

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

JANUARY 2017 REPORT

Summary. This report reviews the January 2017 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

Prominent human rights lawyer Ko Ni, a legal advisor to the National League for Democracy (“NLD”) and to Aung San Suu Kyi, was assassinated this month at the Yangon airport.¹ Ko Ni, a Muslim, had just returned from a visit to Indonesia as part of a government delegation to discuss interfaith tolerance.² The suspected gunman was later apprehended after also killing a taxi driver who attempted to detain him.³ Initial interrogations have been unable to reveal the exact motive of the assassin, although he did indicate an intention to destabilize the state. This suggested motive likely stems from the recent and often violent interfaith conflicts between the majority Buddhists and minority Muslim, or Rohingya, populations in Myanmar.⁴ Several government officials have offered their personal beliefs that the killing was not politically or religiously motivated, and the official government statement regarding the killing urged Burmese civilians not to panic or to respond to racial or religious incitements.⁵ Members of the Burmese Parliament also expressed their concern for the democratic process and rule of law, voicing their worries about the safety and security of their leaders and the potential impact on the country’s ongoing democratization.⁶ One member of Parliament called the killing a “threat to the country’s rule of law and the people.”⁷

Delegates from a number of Myanmar’s political and ethnic groups, including the Myanmar Armed Forces (“Tatmadaw”), have agreed to take part in federalism study tours offered by the Swiss Federal Office of Foreign Affairs’ (“FOFA”).⁸ Switzerland is composed of 26 cantons, or member states, and 2,294 communes, with decision-making held at the lowest level possible to effect its implementation. Higher-level lawmaking, including that performed at the national level by the Swiss Confederacy, is only employed when local-level government proves insufficient.⁹ This structure allows for greater autonomy at the local level and has been particularly effective in Switzerland, where the population is divided among religious, cultural and linguistic lines.¹⁰ Representatives from Myanmar have seen a parallel between the divisions among the Swiss and the ethnic and religious divisions in Myanmar, and have used the tours to study the possible federalization of Myanmar by allowing greater local autonomy.¹¹ Federalization proposals have been heavily resisted by the Tatmadaw, and a Tatmadaw representative participating in the FOFA tours stated that the concept of federalism was an unfamiliar one and required further study.¹²

B. Official Corruption, Sanctions and the International Community

Official Corruption

On January 25, the organization Transparency International (“TI”) published its annual Corruption Perceptions Index report for 2016.¹³ Based on expert opinion from around the world, the Corruption Perceptions Index measures the perceived levels of public sector corruption worldwide on a scale of 0 (highly corrupt) to 100 (very clean) and ranks countries according to the results.¹⁴ Myanmar’s score for perceived level of public sector corruption was 28 on the 0-100 scale, ranking 136 out of 176 countries (and tied with Guatemala, Kyrgyzstan, Lebanon, Nigeria, and Papua New Guinea).¹⁵ These results marked an improvement from Myanmar’s 2015 score of 22, which at the time ranked 147 out of 168.¹⁶ In fact, as recently as 2010, the only country with a perceived level of public sector corruption higher than Myanmar’s

was Somalia¹⁷ The TI report noted that the beginning of the NLD's administration "brought much hope for change with the return to civilian rule. The NLD proposed action to reduce corruption, which is a good step towards committing to fighting corruption."¹⁸

In fact, the NLD government has made combatting corruption one of its major goals.¹⁹ Aung San Suu Kyi has repeatedly warned officials against giving in to the temptations of corruption. In March 2016, she cautioned newly elected lawmakers to root out corruption and avoid endangering the party's credibility with voters. In April 2016, Aung San Suu Kyi banned civil servants from accepting gifts worth more than 25,000 kyat (approximately US\$23) in an effort to stamp out "tea money" incentives.²⁰ In an interview with Channel NewsAsia in December 2016, Aung San Suu Kyi reassured the public that the country's ministers were not corrupt, but conceded that some of the junior officers in government "are not quite what we would wish them to be."²¹ In the interview, Aung San Suu Kyi indicated that the lack of corruption among her ministers was her proudest achievement in office thus far.²²

