

# STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

## MARCH 2016 REPORT

**Summary.** This report reviews the March 2016 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. Political Developments**

### **A. Election-Related Developments and Power Transition**

In a historic moment for the country, the Myanmar parliament elected National League for Democracy (“NLD”) nominee Htin Kyaw as Myanmar’s next president on March 15, 2016.<sup>1</sup> Htin Kyaw is set to become Myanmar’s first democratically elected president from a civilian background in more than five decades.<sup>2</sup>

In accordance with Myanmar’s presidential election system, the Parliament’s Lower House, Upper House and the bloc of military-appointed lawmakers each nominated one presidential candidate to be voted on by members of Parliament.<sup>3</sup> President-elect Htin Kyaw was nominated by the NLD-controlled Lower House, while the military bloc nominated Myint Swe, a former lieutenant-general and outgoing Yangon chief minister, and the NLD-controlled Upper House nominated Henry Van Thio, an ethnic Chin lawmaker.<sup>4</sup> Htin Kyaw earned 360 out of a total of 652 parliamentary votes to win the election, while Myint Swe received 213 votes and Van Thio received 79.<sup>5</sup> By law, Myint Swe and Van Thio will serve as vice president Numbers 1 and 2, respectively.<sup>6</sup>

One day prior to the election, it was announced that President-elect Htin Kyaw and the other presidential nominees had passed a vetting process performed by a parliamentary committee led by the Lower House and Upper House speakers and their deputies, two NLD lawmakers from the Upper and Lower House, and a military representative.<sup>7</sup> Major General Than Soe, the military lawmaker on the vetting committee, suggested additional scrutiny of Htin Kyaw because he was not an elected lawmaker.<sup>8</sup> Than Soe also objected to the NLD’s nomination of Henry Van Thio on the grounds that Van Thio had spent an extended period of time outside of Myanmar with his family.<sup>9</sup> Others had raised concerns regarding the eligibility of Myint Swe, whose son was once an Australian national (in apparent violation of Article 59(f), the constitutional clause which effectively bars Aung San Suu Kyi from the presidency by prohibiting anyone with a foreign spouse or children from serving as president).<sup>10</sup> However, the committee ultimately decided to override each of these concerns, determining that each of the nominees met the necessary qualifications for president.<sup>11</sup>

Htin Kyaw is a childhood friend of Aung San Suu Kyi’s who gave up a career in the Foreign Ministry decades ago to help Aung San Suu Kyi with her political party.<sup>12</sup> He is the son of a national poet, the son-in-law of a founding member of the country’s pro-democracy movement, and one of the first generation of graduates from Rangoon University (now the University of Yangon).<sup>13</sup> He earned a bachelor’s degree in economics in 1967 and a master’s degree in economics in 1968, while also working as a lecturer there.<sup>14</sup> In 1970, Htin Kyaw moved to the University’s computer science department, and later studied computer science at the University of London for two years before returning home to work as a programmer and analyst until 1975.<sup>15</sup> In 1980, Htin Kyaw joined the government’s foreign economic relations department, where he worked as deputy director until he resigned in 1992 to work more closely with NLD party.<sup>16</sup>

Some observers are skeptical of the military’s nomination of Myint Swe, arguing that his presence in the executive trio is evidence that former junta ruler Than Shwe intervened and selected his protégé to serve in the new government in order to protect Than Shwe’s family’s financial interests and future safety.<sup>17</sup> Myint Swe not only reportedly maintains regular contact with Than Shwe’s family, he also looks after his business empire and extensive property

portfolio, leading some to conclude that their relationship is not just one of loyalty but of maintaining security.<sup>18</sup> Myint Swe has been involved in past political crackdowns on dissidents and several purges of key leaders in the previous regime.<sup>19</sup> He is still on the American list of “Specially Designated Nationals” under the Treasury Department, barring him from travel to the US.<sup>20</sup>

In one of his first acts as President-elect, Htin Kyaw submitted a proposal to Parliament on March 17 to downsize the number of cabinet-level ministries from 36 to 21.<sup>21</sup> On March 21, Htin Kyaw led his first legislative discussion to explain his consolidation plan. According to his speech, ten existing ministries would remain unchanged, while several would be subsumed into others. Htin Kyaw also proposed a new ministry to cover ethnic affairs.<sup>22</sup> These ministries would be led by 18 ministers approved by the Parliament and three ministers appointed by the military.<sup>23</sup> “The downsizing of the cabinet will save five billion kyats [more than US\$4.1 million] in salaries...over the next five years,” he explained to the lawmakers.<sup>24</sup> “That money can be used for education, health and the rural development of the country.”<sup>25</sup> Following Htin Kyaw’s speech, Parliament approved his proposal, with 611 out of 647 members voting in favor of reducing the number of ministries.<sup>26</sup>

Following Parliament’s approval of Htin Kyaw’s proposed reduction in government ministries, focus shifted to the selection of cabinet officials to serve as heads of the remaining 21 ministries in the upcoming administration. On March 22, the military nominated three Lieutenant Generals to top security posts, with Lt. Gen. Kyaw Swe (former leader of the Southwest Regional Command), Lt. Gen. Ye Aung (once a military judicial advocate), and Lt. Gen. Sein Win (Myanmar’s current Defense Minister) nominated to become the Ministers of Home Affairs, Border Affairs and Defense, respectively.<sup>27</sup> On the same day, the NLD announced nominations for the remaining 18 of the 21 ministerial posts, a group that included a diverse but male-dominated array of technocrats, ethnic minorities, NLD loyalists and others not sworn to the party, even selecting two members of the military-backed Union Solidarity and Development Party (“USDP”) for the incoming cabinet.<sup>28</sup> From the USDP, the NLD nominated Thein Swe, a party secretary and the former central executive committee member Thura Aung Ko for the post of Minister for Labor and Immigration.<sup>29</sup> The NLD had previously indicated that members of the outgoing ruling party would be considered for cabinet slots in a “national reconciliation” government.<sup>30</sup> On March 24, the Myanmar Parliament confirmed the appointments of all 21 nominees.<sup>31</sup> A listing and brief biography of each cabinet appointee is provided in the Annex to this report.

