

# STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

## DECEMBER 2017 – JANUARY 2018 REPORT

**Summary.** This report reviews the December 2017 and January 2018 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. In Focus: Rohingya Refugee Crisis**

#### ***Continuing Violence Against Rohingya***

At least 9,000 members of the ethnic Rohingya minority died—most of them from violence—in Rakhine State, between August 25 and September 24, 2017, according to surveys conducted in refugee settlement camps in Bangladesh and released on December 14 by the international medical humanitarian organization Doctors Without Borders/Médecins Sans Frontières (“MSF”).<sup>1</sup> Of the reported deaths, 71.7 percent were caused by violence. Using the most conservative estimates, at least 6,700 Rohingya are estimated to have been killed, including at least 730 children under the age of five.<sup>2</sup> The survey findings are among the clearest indications yet of the widespread violence that began August 25, when the Myanmar military, police, and local militias launched “clearance operations” in Rakhine in response to attacks by the Arakan Rohingya Salvation Army. Since then, more than 647,000 Rohingya (according to the Inter Sector Coordination Group as of December 12) have fled from Myanmar into Bangladesh.<sup>3</sup>

“We met and spoke with survivors of violence in Myanmar, who are now sheltering in overcrowded and unsanitary camps in Bangladesh,” said Dr. Sidney Wong, MSF medical director. “What we uncovered was staggering, both in terms of the numbers of people who reported a family member died as a result of violence and the horrific ways in which they said they were killed or severely injured. The peak in deaths coincides with the launch of ‘clearance operations’ by Myanmar security forces in the last week of August.”<sup>4</sup>

In early November, MSF conducted six retrospective mortality surveys in different sections of the refugee settlements in Cox’s Bazar, Bangladesh, located just over the border from Myanmar. The total population of the areas covered by the surveys was 608,108 people, of which 503,698 had fled Myanmar after August 25.<sup>5</sup> The overall mortality rate between August 25 and September 24 of households surveyed was 8.0/10,000 people per day. This is equivalent to the death of 2.26% (between 1.8% and 2.73%) of the sampled population. If this proportion is applied to the total population that arrived in the camps since August 25, and which were covered by the survey, it would suggest that between 9,425 and 13,759 Rohingya died during the initial 31 days following the start of the violence, including at least 1,000 children under five.<sup>6</sup>

Overall, gunshot wounds were the cause of death in 69% of the violence-related deaths, followed by being burned to death in their houses (9%), and beaten to death (5%).<sup>7</sup> Among children below the age of five, more than 59% killed during that period were reportedly shot, 15% were burned to death in their homes, 7% were beaten to death, and 2% died from landmine blasts.<sup>8</sup> “The numbers of deaths are likely to be an underestimation, because we have not surveyed all refugee settlements in Bangladesh and because the surveys don’t account for families that never made it out of Myanmar,” Wong said. “We heard reports of entire families who perished after they were locked inside their homes and set on fire.”

According to a December 2017 analysis by Human Rights Watch, 40 new villages showed evidence of building destruction occurring in October and November 2017, increasing the total to 354 villages that have been partially or completely destroyed since August 25, 2017.<sup>9</sup> Satellite imagery confirmed that dozens of buildings were burned the same week Myanmar and Bangladesh signed a Memorandum of Understanding on November 23 to begin returning refugees in Bangladesh within two months.<sup>10</sup> On November 25, satellite data detected an active

fire and building destruction in Myo Mi Chang village in Rakhine State's Maungdaw Township. Four villages suffered building destruction between November 25 and December 2.<sup>11</sup> "The Burmese army's destruction of Rohingya villages within days of signing a refugee repatriation agreement with Bangladesh shows that commitments to safe returns were just a public relations stunt," said Brad Adams, Asia director at Human Rights Watch. "The satellite imagery shows what the Burmese army denies: that Rohingya villages continue to be destroyed. Burmese government pledges to ensure the safety of returning Rohingya cannot be taken seriously."<sup>12</sup>

In a rare admission of guilt, Myanmar's military said that its soldiers were responsible for the deaths of 10 Rohingya Muslims found in a mass grave in the country's western Rakhine State.<sup>13</sup> The results of an internal military investigation found that soldiers, along with local villagers, were culpable for the deaths of the Rohingya, who the military labeled "terrorists," according to a statement posted to the Facebook page of Myanmar's Commander-in-Chief.<sup>14</sup> James Gomez, Amnesty International's Southeast Asia and Pacific director, said the acknowledgement marked "a sharp departure from the army's policy of blanket denial of any wrongdoing." "However, it is only the tip of the iceberg and warrants serious independent investigation into what other atrocities were committed," he said in a statement.<sup>15</sup> The mass grave was discovered last month in a cemetery in Inn Din village, about 30 miles north of the state capital Sittwe, prompting the military to open an investigation. Previous internal inquiries have cleared the military of wrongdoing in Rakhine State.

