

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

NOVEMBER 2014 REPORT

Summary. This report reviews the November 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.

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I. International Community and Sanctions

On November 13, United States President Barack Obama met with certain members of Myanmar's Parliament to discuss the country's reform issues, as part of the week's gathering of leaders of Southeast Asian nations in Myanmar's capital.¹ Discussions included topics such as protection of minority rights, cooperation between majority and opposition parties and the prevention of institutional entrenchment that could erode democracy, including the need for an "inclusive and credible process" for the scheduled 2015 general elections.² Certain U.S. officials noted that part of President Obama's trip was meant to send a message of displeasure to Myanmar lawmakers and to push the country to improve the pace of democratic progress.³

In October, the United States placed sanctions on Aung Thaung, a Myanmar's official with links to attacks on democratic opposition.⁴ Myanmar's Parliament passed a bill criticizing the U.S. sanctions and various members of Parliament noted that the decision to blacklist Aung Thaung could damage bilateral relations.⁵

Harvard Law School released a report suggesting that Myanmar's home minister Ko Ko and two current senior military commanders may have committed war crimes when serving under the previous military junta.⁶ The report cited instances of soldiers forcibly removing and relocating civilians from conflict zones, firing mortars on villages, shooting at fleeing villagers, destroying homes, crops and food stores, laying landmines in civilian areas, enslaving villagers to work as porters and capturing and executing civilians.⁷ The lead author of the report, Matthew Bugher, expressed concern that the practices outlined in the report have persisted to current day events in Myanmar, including within Shan state and Kachin State.⁸

On November 18, Bank of Tokyo Mitsubishi UFJ was fined \$315 million in penalties for misleading New York's banking regulator about transactions involving countries subject to U.S. economic sanctions, including Myanmar.⁹

On November 25, Amnesty International released a report criticizing development of the Letpadaung copper mine in Sagain Region as posing a serious threat of human rights abuses and environmental risk.¹⁰ The development is slated to go ahead nearly two years after police attacked a peaceful protest against the project in November of 2012, during which at least 99 monks and 9 other protestors were injured.¹¹

II. Civil and Political Rights

A. Election-Related Laws and Acts

On November 10, the Myanmar Parliament denounced the decision by the U.S. Treasury Department to blacklist Aung Thaung, a Myanmar politician and businessman.¹² Parliament warned that this decision could adversely affect U.S.-Myanmar relations and parliamentary efforts to bring reconciliation and develop the rule of law in the country.¹³

On November 24, the upper house of Parliament approved by majority vote the adoption of a proportional representation system for all future elections to the house at a union level and for all states and regions.¹⁴ The upper house will now hand over the proposal to the Union Election

Commission.¹⁵ The proposal was passed after the lower house had voted to keep the electoral system as a first-past-the-post system.¹⁶

On November 25, Parliament unanimously endorsed talks among Aung San Suu Kyi, President Thein Sein, the speakers of the two houses of Parliament, military chief General Min Aung Hlaing and a member of a party representing an ethnic minority party.¹⁷ The talks are aimed toward amending the country's constitution, which was drafted by the military and prevents Suu Kyi from being eligible to run for president.¹⁸ The proposal for the talks originated with the ruling party.¹⁹ However, on November 27, Myanmar's military turned down a dinner invitation from opposition National League for Democracy leader Suu Kyi, after the Nobel laureate sought to build ties ahead of the talks.²⁰

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

The body of Ko Par Gyi, a freelance journalist who was shot by the army, was exhumed, revealing signs that he was tortured before he died, according to his wife.²¹ He was detained by the military while covering clashes between the army and ethnic Karen rebels in Mon state in September.²² The military maintains that he was shot while trying to escape last month.²³

