

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

AUGUST & SEPTEMBER 2016 REPORT

Summary. This report reviews the August and September 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. Governance and the Rule of Law

The Lower House has accepted a proposal submitted by Parliament member Khin Hnin Thit, a National League for Democracy (“NLD”) representative from Padaung, to take proactive measures to cut the national crime rate.¹ Seeking to take advantage of the still-present hope that the new NLD government will effect positive change on the nation’s administration, Khin Hnin Thit noted that national violent crime rates increased from 2013 to 2014 and have remained steady since then in 2015 and 2016.² She also pointed to a rise in traffic accidents, the failure of police to make arrests following seizure of drugs and illegal timber, and a startling rise in human trafficking.³ According to Khin Hnin Thit, these increases are due, in part, to socio-economic factors as well as weak moral standards, although she also criticized the low number of police officers—one officer for every 1,000 citizens—which she said is well below the international norm.⁴ NLD Parliament member Khin Sandar, who seconded the proposal, also noted that expanded education about laws by Parliament is necessary.⁵ Other Parliament members stressed the need to find long-term solutions to the root causes of crime, including corruption, drug use and unemployment, and noted that high crime damages the people’s trust in government, making it difficult to enact and implement government policies.⁶ The deputy minister for the Ministry of Home Affairs, which is controlled by the military, said that while local level crime-prevention activities were being conducted, he would not expect a national strategy to be possible at this time.⁷

Meanwhile, a newspaper published by the Union Solidarity and Development Party (“USDP”), the former ruling party with military ties, claimed that crime has risen dramatically since the NLD took power, with “[o]rganized crimes, rapes and robberies hav[ing] become rampant across the country.”⁸ The article pointed to the August 20 murder of a former police officer and his family.⁹ Former Upper House member Nyunt Tin, a member of the USDP, voiced his agreement with the article, claiming that amnesties granted by the NLD were to blame for the increase in lawlessness.¹⁰ National police commander Colonel Zaw Win Aung, however, said that the USDP’s claim was not substantiated by crime statistics.¹¹ The Ministry of Home Affairs has announced its plans to double the size of the police force, which other members of Parliament have agreed suffers from a lack of funding and an inadequate number of officers, in the next few years.¹² In addition, the government has signaled its intent to implement nationwide reform of the beleaguered police force, updating its training and rethinking its allocation of resources to make it more effective against the challenges it must face, including organized crime relating to drug trade, human trafficking and the illegal timber trade.¹³ When, and to what extent the reform will take place, is not clear.

B. Constitutional Reform

As discussed further in Part IV below, the 21st Century Panglong Conference (the “Panglong Conference”) was held from August 31 to September 3. The conference began a new stage in the process of ending Myanmar’s seven decades of armed conflict, and is widely viewed as integral to the country’s continued political transition and long-term economic development.

In addition to the Panglong Conference discussions regarding the nationwide ceasefire agreement and ongoing peace negotiations, conference participants presented more than 70

position papers on Myanmar's political future.¹⁴ Most of the speakers focused on their vision for a federal democratic Union, as well as perceived security and defense priorities and the need for greater ethnic equality, sovereignty and right to self-determination. Some called for a decentralization of the government; many pressed for revising the constitution. For example, the United Nationalities Federal Council ("UNFC"), an ethnic armed alliance, presented a draft agenda for a revised federal constitution. The UNFC's 10-point agenda focused on bringing the Myanmar armed forces under civilian administration and included proposals requiring ethnic minorities to be appointed as military leaders, imposing a cap on the size of the military, reorganizing the country into 14 states, consisting of the seven current states plus the seven regions converted into "states of nationalities."¹⁵

Representatives from the Tatmadaw and the USDP used their presentation slots to reaffirm their position that the foundation of the Union must continue to be the military-drafted 2008 Constitution, as well as the basic principles of the nationwide ceasefire agreement signed last year.¹⁶ "When I look at the presentations, some suggestions are simply impossible demands [as they violate the constitution]," Lieutenant General Yar Pyae said in his closing remarks. He added that "the most important thing is to find common ground for a future federal Union through a negotiation process."¹⁷ Naing Han Thar of the UNFC recognized that no concrete peace agreement or common outlook on the federal Union would ever be achieved if the Tatmadaw continues to insist on upholding the 2008 constitution and the key political role it enshrines for the military.¹⁸

Dr. Tin Myo Win, the NLD's top peace negotiator, suggested that the party favored a middle-ground approach, emphasizing the need for harmonious relations between states and the federal government, while also advocating for built-in checks and balances between the executive, parliament and judiciary.¹⁹ In her closing remarks, Aung San Suu Kyi urged all participants to avoid dwelling on past grievances or slights. "After listening to the presentations of all groups over the past four days, I know now who is concentrated on past wrongs and who is focused on how to build our future state," the state counsellor said. "But there is time yet for those stuck in the past to look forward."²⁰