Most significant among these ministerial appointments was that of Aung San Suu Kyi herself. Aung San Suu Kyi was appointed to four cabinet posts in the new government as Minister of Foreign Affairs, Electric Power and Energy, Education, and the President’s Office.<sup>32</sup> Significantly, however, Myanmar’s 2008 Constitution states that if a government minister is a member of any political party, “[they] shall not take part in its party activities during the term of office, from the day [they are] appointed as a Union minister.”<sup>33</sup> Notwithstanding this provision, NLD leaders have stated that Aung San Suu Kyi will remain the leader of the party, at least in a symbolic sense.<sup>34</sup> “She will no longer be involved in the party’s activities, but she will be still the party leader,” said Zaw Myint Maung, an NLD spokesperson.<sup>35</sup> “The constitution doesn’t say you have to leave the party if you take a Union minister position.” Zaw Myint Maung stated that the NLD’s activities would be led by a newly formed five-member secretariat and the party’s

existing central executive committee, and cited the party's experience with Aung San Suu Kyi's absence through her 15-year period of house arrest as evidence that the new leadership will be capable of maintaining the party's success even without Aung San Suu Kyi making its decisions.<sup>36</sup>

Although she is constitutionally barred from the Presidency, Aung San Suu Kyi has openly stated she would run the country from "above the president" and that the elected president would serve as her proxy. On March 31, the NLD-controlled Parliament took a step to formalize her role as the country's leader by introducing a bill to create a new post for her as "state adviser," which some analysts are comparing to prime minister.<sup>37</sup> Known as the State Adviser Bill, the draft specifically names Aung San Suu Kyi as the country's State Adviser, with a term equal to that of the President.<sup>38</sup> In the new role, Aung San Suu Kyi would be able to collaborate with any government organization, department or individual in order "to help a multi-party democracy flourish, to generate a vibrant market economy, to establish a federal Union and to spur peace and development in the Union."<sup>39</sup> The law itself, if enacted, would remain in effect only for the parliamentary term ending in early 2021.<sup>40</sup>

Phyu Phyu Thin, an NLD lawmaker, described the proposed position as "the highest in the country. If it is approved, [Aung San Suu Kyi] will be the head of state."<sup>41</sup> If that assessment proves true, however, the law would likely face scrutiny from Myanmar's Constitutional Tribunal, which is charged with examining the constitutionality of legislation passed by Parliament.<sup>42</sup> Article 58 of the Constitution states: "The President of the Republic of the Union of Myanmar takes precedence over all other persons throughout the Republic of the Union of Myanmar."<sup>43</sup>

## **B. Constitutional Reform**

As discussed above, the Myanmar Parliament introduced a bill that would designate Aung San Suu Kyi as "State Adviser," a unique, newly created position in the Myanmar government.<sup>44</sup> An NLD spokesman stated that according to the bill, Aung San Suu Kyi in her role as State Adviser would exercise control over the government and greater official responsibility over Parliament, the democratic process and negotiations of national peace.<sup>45</sup> The spokesman further explained that this new role would be in addition to Aung San Suu Kyi's four ministerial posts and that no change to the constitution would be required; only the approval by parliament, which the NLD overwhelmingly controls, would be necessary.<sup>46</sup> Aung Kyi Nyunt, a member of the NLD who helped draft the bill, described the position as "coordinator between the government and the Parliament."<sup>47</sup>

The creation of the State Advisor post is viewed by some analysts as a means to protect Aung San Suu Kyi from assertions that she is violating the strict separation of powers in the constitution, allowing her to use the power she has more effectively, rather than to give her more power.<sup>48</sup> Members of the USDP have denounced the move as a power grab, saying that Aung San Suu Kyi's post of minister in the president's office already gives her all the authority she needs to be involved in any issue under existing laws.<sup>49</sup> Hla Swe, a former lawmaker with the USDP, stated "It seems she wants to hold as many posts as she can. Using her hands, feet and her teeth, she is holding those posts. I want to say she is crazy for power."<sup>50</sup>

In late March, Leaders of the United Nationalities Federal Council (“UNFC”), an ethnic armed group alliance, began a six-day federal constitution drafting workshop in the northern Thai city of Chiang Mai.<sup>51</sup> The workshop was facilitated by the Ethnic Nationalities Affairs Center (“ENAC”), a resource center supporting the peace process through policy development.<sup>52</sup> Through engagement with local and international experts, participants centered their discussion on the key principles and characteristics of a union constitution.<sup>53</sup> Nai Hong Sar, the UNFC vice chairman, told reporters that they were preparing themselves for future discussions with political parties and government representatives by brushing up on their knowledge of federalism.<sup>54</sup> Throughout the week, workshop participants explored how federalism in Myanmar might be structured through the division of power, the composition of parliament and the establishment of security forces.<sup>55</sup> One idea which has been put forward in Myanmar is the designation of eight states, including seven regions representing various ethnic nationalities, and one designated as central Myanmar.<sup>56</sup> Currently, Myanmar has seven ethnic states along the northern, eastern and western parts of the country and seven central ‘divisions,’ which critics say creates an imbalance of power.<sup>57</sup>

