

# STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

## JULY 2014 REPORT

**Summary.** This report reviews the July 2014 developments relating to human rights in Myanmar. Relatedly, it addresses the interchange between Myanmar’s reform efforts and the responses of the international community.

<b>I.</b>	<b>International Community and Sanctions.....</b>	<b>2</b>
<b>II.</b>	<b>Civil and Political Rights.....</b>	<b>4</b>
<b>A.</b>	<b>Election-Related Laws and Acts.....</b>	<b>4</b>
<b>B.</b>	<b>Press and Media Laws/Restrictions and Freedom of Association.....</b>	<b>5</b>
<b>C.</b>	<b>Official Corruption.....</b>	<b>8</b>
<b>III.</b>	<b>Governance and Rule of Law.....</b>	<b>9</b>
<b>IV.</b>	<b>Political Prisoners.....</b>	<b>9</b>
<b>V.</b>	<b>Economic Development.....</b>	<b>9</b>
<b>A.</b>	<b>Developments in the Legal Framework of Economic Development.....</b>	<b>9</b>
<b>B.</b>	<b>Developments in Foreign Investment and Economic Development Projects.....</b>	<b>10</b>
<b>C.</b>	<b>Land Seizures.....</b>	<b>11</b>
<b>VI.</b>	<b>Ethnic Violence.....</b>	<b>12</b>
<b>A.</b>	<b>Violence Against Muslims.....</b>	<b>12</b>
<b>B.</b>	<b>Violence Between the Central Government and Ethnic Rebel Groups.....</b>	<b>13</b>
<b>C.</b>	<b>Peace Talks.....</b>	<b>14</b>

## **I. International Community and Sanctions**

### *Myanmar Migrant Workers and Refugees*

Thailand's National Council for Peace and Order ("NCPO") announced new policies to address human trafficking concerns. First, the NCPO began opening One Stop Service Centers to register migrant workers. According to Songsak Saicheau, Director-General of American and South Pacific Affairs in the Ministry of Foreign Affairs, "these new programs are a strong step in the direction of eliminating dishonest job brokers, legalizing workers who were previously illegal, and empowering workers with legitimate work status that guarantees workplace protections." Under the plan, illegal workers will be given temporary permits to work in Thailand and will be allowed to apply for permanent work permits using their passport after passing a verification process.<sup>1</sup> Myanmar officials have expressed support for these policies, urging Myanmar workers in Thailand to "take part in the registration process because it will help [them] receive the benefits [they] deserve."<sup>2</sup> Despite these announcements, raids targeting migrant worker communities have reportedly "cemented an environment of fear."<sup>3</sup> Human trafficking concerns also prompted a July meeting between Myanmar and Chinese authorities. The majority of the trafficking cases relating to China involve Myanmar women being sold in China as either prostitutes or brides.<sup>4</sup>

Separately, over 130,000 Myanmar refugees living in border camps in Thailand continue to face uncertainty. In July, Thai General Prayuth Chan-ocha announced that Thailand and Myanmar have agreed to "facilitate the safe return" of the refugees.<sup>5</sup> Specific plans or time frames for the repatriation have not yet been announced, but Thai and Myanmar officials will meet in early August to begin talks.<sup>6</sup> According to Vivian Tan, a spokeswoman for the UN High Commissioner for Refugees, the refugees, many of whom were driven to Thailand due to ethnic conflict, face significant challenges, including "the absence of a permanent ceasefire, the presence of unmarked mine fields and the lack of critical infrastructure, services, and livelihood opportunities."<sup>7</sup>

Thai authorities recently conducted a population census in the refugee camps and have been issuing different types of identification cards dividing the refugees into three categories: those who want to return home, those who wish to resettle in a third country, and those who were born in refugee camps on Thai soil and wish to remain in Thailand.<sup>8</sup> While both the Myanmar and Thai governments have reportedly reaffirmed their commitment for a safe return of refugees in accordance with humanitarian and human rights principles,<sup>9</sup> lack of transparency has raised concerns among the refugees that they will be deported against their will.<sup>10</sup>

### *Myanmar-Thailand Relations*

Despite the issues surrounding migrant workers and refugees, relations between the two countries do not appear to be strained. In early July, Senior General Min Aung Hlaing, Myanmar's Supreme Commander, visited Thailand's Supreme Commander, General Thanasak Patimaprakorn. General Min Aung Hlaing expressed his support for the recent Thai military coup, drawing parallels to Myanmar's 1988 armed crackdown on pro-democracy demonstrators and the 1990 rejection of the country's election results. He stated that he had confidence in the Thai armed forces as "they are duty-bound to maintain national security and ensure safety for the public" and that Myanmar "also [has] confidence in the success of the [NCPO] roadmap."<sup>11</sup> General Min Aung Hlaing, during a visit to Thailand in 2012, is reported to have been "adopted" by former Thai army chief Gen. Prem Tinsulanonda and the two share a "godfather-godson relationship."<sup>12</sup> General Min Aung Hlaing's visit was followed by an announcement on July 13 that Myanmar has agreed in principle to participate in joint military exercises with Thailand.<sup>13</sup>

