

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

DECEMBER 2013 REPORT

Summary. This report reviews the December 2013 developments relating to human rights in Myanmar. Relatedly, it addresses the interchange between Myanmar’s reform efforts and the responses of the international community.

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I. International Community and Sanctions

The United States is imposing sanctions on a Myanmar military officer and three companies it accuses of involvement in the illicit arms trade with North Korea.¹ Asia Metal Company, Soe Min Htike Co., Excellence Mineral Manufacturing Co., and Lt. Col. Kyaw Nyunt Oo, a military staff officer, are the latest on a list the Treasury maintains of “specially designated nationals” that blocks companies’ or individuals’ assets. Myanmar’s Directorate of Defense Industries (DDI), specifically, received a Treasury designation in July 2012. Officials determined that the entities added this month have been linked to the DDI, which has been involved in purchasing military equipment from North Korea.²

This designation does not “generally target the Government of Myanmar,” the department said. About a year ago, the Myanmar Government agreed to abide by a United Nations Security Council resolution that prohibits the procurement of military goods and assistance from North Korea. “The revenues from these continuing military sales directly support North Korea’s illicit activities,” Under Secretary for Terrorism and Financial Intelligence David Cohen said. “We will continue to target this activity in Burma, and the region, as we work with our international partners to shut down North Korea’s dangerous and destabilizing weapons proliferation.”³

II. Civil and Political Rights

A. Election-Related Laws and Acts

In the beginning of January, President Thein Sein announced in a nationally televised address that he supported changes to Myanmar’s constitution that would allow for Aung San Suu Kyi to contest the presidency. President Thein Sein said it would be “healthy” to amend the Constitution “from time to time to address the national, economic and social needs of our society” and that he “would not want restrictions being imposed on the right of any citizen to become the leader of the country.”⁴ Notably, however, President Thein Sein does not control the legislature and has limited leverage to ensure that 75% of the legislature backs any constitutional change. The ruling Union Solidarity and Development Party (USDP) itself appears willing to back a change that would permit Aung San Suu Kyi to run for President if her sons were to renounce their British citizenship.⁵ USDP parliament member U Khin Maung Htoo noted that for Aung San Suu Kyi to qualify for president, “her two sons must apply for Myanmar citizenship and give up foreign citizenship.”⁶ Aung San Suu Kyi argued that her adult sons’ citizenship was irrelevant and that she was not responsible for their decisions.⁷ It remains unclear if MPs from the military, who effectively could block any constitutional change by preventing the necessary 75% threshold from being reached, would accept the proposal.⁸

Prior to President Thein Sein’s comments, the possibility that Aung San Suu Kyi and her party could boycott the 2015 general elections if the constitution were not changed, raised the stakes around the election and its potential to upset Myanmar’s progress toward democracy. On December 15, 2013, Aung San Suu Kyi stated in a speech in a town outside of Yangon that “[p]oliticians who possess moral dignity” should not participate in the 2015 general elections if they remain “arranged to give one side an unfair advantage.”⁹ Not unreasonably, this led to

reports suggesting that Aung San Suu Kyi would boycott the 2015 elections if Myanmar's constitution were not amended to allow her to run for president, although these reports were ambiguous regarding whether the National League for Democracy (NLD), the party that Aung San Suu Kyi leads, would boycott the elections under such circumstances.¹⁰ Later, NLD representatives clarified that “[t]he party leader’s statement was taken out of context” and that “the reports may cause misunderstanding and even a confrontation as they did not convey the same message that Aung San Suu Kyi delivered in [the] speech.”¹¹ By the end of December, the NLD made clear that it would participate regardless of whether the constitution was amended to permit Aung San Suu Kyi to run for president.¹²

In any event, Aung San Suu Kyi also continued to enjoy the support of the European Union in her struggle to achieve changes to Myanmar's constitution that would allow her to run for the presidency.¹³ In mid-December, EU foreign ministers meeting in Brussels delivered a joint statement urging Myanmar to continue reforming its electoral system, and noting that the country's constitution “should be brought in line with the requirements of a modern democracy.”¹⁴ With apparent reference to the provision of the constitution preventing Aung San Suu Kyi from running based on her sons' citizenship, the statement further noted that “[t]he constitution should enable the conduct of credible, transparent and inclusive general and presidential elections in 2015, allowing all candidates to fairly contest the elections.”