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

### **A. Press and Media Laws/Restrictions**

On February 21, Mizzima Media Group and Action Aid Myanmar jointly organized a Policy Dialogue on Media Development in Yangon, Myanmar.<sup>58</sup> Participants hailed from across the country’s media industry and, most notably, it may have been the first time that editors and CEOs from all four powerhouse publications (Myanmar Times, DVB, The Irrawaddy and Mizzima) met in a formal setting to discuss their joint needs. Participants also included ambassadors, the general secretary of the Myanmar Press Council, representatives from UNESCO, and senior personnel from rights, advocacy and research groups; however, the Ministry of Information’s permanent secretary was notably absent.<sup>59</sup> Among the topics considered at the meeting were the privatization of state-run media, cross-ownership of media networks, an uneven playing field between state-owned and private media outlets, and the push for legal reforms to ensure freedom of the press.<sup>60</sup>

In mid-March, in an interview with Irawaddy, Myanmar’s incoming Information Minister (and former journalist) Pe Myint stated that he will ensure press freedom in Myanmar upon taking office. Although he promised to review the existing Broadcasting, Printing and Publishing, Media, and Electronic Transaction laws to see which ones should be upheld or reformed over the coming years, he defended the need for an information ministry and did not outline specific changes that he would make to ensure the freedom of the media.<sup>61</sup> In a separate statement to Radio Free Asia, Pe Myint promised to reform the media by changing the content of government-run newspapers and radio stations while also working to free jailed journalists and working to prevent the future imprisonment of journalists in Myanmar.<sup>62</sup>

Prior to the March 30 power transfer ceremony, officials from the outgoing administration issued invitations to attend the ceremony to 300 representatives from various organizations, including ambassadors, high-ranking military generals, government officials and senior members of the NLD.<sup>63</sup> Certain journalists, however, criticized the selection process for media member invitees amid rumors that a committee formed to oversee the transition had planned to invite only government mouthpieces and a few private newspapers to the event.<sup>64</sup>

Outgoing Information Minister Ye Htut stated on his Facebook account that the NLD had selected which media outlets to invite, and directed complaints to the incoming ruling party. His account did not confirm the number of media invitees, but said the committee would choose about 20 weekly journals, seven dailies, both state-owned and private broadcasters, and some international media, such as Voice of America and the BBC.<sup>65</sup>

## **B. Freedom of Association/Religion**

The month of March saw an increased number of international religious groups putting pressure on the government of Myanmar to change its laws and policies regarding religious minorities in the country and, most notably, the lifting of the state of emergency in Rakhine State.

On March 14, as part of the Interactive Dialogue with the UN Special Rapporteur on Human Rights in Myanmar, Professor Yanghee Lee, Christian Solidarity Worldwide (“CSW”) delivered a statement urging the government of Myanmar to repeal its race and religion laws discriminating against religious minorities and women.<sup>66</sup>

On March 15, the United Nations Human Rights Council (“UNHRC”) held a multi-religious panel on the future for ethnic and religious groups in Myanmar, organized by a coalition of non-governmental organizations. The speakers included Buddhist and Muslim activists, Cardinal Charles Maung Bo and UN Special Rapporteur, Professor Lee.<sup>67</sup> In his statement, Cardinal Charles Maung Bo listed many of Myanmar’s challenges but noted that among the biggest challenges are freedom of religion or belief and ethnic conflict and specifically aired his concerns about the four race and religion laws that were passed in 2015.<sup>68</sup> Cardinal Charls Maung Bo also outlined six practical recommendations for Myanmar: (1) renew the mandate of the Special Rapporteur on Human Rights on Myanmar; (2) encourage the new government in Myanmar to invite the Special Rapporteur on Freedom of Religion or Belief to visit the country, meet with different religious groups, and to assist the new government in addressing its human rights challenges; (3) support initiatives that promote inter-faith dialogue; (4) urge the new government to take action to prevent hate speech and incitement of violence, bringing perpetrators to justice, and to demonstrate moral leadership; (5) urge the new government not to implement the four laws on race and religion; and (6) specifically in regards to Rakhine state: take action to prevent hate speech, ensure humanitarian access for all on both sides of the conflict, reform or repeal the 1982 Citizenship Law, and establish a credible independent investigation with international experts.<sup>69</sup>

At the UNHRC on March 17, the Jubilee Campaign and CSW issued a joint statement urging the government of Myanmar to repeal or amend the 1982 Citizenship Law, which discriminates against the Muslim Rohingya, and to promote the right to freedom of religion or belief for all.<sup>70</sup> This statement was delivered as part of Myanmar’s Universal Periodic Review (“UPR”) outcome review, a process under which every UN Member State has its human rights record reviewed by the wider international community. The government of Myanmar only fully accepted 135 human rights recommendations raised during the UPR process this year. Of the recommendations that were not accepted, many are important to religious minorities and the realization of the right to freedom of religion or belief, including approximately 35 recommendations addressing the rights of Myanmar’s Muslim Rohingya population.<sup>71</sup>

On March 20, a group of comedians performed in a competition on the pro-government TV channel MNTV, with one performer singing and dancing while wearing the robe of a hermit as the others ridiculed him. After this performance, four performers and the director and

composer of the group were charged with insulting religion under articles 295 and 295(a) of the Myanmar Penal Code.<sup>72</sup> On March 26, Cardinal Charles Maung Bo issued a long Easter message urging Myanmar's leaders to heal the wounds of discrimination against ethnic and religious minorities, reminding them that without justice, there is no peace.<sup>73</sup>