### *Myanmar-China Relations*

Relations between Myanmar and China suffered a blow with the announcement of the cancellation of a proposed railway through Myanmar to connect China to the Indian Ocean. A memorandum of understanding (“MOU”) was originally signed in April 2011 and was expected to be implemented within three years at the cost of \$20 billion. However, Myint Way, manager of the Myanmar Ministry of Rail Transportation, stated that “the Union Minister has no plan to re-implement [the railway project] and that the MOU has also expired so we will not carry out the project in accord with public’s desire.”<sup>14</sup> The railway project drew significant criticism and protest due to issues related to cost and environmental impacts.<sup>15</sup> The Chinese Ambassador to Myanmar, Yang Houlan, has indicated that the project has run into difficulties but denied that it has been abandoned completely, stating that “we have . . . seen that at a time when China-Myanmar relations are experiencing more opportunities, there also emerge some challenges.”<sup>16</sup>

The scrapped railway was to follow the course of the similarly criticized China-Myanmar gas pipeline. The pipeline recently completed its first year of production, and China National Petroleum Corp (“CNPC”) announced in July that China imported 1.87 billion cubic meters of gas through the pipeline.<sup>17</sup> The pipeline is built to handle 12 billion cubic meters of gas per year and CNPC has not given a reason for the low throughput amidst reports of technical difficulties in the field. The CNPC received exclusive rights to gas reserves in the Indian Ocean from Myanmar in exchange for a percentage of the gas drawn. In the first year of production, Myanmar received 60 million cubic meters of gas. Further increases in production may be hampered by capacity limits of CNPC’s gas fields as well as the Myanmar Ministry of Energy’s stated policy that no new discoveries of gas and oil will be permitted to be exported until Myanmar’s domestic demand is satisfied.<sup>18</sup>

### *Myanmar-U.S. Relations*

Ethnic violence and constitutional issues have sparked concern in the United States, with members of Congress calling on Myanmar to address human rights violations and to continue political reforms. The chairman of the House Foreign Affairs Committee, Congressman Ed Royce, called for a range of new punitive measures against Myanmar, citing a list of human rights violations. Congressman Royce stated that the U.S. “cannot continue to lavish more incentives on the government of Myanmar in hopes that it will do the right thing.”<sup>19</sup> These statements were echoed by Senate Republican leader, Senator Mitch McConnell, in a speech on the Senate floor. McConnell stated that the country must make further reforms and address human rights concerns if the U.S. is to end the sanctions it has in place. These comments were made ahead of Secretary of State John Kerry’s planned visit to Myanmar in August and President Barack Obama’s visit in November.<sup>20</sup>

### *Myanmar-India Relations*

The Indo-Myanmar Regional Border Committee met in July in Imphal, India to discuss border issues. The governments signed an MOU on border cooperation in May.<sup>21</sup> India has sought to strengthen ties with Myanmar and has recently pushed for greater cooperation between the two countries. Another meeting was held in July in Naypyidaw between the Myanmar Minister for Environmental Conservation and Forestry and the Indian Ambassador to Myanmar focusing on the use of various types of energy and the drawing of energy policy and procedures.<sup>22</sup> India has also urged businesses to start new shipping lines between India and Myanmar with the goal of enhancing trade.<sup>23</sup>

## *Myanmar-Singapore Relations*

Myanmar's Vice President, Dr. Sai Mauk Kham, made a state visit to Singapore and met with Prime Minister Lee Hsien Loong. The two leaders discussed Myanmar's interest in Singapore's healthcare and education policies and affirmed long-standing bilateral relations.<sup>24</sup> Myanmar has also expressed a desire to sign an MOU with Singapore to offer protections for the over 30,000 Myanmar domestic maids working in the city-state. The Myanmar Overseas Employment Agencies Federation hopes to sign such a document with the Association of Employment Agencies Singapore in the coming months.<sup>25</sup>

## **II. Civil and Political Rights**

### **A. Election-Related Laws and Acts**

In a July 1, 2014 directive, Myanmar's Union Election Commission ("UEC") stated that it had approved rules that will govern campaigning for the 2015 elections and ensure a free and fair election.<sup>26</sup> Opposition parties have stated that the measures are overly restrictive in that they provide only a limited period during which campaigning is permitted and an obligation to seek permission before holding rallies.<sup>27</sup> According to the rules distributed by the UEC, parties can't start to campaign until 30 days prior to the election and are not allowed to canvas on the day before the election.<sup>28</sup> In order to give a speech or hold a public rally, candidates must submit an application to the local constituency election commission office within 15 days of the candidates' names for that constituency being announced.<sup>29</sup> For public speeches and rallies held at political parties' own offices, two days advance notice must be given.<sup>30</sup> The UEC said it will always grant permission after scrutinizing the applications, but opposition parties believe that the rules will make it difficult to freely campaign.<sup>31</sup> Hla Maung Cho, director of the UEC, said that applications for permission are needed in order to avoid problems with campaign events being planned at the same places. He also said that the commission would negotiate to ensure that competing parties' rallies do not overlap.<sup>32</sup>