However, Aung San Suu Kyi's effort to amend the 2008 constitution has earned her detractors who say she is acting more like a politician than a human rights icon, particularly in refusing to condemn more strongly attacks on the Rohingya. Rohingya activist Khin Maung Myint stated that Aung San Suu Kyi “is after the majority vote because she wants to be president.”¹⁵ She has also been criticized by leaders of other ethnic minorities for not acknowledging the extent of their suffering at the hands of the country's military, a key constituency whose consent would be required for any constitutional changes.¹⁶ However, at a news conference in early December, Aung San Suu Kyi noted, “[p]lease don't forget that I started out as the leader of a political party . . . [i]con was a depiction that was imposed on me by other people.” The French ambassador to Myanmar noted that it was impossible to please everyone in politics, while outside analysts have noted Aung San Suu Kyi would work for national reconciliation if elected president.¹⁷

The USDP also proposed other important constitutional changes in recent days that will be well-received by the country's ethnic minorities because they would devolve more power to local elections and governments.¹⁸ Specifically the USDP has proposed that officials who serve as the equivalent of mayors would be locally elected instead of appointed, as they now are, and that the *de facto* governors of states and regions would be chosen by local legislatures, not appointed by the President.¹⁹

Finally, on December 18, 2013, nine political parties announced their agreement to form the Federal Democratic Alliance (FDA) for the upcoming 2015 election.²⁰ The core parties involved styled themselves as the “Third Force” in Myanmar politics in previous elections as they are affiliated with neither the NLD nor the military-tied USDP which currently holds power. The leader of one of the FDA parties, the National Democratic Force, Khin Maung Swe, reported to the press that the FDA parties “decided to form an alliance because unity is one of the main components lacking among the democratic forces – there was previously no alliance, network or

a front to implement unity or to allow democratic parties to cooperate – and we wanted to fill this gap and push for this type of progression in Myanmar politics”²¹ He added that the alliance would “aim to promote ethnic nationalism and unite all political forces under the umbrella of nationalism when establishing a federal union.”²² The detailed structure of the FDA is yet to be worked out and will be discussed again in January.²³

B. Press and Media Laws / Censorship

The most significant news in the past month with regard to press freedom is the three-month prison term given to Yangon-based Eleven Media journalist Naw Khine Khine Aye Cho, also known as Ma Khine, based on underlying charges of defamation and trespassing.²⁴ The conviction, believed to be the first imprisonment of a reporter since the lifting of media restrictions in 2012, came after Ma Khine was sued due to an argument that took place when she was seeking comments on an alleged video piracy case in late October from an attorney who is also the daughter of a local NLD leader.²⁵ Chief editor of Eleven Media, Wai Phyo, stated that “[t]he charges and punishment are not justified” and “threaten freedom of the press.”²⁶ Furthermore, Eleven Media stated that the verdict could have been related to editorials it had run alleging corruption in the judiciary. On January 7, dozens of journalists, including Interim Press Council member Myint Kyaw, gathered to protest her sentence.²⁷

A member of the Interim Press Council also condemned Ma Khine’s sentence as “too harsh,” and a number of international press organizations also criticized both the handling and sentencing in the case.²⁸ For example, Reporters Without Borders issued a statement that it is outraged by the sentence and urged the court “to reexamine the facts of this case when it comes up for appeal and to reach a decision that respects the rights of journalists.” The statement also noted that “[a] news organization should not have to incur the risk of criminal proceedings and, in this case, the conviction of one of its reporters, because of its news coverage” and that “[f]reedom of information is at stake.”²⁹

Also last month, tycoon Tay Za threatened to sue the Sun Rays Journal for defamation for publishing a front-page story with his photo and a headline reading “[c]ronies should jump into the Andaman Sea.”³⁰ Myanmar’s Information Ministry urged the Interim Press Council, to which the Ministry refers cases of unethical journalism, to take action against the Sun Rays Journal.³¹ The Ministry noted that it “found all writings in all issues published in the journal to be unethical and to contain hate speech” and that they “damaged the current government.”³² Moe Hein, the Sun Rays Journal CEO, noted “[w]e follow standardized journalism ethics and exercise freedom of press like in democratic countries around the world” adding “we report and write freely like other press in the world [and] are not attacking or slandering anyone.”³³ Moe Hein also ran into trouble at a former publication, the Sunlight, which was shut down after being raided by a group backed by the grandson of former Myanmar junta leader Than Shwe and the son of Commerce Minister Win Myint; the publication was shut down after its publisher concluded that it published controversial articles without the consent of its editorial board.³⁴ A member of the Interim Press Council, Myint Kyaw, acknowledged that he felt “[t]he Sun Rays’ journalism standards had been poor” but added, “that it was unclear what the Information Ministry was trying to achieve by placing responsibility for the journal’s controversial content with the council.”³⁵ Myint Kyaw suggested that rather than just cancel the license it had issued to the Sun Rays Journal, the Ministry was testing how the “Press Council handles this kind of

case[] and the[Ministry] might one day point out that the Press Council can't supervise the media."³⁶