The government has demonstrated a recent trend of taking on higher-profile corruption cases.²³ For example, in early January, Myanmar's Anti-Corruption Commission published a statement announcing the impending prosecution of a Magway Region judge who allegedly had taken bribes in exchange for favorable rulings and punished unwilling defendants with harsh sentences.²⁴ In another recent case, a judge from the Homalin Township in Sagaing Region was sentenced to 10 years' imprisonment for soliciting bribes, and a further 38 judges have been disciplined for misconduct.²⁵ These cases show an increased willingness to enforce anti-corruption laws against members of Myanmar's judiciary.

Sanctions and the International Community

With uncertainty regarding the policies of the new U.S. administration with respect to Southeast Asia in general and China in particular, the outlook for the relations between the U.S. and Myanmar, as well as between China and Myanmar, remains relatively unclear. Some observers expect the Trump administration to discontinue the development-friendly policies of the Obama administration, which included the lifting of most economic and political sanctions against Myanmar.²⁶ Many expect that President Trump will be less personally interested in Myanmar than was President Obama, who became the first sitting U.S. president to ever visit Myanmar.²⁷ Still others expect the new administration to have a "less ideological approach to business" and to enable more U.S. investment in Myanmar where concerns around military-dominated local business partners or allegations of corruption had previously limited such engagement.²⁸ There is also a possibility that Myanmar might indirectly benefit from the Trump administration through improved relations with China, as China may seek to strengthen its ties with its Southeast Asian neighbors in an effort to counter the more aggressive stance expected from the new US administration, and might thus bring economic traction to its neighbors.²⁹

II. Civil and Political Rights

A. Freedom of Speech and Assembly

In its recently released 2017 World Report, Human Rights Watch criticized the Myanmar government's "continued use of problematic legislation to restrict free speech,"

commenting on the wide use of both the Unlawful Associations Act (which imposes imprisonment for associating with certain rebel groups) and Section 66(d) of the Telecommunications Act (which is widely used to file defamation charges against critics of the government).³⁰

Safety for those speaking to the press remains a concern. The Myanmar army has admitted its involvement in the abduction of two Baptist leaders from the Kachin state, almost a month after the pair went missing on December 24, 2016.³¹ Their disappearance is reportedly linked to the pair leading journalists to a church damaged by government airstrikes.³² In an official statement, the military claimed that one of the Baptist leaders, Dumdaw Nawng Lat, provided “information about movements of [the Tatmadaw]...and spread slanderous news and propaganda by having links with outside media in order to mislead the local and international communities.”³³ The pair have since been transferred from military to police custody and are expected to be charged under the Unlawful Associations Act.³⁴

Following her visit in January 2017, Yanghee Lee, the United Nations Special Rapporteur on Human Rights in Myanmar, highlighted the fear of reprisals for speaking out against rights issues. In her final speech of the visit, Lee commented that “the [government’s] message is clear: Do not express yourself. Do not speak your mind if your opinion or position does not fit or support the narrative and agenda of those who have no qualms in how you live or die.”³⁵

Nine students are being sued by the Myanmar army following a student performance of a satirical comedy, which allegedly jeopardized the army’s reputation.³⁶ The courts are expected to hear the case in early February.³⁷

B. Freedom of the Press

Despite an official apology released by Eleven Media Group, prosecutors have continued to proceed in the defamation suit filed against Than Htut Aung, the group’s chief executive, and Wai Phyo, the group’s chief editor.³⁸ The executives, charged under section 66(d) of the Telecommunications Act for publishing an article alleging public corruption, were released on bail on January 6, on health grounds, with the next court appearance expected on February 10.³⁹ Eleven Media is one of the largest non-state media organizations in Myanmar.