On July 24, U.S. Senator Mitch McConnell, an influential voice in the U.S. Congress on policy toward Myanmar, issued a call for Myanmar to amend its constitution to allow opposition leader Aung San Suu Kyi to run for president and for the military to submit to civilian rule.<sup>33</sup> McConnell said failure to amend a constitutional provision that prohibits those such as Suu Kyi with immediate family members who are foreign nationals (her late husband was British, as are her two sons) would "cast a pall" over the legitimacy of national elections in late 2015 in the eyes of the international community and members of the Senate. He called the provision "profoundly undemocratic" and stated that the provision "restricts the ability of the people of Burma, through their representatives, to have a choice in who can hold their highest office."<sup>34</sup> McConnell also said that it was "hard to see" how the U.S. could lift remaining trade sanctions against Myanmar unless the eligibility issue was addressed.<sup>35</sup> In a Senate speech, he said that if Myanmar does not make further reforms—as well as address human rights concerns—he cannot see an ending of further restrictions, including the ban on jade and ruby imports and sanctions on individuals deemed to be hindering further reforms.<sup>36</sup>

On July 29, the Lower House of Myanmar's Parliament agreed to form a commission to review a proposal submitted by Aung Zin, a member of Parliament ("MP") of the National Democratic Force ("NDF") party from Yangon's Pazundaung constituency, to adopt a Proportional Representation ("PR") electoral system or to find out if there is any other system that suits Myanmar in its parliamentary election.<sup>37</sup> The commission, if formed, will submit the issue to the

Union Parliament (comprising both Houses) for further action.<sup>38</sup> The Lower House allowed the debate on the proposal on July 24 with a majority vote of 263, mostly from MPs of the ruling Union Solidarity and Development Party (“USDP”).<sup>39</sup> 42 MPs actively objected, and another 23 MPs objected by being absent from the debate.<sup>40</sup> Opposition leader Aung San Suu Kyi’s League for Democracy (“NLD”) party and several ethnic minority parties instead favor the current “first-past-the-post” electoral system, in which candidates who receive the highest number of votes in distinct districts are elected.<sup>41</sup>

The PR proposal was approved by the Upper House last month, which set up its own panel of lawmakers to consider the system.<sup>42</sup> According to press reports, the USDP backed the proposal in a bid to prevent a landslide win by the NLD in the 2015 general elections. Political pundits believe that the NLD, which did not participate in the last elections in 2010, could sweep to power in next year’s polls under the existing first-past-the-post electoral system.<sup>43</sup> But Shwe Mann, the USDP’s chief, has expressed concern that the PR system could hurt Myanmar’s bid to achieve a national reconciliation among varied ethnic groups that is essential to a democratic union.<sup>44</sup> He stated that he does not agree with the PR proposal because it advocates the use of different electoral systems in regions (home to ethnic majority Burmans) and states (ethnic minority areas), which he believes could disintegrate ethnic unity and hamper national reconciliation.<sup>45</sup> Likewise, military MPs who spoke in Parliament on Monday said the proposal would “destabilize” the country, and could “endanger ethnic unity and the union.” Other opponents have said that a PR system would place too much focus on a party and not its candidate, and that the proposal could sideline smaller ethnic parties.<sup>46</sup>

## **B. Press and Media Laws/Restrictions and Freedom of Association**

On July 9, Myanmar activist Htin Kyaw, who has been sentenced to jail at least six times under President Thein Sein’s rule, was ordered by a court to serve an additional three months in prison on a charge that his attempt to meet with opposition leader Aung San Suu Kyi over a land rights case constituted an illegal protest.<sup>47</sup> He was sentenced under Section 18 of the Peaceful Assembly and Peaceful Procession Law by the Bahan Township Court in the central Yangon region.<sup>48</sup> Under the provision, demonstrators can be jailed for protesting without government permits.<sup>49</sup> Htin Kyaw was found guilty on a charge of holding an unauthorized demonstration in April outside of Suu Kyi’s Yangon home.<sup>50</sup> Htin Kyaw contended that he and others had gone to the opposition leader’s home to seek her help in resolving the plight of Yangon’s Myangone township residents following their eviction.<sup>51</sup> Htin Kyaw continues to face charges in several Yangon townships for protests which often included walking through an area and announcing his opposition to Section 18 with a megaphone or standing outside court buildings holding placards denouncing the law.<sup>52</sup> Human rights groups say Section 18 has been widely used to silence activists, arguing it is incompatible with the reforms Myanmar has introduced in recent years as the country emerges from decades under military rule.<sup>53</sup> Section 18 carries a maximum sentence of three years in prison and a fine for violating rules outlined elsewhere in the law, passed in 2011 under President Thein Sein’s government.<sup>54</sup> An amendment to this law, which removes the requirement for prior permission to protest peacefully, has been passed by Myanmar’s Parliament and is awaiting President Thein Sein’s signature.<sup>55</sup>

On July 10, four Myanmar journalists and the chief executive of their newspaper, the Unity Journal, were sentenced to a decade in prison with hard labor for publishing an article claiming a military facility was producing chemical weapons.<sup>56</sup> The Unity Journal, which is now out of business, had published an article in late January alleging that the military had confiscated more than 1,200 hectares (3,000 acres) of farmland to build a chemical weapons factory in Magway’s

Pauk town under the instruction of former junta strongman Than Shwe.<sup>57</sup> The Unity Journal's chief executive, Tint San, and journalists Paing Htet Kyaw, Yazar Oo, Sithu Sore and Lu Maw Naing were convicted under the 1923 State Secrets Act, a holdover law enacted when the country was a British colony.<sup>58</sup> The act bars anyone from entering a prohibited place, particularly a military-linked facility, for "any purpose prejudicial to the safety or interests of the state," and carries a maximum 14-year sentence.<sup>59</sup> Than Zaw Aung, a lawyer representing the five defendants, said they plan to appeal the decision and have written letters asking for a pardon to Myanmar's Presidential Office and Ministry of Home Affairs. Than Zaw Aung noted that the sentence "effectively means that even if a journalist wants to take a picture of a navy ship, he can be sued under this act, which is dangerous."<sup>60</sup>