Finally, on March 29, state media reported that the state of emergency on Rakhine State had been lifted by the office of outgoing president Thein Sein for the first time since its imposition in 2013.<sup>74</sup> The report stated that “no [further] threat to the lives and property of the people were found” but, according to an official from Rakhine's regional government speaking under conditions of anonymity, no decision had been made as to the fate of the thousands of displaced people in internment camps in Rakhine.<sup>75</sup> As of yet, neither the Rohingya nor the approximately 1,000 interned Kaman minorities have been permitted to leave the camps to return to their homes.<sup>76</sup>

### **C. Official Corruption**

On March 4, authorities said that two senior Myanmar officials were removed from their posts after an investigation over corruption in the country's multi-billion-dollar jade mining industry.<sup>77</sup> The officials, the heads of Myanmar's customs and trade departments, were accused of illegally importing heavy machinery used to dig for jade in northern Kachin state.<sup>78</sup> The removals marked a rare government admission that officials were involved in corrupt practices in the shadowy and vastly lucrative jade industry, which feeds huge demand for the precious stone in neighboring China.<sup>79</sup>

On March 21, President-elect Htin Kyaw told Parliament that the incoming government will work to achieve a corruption-free society.<sup>80</sup> He also assured the current government staff that they will not lose their jobs if they work in accordance with the laws, rules and regulations, saying that the government will ensure job security for the government staff even though the number of ministers and ministries will be reduced.<sup>81</sup> On March 28, Phyo Min Thein, the new chief minister for the Yangon region nominated by President-elect Htin Kyaw, vowed to make Yangon a “no-corruption business city,” particularly in regard to foreign investment.<sup>82</sup>

Two cabinet nominees approved by the parliament have been exposed to have dubious academic degrees on their resumes, raising questions about the credibility of the country's new government.<sup>83</sup> Kyan Win, Myanmar's new finance and planning minister, admitted to buying a fake PhD degree in finance from a fictitious online university.<sup>84</sup> Than Myint, minister of commerce, has a master's degree and doctorate degree from Pacific Western University, an unaccredited correspondence school shut down by the U.S. government over its accreditation.<sup>85</sup> Than Myint, who worked with the Ministry of National Planning and Finance before serving with the United Nations, has said subsequently that he does not believe he did anything wrong.<sup>86</sup> These questions have provoked criticism that the scandals indicate a lack of transparency and accountability in forming a new government.<sup>87</sup>

### **III. Political Prisoners**

In its latest report, international human rights organization Amnesty International has appealed for the immediate and unconditional release of all political prisoners still behind bars when the NLD-led government, led by President-elect Htin Kyaw, comes into office on April 1.<sup>88</sup> According to the report, the new government must “prioritize reforming the legal code to ensure that speaking out is no longer a crime, and it must release all those imprisoned simply for doing

so.”<sup>89</sup> According to the report, there are at least 90 prisoners of conscience currently being held in Myanmar, with several hundred more on trial.<sup>90</sup> The report alleges that in the last two years Myanmar authorities have cracked down on critics and opponents, relying on various tactics and draconian laws to silence dissent, such as intimidation, harassment and prison.<sup>91</sup>

While Amnesty International acknowledges that since 2011 more than 1,100 political prisoners have been released through 20 separate presidential amnesties or pardons, the organization still questions the NLD’s ability to make significant human rights changes due to the military’s continued control of several key institutions.<sup>92</sup> The organization therefore recommended that the new government establish a special committee for political prisoners to review relevant cases and ensure no peaceful activists are imprisoned, as well as to amend or repeal all laws used to infringe on human rights.<sup>93</sup>

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

The incoming trio of executives, with Htin Kyaw as President, former general Myint Swe as senior vice-president and NLD newcomer Henry Van Thio as junior vice-president, has been described by one Western observer as an “awkward triumvirate,” raising concerns about how well the ascendant NLD will be able to govern alongside the entrenched military, or Tatmadaw, which continues to hold one quarter of parliamentary seats thanks to the military-drafted constitution.<sup>94</sup> President-elect Htin Kyaw himself is expected to govern essentially as a proxy for Aung San Suu Kyi, who has made no secret of her intention to pull the nation’s strings from above the seat of the president.<sup>95</sup> Htin Kyaw’s appointment was met with a congratulatory message from United Nations Secretary-General Ban Ki-moon, who called it a “significant achievement.”<sup>96</sup>

Bureaucratic reform will be one of the challenges facing the incoming government, and its “awkward triumvirate” will need to find a way to navigate and reform the decades-old bloated civil system—a challenge made doubly difficult due to the long standing and embedded corruption which has typically been to the benefit of the Tatmadaw and its historical allies.<sup>97</sup> The already difficult task is made more so by two factors that the NLD cannot change at the present: the budget for this year, which was passed by the outgoing military-backed parliament in January and which leaves certain areas—notably health—underfunded, and the constitutionally guaranteed military control over three powerful ministries (the Ministries of Home Affairs, Border Affairs, and Defense) as well as the General Administration Department, which permeates all levels of the nation’s government.<sup>98</sup>

In a parade held in Naypyidaw to mark Myanmar’s 71st Armed Forces Day on March 27, military commander-in-chief Senior General Min Aung Hlaing emphasized what he viewed as the importance of the army’s role in the country’s political reforms and its continued collaboration with the incoming government.<sup>99</sup> Although Min Aung Hlaing stated that the military will cooperate “to achieve success in working for the nation and the citizens’ interests,” critics remain concerned by a continued military presence in Myanmar’s political scene, as well as what they see as collaboration between the new government and the armed forces.<sup>100</sup> Min Aung Hlaing called for obedience from citizens, stating “The two main obstructions in our country’s progress toward democracy are weakness in obeying rules, regulations and laws, and having armed insurgents. This could lead to disorderly democracy. If we can only fix these two [things], the country’s path to democracy will be smooth.”<sup>101</sup>