In an open letter, Executive Director of the International Press Institute Alison Bethel McKenzie urged Myanmar's Attorney General Dr. Tun Shin to ensure that an investigation being conducted in connection with the death of the journalist, also known as Ko Aung Kyaw Naing, is speedy and transparent.²⁴ She also called for the release of five imprisoned Unity Weekly staff members who were arrested in January and convicted in July on charges of violating the country's Official Secrets Act.²⁵ Furthermore, President Obama pressed for greater freedoms for reporters in Myanmar.²⁶

According to the Committee to Protect Journalists, at least nine journalists have been sentenced to prison in Myanmar this year.²⁷ During the third week of November, Religion Newswriters assembled 15 journalists, editors and media professionals for a four-day training on religious freedom and conflict reporting.²⁸

C. Official Corruption

In early November, more than 200 residents of Pantanaw Township protested in front of a Pantanaw courthouse to highlight the practices of one judge, Thida One, who has been alleged to have taken bribes and engaged in other abuses of judicial power.²⁹ The protest was reported in local media as being the "first demonstration by locals against a township judge."³⁰

Allegations of corruption have also been recently made against Myanmar security forces in connection with the migration of Rohingya Muslims. According to a report by Fortify Rights, police, navy and army officials have been working with transnational crime syndicates by escorting boats full of Rohingya Muslims in exchange for passenger bribes, with some officials earning approximately \$7,000 per boatload.³¹

On November 12, Parliament unanimously approved an increase in the salaries of members of Parliament and civil servants for next fiscal year.³² Proponents of the passed measure argued that underpayment of civil servants was a key contributing factor to official corruption.

Opposition leader Aung San Suu Kyi unsuccessfully sought to limit the pay increases to civil servants only.³³

D. Miscellaneous

In mid-November, President Obama met with Myanmar officials, including President Thein Sein.³⁴ Obama and Thein Sein “discussed the specific situation in Rakhine State and the need to work towards a situation in which the Muslim minority there is protected and their rights are respected.”³⁵ They also discussed necessary legal and regulatory reforms.³⁶ In conjunction with President Obama’s visit, the United States, together with the Myanmar, Japanese and Danish governments, announced a new initiative to “help modernize Burma’s labor code, improve compliance with international labor standards, and foster a robust dialogue between the government, business, labor and civil society.”³⁷

A report in late November by the UK Parliament’s Foreign Affairs Committee recommended that the UK government push for the re-imposition of European economic sanctions against Myanmar “if there is no progress over the next 12 months” with regard to human rights.³⁸

III. Governance and Rule of Law

Aung San Suu Kyi criticized President Thein Sein’s proposed series of high-level meetings with various military, political and ethnic leaders which kicked off at the end of last month, expressing doubt at the practicality of holding meetings with so many parties and reemphasizing her previous proposal for four-way talks.³⁹ The meetings are meant to facilitate the amending of the country’s constitution, which was drafted by the military.⁴⁰ President Thein Sein defended the meetings, calling the inaugural meeting “the start of a new political culture”.⁴¹

President Obama gave his support to Suu Kyi early in the month, expressing his opposition to the current constitutional block to her presidential eligibility.⁴² He did not explicitly endorse Suu Kyi, who emphasized the importance of the process over the result, saying that she would “rather lose than win in the wrong way.”⁴³ President Obama’s visit to Myanmar also included an address to the country’s young citizens, in which he praised their generation’s potential.⁴⁴

IV. Political Prisoners

Myanmar’s government stated this month that 27 political prisoners who remain behind bars, despite requests for amnesty by certain rights groups, are still incarcerated for committing other crimes.⁴⁵ The defense of the continued detainment of these 27 individuals came after the Assistance Association for Political Prisoners (“AAPP”) and Former Political Prisoners Society (“FPPS”) reported there were still 30 political prisoners in confinement.⁴⁶ The Global New Light of Myanmar, a state-run newspaper, wrote that “[i]t was found that three of the prisoners have been released and the remaining 27 prisoners committed other crimes. Their sentences for political activities have been annulled under [an] order of the President’s Office dated 30 December 2013.”⁴⁷

