

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

OCTOBER 2015 REPORT

Summary. This report reviews the October 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. 2015 General Elections

A. Election-Related Laws and Acts

On October 13, the Union Election Commission (“UEC”) proposed postponing the election to some of Myanmar’s largest political parties.¹ However, the proposal caused an immediate outcry among democratic forces, and less than twelve hours later the UEC announced that the election would not be postponed. Earlier that day, the UEC had summoned ten political parties to discuss whether to delay the elections, citing natural disasters, regional instability, and a handful of other factors that had given election officials cause for concern about their ability to carry out a credible nationwide election.² Myanmar’s main opposition party, the National League for Democracy (“NLD”), attended the meeting and objected to postponement, while the ruling Union Solidarity and Development Party (“USDP”) and two other parties favored a delay.³ Opposition candidates and analysts immediately suspected that the proposal had more to do with political reasons than logistical difficulties.⁴

Although the elections are moving forward as planned, they are not doing so without concern from organizations in Myanmar and international organizations.⁵ A coalition of Myanmar civil society organizations (“CSOs”), including the Myanmar Alliance for Transparency and Accountability (which includes more than 499 member organizations) and the National Network for Education Reform (which includes more than 200 member organizations), issued a joint statement voicing concern that the country’s upcoming general election would not be free and fair and criticizing the UEC for failing to adequately address electoral issues.⁶ The statement claimed that widespread errors in eligible voter lists would likely undermine the credibility of the elections, and accused the UEC of failing to take responsibility for inaccurate voter lists.⁷ UEC director Kyaw Thu defended initial voter list errors, citing technical difficulties.⁸ However, the reported errors so far have been significant.

An NLD candidate, Zarni Aung, claimed that nearly half the names on a voter list for a Mandalay city township should not be listed.⁹ The Minister for Information, Ye Htut, said that the voter list errors were not fraudulent, but rather due to mere incompetence.¹⁰ However, Zarni Aung said that a door-to-door survey of the constituency had found only 8,725 voters, 5,248 fewer than the 13,973 names listed.¹¹ Other officials and experts say it is hard to estimate how many people have been left off the voter lists, but agree that the number is likely to be in the tens of thousands.¹²

Concerns over voter lists have intensified as voting for the November 8 elections formally began October 29, with the opening of ballots for “advance voters.”¹³ Advance voters include those who cannot get to a polling station—such as the elderly, hospital patients, pregnant women and prison detainees—and will have ballot boxes taken to them by election officials.¹⁴ Additionally, advance voters may include a broader category of voters who would be not be physically present in their home area on election day, such as soldiers and civil servants. The UEC said it does not know the total number of eligible advance voters.¹⁵ Foreign observers have complained about the lack of scrutiny over advance voter lists, particularly among the armed forces and civil servants.¹⁶ In an effort to improve transparency, the names of those who applied for advance votes will be displayed at the relevant polling stations.¹⁷ Votes cast are to be delivered before stations open on November 8 and counted when the stations close.¹⁸

The UEC announced on October 27 that it will publish a final version of the national voter list on November 5, extending the deadline for the final list by three days from the original date of November 2, and that anyone not included will be ineligible to vote. In light of the numerous concerns regarding inaccurate voter lists, Aung San Suu Kyi has urged residents in the many villages she has visited to check the list to make sure they are on it with their names spelled correctly to ensure they can vote.¹⁹ To avoid losing votes unnecessarily, political parties such as the NLD are seeking to ensure that voters in their constituency know how to vote correctly and are demonstrating to voters during door-to-door campaigns what they have to do at the polling station.²⁰

In addition to voting list errors, there have been additional cancellations of voting in certain areas. In a statement released by the UEC, the commission said the general elections would be canceled entirely in two townships and several village-tracts in the Shan state.²¹ Specifically, the statement declared that the Mong Hsu and Kyethi townships, eight village-tracts in the Tangyan township and 42 village-tracts in the Hopang township will not have the opportunity to vote because “there are not situations in those areas conducive to free and fair elections.”²² The UEC cited Article 10(f) of the Union Election Commission Law, which grants the UEC the authority to cancel or postpone elections in constituencies where either a natural disaster or regional instability inhibits election officials’ ability to hold free and fair elections.²³ In a statement released on October 12, the UEC announced that the election would not be held in more than 400 village-tracts in Kachin, Kayin, Shan and Mon states, as well as 41 village-tracts in Pegu Division.²⁴

