

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

JANUARY 2015 REPORT

Summary. This report reviews the January 2015 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 January 12, Samantha Power, the United States ambassador to the United Nations, criticized the humanitarian situation in Rakhine State, noting that Rohingya continued to live in “squalid camps” and that pending legislation would force Rohingya to renounce their ethnicity to be registered as citizens.¹

On January 13, a representative of a U.S. delegation of officials conducting a “Myanmar Human Rights Dialogue”, the second iteration of what may become a regular consultation between the U.S. State Department and the Myanmar government, spoke to reporters, noting that while discussions were “extremely constructive”, issues such as ethnic and religious intolerance continued to pose an urgent threat to creating a stable democracy in Myanmar.² The U.S. delegation, in addition to speaking with representatives of the government, visited Kachin State and Naypyidaw for talks with local union ministers, women, ethnic minorities and human rights activists.³ One member of the delegation expressed particular concern about the ongoing treatment of Rohingya in Rakhine State.⁴

U.N. Special Rapporteur Yanghee Lee visited Rakhine State in January, which has been the site of ongoing violence against Myanmar’s minority Rohingya population.⁵ Lee encouraged authorities not to ignore the plight of the Rohingya population and urged the local ethnic Rakhine population to live peacefully with them.⁶ In response to her statements, Wirathu, an ultranationalist Buddhist monk who has been accused of inciting violence against Rohingya, used derogatory language to refer to the envoy during a public speech.⁷ The monk’s language was criticized by the U.N. High Commissioner for Human Rights Zeid Ra’ad Al Hussein,⁸ as well as a number of prominent monks.⁹ In addition to Wirathu’s vitriol, Lee’s visit was met with protests from hundreds of Rakhine Buddhist nationalists.¹⁰

Medecins Sans Frontieres-Holland (“MSF”) announced on January 20 that it had begun re-entry into Rakhine State in mid-December, ten months after the Myanmar government banned MSF from the area following public statements by MSF that it had treated individuals it believed had been injured during sectarian clashes.¹¹

The Asia Society, a New York based organization, will open an exhibition of Myanmar’s Buddhist art at the Asia Society’s Park Avenue headquarters in February.¹² Plans for the exhibition date back to at least 2011 and are the result of ongoing talks between representatives of government officials from Myanmar and the United States.¹³ The exhibition, entitled “Buddhist Art of Myanmar”, will showcase works from the national museums in Yangon and Naypyidaw as well as other institutions across Myanmar, with much of the art leaving Myanmar for the first time.¹⁴

II. Civil and Political Rights

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

This month, U.N. Special Rapporteur Yanghee Lee visited Myanmar in order to assess the progress that authorities have made with their commitments to democratic reform, and to review

issues related to freedom of association, media, land disputes and protests against development projects.¹⁵

In mid-January, activists organized a meeting in Mandalay with farmers, laborers, students and citizens to create public awareness about the lack of rule of law, human rights abuses and other failings of the Myanmar government.¹⁶

Following pressure from the North Korean embassy, Yangon police have moved to seize copies of the satirical comedy film *The Interview* and to charge those involved in its distribution.¹⁷ This move came after a meeting of Yangon Region Chief Minister Myint Swe and North Korean ambassador Kim Sok Chol, following which the embassy sent a fax to the regional government requesting they take “proper action immediately to stop the copying, distributing and selling” of *The Interview* in Yangon.¹⁸ Nearly 200 copies of the film were seized in a raid by police on one of two stores named by the embassy as distributors, although copies continue to be available on the street.¹⁹

On January 25, 100 students arrived in Myingyan after marching over 600 km from Mandalay to Yangon in order to protest the National Education Law.²⁰ Student unions objected to the law because it centralizes control within the government, offers no guarantee of freedom of education and does not include any provisions that would allow for the forming of student unions.²¹

B. Miscellaneous

The European Union has expressed concern over a set of religion and interfaith marriage bills set to be debated in the next session of parliament. The four bills, which seek to impose curbs on interfaith marriage, religious conversion and birth rates, were sent to Parliament by President Thein Sein last December.²² The bills have been met with fierce criticism from human rights groups, which have said that they are discriminatory and unconstitutional.²³ The EU statement added that the laws could fall foul of international human rights treaties that Myanmar is a party to, particularly the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.²⁴ A draft of the Religious Conversion Law obtained by the news agency Mizzima would force those wishing to convert from one religion to another to submit an application to do so to a registration board made up of officials from the government and local authorities.²⁵ The person wishing to convert would then have to be interviewed by the board to see if their belief in the religion is genuine.²⁶ Myanmar citizens living abroad and wishing to convert would need to undergo a similar procedure at a Myanmar embassy or consulate.²⁷