Bo Kyi, joint secretary of the AAPP said that the statement put forth by the Global New Light of Myanmar is not complete: “The three who were released since their imprisonment finished were not subject to the amnesty. The other 27 were arrested for politically motivated

reasons, and sentenced with other additional alleged criminal charges during the military dictatorship.”⁴⁸

A former political prisoner named Win Cho was approved this month as an eligible candidate for upcoming municipal elections in Rangoon.⁴⁹ He was initially denied the right to run on grounds that he omitted biographical information concerning time he spent in prison on political charges.⁵⁰ This denial was overturned by the city’s election commission.⁵¹

V. Economic Development

A. Developments in the Legal Framework of Economic Development

Rules and Regulations for Securities Exchange

Ahead of the opening of the Yangon Stock Exchange, which is planned for October 2015, Deputy Finance Minister Dr. Maung Maung Thein has announced that the final set of rules and regulations for securities exchange has been finalized.⁵² The final rules are made up of a total of 213 points, according to Dr. Thein.⁵³ A joint working committee comprising of the Myanmar Securities Exchange Centre, the Central Bank of Myanmar, Myanmar Economic Bank, the Attorney General’s Office and the Policy Research Institute under the Ministry of Finance in Japan had worked on the rules and regulations to lay the groundwork for a stock market in Myanmar.⁵⁴

Central Bank of Myanmar - Telebanking Rules

The Central Bank of Myanmar weighs plans of Telenor and Yoma Bank, who jointly propose to bring non-bank-led mobile banking to Myanmar.⁵⁵ In July, a senior Central Bank official told The Myanmar Times that there were plans to allow non-bank-led mobile payment licenses, in addition to bank-led mobile payment licenses which have been in place for nearly a year and have allowed certain banks to operate mobile banking systems.⁵⁶ Telenor Myanmar CEO Petter Furberg envisions that the non-bank-led platform will enable someone wishing to transfer money from Yangon to an aunt in Mandalay to do so by buying an amount, such as 10,000 kyat, from a mom-and-pop shop, for which the agent would input the figure on her phone, and both sides would get a receipt acknowledging the transfer.⁵⁷

Privatization of Yangon Electricity

The Yangon Electricity Supply Board (“YESB”) has announced that it will begin to facilitate private investment from early next year, with a view to the potential complete privatization of the city’s electricity transmission over time.⁵⁸ The YESB is currently deciding upon a model for private sector collaboration in discussion with experts and the Rangoon Region government.⁵⁹ Currently, the YESB operates under the Ministry of Electric Power to supply electricity, maintain transmission lines and install new digital meters across Yangon; however, the service is often subjected to criticism as a result of frequent outages, which stem from faulty and outdated infrastructure.⁶⁰ Private investment would allow for a dramatic upgrade of the network, according to the YESB.⁶¹

B. Developments in Foreign Investment and Economic Development Projects

Amidst record foreign investment, the Myanmar government continues to solicit still more foreign investment in an effort to create local jobs.⁶² Both foreign governments (in the form of aid) and foreign businesses are obliging. The EU announced this month that it will pledge 257 million euros over the next three years.⁶³ This aid is intended to fund rural development, political reform, and peace initiatives in a wide range of areas such as health, education, trade, the environment, and human rights.⁶⁴ Japan also recently offered a \$250 million loan for development projects.⁶⁵ Even Belarus has piped up, albeit in an effort to expand trade and economic coordination instead of offering aid.⁶⁶

Chinese businesses are leading the way in private foreign investment in Myanmar.⁶⁷ To date, China has invested a total of \$14 billion (via 58 businesses), Singapore \$6.6 billion (106 businesses), and Hong Kong \$6.5 billion (via 73 businesses).⁶⁸ Myanmar this month signed deals with China worth \$7.8 billion in the areas of energy, agriculture, telecommunications, infrastructure, and finance.⁶⁹ Unsurprisingly, Asian companies are expected to continue to be Myanmar's largest source of foreign investment: one of four Asian firms is currently eyeing Myanmar.⁷⁰ Investment from outside of Asia continues, however, as BMW this month opened operations in Yangon.⁷¹