Statements made by a co-founder of the Committee for the Protection of Nationality and Religion (“Ma Ba Tha”) and the National Development Party (“NDP”) raised concern about abuses of power, race and religion in campaigning. The NDP is Myanmar’s fourth largest political party and was registered in July of 2015.²⁵ The chairman of the NDP, Nay Zin Latt, resigned from his post as an adviser to President Thein Sein shortly after making his intention to help set up the party known.²⁶ Parmaukkha, a co-founder of Ma Ba Tha said that the ruling USDP used its parliamentary majority to push through new laws in the belief that “Ma Ba Tha would help them get votes in the election.”²⁷ The new Race and Religion Protection Laws include restrictions on religious conversion, polygamy and interfaith marriage, and also allow authorities to impose birth spacing requirements on a regional basis.²⁸ Critics have derided the laws for imposing on the rights of women and religious minorities, particularly Muslims.²⁹

A USDP lawmaker and senior party official denied any connection to Ma Ba Tha.³⁰ Parmaukkha’s description of Ma Ba Tha’s role was also challenged by a Ma Ba Tha spokesman, Thurain Soe, who said his organization was grateful for the USDP’s help in enacting the laws but was not supporting any party.³¹ Election analysts note that Ma Ba Tha’s influence in Buddhist-majority Myanmar might prove crucial in the election campaign, especially in rural areas where monastic authority is unquestioned.³² Fearful of potential Ma Ba Tha intimidation, two senior NLD leaders told Reuters the NLD decided not to field any Muslim candidates for the general elections.³³

B. Campaign Developments/Miscellaneous

Aung San Suu Kyi and her party have spent months canvassing the country on the mantra of “change,” drumming up massive support in the lead-up to the November 8 general election.³⁴ However, in an unusual speech in his hometown of Ngapudaw on October 29, President Thein Sein suggested that those who want to see more change in Burma may as well choose communism.³⁵ “We have changed from a military regime to a democratic government elected by the people...What more change do you want?” asked President Thein Sein, adding, “If you want more, go for communism. Nobody wants communism, do they?”³⁶ The USDP has campaigned on the grounds of its experience and the reforms already rolled out under its charge, with the slogan “We Will Keep Doing Reform.”³⁷ Yangon-based political analyst Yan Myo Thein said the Myanmar public is largely unconvinced of the USDP’s claims of sweeping accomplishments; while things have certainly changed, he said, many reforms have been insignificant.³⁸ Yan Myo Thein further noted that the Myanmar electorate still wants more change on large political issues such as constitutional reform and anti-corruption measures.³⁹

Myanmar’s Commander-in-Chief, Snr-Gen Min Aung Hlaing, has cautioned military personnel and their families to support the “correct” candidates in the November 8 general election and advised a vote for candidates “who can protect race and religion” and is free from foreign influence.⁴⁰ Although his remarks did not mention any specific candidates in his speech, they were likely a reference to Aung San Suu Kyi, who was married to a British national and whose children are British citizens.⁴¹

In recent weeks, Aung San Suu Kyi shifted her election campaign to Rakhine state, a region that presents the most formidable challenge for the NLD due to its sectarian conflict between Rohingya Muslims and hard-line Buddhists.⁴² While Aung San Suu Kyi enjoys support in most parts of Myanmar, the Rakhine state constituency holds less favorable views of the NLD.⁴³ On the one hand Aung San Suu Kyi has been criticized for being largely silent over the widespread discrimination and violence faced by the Rohingyas, while on the other hand Ma Ba Tha supporters have accused her of being pro-Muslim for making statements in support of the Rohingyas.⁴⁴

Shwe Mann, former chairman of the USDP who was ousted in August by party conservatives, has been mounting a comeback campaign ahead of the elections, setting the stage for a likely presidential bid that will add to the unpredictability of the elections.⁴⁵ As campaign workers have canvassed Shwe Mann's home district in an attempt to regain his political standing, some analysts have predicted that his candidacy could split voters in favor of USDP and ultimately help the opposition NLD.⁴⁶

