

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

SEPTEMBER 2017 REPORT

Summary. This report reviews the September 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

As the Rohingya humanitarian crisis in Rakhine state has intensified in recent months, the government of Aung San Suu Kyi, the Nobel peace prize laureate and former dissident who last year became the country's *de facto* democratic leader, has come under harsh criticism for failing to stop or even speak out against the violence. Myanmar officials continue to claim that Rohingya militants are responsible for killing civilians and that Rohingya have been setting their own houses on fire.¹ Local reports suggest that militants have caused some of the deaths and destruction, but testimony indicates that the Myanmar military is the primary culprit.² The continued denial of responsibility by the Myanmar government prompted a frustrated response from the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, who stated "The Myanmar government should stop claiming that the Rohingyas are setting fire to their own homes and laying waste to their own villages. This complete denial of reality is doing great damage to the international standing of a government which, until recently, benefited from immense good will."³

In her first public address since the violent military crackdown on the Rohingya minority, Aung San Suu Kyi did not criticize the Myanmar army and said she did not "fear international scrutiny."⁴ "There have been allegations and counter-allegations ... We have to make sure those allegations are based on solid evidence before we take action," she said in her speech from Naypyidaw.⁵ Her speech received harsh criticism, with Amnesty International describing the speech—in which Aung San Suu Kyi only once referred to the Rohingya by name—as a "mix of untruths and victim blaming." Still, Aung San Suu Kyi attempted to pacify her critics by saying she was committed to restoring peace and the rule of law. "We condemn all human rights violations and unlawful violence," she said. "We feel deeply for the suffering of all the people caught up in the conflict."⁶

During her address, Aung San Suu Kyi tried to evoke a program of grand goals including democratic transition, peace, stability and development. But she also cautioned that the country's long experience with authoritarian rule and nearly seven decades of ethnic conflict in Myanmar's frontier lands have frayed national unity.⁷ "People expect us to overcome all these challenges in as short a time as possible," she said, noting that her civilian government only took office last year. "Eighteen months is a very short time in which to expect us to meet and overcome all the challenges that we are facing...We are a young and fragile democracy facing many problems, but we have to cope with them all at the same time."⁸

B. International Community / Sanctions

At a United Nations Security Council meeting devoted to the Rohingya humanitarian crisis, the UN Secretary General António Guterres claimed that the situation has escalated into "the world's fastest developing refugee emergency."⁹ The American ambassador to the United Nations, Nikki Haley, demanded that Myanmar's authorities punish those in the military who have killed and abused members of the Rohingya and called for a halt to the shipment of foreign arms to Myanmar's security forces.¹⁰ "We cannot be afraid to call the actions of the Myanmar authorities what they appear to be: a brutal, sustained campaign to cleanse the country of an

ethnic minority,” Haley said.¹¹ Haley’s remarks were the strongest she has yet made on the crisis, and raised the possibility that the United States might re-impose sanctions on Myanmar that were rescinded under the Obama administration.¹² The 15-member Security Council took no immediate action, but diplomats called it a starting point and noted that the Council had not discussed Myanmar publicly since 2009.¹³

Myanmar’s national security adviser, Thaung Tun, who also attended the meeting, reiterated the government’s rejection of accusations that it has systematically persecuted the Rohingya. He described the military’s actions in Rakhine State, the center of the crisis, as counterterrorism operations against Rohingya militants who killed members of the security forces on August 25.¹⁴ He also asserted that Myanmar wanted friendly relations with Bangladesh, where the total population of Rohingya refugees is nearing one million. Myanmar’s outreach to Bangladesh, he said, “gives the lie to the assertion that there is a policy of ethnic cleansing on our part.”

Meanwhile, Bangladeshi Foreign Minister Abul Hassan Mahmood Ali, in a September briefing with foreign diplomats, blamed the government of Myanmar for a “policy of wiping [Rohingya] out of their land through [a] gradual and excruciating process.”¹⁵ Bangladesh, which has not acceded to the UN refugee convention and does not provide legal status to these asylum seekers, has in the wake of the crisis suspended its prior policy of turning back refugees, letting most proceed across the border to safety while a smaller number remain in limbo at the border.¹⁶ The Bangladeshi minister also called on the international community to support a controversial plan to temporarily resettle Rohingya refugees on Bhashan Char, a remote island prone to cyclones and flooding.¹⁷ The US and the UN have both commended the Bangladeshi government’s initial response to the crisis, urging the country to keep its borders open and calling on the international community to provide assistance for the refugees.¹⁸