After disturbing images allegedly from Rakhine State appeared online, including photos of a drowned child said to have been a Rohingya Muslim fleeing local violence and satellite images of destroyed villages said to have been burnt down by Burmese soldiers, the Myanmar state media has claimed that such images are “fabricated news” and mere propaganda.⁴⁰ With non-state journalists continuing to be refused access to the affected areas of the Rakhine State,⁴¹ the claims of either side remain difficult to verify. In respect of the destroyed villages, Yanghee Lee of the United Nations stated that while she had been “told by the Government officials—as had been reported—that it was the villagers who had burnt down their own houses,” she found this argument “quite incredible.”⁴²

C. Economic and Social Empowerment

Violence against the Rohingya population of Rakhine State continued to escalate in January 2017. The month also saw both progress and further challenges to gender issues in Myanmar, both for women and transgendered people.

On January 8, dozens of Buddhist nationalists marched in Yangon to shut down a service celebrating the birthday of the Prophet Mohammad.⁴³ Security forces did not intervene to stop the Buddhist nationalists' interference with the service.⁴⁴ Kyaw Nyein, the secretary of the Ulama Islam organization, described the situation as a violation of the Muslims' religious freedom, stating: "We have celebrated this festival for my whole life. Now this seems like an attack on freedom of religion...The monks tried to stop the ceremony without saying what we had done wrong."⁴⁵

On January 10, Yanghee Lee, the United Nations Special Rapporteur on Human Rights in Myanmar, was prevented from visiting the towns of Laiza and Hpakant in Kachin state, as the government cited security concerns in the violence-ridden region.⁴⁶ On January 13, the Lee arrived in Rakhine State instead, she began her three-day visit in the region, part of a larger 12-day visit (her fifth in this role) to Myanmar at the invitation of the government.⁴⁷ During her stay in Rakhine, she visited an enclave in Sittwe where 4,000 Rohingya are confined.⁴⁸ On February 3, the United Nations OHCHR mission to Bangladesh published a Flash Report of the interviews with Rohingyas that had fled from Myanmar since October 9, 2016.⁴⁹ The report included widespread accounts of violence against the Rohingya by the Tatmadaw, including systematic beatings, killings (including by burning and knife), and gang rape and other sexual assault. "These horrific attacks on Rohingya women and girls by security forces add a new and brutal chapter to the Burmese military's long and sickening history of sexual violence against women," said the group's senior emergencies researcher, Priyanka Motaparthy. "Military and police commanders should be held responsible for these crimes if they did not do everything in their power to stop them or punish those involved."⁵⁰

During the week of January 23, Upper House parliamentarian Mya Thaung advocated for an amendment to Myanmar's Race and Religion Protection laws that promotes the prevention of violence against women.⁵¹ Lawmakers have apparently agreed with the position of women's rights activists that the original purpose of the Race and Religion Protection laws was not to shield women from abuse.⁵² Because of the lack of adequate protection in existing laws, these women's rights activists are pushing for greater protections for women in a proposed comprehensive anti-violence bill, and negotiations seem to be making positive progress.⁵³

The country still has progress to make on other gender-related issues as well. On January 19, Myo Ko Ko San, a Mandalay-based, transgender beauty-pageant contestant with a large social media following, was arrested in the Yangon International Airport upon her return from Thailand.⁵⁴ Movie star Wut Hmone Shwe Yee filed charges against Myo Ko Ko San under section 66(d) of the Telecommunications Law, alleging that a popular gossip blog administered by Myo Ko Ko San had defamed her with accusations of nepotistic collusion, promiscuous behavior and an insulting analysis of a gap between her teeth.⁵⁵ Myo Ko Ko San denies running the blog, and the author of the articles has continued posting since Myo Ko Ko San's arrest.⁵⁶ Police officers in Yankin township confirmed that Myo Ko Ko San would be held in jail until January 31 while technical investigations took place. She was initially placed in the men's ward, due to her gender at birth, but she was transferred to an empty cell in the women's ward after she filed a formal request, where she will be able to remain as long as the ward remains empty of other female detainees.⁵⁷