C. International Community and Sanctions

Preparations for the upcoming elections have been observed by United Nations and the United States.⁴⁷ The UN special rapporteur on human rights in Myanmar, Yanghee Lee, told the United Nations that she is not convinced the coming election will be free and fair.⁴⁸ Lee criticized the candidate scrutiny process for being non-transparent and for the seemingly arbitrary disqualification of dozens of candidates.⁴⁹ She called attention to the disqualification of a reported 61 candidates, the majority being Muslims, on grounds related to their citizenship or

the citizenship of their parents.⁵⁰ While 11 candidates were reinstated, many remained disqualified.⁵¹ Lee was also critical of the advanced voting system, particularly of the fact that it will not be open to observers.⁵² Myanmar's ambassador to the UN, Kyaw Tin, reportedly rejected Lee's report as inaccurate, distorted and misleading.⁵³

An aide to U.S. President Barack Obama, Deputy National Security Advisor Ben Rhodes, reiterated the United States' call for an inclusive, credible and transparent election, while touching on a number of "concerns" that could impact U.S. policy if the election does not go smoothly.⁵⁴

Chief among those is the infusion of religion in politics. Rhodes told reporters at the end of his visit that "there's a sense of potential insecurity that could lead to violence or instability."⁵⁵ Beyond the disenfranchisement of hundreds of thousands of Muslims in western Myanmar, Rhodes said he was informed of "activities" and "language" that had become "more extreme in terms of incitement against religious minorities," but did not explicitly mention the rise of Ma Ba Tha.⁵⁶

The Carter Center, which is one of a number of international election observation missions accredited by Myanmar authorities, published its assessment of the campaign period leading up to Myanmar's general election, concluding that issues remain over political space, disenfranchisement and observer access to advance votes.⁵⁷

In its statement on the election campaign period, covering events through October 20, the Carter Center said that while pre-election activity had been largely peaceful, observers were informed of a number of incidents of intimidation and physical attacks against political party members.⁵⁸ As of October 20, the Carter Center was aware of 40 complaints submitted to election commissions nationwide, including four related to Ma Ba Tha's misuse of religion during the campaign period.⁵⁹ Complainants had not yet received any official responses to those disputes, the report said.⁶⁰ They were also aware of 94 campaign-related incidents reported to the police.⁶¹ Cases were opened for 78 of those complaints, and 62 are pending investigation.⁶² At least five cases involved physical attacks against members of the NLD.⁶³ Physical attacks against party members reportedly have continued, although whether the attacks are politically motivated is sometimes unclear. For example, on October 29, an NLD lawmaker and two other party members were injured in an attack by assailants, at least one of whom was armed with a sword.⁶⁴ According to the assailants, the attack was sparked by a fight with the party members while they were buying betel quid.⁶⁵

The Carter Center also reported its concerns regarding disenfranchisement.⁶⁶ In addition to the "larger than expected" number of villages where voting has already been canceled, the Carter Center noted the disenfranchisement occurring in Rakhine State, where hundreds of thousands of stateless Rohingya Muslims lost their right to vote earlier this year despite being allowed to participate in previous polls.⁶⁷

The Carter Center did note that dispute resolution bodies established by the UEC were found to have been "effective in resolving some issues."⁶⁸ The center stressed the need for timely resolution of election-related disputes and reiterated its request to observe advance voting

procedures, including ballots cast by the military and other security forces, referring to the denial of access as “unfortunate.”⁶⁹

The Carter Center issued a number of recommendations to the government and the UEC, including the release of two activists recently arrested for sharing satirical content on social media.⁷⁰ Since the end of the reporting period, two other citizens have been charged under the same provisions.⁷¹

II. Civil and Political Rights

A. Press and Media Laws/Restrictions

The UEC sent a stern message to the media on October 19, urging outlets to avoid “biased news reporting” as the general election nears.⁷² The commission denounced a BBC broadcast interview claiming that the ruling party had bribed voters, but received widespread criticism for issuing such a statement.⁷³

The Irrawaddy’s Myanmar language website was hacked twice in mid-October.⁷⁴ In the first instance, the site was shut down by the hackers and left inaccessible for several hours.⁷⁵ In the second instance, the hackers posted a falsified news story concerning the health of Aung San Suu Kyi, claiming the NLD chairwoman had ovarian cancer and quoting her doctor.⁷⁶ The forged article appeared designed to discredit the NLD leader, casting invented dispersions over relationships between Aung San Suu Kyi and other male members of her party.⁷⁷ While the hackers’ motives are unknown, the cyber-attack comes at a time of heightened political tensions in the country, four weeks out from the November 8 general election.