The Myanmar government has defended its decision to arrest the journalists, accusing them of trespassing and saying the story was harmful because it falsely alleged chemical-weapon production at the facility.<sup>61</sup> President Thein Sein's spokesman, the incoming Information Minister Ye Htut, said that the men had misrepresented themselves as workers to gain access to the facility, which he said has never produced chemical weapons.<sup>62</sup> Htut also stated: "If journalists know how to cover news within the boundary of the laws, they can avoid this kind of problem."<sup>63</sup> He told the Wall Street Journal that the arrests were "not about press freedom" but about national security. He added that even the U.S. would take legal action on an illegal intrusion into a defense factory.<sup>64</sup>

This was one of the harshest verdicts leveled at journalists since President Thein Sein's quasi-civilian government took power in 2011.<sup>65</sup> David Mathieson, a Yangon-based researcher at the Asia division of Human Rights Watch, called the sentences "outrageously harsh" and "more predicated on punishment and intimidation of the [Myanmar] media than real justice."<sup>66</sup> He also said that new laws this year have stifled press freedom, and there have been cases of journalists held on spurious charges.<sup>67</sup> For instance, earlier in the month, five staffers of the Bi Mon Te Nay weekly were arrested and charged under a security law for publishing an article suggesting opposition leader Aung San Suu Kyi would be installed as leader of an interim government.<sup>68</sup> Likewise, police have also opened a case against 50 journalists after they staged a peaceful protest in the main city of Yangon against the sentences.<sup>69</sup> They could face charges for violating a law on peaceful assembly that carries a six-month prison term.<sup>70</sup>

Several groups, including the New York-based Committee to Protect Journalists, have called for the immediate release of the journalists.<sup>71</sup> London-based Amnesty International said in a statement that the verdict has made for "a very dark day" for freedom of expression in the country.<sup>72</sup> Likewise, Paris-based Reporters Without Borders called the sentences a "grave setback for press freedom" in Myanmar, adding that they confirm the country "has done a U-turn on freedom of information."<sup>73</sup> The chairman of the Myanmar Writers and Journalists Association, Ko Ko, called the sentencing "sad news" and urged the government to engage the country's media instead of moving to persecute it.<sup>74</sup> National League for Democracy leader Aung San Suu Kyi called the sentences "very excessive,"<sup>75</sup> and the nonprofit Asian Human Rights Commission ("AHRC") said that many journalists and writers in Myanmar are still facing legal actions for doing nothing other than exercising their right to free expression.<sup>76</sup>

U.S. State Department press officer Peter Velasco has urged Myanmar to respect the rights of all journalists and said that the sentence sends the "wrong message" about Myanmar's commitment to freedom of expression.<sup>77</sup> U.S. Assistant Secretary of State, Tom Malinowski, criticized the sentencing of the journalists and urged protection of press freedoms, noting that such freedoms would be crucial to Myanmar's democratic transition and for the credibility of national

elections next year.<sup>78</sup> Malinowski urged that the case be reviewed and that any journalists prosecuted for reporting a story be freed.<sup>79</sup>

On July 12, Myanmar's Interim Press Council ("Press Council") held a meeting to issue a statement on the imprisonment of the five journalists from the Unity Journal as well as the detainment of the five staffers from the Bi Mon Te Nay weekly.<sup>80</sup> The statement noted the Press Council's "worr[y] that . . . harsh prison sentences like this will cause understanding and trust that are being built to get further away" and "it is evident that the Unity journalists did not intentionally breach the Official Secrets Act."<sup>81</sup> Moreover, the Press Council requested that President Thein Sein grant an amnesty for the harsh sentence as a sign of magnanimity.<sup>82</sup> With respect to the arrest of the Bi Mon Te Nay staffers, the Press Council said it viewed "the arrest made by the Police Force without informing the [Press C]ouncil" as "disrespecting the Myanmar Press Council . . . which is organized with the President's approval and Press Law which is enacted by the Union Parliament . . . ."<sup>83</sup>

The Press Council will also call for a meeting with President Thein Sein to discuss the activities carried out by the government concerning journalists and what they view as intentional oppression against the media industry.<sup>84</sup> Eleven Media Group's managing director Dr. Thein Myint, who is also a member of the Press Council, submitted a proposal for its members to resign and abolish the Press Council if the President does not allow it to meet with him or if the President fails to meet their demands during the meeting.<sup>85</sup> Kyaw Min Swe, the Press Council's Secretary, said some members of the Press Council have the desire to resign if the demands are not met and the Press Council plans to call a meeting to make consensus-based decisions based on the response received after meeting the President.<sup>86</sup>