On a more positive note, during a December conference on women's issues in Yangon in December, French Minister of Culture Aurélie Filippetti announced that France, Denmark, Germany, Norway and Sweden will fund a "new institution to provide international-quality journalism education" with the aim of giving "young journalists training sessions to help them to produce content of very high quality and also to meet the highest international standards in the freedom of information and quality of information."³⁷ The organizers hope to begin a one-year diploma course starting in July 2014.³⁸ A representative of the United Nations Educational, Scientific, and Cultural Organization, which is also supporting the project, stated that ethnic journalists would be accepted to the program.³⁹

Finally, the volume of advertising in Myanmar has grown significantly in the past year. After growing five-fold to US\$118 million in 2012, advertising expenditures are expected to be worth US\$180 million by the end of 2013.⁴⁰ This is driven both by the increase in foreign commercial activity in Myanmar as well as the proliferation of media outlets since the loosening of restrictions in 2012.⁴¹

C. Official Corruption

The Government's reforms since a quasi-civilian government took charge in 2011 appear to be improving its poor reputation for corruption, with global watchdog Transparency International on December 3, 2013, boosting the country's ranking in its annual survey. The Berlin-based organization put Myanmar 157 out of 177 countries surveyed for its Corruption Perceptions Index 2013. The ranking represents an improvement from Transparency International's survey a year ago, in which the country was ranked 172 out of 176 nations, above only Sudan, Afghanistan, North Korea and Somalia.⁴²

Transparency International said its rankings were based on "experts' opinions of public sector corruption," and took into account the level of access to information on corruption, the accountability of public bodies and the rules that a country has in place to govern the behavior of public officials.⁴³

A highly competitive tender for two telecommunications licenses, awarded in June, was seen as a comparatively transparent process. In August, contracts to build a new airport for Yangon and to operate existing airports in the former capital and Mandalay were awarded after heated competition between international companies. This year, open tenders have also been held for both onshore and offshore oil and gas exploration licenses, again with the government exercising levels of openness unseen under previous administrations.⁴⁴

Parliament in July approved a new Anticorruption Law, which established an anticorruption commission and requires officials in the executive, judicial and legislative arms of government to declare their assets.⁴⁵

III. Governance and Rule of Law

Lawyers continue to encounter impediments to the exercise of their professional functions and freedom of association, as well as pervasive corruption, although they have been able to act with greater independence, says the International Commission of Jurists (ICJ) in a new report released on December 3, 2013. The ICJ is a nongovernmental organization that comprises 60 judges and lawyers from around the world and is active on five continents. It works to promote human rights by defending the rule of law and advancing the independence of judiciaries and lawyers.⁴⁶

The report entitled “Right to Counsel: The Independence of Lawyers in Myanmar” – based on interviews with 60 lawyers in practice in the country – says authorities have significantly decreased their obstruction of, and interference in, legal processes since the country began political reforms in 2011. “The progress made in terms of freedom of expression and respect for the legal process is very visible,” said Sam Zarifi, ICJ Asia-Pacific director. “But despite the improvements, lawyers still face heavy restrictions and attacks on their independence, which can result in uncertainty and fear, particularly when it comes to politically sensitive issues.”⁴⁷

Systemic corruption continues to affect every aspect of a lawyer’s career and, as a result, is never absent from lawyers’ calculations vis-à-vis legal fees, jurisdictions and overall strategy. “Corruption is so embedded in the legal system that it is taken for granted,” Zarifi said. “When the public also generally assumes that corruption undermines the legal system, this severely weakens the notion of rule of law.”⁴⁸

“Lawyers in Myanmar, as elsewhere, play an indispensable role in the fair and effective administration of justice,” Zarifi added. “This is essential for the protection of human rights in the country and the establishment of an enabling environment for international cooperation towards investment and development.”⁴⁹

But lawyers in Myanmar lack an independent bar council, the report says, noting that the Myanmar Bar Council remains a government-controlled body that fails to adequately protect the interests of lawyers in the country and promote their role in the fair and effective administration of justice.⁵⁰