C. Official Corruption, Sanctions and the International Community

In a proposal submitted on August 2 to the Lower House of Myanmar's Parliament, Dr. Than Win, an NLD representative, urged Parliament to take measures to combat corruption.²¹ Following a two-day debate, the house speaker ordered Myanmar's bill committee to review the current anti-corruption law, which was enacted in August 2013 during the administration of former President Thein Sein.²² Other representatives called for reforms, including a replacement of members, with respect to Myanmar's anti-corruption commission.²³ Since its inception in 2014, the commission has received over 2,000 complaints regarding corruption but has investigated and acted upon only approximately 500, citing reasons of lack of evidence or that such complaints relate to events occurring prior to the establishment of the committee.²⁴ Nay Myo Tun, an NLD representative, argued that while the 2013 anti-corruption law had been well intentioned, the commission had not made significant ground in reducing corruption. Win Myint, member of the NLD and speaker of the Lower House, cited the need for the government, Parliament and media to encourage the general public to submit complaints, along with sufficient evidence, of corruption to the commission.²⁵

In September 2016, the United States government stated that it intends to work with Myanmar to address corruption in the logging and mining sectors.²⁶ In addition, the U.S. released updated rules on the import of Myanmar jade and rubies.²⁷ Myanmar's jade and ruby industries, which have long been marred by claims of corruption,²⁸ are set to undergo a series of changes following a decision by the NLD to freeze the issuance and renewal of mining licenses until a new legal framework is in place.²⁹

Sanctions and the International Community

On August 15, the Lower House of Myanmar's Parliament rejected a proposal brought by Than Soe, a member of the USDP, for the government to place pressure on the U.S. to lift sanctions.³⁰ Than Soe, who submitted the proposal three months after the U.S. government announced an easing of sanctions in May 2016, argued that any continued sanctions were no longer suitable in the absence of military rule and that sanctions would delay Myanmar's development.³¹ The proposal was rejected by 219 votes to 151.³² Hla Moe, a member of Parliament for the NLD, noted that the sanctions currently in place were against certain individuals who are seen to be obstructive to Myanmar's democratic process, rather than against the country as a whole, and the lifting of such sanctions is dependent on whether such sanctioned individuals "can conduct themselves well in democratic affairs."³³

During a five-day visit to Beijing commencing on August 17, 2016, Aung San Suu Kyi reportedly confirmed her willingness to find a solution to the Myitsone dam project.³⁴ The Chinese-funded project, which would build a large hydroelectric power station at the source of the Ayeyarwady River in the north of Myanmar, was suspended in 2011 following wide-spread opposition, including from Aung San Suu Kyi.³⁵ The dam's original plans caused nationwide controversy, due to proposals for 90% of the dam's power to be provided to China, rather than Myanmar, for the flooding of an "area the size of Singapore"³⁶ and for the potential irreversible change in the flow of the Ayeyarwady.³⁷ While progress remains subject to further investigation into a mutually beneficial solution,³⁸ the presence of ongoing discussion is a positive indicator of Chinese-Myanmar relations.³⁹

The visit to China was Aung San Suu Kyi's first major diplomatic trip since the election⁴⁰ and was soon followed by a trip to the United States in September 2016.⁴¹ During her U.S. visit, on September 14, President Obama pledged to lift all remaining sanctions against Myanmar in an effort to reward the country's recent moves toward democracy after decades of brutal military rule.⁴² "In part because of the progress that we've seen over the last several months," Obama said in the Oval Office, as he sat beside Aung San Suu Kyi, "the United States is now prepared to lift sanctions that we have imposed on Myanmar for quite some time. It is the right thing to do in order to ensure that the people of Myanmar see rewards from a new way of doing business and a new government," the president said.⁴³ President Obama offered Aung San Suu Kyi congratulations on the progress that has already been made, while acknowledging that such progress is not yet complete.⁴⁴

The U.S. decision to lift all remaining sanctions against Myanmar was quickly criticized by leaders of some human rights groups, who said they worried that eliminating sanctions was premature given the slow pace of change in Myanmar, where the military still controls a large portion of parliamentary seats and important government ministries.⁴⁵ "If the issue was growing

Burma's economy, there are plenty of other ways to do that without pulling off all of these important restrictions, which have given Aung San Suu Kyi much-needed leverage over the military, with whom she still has battles ahead," said John Sifton, the deputy Washington director of Human Rights Watch. "If the issue is leverage, the decision today makes almost no sense: Obama and Aung San Suu Kyi just took important tools out of their collective tool kit for dealing with the Burmese military, and threw them into the garbage."⁴⁶