According to a new report from Freedom House, a nascent move towards internet freedom in Myanmar has stalled in the wake of military and political pressure on users.⁷⁸ The US-based human rights watchdog’s annual ‘Freedom of the Net’ report, released on Wednesday, said that authorities had taken a heavy-handed approach to the publishing of online material during protests, clashes between the military and ethnic armed groups and in the lead-up to the Nov. 8 general election.⁷⁹ According to the report, the government has engaged in a “deliberate...campaign to marginalize balanced and dissenting voices” through tactics such as economic pressure on independent media, manipulative political commentary and tacit encouragement of nationalistic hate speech against the Muslim minority.⁸⁰ Freedom House noted that, despite recent liberalization of the sector, a number of military and government-linked figures retained significant financial stakes in telecommunications companies.⁸¹

A 25 year-old woman was arrested and brought to trial in the Ayeyarwady Region for a Facebook post which implied that military personnel had refashioned their uniforms to match the clothes worn by Aung San Suu Kyi.⁸² The post included a photo collage of Aung San Suu Kyi wearing a green traditional *htamein* alongside Commander-in-Chief Snr-Gen Min Aung Hlaing and other military service personnel donning newly redesigned uniforms in a similar color.⁸³ The post satirically claimed that “[the soldiers] like the color of the *longyi* of Aunti Suu [Aung San Suu Kyi], so they had it tailored and are now wearing it.”⁸⁴ The author, Chaw Sandi Tun, was charged under Article 34(d) of Myanmar’s Electronic Transactions Law, which outlaws altering digital information in such a way that would defame “any organization or any person”

and carries penalties of up to five years in prison.⁸⁵ According to reports, it is considered an insult in Myanmar's conservative culture to imply that a man would wear *htamein*, the woman's version of the traditional Myanmar sarong known as *longyi*.⁸⁶ There have been several other arrests for charges of defamation on Facebook, including the case of Patrick Khum Jaa Lee, who was arrested in October for a Facebook post that showed a photo of Snr-Gen Min Aung Hlaing being trampled on by a man in traditional Kachin attire.⁸⁷ Khum Jaa Lee was denied bail and is being held in Yangon's notorious Insein Prison.⁸⁸

B. Freedom of Association/Religion

On October 15, Aung San Suu Kyi visited conflict-ridden Rakhine state for the first time and was greeted by ethnic Rakhine and local Muslims.⁸⁹ Speaking at a rally on October 17, she called on voters not be influenced by divisions of race and religion.⁹⁰ When asked whether the NLD would favor Bengalis (as the persecuted Rohingya minority are known), Aung San Suu Kyi stated that she was not afraid to ask where her party's canvassing has broken the law: "If [my critics] have enough courage to accuse me, they should do so lawfully and through official channels... I am wary that using race and religion to sway voters is happening across the country."⁹¹

On October 21, Interfaith for Children issued a joint declaration signed by religious leaders of the Buddhist, Christian, Hindu, and Muslim communities, and subsequently lauded by UNICEF, calling for the respect of religious freedom and tolerance as requisite conditions for every child to develop to his/her full potential.⁹² In the statement—the first issued by the group since April 2014—the religious leaders reaffirmed their commitment to respect each other's faiths and to promote interfaith dialogue among each other to achieve unity in diversity.⁹³ Co-author Nyanissara, the Chancellor of Sitagu International Buddhist Academy, called for "everyone to live harmoniously in co-existence with other religions in Myanmar based on Five principles for Peaceful Co-existence."⁹⁴ The five principles were to "abide by establishing mutual understanding in each other...abide by establishing mutual respect in each other...abide peacefully without interference in each other religion...abide peacefully by avoiding violence... [and] abide peacefully by co-existing with great tolerance."⁹⁵ With the declaration of these five principles, Nyanissara urged all faiths living in Myanmar to have great tolerance and to try to live peacefully in unison.⁹⁶