The ICJ report shows that other multiple long-standing and systemic problems affect the independence of lawyers, including the poor state of legal education and improper interferences on the process of licensing of lawyers.⁵¹

In its report, which presents a snapshot of the independence of lawyers in private practice in Myanmar in light of international standards and in the context of the country’s rapid and on-going transition, the ICJ makes a series of recommendations:

- The Union Attorney-General and Union Parliament should significantly reform the Bar Council to ensure its independence;
- The Union Attorney-General and Union Parliament should create a specialized, independent mechanism mandated with the prompt and effective criminal investigation of allegations of corruption; and

- The Ministry of Education should, in consultation with the legal profession, commit to improving legal education in Myanmar by bolstering standards of admission to law school, law school curricula, and instruction and assessment of students.⁵²

IV. Political Prisoners

As part of President Thein Sein's promise to release all prisoners of conscience in Myanmar by the end of 2013, on December 11, 2013, the government freed 44 political detainees.⁵³ Additionally, on December 31, 2013, the government freed an additional five political prisoners.⁵⁴ "Five political prisoners whose names we submitted were freed today and more people are expected to be freed in the next batch in the first week of January," said Bo Kyi, a member of the Political Prisoners Scrutinizing Committee.⁵⁵ Moreover, President Thein Sein granted a pardon on December 30, 2013, to those convicted of or charged with a variety of political offenses, such as unlawful association, high treason, contempt of government and violations of the peaceful assembly law.⁵⁶ This pardon also halted all ongoing trials and investigations connected with those charges.⁵⁷ Ye Aung, a former political prisoner and member of the government's Political Prisoners Scrutinizing Committee, has said that approximately 200 activists facing trial under political charges will immediately have those charges dropped.⁵⁸ "We welcome the presidential pardon order. However, several steps need to be taken to maintain a level of zero political prisoners. There must be rule of law and more political freedom to maintain that level," Bo Kyi said.⁵⁹

Activists, however, still say that Myanmar authorities continue to prosecute dissidents.⁶⁰ Activists have criticized the government for using the release of political prisoners to attract headlines for political gain and leverage within the international community.⁶¹ In a letter signed by 42 rights groups organizations on December 19, 2013, Paris-based International Federation for Human Rights charged that authorities are continuing to arrest farmers, activists, human rights defenders, and ethnic minorities at high rates.⁶² The release of political prisoners has been used by Western nations to judge Thein Sein's administration, with previous releases triggering decisions by some nations to ease sanctions.⁶³

V. Economic Development

A. Developments in the Legal Framework of Economic Development

The government announced that it plans to issue new rules for the Foreign Investment Law in early 2014. The new rules are intended to focus on sectors in which foreign investment is restricted, according to Mya Sandar, Deputy Director of the Business Promotion Section of the Ministry of National Planning and Economic Development.⁶⁴ The Foreign Investment Law was approved by the national parliament on November 2, 2012 and the law required that the rules, which provide detail on the law, be issued within 90 days. According to a ministry official, this did not provide enough time to ensure that the rules were clear and without contradictions, and amendments to the rules are now needed. The changes will have to be submitted as amendments to the Myanmar Investment Commission and cabinet and will require cabinet approval. It is anticipated that the changes will open up new sectors to foreign investment.⁶⁵

The International Finance Corporation (IFC) has signed a memorandum of understanding with Myanmar's Ministry of National Planning and Economic Development to support its efforts to improve the country's investment policy and regulation framework, in order to make it easier for foreign companies to do business in Myanmar, help stimulate domestic private sector growth and attract sustainable foreign investment.⁶⁶ The IFC will work with the Ministry on new investment laws and regulations to improve protection for both foreign and domestic investors and streamline investment approval procedures to promote a business-enabling environment.⁶⁷ The cooperation with the IFC is expected to accelerate efforts to create a more business friendly environment for domestic and foreign investors.⁶⁸

According to the Myanmar Investment Commission (MIC), Myanmar will soon sign an investment protection agreement with the European Union to promote foreign investments.⁶⁹ Officials and experts have expressed some concern about signing such agreements in haste, noting that there can be severe consequences when the country cannot meet the terms and conditions of the agreements and any breach of such contracts can end up in costly cases in international courts.⁷⁰ But Aung Naing Oo, Director General of the MIC has acknowledged that Myanmar "think[s] about the future consequences and current situations every time before we sign agreements. In fact, investment protection agreements have both good and bad points. For example, having a bilateral investment protection agreement makes sure that the investors in the other countries have less risks to do business here. This will help to boost investments."⁷¹