At the time of the announcement, it remained unclear exactly when the remaining sanctions would be lifted. The sanctions to be lifted include those imposed by the U.S. executive branch, including the restrictions on trade in jade and precious stones and doing business with some of Myanmar's military officials or their affiliates.⁴⁷ Restrictions imposed by the U.S. Congress, including sanctions related to North Korea and those governing arms sales and military cooperation, will remain unless lawmakers vote to lift them.⁴⁸

II. Civil and Political Rights

A. Freedom of Speech and of the Press

On August 1, Myanmar lawmakers proposed a new bill to repeal Myanmar's controversial 1950 Emergency Provisions Act. The Emergency Provisions Act was originally enacted in 1950 by the government of Myanmar's first prime minister, U Nu, in response to the civil war that erupted in the wake of the country's independence. The act bans content that would "affect the morality or conduct of the public or a group of people in a way that would undermine the security of the Union or the restoration of law and order," and grants sweeping authority to the government to prosecute individuals who disseminate "false news" or are otherwise determined to have "jeopardized the state."

Many have noted that the act has been one of the most frequently used laws for the prosecution of political dissidents in Myanmar, with journalists, media workers, human rights defenders, trade unionists and activists having been frequently subject to lengthy prison terms after being convicted under the Act. The act carries the death penalty and sentences of up to life in prison for treason or sabotage against the military. It also dictates up to seven years in prison for a sweeping range of other "offenses" against the state.

Opposing the abolishment of the act, military lawmakers suggested instead amending some provisions that are deemed no longer suitable.⁴⁹ On August 24, the Lower House voted to repeal the controversial act, and in mid-September the Upper House approved the proposal.⁵⁰ President Htin Kyaw is expected to sign the bill repealing Emergency Provisions Act in early October.

B. Economic and Social Empowerment

Several developments in August and September show a continuing effort by the government to improve the condition of the Rohingya population in the country and increase economic and social empowerment efforts with respect to other marginalized groups. Perhaps most notably, on August 29, 2016, Myanmar's government appointed former Secretary General of the United Nations Kofi Annan to lead a commission to advise on a "sustainable solution" to the crisis of the Rohingya.⁵¹ Notably, the Kofi Annan Foundation in Geneva, which is charged

with supporting the commission, chose not to use the term Rohingya in the public statement it released from Mr. Annan. “I am pleased to support the national efforts to promote peace, reconciliation and development in Rakhine,” Annan said. “I look forward to listening to the leaders and people of Rakhine and to working with the State and central authorities to ensure a more secure and prosperous future for all.”⁵²

The commission is charged with the task of providing recommendations on the “complex challenges facing Rakhine,” and to initiate a dialogue with political and community leaders in Rakhine “with the aim of proposing measures to improve the well-being of all the people of the State.” The measures will focus specifically on humanitarian and developmental issues, access to basic services, the assurance of basic rights, and the security of the people of Rakhine.⁵³ The commission is comprised of three international members (chairman Kofi Annan, U.N. adviser Ghassan Salamé, and Dutch diplomat Laetitia van den Assum), and six other members from Myanmar. The Myanmar members include former and current representatives of the Myanmar Red Cross Society, and members of human rights and religious groups. Among the Myanmar members are two Buddhist Arakanese, two Muslims (from Yangon), and three government officials.⁵⁴ The commission will deliver its report and recommendations directly to the government of Myanmar next year.⁵⁵

Tun Khin, president of the Burmese Rohingya Organisation UK, was welcoming of the commission but noted that “it is quite disappointing that the Rohingya are not included in it” and asked “how [commission members] will consult with the Rohingya community.” He further expressed his concerns about how the government will act on the commission’s recommendations, stating bluntly that “People cannot wait for food.”⁵⁶ The Arakan National Party (“ANP”) and the USDP jointly objected to the inclusion of international members on the commission, arguing that their presence would “interfere with Burma’s sovereignty.”⁵⁷ Their fears chiefly revolve around the likelihood of the international members siding with the Rohingya. Aung San Suu Kyi has attempted to allay concerns, stating that “no one can interfere with our sovereignty—sovereignty is owned by all people, not only by the government.”⁵⁸ During the week of September 5, a heated debate took place in the Lower House of Parliament, with 148 lawmakers—including military representatives, members of ethnic parties and the USDP—arguing for international members of the commission to be replaced with local academics. However, the proposal was defeated by 250 lawmakers from the NLD.⁵⁹ Reactions on social media similarly reflected the country’s extreme division on the issue.⁶⁰