Another of the proposed laws, the Myanmar Buddhist Women’s Special Marriage Bill, would force a Buddhist woman under the age of 20 to obtain consent from her parents before marrying a non-Buddhist.²⁸ Applications would also need to be made to the local authorities and a public notice of the marriage posted.²⁹ In the case of a divorce, the law would guarantee that in a marriage where the male partner is non-Buddhist, a Buddhist woman would be given custody of all children that the couple may have.³⁰

III. Constitutional Reform

As Parliament reconvened this year on January 19, political discussions continued regarding potential Constitutional reform. There has been some positive momentum toward constitutional reform in recent months, with government officials announcing their intent to review constitutional amendment suggestions and hold a national referendum on an amended constitution this May.³¹ However, constitutional reform remains unlikely before the 2015 elections, as the referendum would only be to gauge public opinion – in fact, Shwe Mann, the Chairman of the ruling Union Solidarity and Development Party, stated that amending the constitution would be the responsibility of the parliament that emerges after the 2015 election.³²

Other obstacles stand in the way, even threatening the proposed referendum. First, members of the Union Election Commission are unsure whether a constitutional referendum will even take place in May, as the key logistics of the exercise remain shrouded in uncertainty just five months before the vote is due to take place.³³ Second, decisions regarding the content of the amendments to be voted on in the referendum have stalled. Following a request from opposition leader Aung San Suu Kyi to convene a small group to discuss constitutional changes, Parliament endorsed a six-party constitutional “summit,” which would have involved Suu Kyi, President Thein Sein, the speakers of the two houses of the assembly, military chief Senior General Min Aung Hlaing, and a member of a party representing an ethnic minority.³⁴ In spite of this promising development, the President’s office ruled out such discussions, with President Thein Sein arguing that six parties would not be enough to represent the spectrum of interests throughout the country.³⁵

When Parliament reconvened in January, members re-proposed holding six-party talks as soon as possible in order to work out a framework for constitution amendment.³⁶ Nevertheless, President Thein Sein again rejected the proposal, arguing that such discussions should include a wider range of participants that are more representative of the broader Parliament.³⁷

Opponents have argued that the President’s insistence on additional participants at constitutional discussions intentionally muddies the waters of the reform agenda. Aung San Suu Kyi has argued the importance of fewer participants as a means of focusing the agenda; she expressed frustration with a 14-person meeting convened by President Thein Sein last October, saying that each person had only ten minutes to speak and questioned whether such a meeting could be considered meaningful.³⁸ After President Thein Sein hosted a meeting of 48 parties for constitutional talks on January 12, Suu Kyi again expressed her frustration, saying, “[t]his meeting will not make up for the [proposed] sexpartite dialogue. It did not resemble the sexpartite dialogue.”³⁹

Meanwhile, citizens continued to express their support of constitutional reform, approximately 1,000 farmers, students, laborers, Buddhist monks and community leaders gathering in Mandalay on January 16 to support the abolishment of Myanmar’s military-drafted Constitution.⁴⁰

IV. Governance and Rule of Law

On January 20, President Thein Sein urged Parliament to reconsider the controversial National Education Law.⁴¹ The President called for a review and amendments to the law to reflect students' demands; namely: to loosen the centralization of policymaking, to allow the formation of teacher and students bodies, to promote schooling for all of Myanmar's children, and to promote ethnic literature.⁴² Lower house MP Ye Tun said the legislature should prepare to negotiate with the students.⁴³

V. Political Prisoners

The Myanmar government maintains that there are no longer any political prisoners in Myanmar.⁴⁴ However, on January 9, the Assistance Association for Political Prisoners (the "AAPP") published a list of political prisoners still held in Myanmar.⁴⁵ According to the AAPP, approximately 160 political prisoners are currently incarcerated in prisons in Myanmar, and at least 212 political activists are facing trial.⁴⁶ Furthermore, there has been no decrease in arrests, and the rate of detention of activists continues to increase.⁴⁷ Activists have been continually indicted under articles 18 and 19 of the Peaceful Assembly and Peaceful Procession Act and section 505(b) of the Penal Code.⁴⁸ Moreover, farmers and activists are being charged under sections 447 and 427 of the Penal Code.⁴⁹

On January 13, the AAPP published a summary of the current situation in Myanmar regarding political prisoners.⁵⁰ According to this report, during December, 33 political activists were charged, 10 were sentenced and no political prisoners have been released.⁵¹