### ***Refugee Camp Conditions***

For the refugees who survive the journey to Bangladesh, health conditions have become an increasingly significant concern. Of the hundreds of thousands of Rohingya who have fled to Bangladesh since the Myanmar military began its crackdown in late August, around 380,000 are minors according to Save the Children, the international aid organization.<sup>16</sup> At least 30% of the refugee population is younger than 5. The prospects of these young refugees, say child development experts, are grim. "What we're seeing is the perfect breeding ground for a massive mental health crisis for children," said Lalou Rostrup Holdt, a mental health adviser for Save the Children. "You have trauma on a huge scale, children seeing brutal killings and being forced to leave home with nothing," Ms. Holdt said. "You have hunger. You also have significant developmental delays due to malnutrition and understimulation that predate the recent trauma. It's absolutely devastating for an entire community."<sup>17</sup> Ms. Holdt, who has been working in the camps for two months, said that many Rohingya children are living in a state of near constant "fight or flight" arousal, a hyperstressed condition that can change the architecture of their brains.<sup>18</sup>

UNICEF says that 7% of children in the camps are suffering from severe acute malnutrition, a condition from which they will die unless they get proper care.<sup>19</sup> That figure is three times higher than in other recent humanitarian emergencies.<sup>20</sup> Outbreaks of communicable diseases, such as measles and diphtheria, are sweeping through the overcrowded camps, which, with the recent influx, now house more than 800,000 Rohingya.<sup>21</sup> At least 60% of water wells in Rohingya refugee settlements are contaminated with fecal matter from latrines that have been dug too close to drinking sources.<sup>22</sup> Children suffer disproportionately from diseases that fester in refugee camps.

## ***Repatriation Efforts***

In January 2018, concerns continued to mount over a joint plan by Myanmar and Bangladesh to repatriate hundreds of thousands of ethnic Rohingya who fled violence in Myanmar's western Rakhine State last year. The repatriation program was expected to begin on January 16, with the two countries planning to return more than 650,000 refugees currently in Bangladesh to Rakhine State within two years, according to a statement released by Bangladesh's Foreign Ministry.<sup>23</sup> In a January 16 meeting, the two countries agreed that Bangladesh would establish five transit camps close to the border between the two countries, from which returnees would be received initially in two reception centers on the Myanmar side.<sup>24</sup> Officials said they expected about 1,500 refugees to go back each week, though only those with identity documents, which most Rohingya lack, would be allowed into Myanmar. According to Myanmar's Foreign Ministry, Myanmar would shelter the returnees in a temporary accommodation at the 124-acre Hla Pho Khung camp near Maungdaw township, which can accommodate 30,000 people in its 625 buildings.<sup>25</sup>

However, rights group Amnesty International called the plan "premature," and that "returning so soon will be a terrifying prospect" for many Rohingya.<sup>26</sup> The repatriation deal was also unusual in that it did not involve the United Nations High Commissioner for Refugees beyond the consultation stage, according to UN Secretary-General Antonio Guterres. "We believe it would be very important to have UNHCR fully involved in the operation to guarantee that the operation abides by international standards," he said. He added that it was "essential" to ensure that the return of the refugee population is voluntary.<sup>27</sup>

This concern proved warranted when, less than one week later, the start of the repatriation program was postponed amid widespread fears that refugees would be forced to return against their will according to a Bangladeshi official.<sup>28</sup> It is not currently clear whether a new commencement date will be set. Rohingya Muslims living in Bangladesh have indicated that they would resist repatriation if they felt coerced, and Rohingya leaders drew up a list of minimum demands they said needed to be met before the refugees would agree to return.<sup>29</sup> These demands included holding the military accountable for alleged violence, and releasing Rohingya detained in counter-insurgency operations.<sup>30</sup>