On July 24, President Thein Sein addressed Union Parliament Speaker Shwe Mann in connection with a legislative inquiry on the government suppression of media professionals. His statement was meant as an olive branch to dispel concern on media suppression.<sup>87</sup> He said that Section 204 of the 2008 Constitution empowers the authorities to deal with media professionals.<sup>88</sup> Section 204 prescribes the presidential power to grant pardon and amnesty in accordance with the recommendation of the National Defence and Security Council.<sup>89</sup> In his statement, President Thein Sein said his government was paying special attention to media developments.<sup>90</sup> President Thein Sein went on to state that Myanmar had encountered violent incidents, riots and arson attacks instigated by unethical reports of local and foreign media outlets, and that the country suffered a tarnished image in the international community.<sup>91</sup> He stated that the people want the media to be responsible, accountable, honorable, and without bias and added that the country is striving to develop correct and informative media.<sup>92</sup>

### **C. Official Corruption**

The Extractive Industries Transparency Initiative ("EITI"), a global anti-corruption scheme, announced on July 2, 2014 that Myanmar has been accepted as a candidate country to implement the EITI.<sup>93</sup> As a candidate, Myanmar's government commits to comply with an international transparency standard for oil, gas, and mining earnings in the coming years, including standards for disclosing ownership, contract terms, state-owned extractive industries, and allocation of revenues in the natural resource industries.<sup>94</sup> Joining EITI marks an important step toward addressing corruption in the country, and has been a key reform measure by President Thein Sein's government as it seeks to attract foreign direct investment and shake off Myanmar's reputation for large-scale corruption and mismanagement in extractive industries under the former military regime.<sup>95</sup> Acceptance to EITI binds Myanmar to an implementation timetable, requiring

the country to complete its first compliance report within 18 months and to be fully compliant by January 2, 2017.<sup>96</sup>

Former Minister of Religion, Hsan Hsint, appeared in court for a third time on July 8, 2014, on charges of misusing public funds.<sup>97</sup> Observers claim that the trial has been shrouded by secrecy and misinformation as the government has been unwilling to discuss the reasons behind the Minister's dismissal on June 20, 2014.<sup>98</sup> The government changed the date of Hsan Hsint's third court appearance, confusing reporters and causing a lack of media presence at the hearing.<sup>99</sup> Hsan Hsint has denied any wrongdoing.<sup>100</sup> On July 22, 2014, Hsan Hsint's lawyer announced that his client had also been charged with sedition, though neither he nor his client were aware of the sedition charge until two weeks after the government had apparently initiated the charge.<sup>101</sup>

On July 13, 2014, approximately 200 residents of Myaungmya, a town in the Irrawaddy Division, joined in protest of the town's public hospital for alleged extortion and misappropriation of medical supplies.<sup>102</sup> The protestors claimed that doctors and staff at the hospital refuse to treat patients unless they pay gratuities or additional fees, while patients who are not able to pay these additional charges suffer as a result.<sup>103</sup> Some claimed to have witnessed the hospital stop treatment after realizing that a patient could not afford to pay, or refusing treatment because of a patient's impoverished appearance.<sup>104</sup> In response, Irrawaddy Division Finance Minister Win Ko Ko told attendees of a town hall meeting that an independent team had been formed to investigate the allegations of corruption among hospital staff.<sup>105</sup> Others have argued that the Myaungmya case is not an isolated incident of corruption in Myanmar's public hospitals, and that hospital staff members frequently demand "tea money" or "facilitation fees" before agreeing to provide basic health care.<sup>106</sup>

### **III. Governance and Rule of Law**

Two Myanmar cabinet ministers, Information Minister Aung Kyi and Health Minister Pe Thet Khin, stepped down at the end of July.<sup>107</sup> Hinting that the resignations were not entirely voluntary, Presidential Spokesman Ye Htut told Reuters "[j]ust like a coach of football team, [President Thein Sein] has the right change both the players and the game plan depending on the results so far to improve the performance of his team in the remaining time."

Ye Htut, who has been the public face of the reformist government as President Thein Sein's spokesperson, was himself nominated to become the new information minister.<sup>108</sup> The former deputy health minister was nominated to become the new health minister.<sup>109</sup> It has not been lost on observers that this cabinet reshuffle has taken place while Myanmar is being heavily criticized for internal religious strife and perceived backsliding on its reform movement, including the jailing of journalists and the expulsion of Médecins Sans Frontières from Rakhine State.<sup>110</sup>

### **IV. Political Prisoners**

One year ago, in July 2013, President Thein Sein told reporters that by the end of 2013 there would no longer be prisoners of conscience in Myanmar.<sup>111</sup> The then newly-formed Remaining Political Prisoner Scrutiny Committee ("RPPSC") would review the cases of all "prisoners of conscience" and make recommendations for their release.<sup>112</sup> A year later, dozens of democracy activists sit in jail for non-violent political offences, while hundreds of others have been arrested on criminal charges linked to political activities.<sup>113</sup> Amidst this climate, civilian members of the RPPSC grow frustrated and have begun to speak out.<sup>114</sup> Bo Kyi, a member of the committee and head of the Assistance Association for Political Prisoners (Burma) has stated that



“[w]e should have the right to investigate [to get] more detailed information . . . [b]ut now we do not have such kind of rights [and] it’s difficult to work.”<sup>115</sup>

This month, two members of the Movement for Democracy Current Force were sentenced to six months in jail by Bahan Township Court for distributing pamphlets in May that questioned the reliability of the government.<sup>116</sup> The pamphlets urged people not to trust the Union government and said “only the people are the masters”; Section 505(b) of the Penal Code makes it a crime to publish or circulate information that could encourage a citizen “to commit an offence against the state or against public tranquility.”<sup>117</sup>