As reported last month, in November 2013 Myanmar took control of its Dawei industrial complex from Italian Thai Development ("ITD") due to ITD's failure to attract the necessary investment for the project. In a reaction to this failure, the Myanmar government is tightening regulations to ensure that future investors will have the financial capabilities to fulfill the requirements of developing the Special Economic Zone (SEZ). The government will impose stricter terms and conditions that are meant to allow Myanmar to weed out speculators and instead zero in on investors who are committed to the long-term success of the Dawei SEZ. Set Aung, Chairperson of Dawei Project Rules & Regulation Sub-Committee and Deputy Governor of the Central Bank of Myanmar, said: "The proper monitoring and evaluation systems, proper bank guarantee fund systems, performance bond guarantee and also proper compensation structures (will) be there in the concessional agreement. So if there's going to be any failure that's going to happen, there are going to be a lot of penalties and consequences to be agreed upon in the concessional agreement."⁷²

B. Developments in Foreign Investment and Economic Development Projects

Data from the Ministry of Economic Planning and National Development shows that foreign direct investment in Myanmar in the first half of the 2013-14 financial year has already exceeded the amount for the whole of 2012-13.⁷³ Myanmar recorded contracted investment of US\$1.618 billion from April to September; US\$128 million more than the US\$1.419 billion in 2012-13. Fifty-seven businesses, including a foreign owned power plant, Heineken beer factory and a Nissan car factory have been approved so far this year, the majority in Yangon and in the manufacturing sector.⁷⁴

In mid December, Japan and Myanmar signed an investment treaty to nurture closer business ties between the two countries.⁷⁵ Japanese Prime Minister Shinzo Abe and Myanmar

President Thein Sein signed the deal in summit talks following a gathering of leaders from the Association of Southeast Asian Nations in Tokyo.⁷⁶ Japan's trade ministry indicated that the agreement is intended to provide greater protections and a stable legal environment for investors.⁷⁷ The treaty calls for Japanese investors to receive the same protections provided to other foreign investors under international rules, and prohibits the imposition of export, technology transfer or other requirements in exchange for such investments.⁷⁸ In addition, to help clear the way for the investment treaty, Tokyo has agreed to forgive about US\$5.32 billion in debt owed by Myanmar and extended bridge loans to help clear the rest (Japan is Myanmar's largest aid donor).⁷⁹ Prime Minister Abe pledged ¥63 billion (US\$610 million) in fresh aid to Myanmar and said Japan would make an "effort to cooperate" with Myanmar and Thailand to develop the Dawei industrial zone in southern Myanmar.⁸⁰

Myanmar plans to launch the process of upgrading the Yangon-Mandalay railway next year using a loan of US\$500 million from Japan, according to the Ministry of Rail Transportation.⁸¹ A survey is underway to determine any potential environmental and/or social impact that could come out of the upgrading project.⁸² A Japanese survey team will soon visit the country to make a final plan for the upgrading project. After it is upgraded, the railway will be able to facilitate fast express trains, reducing the length of time taken to travel from Yangon to Mandalay from 15 hours to 8 hours.⁸³

In early December, a joint venture between Myanmar's Public Works of the Ministry of Construction and Japan's JFE Engineering Corporation commenced the construction of a new steel fabrication plant in Thaketa Township, Yangon City.⁸⁴ The joint venture company, called J and M Steel Solutions Company Limited ("J and M"), is committed to infrastructure construction in Myanmar. According to the New Light of Myanmar, the steel structure fabrication plant will ultimately have an annual capacity of 10,000 tons and will start with steel bridge design, fabrication and construction.⁸⁵ The plant will also be able to fabricate harbor and coastal structures and container cranes.⁸⁶ The joint venture company will gradually expand the scope of its business to general transportation and logistics infrastructure development.⁸⁷

The Kaladan multi-purpose transportation project, jointly implemented by Myanmar and India, is expected to be completed by mid 2014.⁸⁸ Myanmar and India signed the US\$214 million contract for the project in 2008. Xinhua reported that, according to the contractor, Essar Company, the first phase of the three-phase project has been 70 percent completed.⁸⁹ This phase includes construction of the Sittway Deep Seaport and Paletwa Jetty, dredging the Kaladan waterway and construction of six vessels. The second and third phases cover construction of a road and a highway.⁹⁰ The project is expected to be operational by 2015, at which time India will hand over the maintenance work to Myanmar.⁹¹