The Bangladeshi Foreign Ministry has further urged Myanmar to immediately implement the recommendations of the Rakhine Commission, an independent advisory board chaired by former UN chief Kofi Annan and established at the behest of Aung San Suu Kyi.¹⁹ The commission’s recommendations, which were made public only hours before the attacks that triggered the latest episode of violence, include creating a path to citizenship for the Rohingya, granting them freedom of movement, calibrating security responses with political intervention, and pursuing equitable socio-economic development throughout the state.²⁰ “The root of the Rohingya crisis lies in Myanmar,” the Bangladesh Foreign Ministry said in a statement to diplomats. “Therefore the ultimate solution has to be found in Myanmar only.”²¹

In response to its recent violence against Rohingya Muslims, the US government is reportedly considering limiting US ties with Myanmar’s military.²² “Until Burma’s security forces act in accordance with the rule of law and stop the violence and displacement, moving forward with such engagement will be difficult,” said a spokesperson for the US National Security Council.²³ Formal assistance to Myanmar’s military remains illegal in the US, including the sale of US military equipment and participation in the US International Military Education and Training program.²⁴ However, prior to this crisis, US and Myanmar military-to-military engagement has been “nascent,” and the Obama administration had explored limited military-to-military engagement with Myanmar to support the country’s transition toward civilian rule.²⁵

The US Congress is also reevaluating its relationship with Myanmar’s military and with Aung San Suu Kyi’s government. In September, the Senate Armed Services Committee struck language from the National Defense Authorization Act that would have increased

military-to-military engagement with Myanmar.²⁶ “The Burmese government and military are moving in the wrong direction and I hope this action sends a strong message to Naypidaw,” said US Senator Cory Gardner.²⁷

II. Civil and Political Rights

A. Freedom of Speech, Assembly and Association

In September, the Ministry of Culture and Religious Affairs confirmed that a draft bill banning hate speech will be introduced in the Myanmar Parliament.²⁸ The goal of the bill is to prevent hate speech based on race and religion.²⁹ The ministry proposing the bill states that the law will help prevent incitement of religious violence through social media, newspapers, and radio and television.³⁰ In preparing the bill, the ministry held meetings and discussions with local and international organizations to collect advice and recommendations and to meet international standards.³¹ Although most of the civil right groups are in favor of the bill, there are some concerns that the bill might hinder freedom of speech, and it is argued that other laws, such as Section 66(d) of the Telecommunications Law already provide sufficient protection against hate speech.³²

Later in September, the Myanmar authorities claimed that a total of 45 bodies of Hindus have been discovered.³³ The authorities accused Muslim militants of killing these Hindu villagers.³⁴ Hindus who fled from Rakhine to Bangladesh said that they were threatened and attacked by the Arakan Rohingya Solidarity Army (“ARSA”), while some Hindus were killed and some houses were burned by the militants.³⁵ Hindu villagers in the Yebawkya area in Rakhine told the AFP news agency that Rohingya militants attacked their communities on 25 August, killing many and taking others into the forest.³⁶ ARSA, however, denied such accusations.³⁷

B. Freedom of the Press and Censorship

The Tatmadaw has dropped the charges against certain media personnel and activists who were facing prosecution for allegedly associating with illegal groups and defaming the army.³⁸ Editor Kyaw Min Swe and columnist Kyaw Swa Naing of The Voice had been sued in June 2017 for posting a satirical imitation of a Tatmadaw movie online which, according to the Tatmadaw allegations, defamed the Myanmar army. Separately, Thein Zaw of The Irrawaddy, and Aye Naing and Pyae Bone Aung of the Democratic Voice of Burma had been charged under the Unlawful Association Act for covering a drug destruction event by the Ta’ang National Liberation Army in late July 2017.³⁹

The Ministry of Information has prohibited two publications linked with the banned Ma Ba Tha nationalist organization from publishing any more articles, and has ordered the publications to return their media licenses to the ministry.⁴⁰

State-owned television network MNTV is planning to end its broadcasting partnership with the BBC after a BBC report used the term “Rohingya,” which has been banned by the Myanmar government.⁴¹ The Myanmar Communication committee also announced that government media will be prohibited from reporting on ARSA, after the BBC had produced a special report on ARSA.⁴² The BBC refused to accept any interference with the content of its

programming, resulting in the termination of the broadcasting partnership between MNTV and the BBC.⁴³