III. Economic Development

A. Legal Framework and Foreign Investment

On January 20, two new companies started trading securities on the Yangon Stock Exchange (“YSE”): Amara Investment Securities Co., Ltd. (“AIS”)⁵⁸ and First Private Bank (“FPB”).⁵⁹ With the addition of the two new companies, the YSE now has five listed companies, including AIS, FPB, First Myanmar Investment, Myanmar Thilawa SEZ Holdings, and Myanmar Citizens Bank. According to a YSE manager, the Securities and Exchange Commission of Myanmar is testing online trading capabilities for stocks listed on the YSE.⁶⁰

A delegation of Burmese officials from the Myanmar Investment Commission, the Ministry of Construction, the Ministry of Transport and Communications, and the Ministry of Energy and Electricity visited Seoul, South Korea to participate in the “Investment and Business Environment Seminar on Myanmar.” The Burmese officials presented the country’s business environment and held one-on-one meetings with multiple representatives of South Korean companies to encourage South Korean investment in Myanmar.⁶¹

According to the World Bank’s “Global Economic Prospects” report, Myanmar’s economic growth may be slowing down. Economic growth in 2016 was estimated to be 6.5%, with the final annual growth figure approximately 1.3% lower than the annualized forecast from June 2016.⁶² The World Bank attributes the decline in growth rate to the sluggish real estate market and slower-than-expected export expansion. Seiichiro Sato, a Myanmar-based economist, has expressed his opinion that decreased foreign investment is the main cause of the slowdown. Sato believes that the decreased foreign investment, in turn, was attributable to the disbanding of the Myanmar Investment Commission (“MIC”) in March 2016 when the NLD administration came into power, followed by the three-month failure to reinstitute the MIC.⁶³ In addition, as of January 1, 2017, foreign investment applications are subject to new laws for which the regulations are still being drafted.⁶⁴ In particular, the new Myanmar Investment Law is unclear as to the role of the MIC in approving the use of land for investment purposes. Under existing Burmese laws, land is [classified into several different categories](#), with only certain categories of land being legally transferable. The MIC only issues investment permits for the purchase of land in a category that may be legally transferred. While it is possible to convert land from a non-transferable category to a transferable category, the conversion process is typically long and burdensome, leaving investors wary of the land purchase process.⁶⁵

Although foreign investors still see the country as a promising place for infrastructure investment and production, many are waiting to launch new projects because of the uncertain economic policies.⁶⁶ In a welcome development for many investors, Myanmar is expected to adopt a number of revisions to its corporate laws in the coming months. The revisions are expected to allow foreign businesses to join the Yangon Stock Exchange⁶⁷ and to hold stakes in existing domestic companies.⁶⁸ Suggested amendments to the Myanmar Companies Act have been submitted for discussion in the upcoming Union Parliament sessions.⁶⁹

B. Infrastructure and Major Projects

In its “Global Economic Prospects” report described above, the World Bank noted that gas production within Myanmar dropped sharply in 2016, and that the construction industry

and agricultural sector were both sluggish. Despite these setbacks, the World Bank still predicts that Myanmar's economy will continue to grow in 2017, especially in light of its prediction of increased public and private investment in Burmese infrastructure and manufacturing.⁷⁰ The World Bank noted in its report that Myanmar's government has made efforts to stimulate economic growth, such as amending its budget to protect priority areas such as education, health, and agriculture and attempting to establish a transparent economic policy.

In considering factors that may contribute to Myanmar's economic growth, an expert symposium held on January 12 credited the liberalization of Myanmar's telecommunications industry as contributing to the growth of the country's economy.⁷¹ Myanmar's telecommunications sector is one of the leading sectors for foreign direct investment in Myanmar, and over the next 15 years it is estimated that 250,000 job opportunities will be created as a result of growth in the industry. At the symposium, representatives from the telecommunications industry recommended to the government of Myanmar that it should adopt simplified pro-investment policies to ensure the continued growth of the industry.⁷² The representatives stressed that they need support from the government in order to maintain the momentum in the telecommunications sector.