## **B. Official Corruption and International Community / Sanctions**

### ***International Community / Sanctions***

On December 6, 2017, the US House of Representatives passed an official resolution condemning the "ethnic cleansing of the Rohingya" and "calling for an end to the attacks" against the Muslim minority.<sup>31</sup> The resolution passed with an overwhelming majority, by a 423–3 vote.<sup>32</sup> The resolution is the first step in congressional action that could eventually include a stand-alone sanctions bill aimed at putting financial pressure on the Myanmar military and providing US economic assistance for the resettlement of Rohingya refugees in Bangladesh back to Myanmar.<sup>33</sup> "This is a moral issue and a national security issue," House Foreign Affairs Chairman Ed Royce, a Republican from California, said on the House floor Tuesday. "No one is secure when extremism and instability is growing in this part of the world."<sup>34</sup> The resolution also

calls on Aung San Suu Kyi, the de facto head of Myanmar's government, and the Myanmar military to work together to implement humanitarian aid and reconciliation.<sup>35</sup>

Also in December, the United States imposed targeted sanctions on Major-General Maung Maung Soe, who led the initial counter-insurgency operations in Rakhine State and has been accused of leading an ethnic-cleansing campaign against the Rohingya people. Maung Maung Soe was removed from his post last month by Myanmar's Ministry of Defense. The US said that American officials had "examined credible evidence of Maung Maung Soe's activities, including allegations against Myanmar security forces of extrajudicial killings, sexual violence, and arbitrary arrest, as well as the widespread burning of villages."<sup>36</sup> The US Treasury alleged that Maung Maung Soe "oversaw the military operation in Burma's Rakhine State responsible for widespread human rights abuse against Rohingya civilians."<sup>37</sup> The Major-General will have his US assets frozen, and Americans can no longer deal with him. Aung San Suu Kyi's spokesman told reporters that the sanctions are "based on unreliable accusations without evidence, as we have repeatedly said, so we feel sad for that."<sup>38</sup>

On January 11, 2018, the European Union delegation to Myanmar pressed the government to allow a UN investigation team access to the country, after a rare Myanmar military investigation report admitted that its soldiers had been involved in the murder of ten captured Rohingya men in western Rakhine State. The EU delegation's statement said: "These brutal killings confirm the urgent need for a thorough and credible investigation" into human rights abuses against the Rohingya Muslims. It called on the Myanmar government to "fully cooperate with the Human Rights Council's independent international fact-finding mission" and provide for "their full, safe and unhindered access to all conflict areas without delay."<sup>39</sup>

The UN special rapporteur on human rights in Myanmar, Yanghee Lee, arrived in Bangladesh on January 18, vowing that she "will not be deterred" from fulfilling her mandate and investigating human rights violations against the Rohingya, despite being refused access to Myanmar by the Myanmar government, who have generally denied that human rights violations have taken place.<sup>40</sup> The Myanmar government accused Lee of lacking impartiality, but Ms. Lee said that their decision to ban her from the country suggested "something terribly awful" was happening in Rakhine State.<sup>41</sup>

In a widely publicized move, veteran US politician and former New Mexico governor Bill Richardson quit an international panel advising the Myanmar government on the Rohingya crisis on January 24, after accusing Aung San Suu Kyi of adopting a "siege mentality" in office and living in a "bubble." Richardson said that the panel on which he had served, which has toured the temporary camps that the government has set up for returning Rohingya refugees, was conducting a "whitewash" of the abuses ongoing in the Rakhine state, and that conditions were not yet right for the repatriation process to begin. Aung San Suu Kyi's office said that her government had asked Richardson to step down, accusing him of "pursuing his own agenda," although Richardson denied this version of events.<sup>42</sup>

Meanwhile, a regional fact-finding mission led by the ASEAN Parliamentarians for Human Rights group ("APHR") has recommended that ASEAN countries implement an arms embargo and sanctions on the Myanmar army and senior officials, in order to allow the safe and voluntary repatriation of displaced Rohingya refugees. APHR Chairperson and Malaysian

Parliament member Charles Santiago claimed that arms and bombs sold by India, China and Russia to the Myanmar Army are being used against the Rohingya, and called for ASEAN to take a “leading role in resolving this crisis.”<sup>43</sup>