Since having taken control of its Dawei industrial complex from ITD, Myanmar has revised its plan of developing the Special Economic Zone (SEZ), inviting international companies to bid for the project.⁹² In the new process, ITD is permitted to re-bid the project along with others. According to U Han Sein, Chairman of the Management Committee of Dawei SEZ and Deputy Minister of Transport, the international developers will be able to bid starting December 20, 2013 for the initial phase of the project, and the project work is set to begin on May 15, 2014.⁹³ The construction cost of the overall project is estimated at US\$8.6 billion. U

Han Sein disclosed that the project area is being reduced to 196 square kilometers (sq-km) and the project will be implemented in two phases. The initial phase will cover nearly 20 sq-km or 10 percent of the overall project, which is estimated to take five years. Invitation for tender for the second phase will be made later in the process of implementation.⁹⁴ The plan of the overall Dawei SEZ covers deep seaport, industrial zone, steel plant, fertilizer plant, coal and natural gas-fired power plant and water supply system. It will also have a road to link Thailand's Kanchaburi province and a railroad hub linked to oil and gas pipeline and electrical cable lines.⁹⁵

Myanmar is also seeking foreign investment to revive its healthcare system.⁹⁶ Several leading regional healthcare companies are already operating in Myanmar and others plan to enter soon.⁹⁷ A senior ministry official said that the health ministry is drawing up regulations for foreign hospital operators to open facilities in Myanmar independently or through joint ventures.⁹⁸ According to the Chief Operating Officer of Bangkok Dusit Medical Services Pcl, Thailand's largest private hospital group, Myanmar is the company's "first priority for foreign investment,"⁹⁹ But the Thai hospital company is waiting for the government to make the investment laws clearer.¹⁰⁰ Amiruddin Abdul Satar, president of Kuala Lumpur-listed hospitals operator KPJ Healthcare Bhd, said his company was involved in the management of one hospital already and the government had invited them to expand.¹⁰¹ Likewise, Singapore healthcare provider AsiaMedic Ltd said in June that it had signed an initial joint venture agreement with Myanmar's Five Oceans Service Co Ltd to invest at least US\$3 million to set up diagnostic scanners in two hospitals in Mandalay.¹⁰²

C. Foreign Investment Activities That May Have Human Rights Implications

Chinese investment in the tribal north of Myanmar has increased exponentially over the last several years. A reported side effect of all of the new investment is an increase in fighting in the area and the worsening of an old problem -- southerners with lawyers, false documents and rented soldiers telling tribal families that they do not own the land they have been occupying for centuries.¹⁰³ In the last decade, the increased investment in northern Myanmar has led to some major (multi-billion dollar) government backed investments in hydroelectric dams and mines. Each major project creates the need for hundreds of smaller enterprises and economic growth in general.¹⁰⁴ According to a report from Strategy World, all of these businesses want legal ownership or leases on land, and entrepreneurs from the southern part of the country are glad to oblige and "bribe (or partner with) government officials and military commanders up north to legally steal tribal land," which eventually leads to another tribal rebellion.¹⁰⁵ According to the report, another side effect of the economic boom is an increase in drug production in the north. The tribes, under pressure from Chinese investors and aggressive southerners, need the cash to survive and can export the drugs via Thailand.¹⁰⁶

In September 2011, Myanmar President Thein Sein had suspended the Myitsone dam project that was underway on the Irrawaddy River by the Chinese Power Investment Corporation (CPI). At that time, President Thein Sein pledged that the project would be halted for the duration of his five-year term.¹⁰⁷ The project, which was slated to provide most of its electricity to China, had provoked massive public outcry over the widespread flooding and deforestation the dam would cause, as well as the displacement of 10,000 ethnic Kachin villagers.¹⁰⁸ More than 300 households from Tanphyne, Padan and Myitsone villages were relocated for the project, and

villagers have not been allowed to return during the suspension.¹⁰⁹ Relocated residents have complained that compensation they've received is too low and the land they have been allocated is not suitable for planting crops and rearing livestock, hurting their livelihoods.¹¹⁰ CPI is now pushing for the restart of the Myitsone dam project. A representative of CPI has said that the company would "continue working on the project with the Myanmar government's approval" and, if allowed to proceed, would maintain public transparency to assuage public concerns.¹¹¹ China's ambassador to Myanmar Yang Houlan has also raised the idea, saying the project could help support the development of industry in Myanmar.¹¹² This has raised concerns among residents that the 6,000-megawatt dam project could be restarted following the country's next general elections in 2015—for which Thein Sein is not expected to run.¹¹³ Representatives of ethnic groups and residents affected by the planned dam want to see the project scrapped and CPI offices in the country closed permanently.¹¹⁴