Development of the energy sector continues to surge, also in partnership with the international community. Myanmar will build 41 new power plants over the next 15 years.⁷² According to Myint Oo, Director of the Ministry of Electric Power, this plan will shift Myanmar's focus from hydropower to other energy sources, including coal, natural gas, solar, and wind.⁷³ Part of the recently-inked \$7.8 billion package of deals with China includes the building of these natural gas power plants.⁷⁴ GE has agreed to assist in upgrading Myanmar's existing gas turbines, as well as its new power plants.⁷⁵

New construction continues apace.⁷⁶ The supply of high-end residences in Yangon will quadruple by 2017.⁷⁷ Not coincidentally, the Philippine property giant Ayala Land has decided to enter the real estate market in cooperation with local firms.⁷⁸ France, too, wants in: French cement maker Lafarge has opened a repacking factory at a cost of around \$20 million.⁷⁹ The company intends to further invest approximately \$500 million, as it expects the price of building materials to soar.⁸⁰

Not to be left behind, technology is also taking off. Startup Bindez (which stands for "Burmese index") is a Google-like tool aimed at helping Myanmar people find information in their own language.⁸¹ Another startup, NEX, has received European finance to develop "Fyre," a web-based program that helps businesses build their own applications.⁸² Ooredoo, the telecom giant, has established a startup incubation program called Ideabox.⁸³ Additionally, Myanmar has announced it will permit foreign ISPs to enter the national market.⁸⁴

C. Land Seizures

According to a report released by the Myanmar National Human Rights Commission ("MNHRC"), nearly 45% of all complaints received by the MNHRC stem from land disputes, the highest proportion of such complaints since the commission was founded three years ago.⁸⁵ From

January to the end of August this year, 547 of a total 1,220 complaints received by the MNHRC were land disputes.⁸⁶ Officials said that the disputes are related to the 2012 Farmlands Act, which requires farmers to seek permission to cultivate their land from their township.⁸⁷ Aung Kyaw Kyaw, interim Upper Myanmar advisor of the Myanmar Farmer Association, reported that traditional landowners and slash-and-burn cultivation farmers in ethnic states faced difficulties in registering their farms under the Farmlands Act.⁸⁸ Section 12 of the Farmlands Law prevents farmers from changing crops without permission from township authorities, allowing farmland to lay fallow.⁸⁹ Violations of Section 12 can result in fines and eviction for farmers, and failure to comply with an order from the Central Farmland Management Body can result in fines of up to 500,000 kyat (\$500) and a prison term of up to two years.⁹⁰

In early November, the Ethnic Community Development Forum (“ECDF”) released a statement criticizing Myanmar’s draft National Land Use Policy for failing to protect small-scale farmers and ethnic minorities.⁹¹ In particular, the ECDF took issue with the government’s plan to convert what it considers “wasteland” into “productive” land by selling it to large-scale agriculture and industrial companies; the ECDF did not accept the classification of any land as “Vacant, Fallow, Virgin Land,” claiming that there is no such unused property in ethnic territories.⁹² Researchers have claimed that as of March 2012, the Myanmar government had allocated 3.5 million hectares of land to local agribusiness companies—the vast majority of which were affiliated with the Myanmar military.⁹³ During this “allocation” process, researchers claim that smallholder farmers were forcibly evicted, received scant compensation and were even arrested for protesting.⁹⁴ According to the ECDF, large-scale development projects launched in ethnic areas where ongoing armed conflict has already ravaged communities have a tendency to exacerbate old conflicts and spark new clashes, with a prime example being the role played by the Myitsone Dam in sparking widespread conflict in Kachin State.⁹⁵