### ***Corruption***

On December 8, new chair of the Anti-Corruption Commission, Aung Kyi, oversaw a ceremony in Nay Pyi Taw to mark International Anti-Corruption Day for the first time. Aung Kyi said the commission would seek to amend the Anti-Corruption Law to bring it into compliance with the UN Convention Against Corruption, expand its corruption prevention activities and deepen cooperation with the United Nations Office on Drugs and Crime (“UNODC”). Troels Vester, head of the UNODC office in Myanmar, said that the new chair’s plans were “positive and certainly encouraging,” and that he has already met with Aung Kyi and agreed to provide technical support in the battle against corruption.<sup>44</sup>

An Anti-Corruption Day held on December 9, which was attended by lawmakers, government officials, lawyers and activists, highlighted the need for a more strategic approach. Participants called for changes to the law so that the Commission has greater independence from the government, the Commission does not need a formal complaint to begin an investigation, whistleblowers are protected, and the definition of bribery is clarified. The Anti-Corruption Commission’s draft amendment bill will be reviewed by parliament in the first three months of 2018.<sup>45</sup>

A statement released by the Anti-Corruption Commission on December 27 revealed that the Commission has received 4,516 complaint letters since November 30. These letters complained about department action, management and administration error, land management, the judiciary, land acquisition, abuse, bribery and wilful misconduct. The Commission stated that they have investigated 63 complaint letters and taken action in 47 cases.<sup>46</sup>

At a paper-reading ceremony on anti-corruption in Yangon on January 22, Aung Kyi declared a war on bribery and corruption and announced that a two year plan is being formulated to eradicate bribery, immorality and malpractice. He stressed that educational efforts will change attitudes towards bribery and corruption, particularly among young people.<sup>47</sup> A symposium entitled “Promote Integrity to Counter Corruption” was held on January 22-23 in partnership with the UNODC and aimed to focus on the strategic work plan for 2018 to fight corruption.<sup>48</sup>

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

### **A. Freedom of Speech, Assembly and Association**

On December 22, five members of the Karenni State Youth and the Karenni State Farmers Union led a protest in Loikaw, objecting to the alleged execution on December 20 of three Karenni National Progressive Party soldiers and a civilian.<sup>49</sup> Police charged the five protesters with violating the Peaceful Assembly Law.<sup>50</sup> The court ultimately ordered the five protestors to either pay a fine or go to prison for twenty days, and the men chose to be imprisoned.<sup>51</sup> The chairman of the Karenni Farmers Union characterized their decision to go to

prison instead of paying a fine as evidence that “there is no rule of law” in Myanmar, since the men had staged the protest “for the sake of rule of law as the duty of citizens who love truth.”<sup>52</sup>

On January 16, police killed at least seven protestors and injured twelve more who were gathered in Mrauk U amongst other Rakhine Buddhists to protest the ban on the annual commemoration of the fall of the ancient Arakan kingdom.<sup>53</sup> Mrauk U is the historic capital of Arakan, and traditionally each year the local population celebrates the Myanmar conquest of Arakan.<sup>54</sup> Since the government refused to allow the commemoration to occur this year, a large crowd protested outside of a government building, and the police opened fire. Local authorities say the police first fired rubber bullets and only used real ammunition after protestors began throwing stones and bricks.<sup>55</sup> The Rakhine State parliament has formed a committee to investigate the cause of the violence and uncover why the police shot the protestors.<sup>56</sup> The committee will in turn present their findings to the state parliament.<sup>57</sup>

After the January 16 violence in Mrauk U, police arrested Rakhine social critic Wai Hin Aung and Rakhine nationalist lawmaker Aye Maung after they spoke out and called for a revolt against Myanmar’s ethnic-majority government.<sup>58</sup> Police charged them under Article 17(1) of the Unlawful Association Act.<sup>59</sup> Protesters then demanded the release of these two, with protest leader Than Naing contending that “the authorities should work to resolve problems with patience, but we feel that they simply want to demonstrate their power to the people.”<sup>60</sup>