On October 26, Foreign Policy magazine published an article entitled "Monks, PowerPoint Presentations, and Ethnic Cleansing" about the state of religious persecution and ethnic cleansing in Myanmar over the past four years.⁹⁷ The article noted that Al Jazeera would air a documentary the same week entitled the "Genocide Agenda", condemning the Myanmar government for its role in promoting anti-Muslim sentiment and focusing on the discovery of a memo, allegedly circulated among township administrators in every state in Myanmar in September 2013, that instructed officials to make "necessary preparations" against a supposed Muslim conspiracy to rape Buddhist women and start riots across the country.⁹⁸

On October 29, corresponding with the release of the Al Jazeera documentary, Fortify Rights released a 78-page legal report entitled "Persecution of Rohingya Muslims", which was compiled in conjunction with Allard K. Lowenstein International and Human Rights Clinic at Yale Law School over a period of three years and is the first report to apply the law of genocide

to the situation of the Rohingya in Myanmar.⁹⁹ The report calls for the UN Human Rights Council to establish a Commission of Inquiry (COI) into international crimes committed against the Rohingya in Myanmar.¹⁰⁰ Minister of Information Yet Htut responded that the government of Myanmar “rejects the accusation [of the Al Jazeera investigation and the Fortify Rights report] completely” and claimed that the reports were intentionally released before the elections to complicate the situation in Rakhine state.¹⁰¹

Also on October 29, Yanghee Lee, the UN special rapporteur on human rights in Myanmar, urged Myanmar’s Election Commission to establish an independent process to review the disqualification of candidates—including many Muslims—in the upcoming November election.¹⁰² She urged the government to ensure full respect for freedom of expression, assembly and association—and to halt the arbitrary arrests and disproportionate sentences given to those exercising their civil rights.¹⁰³ In response, Myanmar’s UN Ambassador Kyaw Tin told the UN General Assembly that the Lee’s allegations were false and that the government was already committed to a free, fair, and transparent election.¹⁰⁴

C. Official Corruption

A Global Witness report issued in October claimed that despite the country’s claims of reform, Myanmar’s jade industry continues to be controlled by the same military elites, U.S.-sanctioned drug lords and crony companies that have long controlled Myanmar’s natural resources.¹⁰⁵ According to the Global Witness report, companies owned by the family of former dictator Than Shwe and other notorious figures are reaping vast profits from the jade business, which is the country’s most valuable natural resource.¹⁰⁶ Meanwhile, very little revenue reaches people of Kachin State, the site of the Hpakant jade mines, or the broader population of Myanmar.¹⁰⁷ Global Witness estimates that the value of illegal jade trade amounted to as much as US\$31 billion in 2014, which constituted almost half of Myanmar’s GDP.¹⁰⁸

III. Constitutional Reform

In late October, candidates from the USDP led a series of rallies in the Mandalay region, seeking to convince voters that they represent the party of reform.¹⁰⁹ The Speaker of the Upper House, Khin Aung Myint, claimed that the USDP “led the drawing of [the Constitution], so it was the USDP that began reforms,” and that the USDP drafters of the Constitution did so “with the intention of ceding power according to the law, sacrificing their self-interest.”¹¹⁰ These comments echoed the party’s campaign position that it brought democracy to Myanmar and needs to be involved in the continued transition in order to maintain a semblance of stability.¹¹¹

In an October 7 interview broadcast by the India Today television channel, Aung San Suu Kyi stated that “if the NLD wins the elections and we form a government, I am going to be the leader of that government whether or not I am the president.”¹¹² The 2008 constitution effectively bars Aung San Suu Kyi from the presidency because her children are foreign nationals. In her interview statement, however, Aung San Suu Kyi added “Should you have to be president to lead a country?”¹¹³ Ko Jimmy, a leader of 88 Generation, said he believed Aung San Suu Kyi would have the power of “spiritual influence” over the next president.¹¹⁴ “She will have the power given by the people so she will have influence over the government,” he stated.¹¹⁵ NLD spokesperson Win Htein further defended Aung San Suu Kyi’s stance and pointed to her

unchallenged authority in the NLD party.¹¹⁶ “She manages every important decision in the party, so she will lead a government of the party. Whoever is called president, she will manage that person,” he said.¹¹⁷