On January 19, Dr. Tun Aung, a community leader and medical doctor, was released from prison.⁵² He was first jailed in 2012 after trying to calm the crowd during a riot involving Buddhists and Rohingya in Rakhine State, western Myanmar, and was sentenced to up to 17 years' imprisonment under various charges.⁵³

VI. Economic Development

A. Developments in the Legal Framework of Economic Development

Myanmar's deputy finance minister, Maung Maung Thein has announced that the country will unveil its first official stock exchange in October of this year, although "it may be earlier," he said.⁵⁴

On January 23, Myanmar held a presentation on the nation's first trade policy review, which was supported jointly by the World Trade Organization ("WTO") and the European Union.⁵⁵ The WTO advised the Myanmar government that it needs to focus on improving intellectual property regulations, trade statistics, customs valuation and competition policy, agricultural reform and consumer protection matters.⁵⁶ The reforms are necessary if Myanmar is to join the WTO, said WTO officials.⁵⁷ Willy Alfaro, director of the WTO's trade policies review division, said that the WTO will send experts to Myanmar in February to provide technical assistance on addressing these reform measures.⁵⁸ WTO trade policy analyst Usman Ali Khilji specifically raised – among other things – the need for improving statistics, finding that various economic data from different

governmental sources and international organizations varied significantly, as well the need for transparency, calling for more laws and regulations to be made available online.⁵⁹ WTO officials also discussed inefficiencies inherent to extensive involvement of state-owned enterprises in certain sectors.⁶⁰

B. Developments in Foreign Investment and Economic Development Projects

While according to the Organisation for Economic Co-operation and Development (the “OECD”) agricultural sector reforms in Myanmar could potentially transform the country into a hub of the agri-food trade in Southeast Asia, the country’s efforts to grow investment in its manufacturing sector face a shortage of skilled labor as well as problems with corruption.⁶¹ The OECD has released a report indicating that the shortage of skilled workers for factories is a problem exacerbated by an aging population and an education system geared more toward university education than vocational training.⁶²

In the banking and finance sector, reform continues with foreign investment. The Japan International Cooperation Agency (“JICA”) has agreed to offer US\$ 40 million in loans to small- and medium-sized enterprises (“SMEs”) in Myanmar.⁶³ JICA will pass the loans to the government, which will distribute them to banks which will ultimately issue the loans to those SMEs that can demonstrate holding sufficient property to serve as collateral for the loans.⁶⁴

In the environmental and technology sectors, the Asian Development Bank (“ADB”) will invest US\$30.1 billion in six countries, including Myanmar, over the next three years.⁶⁵ Among other improvements, the ADB aims to improve the country’s trans-border protection management and natural resources conservation.⁶⁶

Incidents of illegal trans-border commerce have been reported amidst legitimate trade crossing the border into Myanmar. In Waimaw, Kachin State, with support from government troops, authorities arrested 132 Chinese citizens and 19 Myanmar nationals between January 2 and January 6 for illegal logging activity.⁶⁷ Another eight Chinese nationals were arrested in late January and 4,529 logs, which were due to be smuggled, were seized.⁶⁸ On a separate occasion, authorities seized more than 1,000 bags of fertilizer filled with ammonium nitrate – a component of explosives – and electronics, including more than 15,000 handsets, TVs and DVDs that were loaded onto a convoy of 17 trucks coming from China en route to Mandalay.⁶⁹

C. Land Seizures

Fallout from the Letpadaung mine protest violence continues, as four protesters at the Chinese Embassy in Yangon were arrested last December 30.⁷⁰ Farmers near the mine, whose crops were ruined during construction of the fence that set off the protests, rejected the mining company’s compensation offer for the crops as too low.⁷¹

Opposition leader Suu Kyi laid the blame for the shootings and the death of Khin Win at the mine at the feet of the government, because it had failed to implement all of the recommendations that she provided in a report in 2013.⁷² The report was the work of a parliamentary commission she headed in response to the brutal crackdown on protesters in 2012, in which many people, including monks, were injured with incendiaries.⁷³ The government has

denied that it is at fault or that it failed to implement the report's recommendations.⁷⁴ An official on the committee responsible for implementing the recommendations stated that "outsiders" are responsible for the unrest at the mine.⁷⁵

Farmers, students, labor activists, and monks held a rally on January 16 in Mandalay for constitutional reform.⁷⁶ One of the rally's major themes was land rights, particularly in the wake of the Letpadaung seizure and violence.⁷⁷ The daughter of slain Khin Win was a featured speaker.⁷⁸