The NLD government continues to develop policies in its effort to promote the growth of various industries. Seeking to tap into Myanmar's potential for economic growth, the government in a few months will begin to roll out implementing regulations for a new investment law designed to stimulate and streamline domestic and foreign investment, increase investor protections, and ultimately create jobs and help diversify Myanmar's economy, which is still heavily concentrated in agriculture and extractive industries.⁷³ The administration had worked with a team from the World Bank and consulted with private sector representatives in drafting the investment law, and allowed interested parties to comment on the law.⁷⁴ The introduction of this consultation process represents an important step toward transparency and public-private sector cooperation in Myanmar. Thura Ko Ko, a leading business advisor and investment fund manager in Myanmar, said the new law will help the country progress towards streamlining investment procedures and promoting equitable treatment between local and foreign investors.⁷⁵

Recently, the Ministry of Agriculture has begun to collaborate with private firms to help farmers purchase machinery using installment financing.⁷⁶ Farmers in Myanmar have been coping with climate change that is altering planting and harvesting times, but a lack of labor and animals has made it difficult for them to respond quickly to these changes without appropriate equipment and machinery. Purchasing this equipment, however, is typically more expensive than using hired labor, and often requires significant upfront payments. The Ministry of Agriculture has therefore sought to enable farmers to purchase tractors with just a 10% down payment.⁷⁷ Government authorities are monitoring the program for potential issues that might arise between firms and the farmers, but if the Ministry views the program as successful for the purchase of tractors, it plans to make other types of farm equipment available to farmers with a similarly small down payment.⁷⁸

C. Land Seizures

In Yangon, disputes continued between street vendors and the municipal authorities.⁷⁹ Under new legislation, roadside vendors are banned from eleven of the capital's busiest streets in an effort to ease traffic.⁸⁰ Certain vendors have been offered spaces in the new night markets, but many of those who were not offered places continue to sell their wares by the roadside.⁸¹ As one means of enforcing the new law, the municipal authorities have started regular inspections which have reportedly begun to resemble chaotic raids. As uniformed officials approached street vendors, the vendors shriek in warning and attempt to hide their wares.⁸² Certain vendors were given space in a new night market, but they have reported low sales, overcrowding and costly fees for water, electricity and rental space.⁸³ In mid-January, approximately 30 vendors staged a protest march, demanding a meeting with representatives of the municipal government and NLD.⁸⁴ However, local government officials indicated that protesting would not change their approach, insisting that they would "continue to conduct the inspections until the reality sinks in."⁸⁵

Also in Yangon, factory owners are claiming that farmers are trespassing, "squatting at factories and asking for money by force."⁸⁶ The factory owners purchased the land from the government, which had confiscated land from farmers to create the industrial zones and reportedly gave the farmers compensation in line with the existing rules and regulations.⁸⁷ In Shwe Lin Pan industrial zone, seven factories reported problems with farmers trespassing and demanding compensation.⁸⁸ Two of these seven owners have acquiesced to the farmer's demands.⁸⁹ One factory owner explained that the farmers "built two shanties blocking the factory," which meant that the factory couldn't run and that they viewed paying off the farmers as the only viable solution.⁹⁰

In Mandalay, both farmers and companies were involved in disputes with governmental authorities in January. One group of farmers continued their protest against gold miners who have allegedly encroached on their land.⁹¹ Since January 14, these farmers have staged a sit-in protest outside of government offices.⁹² They hope that the protests will encourage the relevant government authorities to take notice of their case and scrutinize the permits for gold excavation.⁹³ The farmers are also asking that mining activities be suspended until a thorough investigation is conducted.⁹⁴ In a separate incident, 21 farmers were arrested in Mandalay as a result of protests over land seizures, and later released on bail.⁹⁵ The farmers reportedly have been cultivating the land at issue for over 40 years and were given inadequate compensation when the military seized the land in 2001.⁹⁶ Meanwhile, companies granted plots of land in Mandalay are being told to "use it or lose it."⁹⁷ Companies granted the plots were told that they should start building within 10 months and that the city will "take action" against them if they do not begin productive use of the land by that time.⁹⁸