## **V. Economic Development**

### **A. Developments in the Legal Framework of Economic Development**

#### *Banking Licenses*

According to a senior government official, Myanmar is preparing to grant as many as ten foreign bank licenses in August, allowing overseas lenders to start doing business in the country after decades of being frozen out.<sup>118</sup> However, to protect domestic banks, recipients of the licenses will be limited to banking for foreign corporations and foreign-exchange services.<sup>119</sup> Furthermore, they will be limited to one branch, will not be permitted to operate a retail-banking business, and will only be allowed to lend in foreign exchange, not in the local currency, the kyat.<sup>120</sup> Recipients of the licenses will be announced in September, though they will be officially awarded in August.<sup>121</sup> Myanmar recently short-listed 25 of the 30 foreign banks that applied for a license.<sup>122</sup> Only the 42 foreign banks that had previously established a representative office in Myanmar were allowed to apply.<sup>123</sup>

The short-listed banks include the Australia & New Zealand Banking Group (“ANZ”), the Industrial & Commercial Bank of China Ltd. and Japan’s three biggest banks—Mitsubishi UFJ Financial Group Inc., Sumitomo Mitsui Financial Group Inc., and Mizuho Financial Group Inc.<sup>124</sup> Conspicuously absent was U.K.-based Standard Chartered, which is focused on emerging markets, particularly in Asia, and is the only “Western” bank registered in Myanmar apart from ANZ.<sup>125</sup> A Standard Chartered spokesman said the bank decided not to “apply for an onshore branch license at this time for commercial reasons. We remain focused on growing our presence in Myanmar through our representative office.”<sup>126</sup>

For foreign lenders—particularly those from Japan, Singapore and China—the payoff is potentially high, as companies from their countries pour money into Myanmar.<sup>127</sup> China had \$14 billion of approved investments in Myanmar at the end of June, while Singapore pledged \$1.58 billion in new investments between April 2013 and January 2014 alone.<sup>128</sup> Companies from Japan, which is leading the development of a 2,400-acre special economic zone south of Yangon, have invested \$332 million in Myanmar.<sup>129</sup>

#### *Foreign Investment Framework*

On another financial front, a new investment law is being drafted for submission to the Parliament according to the new chairman of the Myanmar Investment Commission (“MIC”), Zeyar Aung.<sup>130</sup> This new law will fuse the Foreign Investment Law and the Myanmar Citizen Investment Law and is intended to correct weaknesses in both, particularly by reducing confusion and complexity.<sup>131</sup>

Myanmar's Ministry of Health said that once changes to Foreign Investment Law rules are approved, foreign investors will be allowed to form joint ventures with local firms to finance private hospitals, clinics and laboratories, provided they obtain a license from the MIC.<sup>132</sup> The decision reverses decades-long policies restricting foreign investment in healthcare facilities, and could improve care for patients by introducing hospitals that meet international standards. The announcement followed recent news that Thonburi Hospital Group, a Thai company, signed a joint venture with Myanmar's Aung Shwe Three International Group to build three hospitals and clinics in the country.<sup>133</sup>

Additionally, the Ministry of Science and Technology is at work to finish the draft of international-standard intellectual property ("IP") laws in close consultation with foreign experts.<sup>134</sup> The Ministry already submitted an IP rights law, an industrial IP law and a copyright law to the Union Attorney-General Office in June.<sup>135</sup> Once the office finishes screening them, the Ministry will amend the laws accordingly after which they will be forwarded to Parliament.<sup>136</sup> As one MP put it, his concern is "how to ensure [the] safety of medicine, food, goods and services for consumers, while protect[ing] local and foreign investors as well as programmers in accordance with the law."<sup>137</sup>

## **B. Developments in Foreign Investment and Economic Development Projects**

Besides the banking and healthcare steps described above, Myanmar's government took several steps in July to develop inbound foreign investment in other key industries, including telecommunications, healthcare, and energy. The Japanese telecommunications carrier KDDI, along with the Japanese trading company Sumitomo Corporation, entered into a joint venture with the state-owned Myanma Posts & Telecommunications to operate a mobile phone network that will provide 3G service in Myanmar's largest cities.<sup>138</sup> KDDI and Sumitomo's investment will be approximately \$2 billion over ten years. Telenor Norway and Ooredoo Qatar previously won licenses to expand the country's network, and expect to begin operations in the last quarter of 2014.<sup>139</sup> Because just ten percent of the population has access to a mobile phone,<sup>140</sup> and the country lacks reliable telephone and internet infrastructure, expanded smartphone access could provide internet access to millions of people.<sup>141</sup>

The state-owned Myanma Petroleum Products Enterprise is conducting a tender to find a foreign partner to enter into a joint venture to sell jet fuel, and will soon seek a foreign partner for a joint venture to distribute and sell gasoline.<sup>142</sup>

Despite the government's successes in attracting foreign investment, Myanmar's local businesses have struggled exporting their goods. Since July 2013, the European Union has offered to Myanmar the benefits of the Generalized System of Preferences ("GSP"), a program whereby EU Member States can offer to developing nations preferential tariff rates that are exempt from their normal obligations to give other Member States the rates of their "most favored" trading partner.<sup>143</sup> Despite the application of the GSP program to Myanmar, a Myanmar Ministry of Commerce economist reported in July that most Myanmar businesspeople do not know about the program, and as a result, export volumes have not risen as much as they could. Some industry groups believe that the basis for the exports lag is that Myanmar businesses cannot meet the quality control standards of the European Union.<sup>144</sup>