Annan himself arrived in Myanmar on Sunday, September 4, and after meeting with Aung San Suu Kyi in Rangoon, he traveled to Rakhine State with the new commission. There, the commission met with Buddhist and Muslim community representatives before meeting with President Htin Kyaw and Myanmar’s armed forces chief Senior General Min Aung Hlaing in Naypyidaw.⁶¹ Upon the commission’s arrival and departure from Rakhine State, several hundred Buddhist Arakanese conducted protests.⁶² During their meeting, Senior General Min Aung Hlaing warned the commission that proposed solutions to the communal conflict in the state must win the “approval” of the Buddhist Arakanese community.⁶³ Min Aung Hlaing also claimed that the conflict in Rakhine State was “not based on religion,” but due to “people instigating riots using religion as a pretext.”⁶⁴ He stated that the Rohingya would be assessed for citizenship under the 1982 law.⁶⁵

Current UN Secretary General Ban Ki-Moon also spoke in Myanmar in September, attending an interfaith meeting of religious leaders ahead of the 21st-century Panglong Conference that took place during the last week of August.⁶⁶ In his address, the Secretary

General emphasized that hate speech must be curbed, and during the meeting, Union Minister for Culture and Religious Affairs Aung Ko announced that the second draft of the Hate Speech Law had been completed and would soon be submitted to parliament.⁶⁷ An opinion article by Fiona Macgregor in the Myanmar Times argued that misogyny is hate speech too and that protections against it should be included in the bill.⁶⁸

Other efforts across the country also focused on improving conditions for women. Counselors from the Metta Foundation, an organization combating gender-based violence, are working in the camps for internally displaced people in Kachin.⁶⁹ An article in the Myanmar Times highlighted the work done by the Metta Foundation, including establishing eight centers where girls and women in the camps can access experts on gender-based violence for advice in both government- and non-government zones of Waingmaw Township.⁷⁰ The organization also organizes training sessions to help participants understand their rights and also a new awareness of how women should be treated within a family; recognizing the critical role of men in changing gender realities across the country, some of the courses include male participants, and male volunteers for the organization are participating in the fight against gender-based violence.⁷¹

On September 22, Parliament member Aung Taung Shwe of the ANP, representing Buthidaung Township, requested that the government restrict birth rates within the Muslim community in two Rakhine State townships: Maungdaw and Buthidaung.⁷² Citing statistics on population (not yet independently verified, according to Irrawaddy), he argued that Muslim Rohingya were having proportionally more children than the Buddhist Arakanese and that restricting the birthrate would be an appropriate area in which to enforce the Protection of Race and Religion laws.⁷³ Union Minister for Health and Sport Dr. Myint Htwe condemned the ANP lawmaker's request as a violation of "medical ethics" to sterilize women against their will. His ministry, he added, could not take action to restrict birth rates without an order from the President and the Union government.⁷⁴ In its article, the Irrawaddy included comments from David Scott Mathieson, senior researcher on Myanmar in the Asia Division of Human Rights Watch, expressing the organization's outrage over the proposal.⁷⁵

A few days later, on September 27, a Thematic Report on Fertility and Nuptiality, was published based on data from 2014 Myanmar Population and Housing Census, showing a drastic need for better family planning options, especially in poor areas, and for more investment in girls' education.⁷⁶ The UNFPA, which provided support to the government ministry for the study, stated that fertility rates were highly influenced by geographical and socioeconomic factors, including women and girls' education levels, and that "young people in particular are vulnerable to unintended pregnancy but often face barriers related to taboos and stigma when it comes to accessing reproductive health information and contraceptives. They need knowledge to make informed decisions about their sexuality and health."⁷⁷ After discovering that Myanmar has the second-highest rate in the region of women who never marry, Dr. Khine Khine Soe, the director of the Population Department under the Ministry of Labour, Immigration and Population, said at the launch of the report on Tuesday in Naypyidaw, "We now face the question of how to address the issue of single women." The Ministry stated that the country was in need of a population policy, which would set a target nationwide population, in response to an overall decline in the fertility rate and an increase in the number of unmarried women. Gender rights activists argued that if the government wants more women to marry or have children, it needs to provide incentives for working mothers, including child care centers.⁷⁸

For several years, NGOs and the government have also been working on a National Prevention of Violence against Women bill. While such legislation still has not been released,

Myanmar Now conducted an interview on August 31 with Aye Thada Hla, communications coordinator of the Gender Equality Network, regarding the work that has been taking place across the country on women's rights, including combating gender-based violence and efforts focused on sexual health more broadly.⁷⁹