The ECDF rejected the draft land use policy on the grounds that the three-week public comment period was insufficient to allow adequate public input and stated that there is an immediate need to postpone all investments in ethnic areas in order to avoid further land conflict.⁹⁶

On November 17, some 200 local farmers marched through the streets of Nattalin township in Bago Region in protest of what they claimed to be a misappropriation of their land by the local Settlement and Land Records Department.⁹⁷ After approximately 450 acres of land belonging to farmers in Nattalin township were confiscated in 1991, the Myanmar army and various local government departments had recently agreed to return the plots to their original owners.⁹⁸ However, protesters accused the local Settlement and Land Records Department of selling off plots to third persons or leasing land rather than returning the land to its original owners.⁹⁹ While the Nattalin protests were held with official permission from the local police, the protesters were nevertheless confronted by the police who threatened legal action against them for allegedly breaching the terms of the protest permit.¹⁰⁰

VI. Ethnic Violence

A. Violence Against Muslims

November saw the continuance of the surge in Rohingya fleeing Myanmar.¹⁰¹ According to the director of the Arakan Project, Chris Lewa, soldiers and border guards in Arakan State, where

most of the estimated 1.3 million Rohingya live, are engaging in a “campaign to create fear and to get them to leave.”¹⁰² Lewa further highlighted a number of atrocities recently committed against the Rohingya, including the deadly torture of at least four Rohingya men in Arakan State, the brutal beating by soldiers and border guards of young men grabbed off the streets without any clear explanation and the arrest of more than 140 people in two dozen villages on what Lewa states appear to be trumped up charges.¹⁰³

According to a release issued by the non-profit human rights organization Fortify Rights, Myanmar, state security forces are complicit in and even profiting from the human trafficking and smuggling of Rohingya by collecting payments from Rohingya asylum seekers fleeing Myanmar in ships operated by criminal syndicates.¹⁰⁴ In some cases, the Myanmar Navy even escorted boats operated by criminal gangs out to international waters.¹⁰⁵

United Nations Secretary General Ban Ki-Moon, who was in Myanmar this month attending the Association of Southeast Asian Nations Summit, spoke at a press conference about the “serious humanitarian issue” of displaced Rohingya and noted that he “encouraged the leaders of Myanmar to uphold human rights, take a strong stance against incitement and ensure humanitarian access to Rohingya living in vulnerable conditions.”¹⁰⁶

B. Violence Between the Central Government and Ethnic Rebel Groups

A November 19 attack by government forces on a Kachin Independence Army (“KIA”) training school resulted in the death of 23 trainees.¹⁰⁷ The trainees belonged to the All Burma Students’ Democratic Front, the Arakan Army, the Chin National Front and the Ta’ang National Liberation Army, all KIA allies. Four Kachin commanders were also injured in the attack.¹⁰⁸

Observers at a meeting between the Nationwide Ceasefire Coordination Team (“NCCT”) and the Myanmar Peace Center, a government-affiliated institute involved in the ceasefire negotiations, said the attack damaged trust between both sides and that the ethnic groups (especially the KIA, which is one of the largest and is influential within the NCCT) were wary of the government’s intentions.¹⁰⁹ The military said that the attack was meant to be a “warning” in response to KIA artillery strikes on government soldiers who were building a road.¹¹⁰ The KIA said that the government claim is “inconsistent with what actually happened.”¹¹¹

C. Peace Talks

Although the attack by government forces on the KIA training school has increased tensions, a meeting between the Myanmar Army Commander-in-Chief Min Aung Hlaing and leaders of the Karen National Union (“KNU”) resulted in some hopefully positive dialogue on the prospects for achieving a nationwide ceasefire.¹¹² During the meeting, according to KNU representatives, the commander reaffirmed his support for the stalled nationwide ceasefire process.¹¹³ As noted in our September and October Reports, although the last round of talks failed to achieve a full resolution due to a variety of issues, talks are expected to resume in December.¹¹⁴

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