## **C. Land Seizures**

The Deputy Defense Minister of Myanmar told Parliament that out of the total of 473,979 acres of farmland seized by Myanmar's military in 699 separate cases in decades of military rule, the army intends to hold on to about 351,733 acres and return less than 125,000 acres to their original owners; the land that is not returned will be retained for military use.<sup>145</sup> Besides pointing to the alarmingly small amount of land that the army is returning to its original owners, critics charged that the government often "returns" land to false owners who have connections to government officials.<sup>146</sup>

In July, a court sentenced 65 farmers in Kantbalu Township, Sagaing Region to prison terms ranging from three months to three years for plowing land used by sugar cane companies.<sup>147</sup> Additionally, at least 15 of the farmers were transferred to remote prisons in the Mandalay and Pegu regions.<sup>148</sup> The disputed land was part of approximately 3,500 acres forcibly confiscated by the army in 1997 and later leased to businesses.<sup>149</sup> Local farmers have been trying to reclaim their land for several years, and in May 2014, hundreds of farmers began plowing the confiscated land in a communal protest.<sup>150</sup> About 300 people have been charged with trespassing, mischief, and/or damaging property for their role in the incidents.<sup>151</sup>

Protests of the controversial Letpadaung copper mine escalated in late July when dozens of villagers allegedly entered a fenced-off portion of the project, tried to remove the fences, and clashed with security guards.<sup>152</sup> Several protesters and guards were injured.<sup>153</sup> The incident reportedly began when villagers were told not to graze their cattle on the project site, after being denied permission to graze the land from local officials.<sup>154</sup>

As described, *supra*, a proposed railway that would link a planned industrial zone in Rakhine State with China was placed in jeopardy in July due to concerns over the project's costs, environmental impact, and displacement of local people.<sup>155</sup> A Myanmar Railway Transport official said the projected \$20 billion project was abandoned, but China's state-owned Railways Engineering Corporation said it would continue the project if Myanmar's government and people were to support it.<sup>156</sup> Concerns over environmental issues and land seizures also delayed the development of a special economic zone in Thiwala, located southeast of Yangon.<sup>157</sup> Consultants have been hired to assess the environmental and social impact of the project.

Ethnic Shan farmers from Tachileik Township in Shan State called for an end to gold mine operations in the area at a press conference in Taunggyi, the state capital.<sup>158</sup> The farmers said that more than 300 acres of farmland can no longer be cultivated due to pollution of the water supply and other waste caused by companies mining in the area. Because of the environmental damage, farmers estimate that about 400 villagers may be unable to farm their land and will need to leave the area for other jobs. The farmers say that the mining companies have defied local government orders to suspend their operations and have pressured villagers to stop complaining.<sup>159</sup>

## **VI. Ethnic Violence**

### **A. Violence Against Muslims**

#### *Rakhine State*

Following a ten day fact-finding mission to Myanmar, Yanghee Lee, the U.N. Special Rapporteur on the situation of human rights in Myanmar, expressed serious concerns about the conditions in camps for the more than 100,000 Rohingya displaced due to ethnic violence in the region. Calling the situation "deplorable," Lee stated that she believed camp residents "did not

have adequate access to basic services” and has heard reports of “people dying in camps due to lack of emergency medical care and failure to adequately treat preventable illnesses and pregnancy-related conditions.”<sup>160</sup> International pressure recently prompted the Myanmar government to allow Médecins Sans Frontières to return to the country.<sup>161</sup> Lee has called for political reforms to address ethnic tensions and will present her findings to the U.N. General Assembly later this year.<sup>162</sup>

As mentioned in our June report, the government plans to carry out a citizenship verification process in Rakhine State, which they claim is intended to screen for residents who would qualify to become naturalized citizens.<sup>163</sup> Many Muslim residents of Rakhine State, who identify themselves as Rohingya, are concerned that the process is a means to classify them as illegal immigrants.<sup>164</sup> The process, which would require Rohingya residents to classify themselves as “Bengalis,” may leave them classified as stateless.<sup>165</sup> Complicating the process is the number of Rohingya who lack government-issued identification.<sup>166</sup> Another concern is the threat by Rakhine State Chief Minister Maung Maung Ohn, who warned that legal action will be taken against residents who are found to be disqualified from citizenship.<sup>167</sup>

### *Mandalay*

Mandalay was the site of extended violence between Buddhists and Muslims early this month that left two people dead and a number injured.<sup>168</sup> The violence was evidently sparked by accusations that two Muslim teashop owners raped a Buddhist woman.<sup>169</sup> The accusation was spread through social media after initially being picked up from a blogger’s post and spread by Ashin Wirathu, a monk and leader of the controversial 969 group.<sup>170</sup> The 969 group is opposed to what they see as an Islamic expansion into Myanmar, and Wirathu himself has been charged in the past for inciting religious hatred.<sup>171</sup> A group of Buddhists assembled and allegedly caused damage to property in a Muslim area of the city, and police were tasked with keeping apart armed groups of Buddhists and Muslims.<sup>172</sup> A police curfew eventually helped to contain the violence, but not before two men—one Buddhist and one Muslim—were killed.<sup>173</sup> A government announcement released after the incident said that the initial rape claim was found to be untrue, as confessed to police by the alleged victim.<sup>174</sup> The Ministry of Home Affairs reported that the woman admitted to being coached and paid to make the claim.<sup>175</sup>