Locally based NGOs in Myanmar are requesting to be involved more regularly in decisions on humanitarian aid and development. These NGOs have argued that their local knowledge gives them an advantage over large international NGOs in many of the situations that most need development assistance, but that they often lack adequate funding to respond quickly to such situations.⁸⁰ Although the contributions of local NGOs, particularly in emergency situations, is widely recognized, figures released by the United Nations earlier this year show that developing-country NGOs receive only 0.2 percent of international humanitarian assistance.⁸¹ A report released by Paung Ku argued that although many international NGOs work with local NGOs in Myanmar, the relationships do not constitute partnerships, but could rather be described as sub-branding.⁸² The report stated that the Myanmar groups have no part in decision-making and act only as operators on the ground.⁸³ On a more global scale, the UN Office for the Coordination of Humanitarian Aid ("OCHA") is backing the demands of developing-country NGOs for localization and local leadership. Mr. Pierre Peron in OCHA's Yangon office said the agency would try to use its role as a coordinator to ensure that the demands of Myanmar NGOs were heard and to design funding systems that were accessible to local groups.⁸⁴

In spite of the many efforts underway to protect minority groups, serious challenges remain. On September 18, Rakhine State's Security and Border Affairs Minister, Colonel Htein Lin placed an order to demolish more than 3,000 buildings—including 12 mosques and 35 madrasas (schools)—associated with the Rohingya population in Maungdaw and Buthidaung, alleging that they had been built illegally.⁸⁵ In a joint statement on September 23, local and international Rohingya Muslim groups declared that the order has "caused consternation to the entire Rohingya community," and that "this demolition project is part of their [Rakhine State Government's] long-drawn-out annihilation and ethnic cleansing policy of the defenseless Rohingya people." In a separate statement on September 27, Christian Solidarity Worldwide also called upon the government to halt the demolition, to protect religious sites and to uphold the right to freedom of religion and other basic freedoms.⁸⁶ The statement also called for the lifting of aid restrictions and the restoration of internally displaced persons to their homes and properties.⁸⁷

III. Economic Development

A. Developments in the Legal Framework of Economic Development

A dam project in northern Myanmar continues to be a central point of discussion between Chinese and Myanmar leaders.⁸⁸ Aung San Suu Kyi, in her capacity as Myanmar Minister of Foreign Affairs, traveled to Beijing in late August to meet with Premier Li Keqiang and other Chinese officials on trade and other matters.⁸⁹ Known as the Myitsone dam, the dam and other projects have been on hold due to protests from Myanmar citizens due to environmental and other concerns.⁹⁰ Shortly before her visit, Aung San Suu Kyi announced the establishment of a commission to review the Myitsone dam and other projects along the Ayeyarwady River.⁹¹ The

commission is tasked with evaluating the social and environmental impacts of various projects and making proposals for the mutual benefit of Myanmar and Chinese investors.⁹² A report by the commission is due by November 11, 2016.⁹³

In August, U.S. Assistant Secretary of State for Economic and Business Affairs Charles H. Rivkin traveled to Myanmar.⁹⁴ The purpose of the visit was to interact with government leaders, civil society groups, small and medium enterprises, and entrepreneurs to understand the opportunities in the development of key sectors of Myanmar's economy.⁹⁵ The U.S. delegation included representatives from IBM, Chevrolet, Coca-Cola, General Motors, Deloitte, and the Massachusetts Institute of Technology.⁹⁶ The visit was a stop on the U.S. State Department's "American Innovation Roadshow," a program that "highlights American entrepreneurship and innovation and encourages governments to adopt regulatory rules that attract investors and create jobs."⁹⁷ Mr. Rivkin discussed the visit in a wide-ranging interview with the *Los Angeles Times* on U.S.-Myanmar commercial and governmental relations.⁹⁸ In particular, he noted that U.S. business leaders have a keen interest in making investments in Myanmar, particularly given its proximity to "half of the world's consumers," but that obstacles, such as decaying infrastructure and outdated laws, remain.⁹⁹ Mr. Rivkin also said that "American investors need three basic concepts – transparency, predictability and the rule of law."¹⁰⁰

Myanmar Citizens Bank received approval to commence trading on the Myanmar's new stock exchange on August 26.¹⁰¹ It has been reported that First Private Bank, Myanmar Agricultural Business Public Corporation, and Great Hor Han are also expected to begin trading.¹⁰²