Police have brought a case against 32 villagers evicted from their homes to make space for a nature conservation area in Kawlin Township, Sagaing Region, under a 1994 protection of wildlife law.⁹⁹ The villagers are accused of breaking into the wildlife reserve, which, according to police, could have damaged wildlife habitats.¹⁰⁰

In Rakhine State, farmers are threatening to sue a Chinese state-owned oil refinery unless they can reach a compromise over crops allegedly destroyed by the project.¹⁰¹ The project began in 2010 and covered the farmers' property in mud, destroying their crops.¹⁰² The company building the pipeline offered farmers yearly crop compensation between 2011 and 2014, before

offering a lump sum of five times the annual payment in 2016.¹⁰³ Approximately half the farmers accepted the lump sum.¹⁰⁴ The other half demanded restitution of their land to its original condition so that they could “resume cultivation.”¹⁰⁵ In 2016, the farmers staged three protests demanding that their land be restored to its original state. Despite various agreements with the company, the company have yet to do so.¹⁰⁶ The farmers have threatened to sue the company, which has asked for third-party mediation in order to broker a solution to the current impasse.¹⁰⁷

IV. Peace Talks and Ethnic Violence

A. Ethnic Violence

Fighting in Kachin state between the Tatmadaw and the Northern Alliance continued this month, while the National Reconciliation and Peace Center has been trying to intervene by proposing an informal dialogue.¹⁰⁸ The fighting has left thousands homeless, with the U.N. Office for the Coordination of Humanitarian Affairs (“OCHA”) estimating that there are approximately 87,000 Internally Displaced Persons (“IDP”) in 142 camps in Kachin state.¹⁰⁹ The Tatmadaw has been accused of targeting IDPs.¹¹⁰ IDPs who tried to cross the border into China in order to escape the fighting were ordered by Chinese police to return to Myanmar.¹¹¹ According to a December report by the U.N. OCHA, approximately 218,000 people are being sheltered in temporary camps in Rakhine, Kachin and Shan states.¹¹²

After clashes broke out in the Tanintharyi region on January 11, the Karen National Liberation Army (“KNLA”) and the Mon National Liberation Army (“MNLA”) have agreed to a ceasefire.¹¹³ The negotiations were mediated by the regional government.¹¹⁴ The two groups have fought sporadically since September last year due to an ongoing territorial feud.¹¹⁵ The KNLA is a signatory to the nationwide ceasefire agreement (“NCA”), while the MNLA has signed a bilateral ceasefire agreement with the government.¹¹⁶

In Shan state, the Tatmadaw demanded that Shan State Army-North (“SSA-N”) soldiers withdraw from one of their bases to make way for a new road.¹¹⁷ The SSA-N refused as they suspect that the Tatmadaw intends to use the road for future military offensives.¹¹⁸ The SSA-N is not a signatory to the NCA, but they did sign a bilateral ceasefire with the government in 2012.¹¹⁹ Even so, clashes between the Tatmadaw and the SSA-N continue.¹²⁰ The SSA-N also this month denied a Tatmadaw report that it attacked troops and police destroying poppy fields in Shan state.¹²¹

B. Peace Talks

State counsellor Aung San Suu Kyi officially opened the National Reconciliation and Peace Center in Nay Pyi Taw on January 1, almost six months after it was formed.¹²² At a meeting with youth groups the same day, Aung San Suu Kyi reiterated that the peace process was the government’s top priority and pleaded for cooperation and assistance in the effort to achieve the goal of peace in Myanmar this year.¹²³ Analysts remain skeptical due to the fact that Aung San Suu Kyi’s reconciliation policy has yet to gain general acceptance, partly because many feel it favors the Tatmadaw.¹²⁴