## **V. Economic Development**

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

Myanmar's business community generally reacted positively to the released names of incoming cabinet Ministers.<sup>102</sup> Than Myint, incoming Minister of Commerce, is currently the NLD chairman for Yangon's Hlaing Tharyar Township and a lawmaker in the Lower House.<sup>103</sup> He received a Bachelor's degree in economics from Rangoon University and completed graduate work in the United States.<sup>104</sup> Aye Lwin, central executive committee member of the Union of Myanmar Federation of Chambers of Commerce and Industry, stated "[Than Myint] is a member of the NLD's economic development committee and has a good background in economic affairs...so I believe he will work for this post."<sup>105</sup> Kyaw Win, incoming Minister of National Planning and Finance, is a business consultant and an NLD lawmaker for the Lower House representing Yangon's Dagon Seikkan Township.<sup>106</sup> He holds a Bachelor's degree in economics, as well as a doctorate.<sup>107</sup> Aye Lwin expressed confidence that "[Kyaw Win] would be able to control such a ministry because he has solid experience with businesses."<sup>108</sup> Kyaw Win has recently commented that Myanmar's economic growth will be dependent on improving the financial sector, enforcing taxation and promoting rural development.<sup>109</sup>

Following earlier delays, share trading on the Yangon Stock Exchange ("YSX") launched on March 25, just before the incoming NLD government assumed power.<sup>110</sup> The YSX officially "launched" in December 2015, but since then shares had only been traded internally through dry-run testing.<sup>111</sup> Six firms are due to be listed on the YSX initially: First Myanmar Investment ("FMI"), Myanmar Citizens Bank, Myanmar Thilawa SEZ Holdings Public Limited, Myanmar Agribusiness Public Company Limited (Mapco), First Private Bank and Great Hor Kham.<sup>112</sup> On the first day of trading, however, only FMI shares were available for trading, with an initial offering price of 26,000 kyats (US\$22) and a closing price of 31,000 kyats at the end of the first day's trading session.<sup>113</sup> The YSX has imposed a floor and ceiling on daily stock price fluctuations of 5,000 kyats to prevent high volatility in the exchange's early days.<sup>114</sup> Six securities companies—including Kanbawza Group of Companies, CB Securities, AYA Securities and the Myanmar Securities Exchange Center—have been selected as underwriters and will work with the YSX as liaisons between the listed companies and buyers and sellers.<sup>115</sup> The YSX is Myanmar's first modern stock exchange, and its backers hope the new capital market will help spur growth in Myanmar's once-moribund economy.<sup>116</sup>

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

Yangon's new chief minister, Phyo Min Thein, stated after being appointed that he will focus on using local and foreign investment to ramp up the development of infrastructure in Myanmar's commercial capital.<sup>117</sup> In particular, Phyo Min Thein told reporters that he would try to alleviate Yangon's problems regarding traffic congestion and the city's flawed drainage system, as well as address challenges faced by foreign investors.<sup>118</sup> The promised reforms were generally supported by local businessmen and trade group representatives.<sup>119</sup>

The Asian Development Bank has indicated that "[f]oreign direct investment is expected to get a lift from the successful political transition following national elections in November

2015, with investment flowing into newly established special economic zones and rapidly expanding transport, telecommunications, and energy sectors,” the bank said.<sup>120</sup>

### C. Land Seizures

Discussions continued in March regarding the controversial Myitsone Dam project, which is expected to flood approximately 4,800 hectares and displace 48 villages along the Irrawaddy River.<sup>121</sup> The Chinese government indicated that it would push the incoming NLD-led government to proceed with the dam’s construction, after outgoing President Thein Sein suspended the \$3.6 billion project in 2011.<sup>122</sup> The suspension angered Beijing as approximately 90% of the dam’s power was expected to go to China.<sup>123</sup> According to reports, Chinese diplomats have been quietly approaching senior NLD officials regarding the dam.<sup>124</sup> The Myanmar people are “watching to see whether Aung San Suu Kyi and the NLD government will ‘stand up’ to China.”<sup>125</sup>

Officials in Bagan have issued an edict requiring that all 42 hotels, inns and guesthouses in Bagan will have to relocate to a specially designated “hotel zone” within 10 years.<sup>126</sup> The 10 year time period is designed to give people enough time for them to recover their investment through private sales, though officials acknowledged that “some may lose out.”<sup>127</sup> Officials further stated that there are no plans to compensate hoteliers for any loss attributable to the forced moves.<sup>128</sup> Construction of new hotels in Bagan was banned two years ago, although existing hotels were permitted to remain. While many hotel owners have been frustrated by the announcement, some have taken a more positive view, indicating that they support “zoning hotels to protect the city’s ancient heritage” and its booming tourist trade, especially if it helps secure a UNESCO listing.<sup>129</sup>

In Rakine State, farmers continued to protest the lack of compensation received for farmlands ruined by the Myanmar Oil and Gas Enterprise(MOGE) Myanmar-China gas pipeline.<sup>130</sup> The farmers have called for “central government officials to investigate the discrepancy between the compensation promised and the money paid and to immediately pay the remaining promised compensation” and have also “hired lawyers to fight for the rest of their compensation through the court system.”<sup>131</sup>