D. Land Seizures

Farmers from Pyin Oo Lwin township, Mandalay region, have begun clearing confiscated fields that they say should have been returned when the military project for which they were taken ceased to be implemented.¹¹⁵ The land had been confiscated in 2005 for a military project. Farmers say they were not paid compensation for the project – which was intended to grow mangoes – and they are now risking legal repercussions by their attempts to take the fields back.¹¹⁶ This comes following their unsuccessful requests to return the land,¹¹⁷ a request they base on a provision in the Farmland Law of March 2012 that requires confiscated land to be returned to the original owners should the project be completed or fail to be implemented.¹¹⁸ U Myint Than, Region Minister for Agriculture and Livestock, said the case is one of many under investigation.¹¹⁹

Farmers near the Letpadaung copper mine are claiming that more land has been confiscated for the controversial mine project. Farmers in Yinmarbin township have complained that more than 70 acres near the mine have been confiscated for residential development, which development was confirmed by the township's administrative department.¹²⁰ At least two farmers have said that authorities told them they would return two-fifths of the land taken after dividing it into plots, but otherwise have provided little information to them.¹²¹ The mining project also resulted in a seizure of over 300 acres of land in Monywa, Saigang region, according to residents there.¹²² The land was fenced off after residents, citing support from the Letpadaung Investigation Commission, refused compensation.¹²³ In addition to the mine itself, there is concern that a sulfuric acid plant that supports purification of the copper from the mine is responsible for local illnesses.¹²⁴ According to a study conducted by an environmental conservation group, soil samples taken from nearby Kan Kone village, where residents have complained of air pollution and suspect the plant is responsible for 31 deaths during 2013, revealed unhealthy levels of sulfate.¹²⁵ Residents have also complained that waste from the factory has caused damage to crops.¹²⁶

Activist Htin Kyaw, who received additional jail time last month in part due to his protest against the Letpadaung mine,¹²⁷ was released from Insein Prison on December 11, 2013, only to be re-arrested shortly afterwards, according to his wife¹²⁸ and a member of the Myanmar Democracy Current Force.¹²⁹ He was released again at the end of the month, according to a member of Generation Youth.¹³⁰

Activist Myint Myint Aye, who was jailed earlier in 2013 for her involvement in a land grab dispute, was released on December 24, 2013, along with two other activists.¹³¹ She had previously stated her intention to go on hunger strike in protest of her detention,¹³² and during her strike concerned family members were denied access and information regarding her health.¹³³

A group of protestors from Migyaungkan village, Thingangkuun township, staged a two week long sit-in protest in Yangon to oppose the seizure of their land by the military in 1991.¹³⁴ The group disbanded on December 12, 2013, after receiving assurances that the Land Investigation Commission would investigate the seizure and take appropriate action, but vowed to return in three months if there has been no redress by that time.¹³⁵ Several protestors were allegedly injured during the sit-in when authorities put up a fence by the camp.¹³⁶

Farmers protested at Ngwe Saung Beach, site of the Southeast Asian Games' yachting competition, complaining that land now used by the beach's hotels was confiscated from them.¹³⁷ The seizures took place between 1990 and 2005, with the land appropriated for hotels and shrimp farms.¹³⁸ Residents received only slight compensation for the loss of their coconut trees, according to one local.¹³⁹ Residents have sent a request to President Thein Sein asking that land not being used be returned to them, but have received no official announcement in response.¹⁴⁰ Meanwhile, residents of Ngapali Beach say that land confiscated in 2000 for military purposes has been leased to private companies who are now building hotels on the land.¹⁴¹ Villagers had petitioned authorities to return the land, which was not being used for defense.¹⁴² The village has also been upgraded to Ngapali Township, and locals are concerned that they may be relocated to make way for more hotels.¹⁴³

Data from the Department of Agricultural Planning show that less than one quarter of land concessions given to businesses for agricultural development is actually being used for that purpose.¹⁴⁴ Under the law, companies must return land concessions if they fail to meet certain planting quotas, allowing the land to remain unused for three years.¹⁴⁵ According to interviews with several land rights activists, this condition has yet to be enforced.¹⁴⁶ The data also confirm that land concessions have increased under the new government, with 5.2 million acres awarded from 2010/11 to 2013 (compare with 1.9 million awarded through January 2011).¹⁴⁷

