigation introduces complementary regulations.²³¹ On July 3, 2012, U Shwe Thein, the chairman of the Land Core Group, told the Myanmar Times that “[the promulgation of the The Farmland Law and Vacant, Fallow and Virgin Land Management Law] will probably be the focal point for our discussion [with parliamentarians] ... but it is very unclear right now whether the two land bills will be reviewed in the next session or not.”²³²

VI. Governance and the Rule of Law

Amidst the increased relaxation of sanctions by the U.S. and Europe, weak rule of law continues to hamper Myanmar. In an impromptu press conference on July 12, 2012, Suu Kyi emphasized the importance of an independent judiciary and rule of law.²³³ According to Nyan Win, a legal advisor for Suu Kyi’s NLD, “[c]ourts in Myanmar are a tool of the government,” with many judicial rulings influenced by political concerns rather than by evidence.²³⁴

In addition, according to activists, many businesses are still controlled by the Burmese military, government or associates and lack both transparency and accountability.²³⁵ At an ILO conference during her European trip last month, Suu Kyi addressed her concerns on the issue, in particular, the joint ventures established by MOGE. Suu Kyi noted that “[t]he Myanma Oil and Gas Enterprise... with which all foreign participation in the energy sector takes place through joint venture arrangements, lacks both transparency and accountability at present... The (Myanmar) government needs to apply internationally recognized standards such as the IMF code of good practices on fiscal transparency. Other countries could help by not allowing their own companies to partner MOGE unless it was signed up to such codes.”²³⁶ Rule of law will continue to be a pressing concern in Myanmar and for the international community in the months ahead.

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