Civil society organizations and residents living near the Dawei Special Economic Zone (“SEZ”) have called for action from the Myanmar, Japanese and Thai governments to tackle human rights violations before allowing the project to resume.”<sup>132</sup> Since the project’s implementation began, the SEZ has reportedly affected livelihoods in 20-36 villages, in which 22,000 to 43,000 people reside.<sup>133</sup> Residents in Payadat village have expressed fears of losing agricultural land if the project resumes.<sup>134</sup> Many in the village lost farmland when quarrying started, and waste from rock production has destroyed nearly 81 hectares of paddy fields.<sup>135</sup> The government had previously offered to pay residents 3 million kyats per acre, but demanded at least 10 million kyats, indicating that the 3 million kyats offered is not enough to sustain the futures of the affected families and is not enough to purchase a similarly sized plot of land elsewhere.<sup>136</sup> A resident of Mayingyi village reported that more than 81 hectares of paddy fields in his village were destroyed because of the construction of a road linking the quarry to the SEZ site and that the road blocked the waterway and led to flooding in some areas and shortage in others.<sup>137</sup>

Khin Hlaing, an executive member of the Yangon City Development Council (“YCDC”), complained that the “Myanmar Investment Commission...is allocating land under YCDC jurisdiction to companies in a haphazard manner.”<sup>138</sup> According to reports, no proposals, submissions or meetings have been held with YCDC to discuss the projects for which land has been allocated, despite statutes requiring such processes.<sup>139</sup>

Lastly, NLD members of Parliament met with land law legal experts and activists in Pauk Township, Magway Region, on March 3 to discuss matters relating to land confiscation and amendments to land laws.<sup>140</sup> The attendees at the meeting said that in total there have been 5.2 million acres of land confiscated in Myanmar while in Pauk Township, Magway Region alone, Defense Industry No. 24 had confiscated over 30,000 acres from farmers.<sup>141</sup>

## **VI. Peace Talks and Ethnic Violence**

### **A. Violence Against Muslims and Ethnic Rebel Groups**

As discussed above, the four-year state of emergency in Rakhine State—which was initially imposed following clashes between Myanmar’s Buddhist nationalists and minority Rohingya Muslim groups—was lifted at the end of March.<sup>142</sup> Nevertheless, a recent investigation by The Irrawaddy illustrated persistent divisions between these groups in the former Rakhine capital of Sittwe.<sup>143</sup> Separate reports this month in the Myanmar Times found that locals across Rakhine state still felt that emergency measures such as curfews were necessary for continued stability.<sup>144</sup>

The Rohingya refugee crisis that was widely reported in 2015 appears to have slowed, but the reason is not entirely clear. Some reports this month suggest that Rohingya confidence in the incoming NLD government is responsible for stabilizing tensions.<sup>145</sup> Other reports, meanwhile, attribute the reduced flow of refugees to success of the heavy crackdown on smuggling humans by boat.<sup>146</sup> The United States State Department concluded this month that Myanmar’s “persecution” of Rohingya does not amount to genocide.<sup>147</sup>

As the newly-elected NLD government transitioned to power in the final days of March, months of violence between and among Tatmadaw forces and ethnic armed groups yielded to a brief peace.<sup>148</sup> For much of the month, however, the violence that first escalated in November 2015 continued with no sign of stopping, particularly in the northeastern regions of Myanmar.<sup>149</sup> The Ta’Ang National Liberation Army (“TNLA”) has been at the center of the most recent conflicts, clashing with both Tatmadaw<sup>150</sup> and Shan State Army South (“SSA-S”) forces throughout the month.<sup>151</sup>

As has been previously reported, the fighting continues to displace Shan State civilians, and increased Tatmadaw participation in the Shan State conflict since February has created new threats to locals.<sup>152</sup> In an apparent attempt to crack down on TNLA offenses, government forces reportedly detained ethnic Ta’An activists for alleged collaboration with the TNLA.<sup>153</sup> While the reports are anecdotal, they are reminiscent of government strategies previously used in Rakhine State, where dozens were detained under the “Unlawful Associations Act” for alleged collaboration with the Arakan Army (“AA”).<sup>154</sup> Shan State residents and community groups have

alleged that the government abuses include detention, torture, and the burning of the homes and food stocks of innocent locals.<sup>155</sup>

In the Kokang region, the ethnic Myanmar National Democratic Alliance Army (“MNDA”), openly allied with both the TNLA and the AA, has been reorganizing and expanding its troop presence.<sup>156</sup> Following major February offensives against the government, the MNDA this month released official proclamations calling for cooperation against Tatmadaw control over the Kokang region.<sup>157</sup>

In Kachin state, an ongoing ideological clash between the anti-opium militia “Pat Jasan” turned into violence when Pat Jasan entered Waingmaw Township in a symbolic mission to clear poppy fields.<sup>158</sup> Kachin militias, allegedly supported by local authorities, used force to protect their crops, but Pat Jasan has vowed to secure Tatmadaw support and return to Waingmaw Township.<sup>159</sup>

## **B. Peace Talks**

In late March, the eight ethnic armed groups that signed the nationwide ceasefire agreement (“NCA”) met at a summit in Chiang Mai, Thailand, and formed the Ethnic Armed Organizations Peace Process Steering Team.<sup>160</sup> The Steering Team was created with the goal of providing leadership for the eight signatories during future peace talks.<sup>161</sup> The KNU chairman, Gen. Mutu Say Poe, will act as the team leader, and Lt. Gen. Yawd Serk, chairman of the Restoration Council of Shan State (“RCSS”), will serve as his deputy. Other leaders of the NCA signatory groups will join the Steering Team as members.<sup>162</sup> The Steering Team will continue the Union Peace Dialogue Joint Committee (“UPDJC”) and Joint Monitoring Committee (“JMC”) initiatives implemented during Thein Sein’s administration, and engage in the peace process with the new government.<sup>163</sup> According to attendees, the Steering Team will likely meet again in April and may further peace policies based on the policy of the incoming NLD government.<sup>164</sup>