VI. Ethnic Violence

A. Peace Talks

The Myanmar Peace Center and the Union Peacemaking Work Committee, both government peace negotiating bodies, met informally with the Nationwide Ceasefire Coordination Team (NCCT), a coalition of over one dozen ethnic minority leaders, in Chiang Mai, Thailand in late December to discuss the nationwide cease-fire.¹⁴⁸ Following the meeting, government leaders reported reaching an 80% consensus with the NCCT on a ceasefire framework,¹⁴⁹ which would include 15 chapters and 11 principles proposed by ethnic groups.¹⁵⁰ Formal talks between the government and ethnic armed groups, which will take place in the Karen state capital Hpa-an, were postponed until late January 2014.¹⁵¹ Prior to the formal negotiation, ethnic armed groups plan to hold a meeting among themselves in the same region.¹⁵² The United Wa State Party and United Wa State Army, together comprising one of the nation's

largest rebel groups, continue to remain on the fence as to whether to attend peace talks and sign the nationwide cease-fire, and continue to push for an autonomous Wa state.¹⁵³

A major issue to be discussed in peace talks is whether, and the extent to which, Myanmar will adopt a federal army that provides autonomy to ethnic militias.¹⁵⁴ In remarks to troops on December 3, 2013, Senior General Min Aung Hlaing rejected the idea, claiming that the Myanmar Union Army is already federal because troops come from various ethnic groups.¹⁵⁵ According to Khun Okkar, secretary of the United Nationalities Federation Council, a coalition of ethnic rebel groups, ethnic minorities are not fairly represented in the army.¹⁵⁶

In December, the military sent a letter warning the Democratic Karen Benevolent Army (DKBA) that it is in violation of a ceasefire agreement by supporting protestors of the Letpadaung mine project with donations of money and food. The DKBA signed a ceasefire agreement with the government in late 2011.¹⁵⁷

B. Shan State

Five people were killed in a December 17, 2013, truck explosion in northern Shan State.¹⁵⁸ Authorities called the blast a bomb attack and blamed an ethnic Kokang armed group, the National Democratic Alliance Army.¹⁵⁹ Fighting intensified elsewhere in Shan State throughout December. The Ta'ang National Liberation Army (TLNA) and Kachin Independence Army (KIA) battled government forces in several deadly skirmishes in Kutkai township.¹⁶⁰

C. Kachin

Fighting continued between government forces and the KIA in Nam Lim Pa Village in Mansi Township in Kachin State. According to the relief organization, villagers have deserted Nam Lim Pa and the village is now occupied by government troops.¹⁶¹ Clashes since October 2013 have displaced an estimated 13,000 residents in Kachin State.¹⁶²

Close to Mansi Township, local residents reported that KIA troops arrested 51 civilians, including children, in early December.¹⁶³ Some residents claim that the KIA asked 14 villages to give them 15 people each,¹⁶⁴ and the government of Kachin State claims that the KIA demanded extortion money from the villages.¹⁶⁵ Shan ethnic people have been targeted.¹⁶⁶ The Kachin Independence Organization, the political wing of the KIA, denied using forcible recruitment.¹⁶⁷ Police disallowed protests from ethnic Shan against the KIA's forcible recruitment, but 7,000 Shan gathered to protest in the Kachin State capital anyway.¹⁶⁸

D. Violence Against Muslims

Monks affiliated with the nationalist 969 Buddhist movement held sermons in Rakhine State, a hotbed of communal violence against Muslims, in December.¹⁶⁹ Sermons from the 969 movement preceded the outbreak of mob violence committed against Muslims by Buddhists in Thandwe Township in October 2013.¹⁷⁰

In December, the International Committee of the Red Cross held a seminar for Rakhine police on international policing standards, including riot control, the use of force, arrest and

detention and search practices.¹⁷¹ Police in Rakhine State have been criticized for failing to stop mob violence against Muslims.

The Subcommittee on Asia and the Pacific of the Committee of Foreign Affairs of the United States House of Representatives has approved a draft resolution that would call on the U.S. government and the international community to put consistent pressure on the Myanmar government to end the persecution and discrimination of Rohingya Muslims and to protect the fundamental rights of all ethnic and religious minorities in the country.¹⁷² Final approval of the resolution would require ratification by the Committee of Foreign Affairs and passage in the general assembly of the House of Representatives.

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