C. Economic and Social Empowerment

According to UN clinicians and other health workers, dozens of women among the Rohingya Muslims who have fled to Bangladesh from Myanmar have injuries consistent with violent sexual attacks.⁴⁴ Their accounts, backed in some cases by medical notes, lend weight to repeated allegations of such attacks, ranging from molestation to gang rape, leveled by women from the stateless minority group against Myanmar's armed forces.⁴⁵ Myanmar officials have mostly dismissed such allegations as militant propaganda designed to defame its military, and claim that the rape victims should come to the government.⁴⁶ In some cases, officials in the Myanmar government have accused the Rohingya of faking rape and burning their own houses in a bid to hijack international public opinion.⁴⁷

Despite mounting criticism for such claims, Aung San Suu Kyi has done nothing to correct the record on the abuses taking place in Rakhine state.⁴⁸ In fact, despite numerous reports to the contrary, Aung San Suu Kyi strangely boasted in her September 19th speech that Muslims living in the violence-torn Rakhine state had ample access to health care and radio broadcasts.⁴⁹ A Facebook page associated with her office suggested that international aid groups were colluding with Rohingya militants, whose attack on Myanmar police posts and an army base precipitated the fierce military counteroffensive.⁵⁰

D. Land Seizures

In the wake of the ongoing violence against Rohingya Muslims in Rakhine state and reports of widespread burning of Rohingya villages, the Myanmar government has claimed that burnt land would become government-managed land by law, suggesting likely land grabs by the government.⁵¹ A professor at Columbia University recently stated that "the land freed by the radical expulsion of the Rohingya might have become of interest to the military," particularly in light of the land's potential value due to ongoing Chinese projects, including an oil pipeline.⁵² Commentators have also pointed to plans by a Chinese consortium to develop a \$7.3 billion deep-sea port on the coast of Rakhine and a \$3.2 billion industrial park nearby as possibly increasing the value of land in Rakhine state and therefore motivating possible land seizures through violent means.⁵³

Locals in northern Kachin state have been protesting an expansion project in Mt. Hkakabo Razi National Park headed by UNESCO.⁵⁴ UNESCO is working with the Myanmar government to designate the area as the country's first Natural World Heritage site.⁵⁵ Locals have expressed concerns that such a designation could lead to land seizures in the area and make it increasingly difficult to make a living on the land.⁵⁶ Approximately 10,000 people were expected to join the protests against the designation. Kachin political authorities have validated these concerns, suggesting that "locals will not get compensation ... for losing their land due to the expansion of the area."⁵⁷ Locals are particularly wary because of previous experiences with land grabs in the Hukawng Valley Wildlife Sanctuary area.⁵⁸

In Rangoon, regional government efforts are underway to provide accommodation for all squatters in the region by 2020.⁵⁹ The government currently believes there are approximately 100,000 squatters in the region.⁶⁰ Squatters are reportedly occupying vacant spaces in factory compounds and are demanding money from the factory owners in exchange for vacating.⁶¹ The region hopes to upgrade its industrial zones, which will require the squatters to vacate.⁶² The government's current plan includes the creation of jobs in the new industrial zones for the squatters.⁶³

III. Peace Talks and Ethnic Violence

A. Ethnic Violence

The ongoing Rohingya humanitarian crisis has intensified in recent months, with at least 500,000 Rohingya having fled to neighboring Bangladesh since August of this year.⁶⁴ Attacks on the Rohingya have been systematic and widespread, reportedly at the hands of the Myanmar police and military, leading to what the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, called a "textbook example of ethnic cleansing."⁶⁵ The term "ethnic cleansing" is often used to refer to the forced removal of an ethnic or religious group by intimidation or violence. While the Rohingya have long been persecuted as a minority, the scale of recent violence is unprecedented. It ramped up on August 25 after a small faction of Rohingya militants called the Arakan Rohingya Solidarity Army attacked police posts, killing 12 members of Myanmar's security forces.⁶⁶ In retribution, Myanmar's military vowed to root out militant groups, and they've responded on a massive scale that has left many innocent civilians dead, injured, or homeless.⁶⁷

In response, Mr. Zeid has called the current operation in Rakhine "clearly disproportionate" and urged Myanmar to end the "cruel military operation" in Rakhine state.⁶⁸ He noted that the situation cannot yet be fully assessed since Myanmar refused access to human rights investigators.⁶⁹

Recent reports describe thousands of Rohingya arriving in Bangladesh each day at overcrowded refugee camps and new, informal settlements, where they scramble for meager food rations and a place to sleep.⁷⁰ They are exhausted after days of walking barefoot over mountains and across rivers; many have bullet wounds and injuries from arson attacks.⁷¹ New reports claim the Myanmar military has begun laying landmines along the border, and that soldiers have been shooting unarmed civilians even as they try to flee.⁷² Meanwhile, Bangladesh is already host to hundreds of thousands of Rohingya who have fled previous outbreaks of violence in Rakhine state. Existing refugee camps are full and the new arrivals are sleeping rough in whatever space they can find, reports say.