On September 29, Myanmar's Lower House of Parliament passed the long-awaited Myanmar Investment Law, and on October 4, the bill was approved by the Upper House.¹⁰³ The new investment law, which combines the Foreign Investment Law drafted in 2012 and Citizens' Investment Law drafted in 2013, includes tax breaks which are different from those stipulated under the former USDP government.¹⁰⁴ The law also seeks to remedy many of the perceived weaknesses with the existing foreign direct investment law, such as requirements to seek permission for every proposal from the Myanmar Investment Commission, incentives to avoid settling a dispute peacefully before going to arbitration, lack of legal descriptions on monetary policy in connection with the transfer of foreign currency, an abundance of required paperwork, the investment commission's monopoly of authority, and potential discrimination against foreign investors in favor of local investors.¹⁰⁵ The prompt approval of the bill was viewed as a response to exuberant foreign investors wishing to invest in Myanmar following the U.S. announcement that it would lift all remaining executive economic sanctions against Myanmar.¹⁰⁶

B. Land Seizures

The NLD government has continued its efforts to "solve all land-grab cases within one year" from taking office.¹⁰⁷ Estimates indicate that the number of land-grab cases that arose under the prior USDP administration "is in the hundreds of thousands," and that between three to five million acres of land were forcibly taken by the military under the prior USDP regime.¹⁰⁸ Although the previous military-dominated parliament did have two bodies to investigate and mediate land-grab cases, each of these investigative bodies was criticized for "dragging its feet."¹⁰⁹ The investigative bodies reviewed approximately 17,000 cases of land seizure claims,

but resolved only 1,000 such claims.¹¹⁰ There are ongoing complications with returning confiscated land, including the complexity of the cases and the absence of a clear paper trail.¹¹¹ Many documents related to land seizures have been destroyed by the damp climate and cyclone Nargis.¹¹² Further, much of the land has been divided and re-sold, which complicates efforts to settle disputes.¹¹³ In some areas, stakeholders are unhappy with the progress made. Farmers have claimed that many members of the government committee tasked with investigating land grabs and resolving disputes at the township and region level were involved in forced land seizures under previous governments, and that it is therefore inappropriate for them to play a role in resolving land disputes.¹¹⁴

The Asian Highway project, designed to serve as a trade link between Myanmar and Thailand has reportedly displaced local communities who live along the route in Karen State.¹¹⁵ Members of the Karen Environmental and Social Action Network have indicated that this is of particular concern because the area is “conflict-torn” and “partially controlled by several different militias,” making it less safe for fleeing civilians.¹¹⁶ The building of the highway “has been responsible for fueling fighting, displacement and numerous human rights violations.”¹¹⁷ Further, the local villagers are reportedly “subject to the whims of the Ministry of Construction, and have been displaced and coerced into accepting unfair compensation for the loss of their lands.”¹¹⁸ A report indicates that “at least 17 households were forcibly evicted from their land under orders issued by the state government, which failed to provide adequate compensation.”¹¹⁹ Even those who were not evicted from their property suffered as “they were not fairly compensated for environmental damage to their farmlands as a result of the project.”¹²⁰ At a press conference in Rangoon, Karen representatives have indicated that land confiscation “has had particularly adverse impacts on women.”¹²¹

In the Yangon region, approximately 1,000 squatters living in a community of 426 huts have refused to vacate their homes along the Yangon-Mandalay highway.¹²² Residents have indicated that “if they were displaced, they would reconvene on the site...as soon as the bulldozers...left.”¹²³ The previous government tried to evict those who live along the highway in December 2015, but the squatters returned to the same place after the attempted eviction.¹²⁴ The squatters have indicated that they do not have anywhere else to go but would be open to being provided with another plot of land that is “somewhere [they] can live.”¹²⁵ At the end of September, the “tent-dwellers” were granted a reprieve to “avoid making them homeless in the rain.”¹²⁶

In Magwe Region’s Sinbaungwe township, villagers are calling for the “reconstitution of committees in the township tasked with resolving seized land claims, saying their current memberships do not have locals’ approval.”¹²⁷ The committee was formed by “picking the 10-household group elders’ names” and does not include any farmers’ representatives.¹²⁸ The farmers in this area have been campaigning for the return of land seized in the late 1990s and have formally submitted a complaint for the third time this year asking for the return of the land.¹²⁹ At the time of the seizure, farmers were offered compensation equal to approximately \$0.01 per acre.¹³⁰ So far no action has been taken by the government to resolve these claims.¹³¹

In Rakhine State, the Chief Minister “has ordered a halt to fencing around the perimeter of an industrial ward” on account of farmers’ reports that their lands had been confiscated fifteen years earlier.¹³² The Chief Minister indicated that the new government “would investigate the

allegations of land grabbing” and determine appropriate next steps.¹³³ The price of land in the area has skyrocketed and farmers, many of whom never received compensation from the government, are demanding that they are “compensate[d] in line with the local real estate market price.”¹³⁴