In the same October 7 interview, Aung San Suu Kyi called for constitutional reform to allow civilian authorities to have democratic authority over the armed forces.¹¹⁸ Although she recognized that many in the military would not welcome such a change, Aung San Suu Kyi added that she believes “there are many members of the army who want what is best for the country, and if we can agree with one another what would be best for the country, we can come to some arrangement.”¹¹⁹

IV. Governance and Rule of Law

Ahead of next month’s elections, *The Economist* presented a look at what it would take for Aung San Suu Kyi’s NLD to secure a decisive victory at the polls.¹²⁰ Since the army is guaranteed one quarter of all parliamentary seats, any party looking to govern from a majority position would need to win just over two-thirds of the remaining seats.¹²¹ While the NLD may be confident in its ability to secure the popular vote, whether it will be able to make it past the finish line with a majority of seats is questionable, particularly as smaller parties made up of ethnic minorities seem poised to nip away at the voting base.¹²² In addition, supporters of the NLD have accused the incumbent USDP of buying votes, and the NLD has been sustaining attacks from staunchly Buddhist opponents—in particular, the controversial and outspoken monk Wirathu—painting the NLD as a party pandering to Myanmar’s Muslim minority at the expense of its Buddhist majority.¹²³ Further muddying the waters of electoral augury are the large numbers of potentially disenfranchised voters, such as the Rohingya, as well as potential discrepancies with or omissions from the registered voter lists.¹²⁴ In brief, it is uncertain whether any party will manage an authoritative majority, and it is likely that post-election coalitions may be formed once the dust settles.

The *Daily Eleven* published an editorial lamenting the high rate of violent crime in recent years, pinning the blame on the country’s weak rule of law.¹²⁵ According to the editorial, which claims to have drawn its statistics from official sources, documented instances of murders and rapes together have numbered approximately 2,000 for the last three full years, with burglaries more than double that number.¹²⁶ Particularly troubling is the brazen nature of some of the crimes, which include the killing of police officers who were in pursuit of two separate fleeing criminals; the fugitives had allegedly previously been released from custody under presidential pardon, drawing the ire of critics who believe President Thein Sein’s official pardons are in part responsible for the increase in crime.¹²⁷ Looking at recent pardons in further detail does not provide any concrete link between the release of prisoners over the last few years and an increase in crime, but some inferences can be made: roughly 50,000 prisoners were pardoned in the last five years, with the latest pardon releasing a number of government officers imprisoned for corruption and embezzlement, people jailed for their participation in religious conflicts, and some 155 Chinese citizens sentenced to life imprisonment for illegal logging (some received additional sentencing for drug smuggling) but released only days after; those *not* released under the most recent pardon include many journalists, student protestors and political activists, with only 13 political prisoners restored to freedom.¹²⁸ While it is inaccurate to draw broad assumptions from this small set of data, the information presented by the *Daily Eleven* does lend

support to President Thein Sein’s critics’ view that his pardons have tended to favor criminals over political prisoners.¹²⁹

V. Political Prisoners

On October 8, Amnesty International urged Myanmar to release nearly 100 prisoners of conscience ahead of the November election, accusing the country of returning to “old ways” of repression.¹³⁰ In the October 8 report, Amnesty International claimed that there are at least 91 prisoners of conscience currently behind bars in Myanmar.¹³¹ Laura Haigh, Amnesty International’s Myanmar Researcher, issued a statement saying that “authorities have intensified a chilling crackdown on freedom of expression over the past year,” including a violent response in March to a student protest demanding changes to an education bill, which has raised fears of a return to the tactics of suppression used under military rule.¹³² The rights group urged the immediate release of these prisoners, including dozens of student protesters still detained for trial near the central town of Letpadan.¹³³

The students detained for trial in Letpadan joined in the calls for their own release, holding posters at their trial demanding the release of all political prisoners before October 15.¹³⁴ Since their arrest in March, there has been over 20 trial sessions for the detained students, with no signs of their imminent release.¹³⁵ A representative from the All Burma Federation of Student Unions stated that “The legs and feet of this country are being cut off as the government imprisons activists working to improve the country. The government should not detain those making sacrifices to the nation, including political activists. There shouldn’t be political prisoners. I support the demand for the release of all political prisoners.”¹³⁶