Students at universities around Myanmar protested on January 22 in favor of an increase in the country’s education budget.<sup>61</sup> Police broke up the four-day protest on January 25 and briefly held at least 72 protestors before sending them home, but the universities then suspended about 40 of these students.<sup>62</sup> Ye Myo Swe, the protest leader and a law student at Yadanabon, said that at Sagaing Education University the rector met with four students “and told them they would have to quit the school if they couldn’t promise not to take part in any more protests,” so these students dropped out of university.<sup>63</sup> Ye Myo Swe added that the protestors now believed that all 72 who were arrested would be expelled from their universities.<sup>64</sup> The state arresting and expelling students for protesting and dissenting echoes the realities of the period when the military junta ruled Myanmar and jailed students and their supporters as recently as in March 2016 for demanding education reforms.<sup>65</sup>

## **B. Freedom of the Press and Censorship**

On December 12, Reuters journalists Wa Lone and Kyaw Soe Oo were arrested after being invited to have dinner with police officers outside of Yangon.<sup>66</sup> The two journalists later told relatives that the policemen they were dining with, whom they had never met before, handed them rolled-up documents, which they did not have a chance to look at before they were arrested minutes later.<sup>67</sup> Seven policeman were waiting outside the restaurant and arrested the journalists upon their exit.<sup>68</sup>

For the first few days after Wa Lone and Kyaw Soe Oo’s arrests, little was known about the allegations against them or about their location.<sup>69</sup> The government did not report the journalists’ arrest until about twenty-four hours after it occurred.<sup>70</sup> Police held Wa Lone and Kyaw Soe Oo at an undisclosed location without any outside contact, including to their families or lawyers, for two weeks.<sup>71</sup> The police said that the two were “arrested for possessing important

and secret government documents related to Rakhine State and security forces” under the colonial-era Official Secrets Act.<sup>72</sup> The Official Secrets Act, under which few cases have been prosecuted, was created in 1923 when Myanmar was a province of British India.<sup>73</sup> The maximum prison sentence under the Act is fourteen years.<sup>74</sup> The government announced that two policemen were also arrested and charged under the Official Secrets Act, but according to the two journalists, these were not the same policeman who handed them the documents.<sup>75</sup>

As Myanmar’s civilian President Htin Kyaw authorized police to proceed with the case, international agencies and organizations including the European Union called for transparency and accountability in Myanmar’s handling of the case.<sup>76</sup> Wa Lone and Kyaw Soe Oo made their first court appearance on December 27, where they were remanded for an additional two weeks.<sup>77</sup>

Wa Lone and Kyaw Soe Oo say they had just returned from the state of Rakhine when they were invited to have dinner with the two policemen.<sup>78</sup> Daniel Bastard, from Reporters Without Border’s Asia desk, emphasized the link between the reporter’s coverage and their arrests, saying that “the case of the two Reuters journalists is very significant...they were reporting on a village that had been attacked by the military so the authorities are doing whatever they can to shut them up.”<sup>79</sup>

Meanwhile, the two foreign journalists arrested in October for allegedly filming with a drone without permission were released on December 22.<sup>80</sup> Lau Hon Meng of Singapore and Mok Choy Lin of Malaysia were working for Turkish state broadcast TRT World when they were arrested and detained on October 26.<sup>81</sup> On November 10, a Myanmar court sentenced the two foreign journalists to two months in prison.<sup>82</sup> Authorities charged the two with violating Section 8 of Myanmar’s Import-Export Law, which does not refer specifically to drones and carries a maximum sentence of three years in jail, as well as violating the 1934 Burman Aircraft Act, which carries a maximum sentence of three months in prison.<sup>83</sup>

At a court hearing on December 26, the two plaintiffs, a police officer and an immigration official, withdrew the charge under the 2012 Export and Import Law for bringing the drone into Myanmar illegally and another charge under Section 13(1) of the 1947 Immigration Act, which was brought after the two foreign journalists’ visas expired while in jail.<sup>84</sup> The plaintiffs claimed they withdrew the charges so as not to tarnish Myanmar’s relationships with Singapore and Malaysia. The journalists had been sentenced to serve two months under the Burman Aircraft Act, which was due to be completed on January 9, so they were released a week early.<sup>85</sup>