Aid agencies say they are in desperate need of food, shelter and medical aid, and that current resources are inadequate.⁷³ The UN halted aid distributions in northern Rakhine state after the August 25 militant attack on government forces, with the UN resident coordinator in Myanmar stating that deliveries had been suspended "because the security situation and government field-visit restrictions rendered us unable to distribute assistance."⁷⁴ Since then, Myanmar authorities have blocked all UN aid agencies from delivering vital supplies of food, water and medicine to refugees in northern Rakhine state.⁷⁵ Sixteen major non-governmental organizations, including Oxfam and Save the Children, have also complained that the government has restricted access to the conflict area.⁷⁶

Refugees who have made it to Bangladesh have told of massacres and arson they say are being committed by Myanmar armed forces. Human Rights Watch has cited satellite evidence of widespread burning in at least 10 parts of Rakhine state in the days after the armed crackdown began.⁷⁷ Other reports have stated that thick black smoke can be seen rising from small settlements along the border.⁷⁸ Meanwhile, the Myanmar government has continued to deny its involvement, insisting that it is the Rohingya militants who are burning Rohingya villages and targeting civilians.⁷⁹

On September 28, the UN Security Council held its first public meeting on Myanmar in eight years, which was requested by Sweden, the United States, UK, France, Egypt, Senegal, and Kazakhstan.⁸⁰ The UN Secretary-General Antonio Guterres warned that the violence against Myanmar's Rohingya Muslims in the northern part of Rakhine state could spread to central Rakhine, where 250,000 more people were at risk of displacement.⁸¹ He pointed to accounts from those who fled of excessive violence and serious violations of human rights, including indiscriminate firing or weapons, the use of landmines against civilians and sexual violence.⁸² Guterres demanded immediate humanitarian aid access to areas affected by the violence and expressed concern regarding Myanmar's "current climate of antagonism towards the United Nations" and aid groups.⁸³

B. Peace Talks

In September, Aung San Suu Kyi, who serves as the chair of the National Reconciliation and Peace Centre, held a discussion with a delegation of the Restoration Council of Shan State/Shan State Army.⁸⁴ The discussion focused on the need for understanding and trust building in the peace process based on the Nationwide Ceasefire Agreement ("NCA"), development tasks, education, health and the fight against narcotic drugs in ethnic minority regions.⁸⁵

At the end of September, Myanmar's Peace Commission held an informal meeting with representatives of United Nationalities Federal Council ("UNFC")—an alliance of armed ethnic groups who have not signed the national ceasefire agreement ("NCA")—in a bid to convince them to sign the NCA. However, no deal was reached at the meeting.⁸⁶ The UNFC currently consists of the Karenni National Progressive Party, the New Mon State Party, the Arakan National Council/Arakan Army and the Lahu Democratic Union.⁸⁷ The government negotiators have been hoping to convince the UNFC to join the NCA before the third round of 21st Century Panglong Conference, which is tentatively scheduled to be held in November, so that the UNFC can participate in the formal peace talks.⁸⁸ The UNFC proposed to hold formal talks with the Peace Commission in Yangon on October 7.⁸⁹

At the meeting, discussions between the Peace Commission and the UNFC stalled on negotiations regarding the preconditions proposed by the UNFC before it would sign the ceasefire deal.⁹⁰ For example, the UNFC has requested that the Joint Monitoring Committee ("JMC"), the body charged with overseeing the implementation of the NCA, be granted more authority to enforce agreements between armed ethnic groups and the Tatmadaw on matters such as codes of soldier conduct.⁹¹ In addition, the UNFC has requested that international representatives be included in the JMC, and that disputes be submitted to an independent mediation commission consisting of legal experts from both Myanmar and foreign countries.⁹²