Also in Rakhine state, twenty-one local farmers reportedly spurned a compensation ceremony “when they arrived to find that the event was being staged to conclude the matter of damage to their farmlands without attempting to rectify the destruction.”¹³⁵ When the villagers arrived at the ceremony they realized that, contrary to a previous agreement, the Chinese oil and gas firm responsible for the compensation seemed to be “implying that it would no longer be responsible [for] repair [of] the damaged lands.”¹³⁶

In Sagaing Region, farmers received police permission for a protest against a nickel project.¹³⁷ Land farmed for 70 years was seized for building the project.¹³⁸ More than 3,000 acres of land was seized and the only compensation paid was for a fraction of the crops damaged.¹³⁹ No compensation was paid for the land, and the farmers are now demanding that compensation be paid at the current rates.¹⁴⁰ The local MP indicated that it could take up to five years to resolve the issue.¹⁴¹

IV. Ethnic Violence

A. Peace Talks

The Panglong Conference was held from August 31 to September 3, where hundreds of representatives of Myanmar’s ethnic tribes gathered in Naypyidaw for the multi-day talks.¹⁴² During her opening remarks on the first day of the Panglong Conference, Aung San Suu Kyi appealed for unity and stressed peace as a priority.¹⁴³ “This is a unique opportunity for us to accomplish a great task that will stand as a landmark throughout our history. If all those who play a part in the peace process cultivate the wisdom to reconcile differing views for the good of the people, we will surely be able to build the democratic federal union of our dreams,” she said.¹⁴⁴ “Only if we are all united, our country will be at peace. Only if our country is at peace, will we be able to stand on equal footing with other countries in our region and across the world.”¹⁴⁵

U.N. Secretary-General Ban Ki-moon attended and gave a speech at the Panglong Conference.¹⁴⁶ At a joint news conference with Aung San Suu Kyi on August 30, the Secretary-General said that the world is very concerned about the tens of thousands of Rohingya Muslim refugees.¹⁴⁷ “They deserve hope—all of Myanmar’s people, of every ethnicity and background, should be able to live in equality and harmony, side by side with their neighbors,” he said.¹⁴⁸ Earlier, on August 23, the deputy director of the President’s Office, Zaw Htay, announced that the Secretary-General would be attending the Panglong Conference as the government invited him to the Panglong Conference after he expressed an interest in attending.¹⁴⁹ This is the Secretary-General’s first visit to Myanmar since Aung San Suu Kyi’s NLD replaced the army-backed government in March.¹⁵⁰

Representatives from three armed groups—the Arakan Army (AA), the Myanmar National Democratic Alliance Army (MNDAA), and the Palaung State Liberation Front/Ta’ang

National Liberation Army (PSLF/TNLA)—were not invited to the Panglong Conference.¹⁵¹ The three groups' status has remained uncertain for weeks, in part complicated by a demand that they turn over their arms to a mutually agreed third party in order to formally join the peace process.¹⁵² That condition, which the three groups view unfavorably, stems from a temporary alliance they formed last year in northeast Shan State, where conflict with the Tatmadaw that first flared in February in the Kokang Self-Administered Zone dragged on for months.¹⁵³ Reuters reported on August 12 that the Myanmar military was no longer requiring that the three armed ethnic groups disarm before joining the conference, but the Myanmar army did not issue an official announcement confirming this.¹⁵⁴

According to a member of the conference organizing committee, the government also allowed five delegates from 70 political parties whose candidates didn't win in the country's national elections last November to attend the Panglong Conference.¹⁵⁵ The government also invited representatives from the United Nations and international organizations to attend the Panglong Conference.¹⁵⁶

Some ethnic rebel groups had expressed concern that the government scheduled the Panglong Conference for too early a date, limiting the opportunities for all parties to participate and jeopardizing the chances of success.¹⁵⁷ Lamai Gum Ja of the Kachin Peace Creation Group said on August 12 that the ethnic groups need more time to prepare for the talks.¹⁵⁸ He and several colleagues complained that the government set the date without consulting them, and that fighting continued between government troops and the Kachin and Shan minorities even after the meeting was announced.¹⁵⁹ "It is still too early to say" whether the Panglong Conference is representative of the aspirations of all groups, according to Khu Oo Reh, the spokesman of the United Nationalities and Federal Council, a group that represents all ethnic armed groups.¹⁶⁰ "But we really hope that we can achieve real democracy and equality for all ethnic groups, and self-determination in our region."¹⁶¹

Ultimately, it was clear before the conference began that no significant decisions would be made at the conference, which ended a day earlier than it was originally scheduled to conclude because the framework for political dialogue remained incomplete. Some delegates lamented the resulting lack of substantial debate. Nevertheless, the Panglong Conference made symbolic progress in the end. Some 1,800 participants from across government, the Tatmadaw, 17 of 21 ethnic armed organisations, and political parties came together at the conference to discuss Myanmar's political future. Such cooperation represented a great leap for a country that began its political transition from a military dictatorship only five years ago.