Within two weeks of the government calling on the public to donate to the National Reconciliation and Peace Center's Peace Fund, Burmese business leaders had already contributed more than 11 billion kyat (approximately USD\$8 million).¹²⁵ In addition, the NLD had announced last year that in order to collect funds for the Peace Fund, members of Parliament would be asked to forego 25% of their 1 million kyat monthly salary. In January, the NLD announced that 200 million kyat (approximately USD\$150,000) had been raised through these salary deductions, and has been earmarked for the peace process.¹²⁶ Up to now, the government has been using the national budget for peace-related projects, despite the availability of foreign aid.¹²⁷ The aim of the Peace Fund is to coordinate and manage the donations and foreign aid received.¹²⁸

The Peace Process Steering Team ("PPST"), a committee representing the eight ethnic armed groups party to the NCA, met with Aung San Suu Kyi and Senior General Min Aung Hlaing separately in Nay Pyi Taw on January 23 in an attempt to find solutions to the ongoing conflict in Kachin and Shan states and to accelerate the country's beleaguered peace process.¹²⁹

In a speech after the meetings, General Saw Mutu Say Pow, chief of the Karen National Union and leader of the PPST, condemned recent military operations in Northern Myanmar as hindering the peace process and harming the Tatmadaw's reputation within the various ethnic communities.¹³⁰ He, along with many other activists and politicians, has urged the government and the Tatmadaw to allow non-signatory groups to participate in the peace process.¹³¹ The Ta'ang National Liberation Army ("TNLA"), a non-signatory group and member of the Northern Alliance, has echoed the call for inclusion and stated that it is willing to stop all military offensives in order to begin political dialogue with the government.¹³² The TNLA attacked two Tatmadaw bases in Shan state on January 10.¹³³

The government has made signature of the NCA a precondition to participation in the peace process.¹³⁴ However, no additional groups have signed the NCA since it was signed in October 2015.¹³⁵ The Tatmadaw leader urged parties to adhere to the provisions of the NCA, which only provide for participation by signatory groups, but has agreed to make overtures to the non-signatory groups.¹³⁶ Aung San Suu Kyi has also pledged to make the peace process a more inclusive affair.¹³⁷ That said, an advisor to the government's peace commission reiterated the official line that any group would be required to sign the NCA in order to attend the second 21st-Century Panglong Conference, which is scheduled to take place in February.¹³⁸

Many analysts predict that the government's reluctance to include all groups in the upcoming conference undermines any chance for success.¹³⁹ Activists argue that ongoing offensives by the Tatmadaw against non-signatory groups, including the Kachin Independence Army ("KIA"), are only driving these groups further away from signing the NCA.¹⁴⁰ The Tatmadaw seized four more bases from the KIA this month, after taking two strategic outposts in December.¹⁴¹ The Ministry of Defense has accused the KIA of initiating the current conflict and using IDPs as human shields.¹⁴²

The United Nationalities Federal Council ("UNFC"), a coalition of non-signatory groups, reiterated that it will only join the upcoming peace conference if all seven of its member groups are invited as full participants, not merely as observers.¹⁴³ The UNFC members rejected

an invitation to observe the first ever Union Peace Conference, held in January 2016, but did not attend the first 21st-Century Panglong Conference in September 2016, despite not signing the NCA.¹⁴⁴ The UNFC issued a list of nine preconditions to their signature of the NCA, including the announcement of a ceasefire by the government and Tatmadaw.¹⁴⁵ The UNFC has said, however, that it will take part in the government's roadmap for national peace, which includes the amendment of the political dialogue framework, the convening of the second Panglong Conference, and the signing of an agreement based on the results of the conferences.¹⁴⁶