VI. Economic Development

A. Developments in the Legal Framework of Economic Development

In a recent interview with *The Wall Street Journal*, Deputy Finance Minister Maung Maung Thein revealed that the Yangon Stock Exchange will begin trading in early December.¹³⁷ The exchange, which is a joint venture among Myanmar Economic Bank, the Daiwa Securities Group, and the Japan Exchange Group, had been expected to open in October, but was delayed due to the national elections slated for November 8.¹³⁸ Maung Maung Thein expressed confidence that the December launch would not be delayed, regardless of which party prevails in the elections.¹³⁹ As for listings, the Finance Ministry will soon announce which companies will initially be listed on the exchange (approximately 10 companies are expected to make the cut) and their scheduled initial public offering dates; approximately 200 companies are currently being reviewed, with those selected for listing expected to come from the power generation, transportation, and agriculture industries.¹⁴⁰

In our February report, we noted that Myanmar was in the process of combining two investment laws—the Myanmar Citizens Investment Law (enacted in July 2013) and the Foreign Investment Law (enacted in November 2012)—into a single law known as “The Investment Law of the Republic of the Union of Myanmar,” which The World Bank’s International Finance Corporation said would help level the playing field for both local and foreign investors.¹⁴¹

Maung Maung Thein also noted in the same interview that he expects the legislation to be passed by Parliament “in the early part of next year.”¹⁴²

B. Developments in Foreign Investment and Economic Development Projects

On October 8, the EU Myanmar Trade Development Programme (“TDP”) was established. The TDP will support reforms in furtherance of Myanmar returning to the global trade market.¹⁴³ Its initial focus will be on improvements in food and consumer product protection laws and modernizing trade infrastructure.¹⁴⁴ More specifically, it will consist of a three-year technical assistance program that will run until December 2017, with its budget being co-funded by the European Union and Germany.¹⁴⁵

Foreign direct investment in Myanmar is increasingly in a “wait-and-see” and “hiatus” mode as the national elections near according to various reports, including from the World Bank.¹⁴⁶ A report from the World Bank warned that economic growth was dependent on maintaining progress with broader macroeconomic reforms, including modernizing business and banking laws and improving public debt management, among other things.¹⁴⁷

C. Land Seizures

It was revealed this month that President Thein Sein established a model farm—one of his favorite retreats—by purchasing land from locals at above market value, but under apparent threat of confiscation if they did not agree to sell.¹⁴⁸ Weeks before President Thein Sein assumed office, he began establishing a model farm in Nay Pyi Taw.¹⁴⁹ Local farmers described visits from government officials asking to purchase their land without revealing what it would be used for.¹⁵⁰ One farmer refused to sell, even though the price was fair and officials said he could refuse, but some time later he noticed people in his fields with surveying equipment.¹⁵¹ This farmer believed that the land would be seized anyway, only then he would get nothing, so he agreed to sell that evening.¹⁵² Other land owners told similar stories—persistent visits from officials that made them believe there was little choice but to sell.¹⁵³ The farm was launched as a multi-purpose model farm using mechanization and modern agricultural methods, and doubles as a retreat and hosting location for the President’s political guests.¹⁵⁴

Physicians for Human Rights released a report on forced displacements in Shan State, Myanmar.¹⁵⁵ Authors of the report used an “epidemiological survey tool to assess the human rights, livelihood, and health impacts on communities displaced by the reservoir created by Paunglaung dam in southern Shan state.”¹⁵⁶ The report concludes that these evictions did not conform to international standards, and that affected families often cannot grow or buy enough food, leading to declines in food security and increases in poverty levels and risk of disease.¹⁵⁷ Such indicators—related to livelihoods and food security—demonstrate the deleterious secondary effects of land confiscation when evictions do not conform to international standards.¹⁵⁸

VII. Ethnic Violence

A. Peace Talks

On October 15, the government and eight armed ethnic groups signed a national ceasefire agreement.¹⁵⁹ Many armed ethnic groups did not sign the ceasefire agreement, leading some to lament that two years of negotiations had failed to deliver a truly nationwide pact.¹⁶⁰ Nevertheless, the agreement has been broadly hailed as an important step toward a wider peace settlement.¹⁶¹ Speaking at a grand televised ceremony in Nay Pyi Taw attended by hundreds of dignitaries, officials and combatants, President Thein Sein said, “The nationwide ceasefire agreement is a historic gift from us to our generations of the future.”¹⁶²