Elsewhere, repercussions from land seizures made years ago continue. In Pobbathiri Township, a court imprisoned 19 people for protesting against land taken in 2003 for state run newspapers.⁷⁹ 500 acres in total were confiscated; 22 farmers received compensation in 2013, which was apparently far less than the fair value of the land, and 38 others have received no compensation at all.⁸⁰ The prison sentences range from four to six years and include hard labor.⁸¹

The government is not the only entity in the business of seizing land. The United Wa State Army ("UWSA"), Myanmar's largest ethnic rebel group, is aggressively asserting its control over the area in Mong Hsat Township, located close to the border with Thailand.⁸² The UWSA controls a border trade area through which a large amount of drugs are transported.⁸³ The Myanmar government ordered the shutdown of the trade area last October, but the heavily-armed group is defying this order, essentially daring the government to act.⁸⁴ The UWSA has seized much of the land that makes up the trade area from local residents and reportedly killed a man last December who claimed to own land that it had seized.⁸⁵

VII. Ethnic Violence

A. Violence Against Muslims

After a two-day United States-Myanmar human rights dialogue conducted with a high-level delegation of U.S. officials, U.S. Assistant Secretary of State for Democracy, Human Rights and Labor Tom Malinowski said that although the discussions were "extremely constructive," issues such as ethnic and religious intolerance pose an urgent threat to a stable democracy in Myanmar.⁸⁶ Malinowski urged the government to, among other things, ultimately create a non-discriminatory path to citizenship for the country's Rohingya population.⁸⁷ In addition, as noted in Section I above, Yanghee Lee, the United Nation's human rights envoy for Myanmar, who wrapped up a 10-day visit to Myanmar in January, asked authorities not to ignore the plight of Rohingya Muslims and urged locals to live peacefully with them; comments which led to an organized protest by more than 300 monks and nuns in Yangon.⁸⁸

As mentioned in our December report, four controversial bills addressing marriage, religion, polygamy and family planning proposed by the Association for the Protection of Race and Religion, a Buddhist organization, are being debated in the current parliamentary session.⁸⁹ A group of 180 civil society organizations have called on Parliament to reject the proposed bills, which they say contravene domestic and international laws, adding that the legislation could stoke religious tension if enacted and thereby "destroy the stability" of society.⁹⁰

In Shan State, following a five-month trial, 20 Muslims accused of having links with terrorists were sentenced to between 7 and 14 years in prison, with 19 adults being sentenced to 14 years and a boy under 15 years of age being sentenced to seven years.⁹¹ Their lawyer decried the trial as biased and without evidence.⁹² The 20 Muslims were arrested last August while traveling to a wedding; the bride, her mother-in-law, her sister-in-law and their cook were among those convicted.⁹³

B. Violence Between the Union Government and Ethnic Rebel Groups

The army's perceived involvement in multiple crimes has resulted in increased tensions and clashes: the rape and murder of two Kachin volunteer teachers (the investigation of which is ongoing, with an army-owned media outlet warning legal action against anyone alleging army involvement);⁹⁴ the deaths of two young men who were arrested by the army and then apparently shot; the beating and attempted rape of a Kachin woman by a soldier from the army (the army later apologized for the incident); and the deaths of four Kachin villagers, whose charred remains were discovered at the end of January (locals are alleging army involvement).⁹⁵ In addition, an incident on January 14 involving the detainment by the Kachin Independence Organization of a state minister and three police officers, all of whom were later released, set off a series of clashes between Kachin and Palaung rebels that initially displaced almost 2,000 villagers and continued through the end of the month.⁹⁶

In a positive development in January, Karen rebels teamed up with the government in order to build a "model village" for internally displaced persons in southeastern Karen State.⁹⁷ According to *The Irrawaddy*, an estimated 500,000 internally displaced persons live in remote settlements within southeastern Myanmar, displaced by decades of conflict between the army and various armed ethnic groups.⁹⁸

C. Peace Talks

The Nationwide Ceasefire Coordination Team (the "NCCT"), which represents the country's ethnic groups in the peace talks, said in late January that a national peace accord is unlikely to be signed in February without further meetings between ethnic representatives and the government.⁹⁹ The statement was made after discussions between the NCCT and the government-backed Myanmar Peace Center failed to set a seventh meeting between the parties.¹⁰⁰ There has apparently been a push by some to sign a nationwide ceasefire agreement on February 12 – Union Day – the anniversary of the signing of the Panglong Agreement, which granted autonomy to ethnic communities within a unified state, though others involved in the process have concerns that pushing the process too fast could undermine the durability of any agreement signed.¹⁰¹

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