In addition, the mandate for the JMC was extended for an additional three months.<sup>165</sup> The JMC was established to monitor actions by NCA signatories and, like the Steering Team, is intended as a transitional body while NCA participants await a new lead negotiator from the incoming NLD government.<sup>166</sup>

Non-signatory ethnic armed groups were invited by the United Wa State Army (“UWSA”) to a meeting in Wa-administered territory within Shan State. Participants included the TNLA, UWSA, MNDA, and Arakan Army (“AA”), all active participants in the ongoing Shan State violence.<sup>167</sup> Following the meeting, the group released a statement of intent to end hostilities in the region but conditioned the statement by saying that participants may coalesce for “joint defense” against any threats if peace talks were to fail.<sup>168</sup> This latter statement of allegiance suggests the increasing willingness of non-NCA-signatories to collectively fight against any government-backed peace initiatives they may deem unsatisfactory.

- **Htin Kyaw (President)**

Born in 1946, the 69-year-old is the oldest president in Myanmar's history. He is the second son of Min Thu wun, one of Myanmar's respected national poets. The Mon-Burmese University of London graduate was a senior executive with the Daw Khin Kyi Foundation, a non-profit health and education charity named for Aung San Suu Kyi's mother. He is believed to be one of Aung San Suu Kyi's right-hand men. His wife, Su Su Lwin, is a Lower House NLD lawmaker and the chairperson for the chamber's international relations committee.

- **Myint Swe (Vice President 1)**

Brig-Gen Myint Swe was born in 1951 and is a graduate of the 15th intake of the Defense Services Academy in 1971. In the late 1990s, Myint Swe took over outgoing president Thein Sein's role as general staff officer, a powerful position in the War Office, where he worked directly under Senior General Than Shwe and Vice Senior General Maung Aye.

He became commander of Light Infantry Division 11 in 1997. Later, he was appointed Commander of the army's Southeastern Command and Rangoon Command. A member of the State Peace and Development Council ("SPDC") since 2001, Myint Swe also acted as the chairman of the SPDC in Rangoon Division.

Myint Swe became the Chief of Military Security Affairs after Khin Nyunt was purged in 2004. Two years later, he was appointed the head of the Bureau of Special Operations (5), a department that oversees security affairs in Rangoon. In 2009, he became quartermaster-general of the armed forces and rumors circulated that he was Than Shwe's choice for the next commander-in-chief. Instead he became the chief minister for Yangon Region after the 2012 by-elections. He was involved in the 2002 arrest of family members of the former dictator Ne Win, the arrest of Khin Nyunt and his associates in 2004, and the crushing of the Saffron Revolution in 2007.

- **Henry Van Thio (Vice President 2)**

Henry Van Thio was born in Thee Khi village in Htantalan Township in Chin State on August 9, 1958. The Chin Christian holds a BA (Diploma in Law). He served as a Major in the Myanmar Army, as well as in different positions in Ministry of Industry, before retiring in 2009. He is married and has two sons and a daughter. He joined the NLD in 2015 and in the national election of that same year, he contested and won in Chin State Constituency, earning a seat in Myanmar's Upper House.

- **Aung San Suu Kyi (Foreign Affairs, Education, Electric Power and Energy, President's Office Minister)**

NLD chairwoman Aung San Suu Kyi's presidential aspirations were dashed by the military's refusal to amend Article 59(f) of Myanmar's 2008 Constitution. The provision bars her from holding the executive post because her two sons are British citizens, as was her late husband. As the holder of four cabinet positions, some are referring to Suu Kyi's role in the new government as that of a "super minister." She has been representing Yangon's Kawhmu

Township in Parliament's Lower House since 2012 and has been a leader in Myanmar's pro-democracy movement since she entered politics in 1988.

- **Lt. Gen. Kyaw Swe (Home Affairs Minister)**

Born on Nov. 27, 1959 in Kyauk Padaung, Mandalay Division, Lt. Gen. Kyaw Swe is a graduate of the 22nd intake of the Defense Services Academy and holds a master's degree in defense. He served as principal of the Defense Services Academy, the commander of South West Command, the Military Security Affairs chief and Border Affairs Minister in the previous government.

- **Lt. Gen. Sein Win (Defense Minister)**

Born on July 24, 1956 in Sagaing Division, Lt. Gen. Sein Win is a graduate of the 54th intake of the Officer Training School of the Burma Army and holds a master's degree in defense. He served as chief of the Bureau of Air Defense and was the Defense Minister in the previous government.

- **Lt. Gen. Ye Aung (Border Affairs Minister)**

Born on June 8, 1960 in Chauk, Magwe Division, Lt. Gen. Ye Aung is a graduate of the 23rd intake of the Defense Services Academy and holds a master's degree in defense. He served as the commander of the army's Central Command and is Judge Advocate General in the service. He is also a military representative in the peace talks between the government, ethnic armed groups and the Myanmar Army.

- **Pe Myint (Information Minister)**

Born in 1949 in Thandwe, Rakhine State, the ethnic Arakanese earned his medical degree from the Rangoon University of Medicine in 1975. He worked as a general physician until entering the literary sphere in 1988. He is a renowned writer and is particularly known for his translated works on motivation and personal development. He won Myanmar's national literature award in 1995.