### **C. Land Seizures**

The committee tasked with settling complaints relating to seized farmlands has resolved only 10% of the complaints submitted since its formation eighteen months ago.<sup>86</sup> The authorities claim that the rate of solving complaints has been slow due to inadequate evidence presented in many of the complaints.<sup>87</sup> Skeptical commentators have suggested that the delays may in fact result from the inadequate structure of the committee and potential conflicts of interests, as some members of the committee previously seized land and are now being called upon to investigate the seizures.<sup>88</sup>



The Tatmadaw is attempting to reclaim land in Rangoon currently occupied by shopkeepers.<sup>89</sup> The tenant shopkeepers are threatening to hold protests if the authorities do not stop the Tatmadaw from reclaiming the land on which their shops sit and have asked the authorities to grant them ownership of the land at reasonable prices.<sup>90</sup> Twenty five tenants are impacted, and some of the tenants have been working on the land for 30 years since signing land lease contracts with the Tatmadaw.<sup>91</sup> The Tatmadaw stated they were following procedure and that, since November 2016, they have sent at least seven notices to the tenants indicating that they need to close their shops.<sup>92</sup> Reportedly the Tatmadaw has started collecting money for land rental and taxes, which were not part of the original agreement.<sup>93</sup>

In Bagan, disputes continue over when and how hotels should be relocated as part of the government's attempts to pursue UNESCO status for the site.<sup>94</sup> The government is reportedly continuing to discuss the issue with the Ministry of Hotels and Tourism, the regional government and hotel owners.<sup>95</sup> UNESCO advised the government to allow hotel owners to operate in the area for 10 or 15 years so the hotel owners can recoup their investment.<sup>96</sup>

Relatedly, the government has indicated that they are open to easing restrictions on locals living within the heritage monument zone around the Bagan archaeological site.<sup>97</sup> Locals from five villages have asked the Ministry of Religious Affairs and Culture (the "Ministry") to include their villages in the buffer zone instead of the current monument zone, because they are concerned that restrictions imposed on the monument zone in connection with the UNESCO bid might hurt their livelihoods and businesses.<sup>98</sup> The Ministry has promised to negotiate with the locals and to take their concerns seriously.<sup>99</sup> Officials noted that "the [M]inistry [will] not sacrifice the interests of local residents in order to achieve heritage status," and that they would take into account the need for employment opportunities for local residents.<sup>100</sup>

### **III. Economic Development**

#### **A. Economic Development—Legal Framework, Foreign Investment**

On December 6, 2017, Myanmar's President Htin Kyaw approved the new Myanmar Companies Act of 2017 (the "Act"), replacing the country's century-old Companies Act of 1914.<sup>101</sup> The new law aims to change the way companies are regulated in the country. It is expected to modernize company formation and management processes, and significantly revise corporate governance in Myanmar, aligning the country's company legislation with international standards.

One of the most significant changes introduced in the Act is the new definition of "foreign companies," to which a number of investment restrictions are applicable. Under the old Companies Act of 1914, a company with even 1% of its shares owned by a foreign investor was classified as a "foreign company." To maintain "local company" status, companies had to maintain 100% local ownership, thereby largely restricting foreign investment in Myanmar's domestic companies.<sup>102</sup>

The new Act allows foreign investors to hold up to 35% of shares in a Myanmar company without the company losing its classification as a "local company."<sup>103</sup> The change in the foreign company definition unlocks significant business potential in areas that were previously inaccessible to foreign investors, such as companies in the banking and finance

sector. The new definition also authorizes foreign investors to trade in shares on the Yangon Stock Exchange, which was previously restricted to local companies.<sup>104</sup>

Further, the Act significantly reduces the difficulty for companies wishing to change legal status from “foreign” to “local” or vice versa, requiring only a prior notice to (and not a prior approval from) a local regulator.<sup>105</sup> These changes are expected to significantly open up Myanmar’s economy to foreign minority ownership and pave the way for more foreign investments.