The UNFC delegation for political negotiation met with the government's Peace Commission to hold informal talks in Chiang Mai, Thailand on January 13.¹⁴⁷ The government hoped to convince the UNFC groups to sign the NCA and thereby become eligible to join the second Panglong Conference.¹⁴⁸ After unsuccessful discussions, the two delegations planned to meet again before the end of January, but the second meeting never materialized.¹⁴⁹

In addition to negotiations with the UNFC, the government is also negotiating with the Northern Alliance.¹⁵⁰ This month, the Northern Alliance reiterated requests to hold peace talks with the government, following their meeting with China's Special Envoy of Asian Affairs.¹⁵¹ Informal talks between the government and the Northern Alliance have stalled as a result of repeated requests by the Northern Alliance for the United Wa State Army ("UWSA") to join their meetings.¹⁵² The UWSA's political wing, the United Wa State Party, is holding elections for the first time since 1992, raising the prospect of instability in a group that political activists believe is essential to the peace process.¹⁵³

After the Northern Alliance asked China to provide witnesses to peace talks with the Tatmadaw, Senior General Min Aung Hlaing emphasized the importance of participating in peace talks without "international pressure" while meeting with China's Ministry of Foreign Affairs.¹⁵⁴

The national-level political dialogues envisioned by the NCA, which are meant to serve as the basis for legislative and constitutional amendments as the country adopts a federal system, commenced this month, with the first being held in Kayah state.¹⁵⁵ At that meeting, ethnic group leaders suggested that every significant minority group should be given its own autonomous territory, with the legislatures at the Union and state levels providing checks and balances.¹⁵⁶ Prior to the dialogue, the government held public consultations in order to obtain public views on political and economic issues, as well as environmental issues.¹⁵⁷ A second national-level dialogue was held in the Tanintharyi Region.¹⁵⁸ The Union Peace Dialogue Joint Committee has approved three more national-level dialogues, which are scheduled to take place before the second Panglong Conference in late February.¹⁵⁹

As participants prepare for the second Panglong Conference, civil society organizations are at odds with the government on the location, content and financing of the conference.¹⁶⁰ The organizations are questioning the government's decision to hold the conference in the capital, being the seat of the government, and the perceived restriction on the matters to be discussed.¹⁶¹

Representatives from 79 civil society organizations held a conference this month urging the Tatmadaw to cease military offensives against non-signatories of the NCA and to

include all stakeholders in the peace process.¹⁶² The organizations, as well as local and international aid agencies, have also called on the government to urgently provide support for IDPs in Kachin and northern Shan states.¹⁶³ Meanwhile, local MPs in northern Shan state have called for donations to help shelter IDPs.¹⁶⁴

Meanwhile, Myanmar's president has been criticized for honoring government troops with awards for bravery in conflict with ethnic armed groups while the government is engaging in a peace process with those very groups.¹⁶⁵ At the same ceremony, Senior General Min Aung Hlaing reiterated the need for military means to achieve peace due to what he described as the ethnic armed groups' "narrow-minded" approach to the peace process by stirring up conflict to achieve their goals.¹⁶⁶

- 1 Radio Free Asia, January 30, 2017: <http://www.rfa.org/english/news/myanmar/prominent-myanmar-rights-lawyer-killed-by-gunman-at-yangon-airport-01302017161100.html>.
- 2 *Id.*
- 3 *Id.*
- 4 *Id.*
- 5 *Id.*
- 6 Eleven Myanmar, January 31, 2017: <http://www.elevenmyanmar.com/local/7650>.
- 7 *Id.*
- 8 Myanmar Times, January 30, 2017: <http://www.mmtimes.com/index.php/national-news/24747-what-myanmar-could-learn-from-swiss-federalism.html>.
- 9 *Id.*
- 10 *Id.*
- 11 *Id.*
- 12 *Id.*
- 13 See http://www.transparency.org/whatwedo/publication/corruption_perceptions_index_2016.
- 14 *Id.*
- 15 See http://www.transparency.org/news/feature/corruption_perceptions_index_2016.
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