Following the unrest, many Muslim residents of Mandalay are fearful of becoming targets of sectarian violence or of police interest, and many are now avoiding mosques as they hope to avoid further incidents.<sup>176</sup> Authorities raided a mosque and confiscated weapons—most of them makeshift—which had allegedly been gathered only as a means of self-defense in case of further violence.<sup>177</sup> Some Muslim residents with the means to do so have left Mandalay.<sup>178</sup> Some Chinese Muslims, known locally as Panthay, are also fearful of their safety despite a history of integration in Myanmar.<sup>179</sup> One Panthay, Maung Maung Lay, has advised others to avoid traditional Muslim garb and beards.<sup>180</sup> There is an interfaith effort to prevent violence and Galonni Sayadaw, a Buddhist monk, was praised for his intervention during the earlier violence as he sought out bands of armed men and urged them to disperse.<sup>181</sup> Still he, like others, believes that the violence is driven by political motives and will intensify as elections approach.<sup>182</sup>

### *Kachin and Shan State*

The apparent murders of two army officers is being investigated in Namkham Township, in northern Shan State, after their bodies were found by local villagers.<sup>183</sup> The two officers were found at the side of a road, with the senior officer having been shot multiple times.<sup>184</sup> Although the

police have yet to comment, one resident said that Infantry Division 88, the unit to which the two officers belonged, has made detentions and has used and threatened further use of violence if residents do not cooperate in their investigation.<sup>185</sup>

In the same region, fighting between government troops and the Ta'ang National Liberation Army ("TNLA") in the middle of the month caused approximately 800 residents to leave their homes with many being sheltered temporarily at a tea leaf processing factory, according to a spokesperson from the Ta'ang Women's Organization, a local NGO.<sup>186</sup> The spokesperson confirmed earlier TNLA reports of the deaths of two civilians related to the fighting.<sup>187</sup> She also noted that the newly displaced residents, who are ethnic Palaung, bring the total number of Palaung displaced by regional conflict to approximately 4,600.<sup>188</sup>

According to the National Ceasefire Coordination Team ("NCCT"), a coordination body for ethnic groups in Myanmar<sup>189</sup>, the total number of internally displaced persons in Kachin State is now over 100,000.<sup>190</sup>

### *Karen State*

A brief firefight last month in Karen State's Papun district between soldiers from the Karen National Liberation Army's ("KNLA") 5<sup>th</sup> Brigade and a Myanmar army patrol left one Myanmar soldier dead and another wounded.<sup>191</sup> The KNLA said that the fighting occurred because of the patrol's incursion into a KNLA-controlled area.<sup>192</sup>

### *Chin*

Eight Chin activists were convicted of violating Article 18 of the Peaceful Assembly act for their participation in the peaceful protests against last month's alleged attempted rape of a Chin woman by a government soldier.<sup>193</sup> The conviction followed after the Rezua Women's Group, which organized the protests, proceeded to stage protests despite being refused permission from authorities.<sup>194</sup> The activists were given the choice of paying a 30,000 kyat (approximately US\$30) fine, or serving one-month prison sentences; the director of Women's Hand Myanmar Foundation, an NGO, has offered to pay the fines.<sup>195</sup> The protests were held last month, with approximately 600 people turning out between the two locations in Rezua and Matupi.<sup>196</sup>

## **B. Peace Talks**

Members of the NCCT met in Chiang Mai, Thailand in early July and spoke with women activists and representatives of several ethnic groups.<sup>197</sup> The purpose of the meeting was to discuss peace activities, gain input, and discuss strategy ahead of a meeting with the government's negotiators scheduled for next month.<sup>198</sup> Among the discussions, activists representing women's interests urged the NCCT to consider pushing for greater legal protection for women.<sup>199</sup>

The NCCT met in Laiza, Kachin State at the end of the month where participants agreed on a ten point proposal to raise in formal peace talks with the government.<sup>200</sup> The proposal primarily demands the adoption of a federal union system, and support for open political dialogue.<sup>201</sup> A United Nations special advisor and a Chinese special envoy, both of whom were present at the meeting, commended the ceasefire efforts and pledged their support for as long as Myanmar continues to encourage such peace talks.<sup>202</sup>

The NCCT is scheduled to meet with a government negotiator in early August and will present their ten point list of alterations to the existing draft ceasefire text created over the last few months.<sup>203</sup> One NCCT member expressed a hopeful view of the meeting, which will take place in Kachin State, believing that an agreement on the ceasefire accord could be finalized as early as September.<sup>204</sup> Once that agreement is signed, political dialogue between the NCCT and the government can begin, with a focus on disarmament and other matters.<sup>205</sup>

### **C. Violence Between the Union Government and Ethnic Rebel Groups**

Some civil society groups are concerned, however, that the peace talks do not adequately involve the public, including activists who run the risk of punishment under the Unlawful Association Act for their involvement.<sup>206</sup> Women in particular have been left out of discussions among the ethnic leaders and with the government, notwithstanding their urging greater representation of their interests in the peace process.<sup>207</sup>

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