B. Violence Against Ethnic Rebel Groups

As discussed in the July Report, in a rare public admission of wrongdoing by the still-powerful military in July, Army spokesman and chief of military security affairs Lt-Gen Mya Tun Oo told reporters the army was responsible for killing five men from Mong Yaw village and said the culprits would be prosecuted. Witnesses had previously said that soldiers rounded up dozens of men from the village, in an area riven by a long-running ethnic insurgency, on June 25 and led five away.¹⁶² Their bodies were found in a shallow grave a few days later.¹⁶³

In a highly unusual move, the army invited 15 residents from the remote village of Mong Yaw, where the killings took place, to witness the court martial at a nearby military base on August 9.¹⁶⁴ “The judge read the murder case reports and asked for confessions from the soldiers, who admitted they were responsible,” said Sai Kaung Kham, a Mong Yaw villager who has been helping the families attending the military trial.¹⁶⁵ Mong Yaw lies in a distant corner of Shan State, where thousands of people have been displaced by decades of fighting between the military and ethnic insurgents.¹⁶⁶ Military representatives contacted in the capital Naypyitaw and at the Northeast Command in Lashio did not respond to multiple requests for comment about the trial.¹⁶⁷

Both the news conference by one of the country’s most senior generals and the invitation to villagers to attend the military trial were unprecedented.¹⁶⁸ The army has occasionally acknowledged troops have been at fault in previous incidents, but has usually done so in vaguely worded official statements.¹⁶⁹ The response this time suggests a heightened sensitivity about the military’s image as it tries to present itself as a responsible partner in Myanmar’s democratic transition and seeks closer ties with Western counterparts.¹⁷⁰ Myanmar’s armed forces have often been accused by human rights groups of abuses during decades of conflict with ethnic armed groups in the country’s lawless border zones, but campaigners such as Amnesty International say it is extremely rare for soldiers to be held to account.¹⁷¹

According to the witnesses present at the court martial, three officers and three lower-ranking soldiers admitted to murdering the villagers.¹⁷² The seventh serviceman, the highest-ranking of those on trial, said he did not order the soldiers to “kill” the villagers, but to “clear them out.”¹⁷³ The soldiers said they had arrested and interrogated five men and found two of them were related to a local ethnic armed group.¹⁷⁴ They said they asked their superiors for further instructions, villager Sai Kaung Kham said.¹⁷⁵ The low-ranking soldiers then proceeded to kill the villagers, acting on orders, the witnesses at the trial said.¹⁷⁶ “They were worried that if they let the three villagers go back, they would tell others they had been tortured,” the soldiers told the court martial, according to Sai Kaung Kham.¹⁷⁷ Before killing them, the soldiers dressed some of the men in camouflage trousers, Sai Kaung Kham and other witnesses said.¹⁷⁸

Residents from Shahtuzup village in Kachin State’s Hukawng Valley believe that two men that have been missing since August 12 are being detained by the Myanmar Army.¹⁷⁹ Since the beginning of August, the area has been a scene of heavy fighting with the Kachin Independence Army (“KIA”).¹⁸⁰ Elders from Sanpya Ward in Shahtuzup, where the men are from, met with soldiers to ask for their release but were told to return later with their identification.¹⁸¹ When they came back with papers in hand, the soldiers said they were too busy with the fighting to look into the matter, causing great concern for the men’s families and their fellow villagers.¹⁸² Fighting between the KIA Brigade 2’s Battalion 14 and Myanmar Army has caused the displacement of over 1,000 people.¹⁸³ Residents of Hka Da Zup and Lawt Ja villages reported that the Myanmar Army deployed heavy weapons for 30 minutes on August 14.¹⁸⁴ All the gold mines in the area controlled by KIA Battalion 14 to the west of Shahtuzup have closed since the fighting started, which started only days after the armed group’s political wing, the Kachin Independence Organization, hosted the ethnic summit in eastern Kachin State.¹⁸⁵

Just hours before the Panglong Conference was due to get underway, representatives from the insurgents reported that the Myanmar military had launched new attacks on rebel

positions in the northern states of Shan and Kachin on the morning of August 30.¹⁸⁶ They said the move threatened to scupper progress at the peace talks.¹⁸⁷ “For the moment it is hard for any group to believe or trust the army,” said one negotiator for the armed rebels, who asked not to be named as the talks are sensitive.¹⁸⁸ “Here [in the national capital Naypyidaw] they are talking about peace. There, they are fighting,” he added.¹⁸⁹

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