In addition, the Act revised certain outdated rules related to corporate governance and company administration. Under the 1914 Act, each company was required to have a minimum of two shareholders and two directors (effectively prohibiting companies from having wholly owned subsidiaries). The new Act requires only one shareholder and one director, and eliminates the previous requirement that directors be Myanmar citizens.<sup>106</sup> However, directors must still reside in Myanmar for a minimum of 183 days per year to qualify as the director of a company.<sup>107</sup>

Moreover, the Act allows more flexible capital structures, introduces changes to share capital that will permit companies to raise or reduce capital with fewer procedural requirements, and eliminates the need to obtain trade permits. The Act also adds a number of protections for minority shareholders and authorizes companies to conduct any type of business and activities without being confined to the specific objectives set forth in the company’s Memorandum of Association.<sup>108</sup>

On December 4, TMH Telecom gained approval to become only the fifth corporation to go public in Myanmar’s stock market, and the first to raise fresh capital through an initial public offering. TMH began business in 2007 as a maker of telephone exchange equipment, and its profile now includes transmission towers for cellphone operators as well as fiber-optic networks.

On January 26, TMH Telecom’s first day of trading on the Yangon Stock Exchange (“YSX”), the market closed at its highest level in 3 weeks. Almost 10,000 shares in TMH Telecom, worth approximately Kyat 31.4 billion, were exchanged on its first day of trading, accounting for around half the shares traded on the YSX. Shares of the company debuted at Kyat 3,250 each, and through its offering, the company raised approximately Kyat 1.6 billion in proceeds.

## **B. Economic Development—Infrastructure, Major Projects**

According to the Myanmar Infrastructure Forum, held on January 26, 2018, Myanmar’s lack of infrastructure may deter potential investors, making it crucial for the government to bring infrastructure development into focus.<sup>109</sup> The forum focused on the need for the government to choose the right projects (*i.e.*, the most promising projects for encouraging rapid development), as well as the importance of working with the right partners. Because a number of infrastructure projects may take five to ten years to develop, forum participants recommended that the government begin implementation of appropriate projects immediately.<sup>110</sup>

The government in Myanmar is planning to work with a private sector company through a public-private partnership to upgrade the Yangon-Nay Pyi Taw-Mandalay highway.<sup>111</sup> This highway is one of the largest in the country and is used by approximately 16 million travelers annually. Due to lack of modern safety features, the highway has been the site of numerous accidents and deaths over recent years.<sup>112</sup> Although the government has previously

discussed renovating the highway, actual implementation of plans has lagged due to a shortage of public funds available under the national budget. For this reason, a public-private partnership has been viewed as the best path forward for the renovation project.

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

##### **A. Ethnic Violence**

Throughout the month of December, the Myanmar Army maintained its offensive in Kachin State and northern Shan State, with attacks against the Kachin Independence Army (“KIA”) and other ethnic groups, focused in Mansi and Danai townships and near the Kachin Independence Organization (“KIO”) headquarters of Laiza Town, Waingmaw Township. There were reportedly more than 180 clashes, including 12 airstrikes, in December resulting in civilian casualties as well as destruction of civilian property.<sup>113</sup>

The Myanmar Army was reported to have attacked with machine gun, mortar/artillery and an air bombing campaign in the southeast of Mansi Township near the border with Namkhan Township and within 15 kilometers of the Chinese border. Many of the airstrikes and ground assaults took place at a front line around Nam Kha Bum, Nam Gat Hkaraw, Man Loi and Lahkra Daw villages, and, on December 17, at least 33 villagers from Loi Yai were forced to flee to Nam Hkam Banglung IDP camp.<sup>114</sup>

Much of the fighting in Danai Township took place around the Oi Law and Lapu Hka frontline areas approximately 16 kilometers southwest of Tanai Township. The Myanmar Army reportedly employed machine gun fire, heavy mortar/artillery bombardments with hundreds of rounds used daily from December 24 to December 27, as well as a number of airstrikes in and around these village front lines.<sup>115</sup>

Laiza Town was pressured throughout December by the Myanmar Army with machine gun and mortar/artillery fire from Myanmar Army posts to the north, west, and southwest along the N’Tap Bum mountain range. The Lawa Yang front line had many skirmishes throughout December and is the last defense of the KIA between the Myanmar Army and Laiza.<sup>116</sup> In total between late November and early January, the Tatmadaw seized 22 outposts, four main camps, and 18 small camps belonging to the KIA and cut off a popular route that it says the KIA had been using to smuggle timber to China.