- **Thura Aung Ko (Religious Affairs and Culture Minister)**

Born on April 1, 1948, the long-time Union Solidarity and Development Party (USDP) central executive committee member was a Lower House MP and chairperson of the Judicial and Legal Affairs Committee during Thein Sein's administration. He lost his Chin State legislative seat in the 2015 election to a candidate from the NLD. Thura Aung Ko graduated from Myanmar's Defense Services Academy and served in the military from 1969 to 1997. He had reached the level of brigadier-general when he then joined the State Peace and Development Council (SPDC) government and served as deputy minister in the Ministry of Science and Technology and later held the same position in the Ministry of Religious Affairs.

- **Aung Thu (Agriculture, Livestock and Irrigation Minister)**

Born on July 8, 1955, the NLD lawmaker currently represents Rangoon Constituency (6) in Parliament's Upper House. He is known for his past role as the rector of Rangoon University, and has advocated for a more decentralized education system in Myanmar.

- **Thant Zin Maung (Transportation and Telecommunications Minister)**

Born on Nov. 15, 1953, Thant Zin Maung has a master's degree in mathematics and was once the general manager of the government-owned Myanmar Railways. He is a Lower House lawmaker representing Monywa in Sagaing Division.

- **Ohn Win (Resource and Environmental Conservation Minister)**

Born on June 15, 1951, Ohn Win earned a master's degree in watershed management from Colorado State University in the United States. He is a former pro-rector and professor from the University of Forestry in Yezin, near Naypyidaw, Myanmar's capital.

- **Thein Swe (Minister for Labor and Immigration)**

Born on Aug. 4, 1949 in Yenangyaung, Magwe Division, Thein Swe is a graduate of the 13th intake of the Defense Services Academy. He holds a diploma certificate in defense studies (National Defense College), an honorary academic doctorate (Japan International Marine Science and Technology Federation) and a post-graduate diploma in law. He was in the service from 1967 to 2003 and rose through the ranks to major general. He served as the Minister for Transport from 2005 to 2010. He is from the Union Solidarity and Development Party, served in the previous Parliament and is a lawmaker in the Lower House for Rakhine State's Ann Township.

- **Khin Maung Cho (Minister for Industry)**

Born on Nov. 3, 1950 in Meikhtila, Mandalay Division, Khin Maung Cho has a bachelor's degree in mechanical engineering from Rangoon Institute of Technology and is an executive engineer at Super Seven Stars Motor Industry Company Ltd.

- **Than Myint (Commerce Minister)**

Born on Jan. 17, 1943, the 72-year-old joined the NLD in 2012. Than Myint is currently the chairman of the Hlaing Tharyar Township NLD chapter and a lawmaker in the Lower House representing the same area. He has a bachelor's degree in economics from Rangoon University and also earned master's and doctoral degrees in the US. In the past, he served in a number of positions within the Ministry of Finance.

- **Dr. Myint Htwe (Health Minister)**

Myint Htwe worked in Myanmar's Health Ministry from 1976 to 1994 before joining the World Health Organization. He studied at Rangoon University of Medicine, then the Institute of Public Health of the University of Philippines and finally, Johns Hopkins University in the United States, where he earned a doctoral degree in international health and epidemiology. At present, Myint Htwe is a central executive committee member of the Myanmar Academy of

Medical Science and the vice chairman of the Myanmar Liver Foundation. He is also a member of the Legal Affairs and Special Cases Assessment Commission.

- **Kyaw Win (Planning and Finance Minister)**

Born on Feb. 23, 1948, Kyaw Win holds a bachelor's degree in economics. He spent 20 years working within the National Planning Ministry before joining the Internal Revenue Department and then shifting to business consulting. Currently, Kyaw Win is an NLD lawmaker in the Lower House representing Yangon's Dagon Seikkan Township.

- **Win Khaing (Construction Minister)**

Win Khaing graduated from Rangoon Institute of Technology (now Yangon Technological University) and worked for Myanmar Oil and Gas Enterprise under the Construction Ministry. In 1990, he established United Engineering Co., which still operates today. He is the current chairman of the Myanmar Engineering Society and a member of the Myanmar Investment Commission. He is also a member of the National Energy Management Committee, Myanmar Industrial Development Committee, Myanmar Board of Engineers, Committee for Quality Control of High-rise Buildings Projects, Asean Federation of Engineering Organizations and Asean Academy of Engineering and Technology.

- **Win Myat Aye (Social Welfare, Relief and Resettlement Minister)**

Born on June 1, 1954, Win Myat Aye is an Upper House lawmaker from Pegu Division's Constituency. He is also a pediatrician and once served as the rector of Magwe University of Medicine.

- **Ohn Maung (Hotels and Tourism Minister)**

68-year-old Ohn Maung has 40 years of experience in the tourism industry and is the former CEO of Inle Princess Resort, a hotel recognized for practices of corporate social responsibility. From southern Shan State, Ohn Maung was elected as an NLD parliamentarian in his native Nyaungshwe (Yawngshwe) in Myanmar's 1990 election, but like others from the era, he was not allowed to take office.

- **Nai Thet Lwin (Ethnic Affairs Minister)**

The 76-year-old ethnic Mon minister is the vice chairman of the Mon National Party ("MNP"), and is highly respected within the Mon political sphere. Nai Thet Lwin was born in Kayin State's Kawkareik Township and later went to Moulmein University, from which he holds a bachelor's degree in philosophy. Although he did not run for election in 1990, he served as the vice chairman of the Mon National Democratic Front (MNDF), which won five seats before later evolving into today's MNP. Nai Thet Lwin reportedly has close ties with the United Nationalities Alliance, a coalition of ethnic political parties and an NLD ally. He also reportedly has good relations with leaders of the New Mon State Party.





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