The signatories to the peace pact included the Restoration Council of Shan State, the Karen National Union, the Democratic Karen Benevolent Army, the All Burma Students’ Democratic Front, the Chin National Front, the Pa-Oh National Liberation Organization, the KNU/KNLA Peace Council and the Arakan Liberation Party.¹⁶³ President Thein Sein’s government excluded three ethnic groups from the deal—the Myanmar National Democratic Alliance Army, the Arakan Army and the Ta’ang National Liberation Army (“TNLA”)—resulting in a boycott of the pact by a majority of armed organizations, including the country’s two strongest: the Kachin Independence Army and the United Wa State Army. However, President Thein Sein expressed confidence that more groups would sign the document if it could be implemented successfully with the initial eight.¹⁶⁴

The 12-page agreement goes beyond the bare parameters of a ceasefire pact to set out a broad vision of a federal Myanmar that it says will be democratic and secular, and guarantee equal rights to all citizens.¹⁶⁵ The agreement requires participants to identify a framework for future peace negotiations by December 14, 2015.¹⁶⁶ These peace talks must commence by January 13, 2016.¹⁶⁷ According to Mutu Say Poe, head of the Karen National Union, this next stage of political dialogue will face substantial challenges.¹⁶⁸

B. Violence Between the Union Government and Ethnic Rebel Groups

Despite the signing of the ceasefire agreement, the month of October was an exceptionally violent period for the Eastern states of Kayah, Shan and Kachin.¹⁶⁹ These states host the greatest number of the country’s ethnic armed groups, only some of which had the opportunity to participate in the talks.¹⁷⁰

The surge in violence has at times included participants to the ceasefire agreement. The Karen National Liberation Army, the armed wing of the Karen National Union which itself was a signatory to the national ceasefire agreement, reported clashes in October with Tatmadaw forces.¹⁷¹

In Shan State, where the majority of reports of violence have originated, various armed ethnic militias have seen different levels of violence.¹⁷² The most intense attacks by government forces have been on areas controlled by the Shan State Army North (“SSA-N”), whose political wing, the Shan State Progress Party, declined to sign the national ceasefire agreement.¹⁷³

In southern Shan State, where the Shan State Army South (“SSA-S”) holds power with the Restoration Council of Shan State, a political wing that did sign the national ceasefire agreement, there has been little to no uptick in violence. However, SSA-S commander Lt. Gen. Yawd Serk has sworn that he would reconsider his commitment to the national ceasefire

agreement if “the government supports those who sign...but attacks the other groups who do not.”¹⁷⁴ Similarly, Khun Myint Htun, chairman of the Pa-Oh National Liberation Organization, noted that while “clashes may decline [following the ceasefire agreement], it cannot be said they will stop entirely.”¹⁷⁵

In northern Shan State, specific attacks on SSA-N included the shelling of SSA-N headquarters in Wan Hai, Kesi Township and nearby Kyethi Township.¹⁷⁶ A roadside bomb exploded in northern Shan State on October 21, injuring four in a town near the fighting.¹⁷⁷ Some reports indicate that the Tatmadaw and SSA-N have clashed 15 times in October,¹⁷⁸ while Myanmar’s state newspaper, The Global New Light of Myanmar, has itself acknowledged 37 clashes with SSA-N forces in the period from October 6 to 19.¹⁷⁹

Noting the comparative calm in southern Shan State, a Shan spokesman suggested that the violence, in combination with government’s selective invitations for peace talks, indicates a “divide and rule tactic” intended to “temporarily pacify some ethnic armies while crushing others.”¹⁸⁰ Commentary by scholars on the region substantiates this suspicion.¹⁸¹

Like the SSA-N, the TNLA has also reported increased violence in the past month by the Tatmadaw. TNLA general secretary Tar Bone Kyaw reported clashes at Nansang, Mongmit, and Kutkai townships.¹⁸² He further noted that the TNLA’s non-participation in peace talks was not their decision but resulted from intentional exclusion by the central government negotiators.¹⁸³

Early in October, two party members of the ethnic Shan political Tai-Leng Development Party (“TLDP”) were killed in separate shootings in Kachin state.¹⁸⁴ TLDP officials accused the Kachin Independence Army of orchestrating these assassinations.¹⁸⁵

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