Earlier in January, the KIO reshuffled its top leadership, replacing departing officers with a younger generation of leaders as hostilities between the group’s armed wing and government forces continued to flare up.<sup>117</sup>

##### **B. Peace Talks**

A Joint Implementation Coordination Meeting was held on January 9, 2018 to schedule the upcoming third session of the 21<sup>st</sup> Century Panglong Union Peace Conference.<sup>118</sup> The conference has been postponed from the last week of January until February, with the new date still to be determined.<sup>119</sup> The postponement was made to allow a number of national-level political dialogues to be held to discuss the demands of certain ethnic armed organizations.<sup>120</sup>

The government's Peace Commission also pointed to the lack of success in convincing non-signatories to the Nationwide Ceasefire Agreement ("NCA") to sign the accord as a reason for the postponement.<sup>121</sup>

The New Mon State Party and Lahu Democratic Union announced that they will sign the NCA.<sup>122</sup> It is unclear whether the New Mon State Party will sign as part of the United Nationalities Federal Council ("UNFC"), a bloc of ethnic armed organizations that have not signed the NCA, or on its own.<sup>123</sup> The UNFC Central Executive Committee hosted an emergency meeting in which it passed a resolution to continue negotiating with the government to sign the NCA.<sup>124</sup> However, a central executive member of the UNFC said that the peace process will remain deadlocked until disagreement over certain terminology in the UNFC's "8-Point Plan" is resolved.<sup>125</sup> The UNFC requested to meet with Aung San Suu Kyi and the Myanmar Army chief in an effort to revive the stalled peace negotiations, which have been ongoing for 17 months.<sup>126</sup> Government peace negotiators declined to comment on the meeting. To date, eight non-state armed groups are NCA signatories. About a dozen other groups remain non-signatories.

Five members of the New Mon State Party were released from the state's Kyaikmaraw Prison following the group's decision to sign the NCA.<sup>127</sup> Three of the members were arrested for unlawful weapons possession and the other two for unlawful association. The group said their release is a step in trust-building. However, in a statement, the New Mon State Party also said that signing the NCA is not an agreement to disarm.<sup>128</sup> Rather, the group claimed that its decision to sign the NCA represented a commitment to amend the 2008 Constitution, not to disarm.

The Karen National Liberation Army ("KNLA") has decided that it will not attend the 21<sup>st</sup> Century Panglong Conference scheduled to be held in February, due to a failure to advance peace negotiations since the last peace conference.<sup>129</sup> The KNLA added that the conference should be postponed indefinitely and said that the group would not accept disarmament, demobilization and reintegration until the country achieves peace. The political wing of the Karen revolutionary group, the Karen National Union ("KNU"), agreed with the KNLA that the Panglong Conference should be postponed until security sector issues are clarified.<sup>130</sup>

After weeks of a surge in fighting in parts of Kachin State, representatives of the Kachin Independence Army ("KIA") and the Tatmadaw met in China for peace talks.<sup>131</sup> The talks were conducted between military representatives of the two groups, with no representatives from the government's Peace Commission present, although the talks were supported by China.

After Italy assumed the rotational chair position for the Joint Peace Fund ("JPF"), the JPF announced that it will increase engagement with stakeholders in the peace process.<sup>132</sup> The Italian embassy released a statement saying that it would make the JPF more visible among local stakeholders and implementing partners. Contributors to the \$90 million (Kyat 122.22 billion) fund include the governments of Australia, Canada, China, Denmark, the European Union, Finland, Italy, Japan, Norway, Switzerland, the United Kingdom, and the United States. The JPF provides technical, financial and advisory support to top-level peace negotiations. It also

supports projects that strengthen ceasefires in territories controlled by the NCA-signatories as well as formal and informal peace dialogues.

Ninety-two civil society organizations (“CSOs”) participated in the 17<sup>th</sup> Civil Society Forum for Peace (“CSFP”) in Yangon on December 4-5.<sup>133</sup> The CSOs discussed key developments and challenges facing the 21<sup>st</sup> Century Panglong Peace Conference, including women’s and security affairs, as well as current conditions of the people living in the country’s states and regions. Representatives of the CSOs published an open letter to the leaders of the peace process following the CSFP, asking to send delegates to the 21<sup>st</sup> Century Panglong Peace Conference and calling for an equal opportunity to participate in all discussions related to peace.<sup>134</sup> The letter also called for a review of the NCA and urged the leading stakeholders to publicize the results of their meetings and the records of political dialogues. The letter additionally urged the Tatmadaw and all ethnic armed organizations to declare a joint nationwide ceasefire.

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