1 Time, September 12, 2017: <http://time.com/4936882/myanmar-ethnic-cleansing-rohingya/>.
2 *Id.*
3 *Id.*
4 The Guardian, September 19, 2017: <https://www.theguardian.com/world/2017/sep/19/aung-san-suu-kyi-myanmar-rohingya-crisis-concerned>.
5 *Id.*
6 The New York Times, September 18, 2017: <https://www.nytimes.com/2017/09/18/world/asia/aung-san-suu-kyi-speech-rohingya.html>.
7 *Id.*
8 *Id.*
9 The New York Times, September 28, 2017: <https://www.nytimes.com/2017/09/28/world/asia/myanmar-un-rohingya-drown.html>.
10 *Id.*
11 *Id.*
12 *Id.*
13 *Id.*
14 *Id.*
15 Time, September 12, 2017: <http://time.com/4936882/myanmar-ethnic-cleansing-rohingya/>.
16 *Id.*
17 *Id.*
18 *Id.*
19 *Id.*
20 *Id.*
21 *Id.*
22 Time, September 21, 2017: <http://time.com/4952270/myanmar-rohindya-us-military-ties/>.
23 *Id.*
24 *Id.*
25 *Id.*
26 *Id.*
27 *Id.*
28 The Myanmar Times, September 27, 2017: <https://www.mmtimes.com/news/draft-hate-speech-bill-sent-parliament.html>.
29 *Id.*
30 *Id.*
31 *Id.*
32 *Id.*
33 BBC, September 25, 2017, <http://www.bbc.com/news/world-asia-41384457>.
34 *Id.*
35 BBC, September 25, 2017, <http://www.bbc.com/news/world-asia-41384457>.
36 *Id.*
37 *Id.*
38 The Myanmar Times, September 1, 2017: <https://www.mmtimes.com/news/military-has-dropped-charges-against-journalists-activists.html> and The Myanmar Times, September 4, 2017: <https://www.mmtimes.com/news/journalists-activists-welcome-military-move-free-colleagues.html>.
39 *Id.*
40 The Myanmar Times, September 5, 2017: <https://www.mmtimes.com/news/two-ma-ba-tha-linked-journals-lose-license-publish.html>.
41 The Myanmar Times, September 7, 2017: <https://www.mmtimes.com/news/state-tv-network-says-it-has-no-choice-end-broadcast-partnership-bbc.html>.
42 *Id.*
43 *Id.*
44 Reuters, September 24, 2017, <https://www.reuters.com/article/us-myanmar-rohingya-rape-insight/u-n-medics-see-evidence-of-rape-in-myanmar-army-cleansing-campaign-idUSKCN1BZ06X>.
45 *Id.*
46 *Id.*
47 The New York Times, September 18, 2017: <https://www.nytimes.com/2017/09/18/world/asia/aung-san-suu-kyi-speech-rohingya.html>.
48 *Id.*
49 *Id.*
50 *Id.*
51 ThinkProgress, October 2, 2017: <https://thinkprogress.org/bangladesh-and-myanmar-deal-to-repatriate-rohingya-8154f2d993c7/>.
52 TTR Weekly, September 29, 2017: <http://www.ttrweekly.com/site/2017/09/rakhine-in-the-throes-of-land-grab/>
53 HuffPost, September 15, 2017: http://www.huffingtonpost.com/entry/rohingya-land-grab-military_us_59b96400e4b02da0e13e79f4
54 The Irrawaddy, September 25, 2017: <https://www.irrawaddy.com/news/burma/locals-to-protest-unesco-natural-world-heritage-designation-at-hkakabo-razi.html>
55 *Id.*
56 *Id.*
57 *Id.*
58 *Id.*

59 The Irrawaddy, September 25, 2017: <https://www.irrawaddy.com/news/burma/yangon-govt-accommodate-squatters-2020.html>

60 *Id.*

61 *Id.*

62 *Id.*

63 *Id.*

64 National Geographic, September 29, 2017: <http://news.nationalgeographic.com/2017/09/rohingya-refugee-crisis-myanmar-burma-spdl/>.

65 *Id.*

66 *Id.*

67 *Id.*

68 BBC, September 11, 2017: <http://www.bbc.com/news/world-asia-41224108>.

69 *Id.*

70 Time, September 12, 2017: <http://time.com/4936882/myanmar-ethnic-cleansing-rohingya/>.

71 *Id.*

72 *Id.*

73 *Id.*

74 The Guardian, September 4, 2017: <https://www.theguardian.com/world/2017/sep/04/myanmar-blocks-all-un-aid-to-civilians-at-heart-of-rohingya-crisis>.

75 *Id.*

76 *Id.*

77 *Id.*

78 *Id.*

79 *Id.*

80 Reuters, September 29, 2017, <http://www.reuters.com/article/us-myanmar-rohingya-un/myanmar-violence-could-spread-displace-more-rohingya-u-n-chief-idUSKCN1C32XA>.

81 *Id.*

82 *Id.*

83 *Id.*

84 Eleven Myanmar, September 11, 2017, <http://www.elevenmyanmar.com/politics/11551>.

85 *Id.*

86 Myanmar Times, September 26, 2017, <https://www.mmtimes.com/news/government-unfc-set-more-talks-nca-deal.html>.

87 *Id.*

88 *Id.*

89 *Id.*

90 *Id.*

91 *Id.*

92 *Id.*