

# STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

## AUGUST 2018 REPORT

**Summary.** This report reviews the August 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.

<b>I.</b>	<b>Political Developments.....</b>	<b>2</b>
<b>A.</b>	<b>Rohingya Refugee Crisis.....</b>	<b>2</b>
<b>B.</b>	<b>Corruption.....</b>	<b>3</b>
<b>C.</b>	<b>International Community / Sanctions.....</b>	<b>4</b>
<b>II.</b>	<b>Civil and Political Rights.....</b>	<b>5</b>
<b>A.</b>	<b>Freedom of Speech, Assembly and Association.....</b>	<b>5</b>
<b>B.</b>	<b>Freedom of the Press and Censorship.....</b>	<b>7</b>
<b>III.</b>	<b>Economic Development.....</b>	<b>8</b>
<b>A.</b>	<b>Economic Development—Legal Framework, Foreign Investment.....</b>	<b>8</b>
<b>B.</b>	<b>Economic Development—Infrastructure, Major Projects.....</b>	<b>8</b>
<b>IV.</b>	<b>Peace Talks and Ethnic Violence.....</b>	<b>11</b>
<b>A.</b>	<b>Ethnic Violence.....</b>	<b>11</b>
<b>B.</b>	<b>Peace Talks.....</b>	<b>11</b>

## **I. Political Developments**

### **A. Rohingya Refugee Crisis**

Beginning in August of 2017, approximately 700,000 Rohingya fled from Rakhine State in western Myanmar across the border to Bangladesh, making the ongoing Rohingya refugee crisis the fastest-growing refugee crisis in the world.<sup>1</sup> The Rohingya, a Muslim ethnic minority in Buddhist-majority Myanmar, were fleeing a military campaign of slaughter, rape and the burning of their villages that some United Nations officials have said may amount to genocide.<sup>2</sup> Recently, the Myanmar government has coordinated with the United Nations on repatriation efforts, even though conditions are not yet conducive to voluntary return. In June and July of 2018, the government of Bangladesh and the United Nations High Commissioner for Refugees (“UNHCR”) launched a joint verification exercise for Rohingya refugees in Bangladesh.

#### ***Improving Conditions for Return***

In early August, two months after the Myanmar government signed a memorandum of understanding (the “MoU”) with the United Nations Development Programme (“UNDP”) and the UNHCR, the two agencies urged the Myanmar government to make “tangible progress” in improving conditions in the violence-ridden Rakhine State.<sup>3</sup> These two UN agencies have agreed to help return and reintegrate the Rohingya refugees, assess conditions in Rakhine State for those who are considering returning and support programs that benefit communities of all ethnicities in Rakhine.

Since the signing of the MoU, the Myanmar government has allowed senior UNHCR and UNDP officials to visit northern Rakhine. However, both agencies have submitted requests for travel authorizations for their international staff to be based in Maungdaw district (one of the areas in Rakhine where the 2017 conflict took place), but were still awaiting government approval as of August 8, 2018.<sup>4</sup> The UN agencies are concerned about the safety of the refugees who will return to Rakhine under a repatriation program. A statement by the two agencies said that substantial progress is urgently needed across three key areas that are covered by the MoU: (i) granting effective access in Rakhine State, (ii) ensuring freedom of movement for all communities, and (iii) addressing the root causes of the crisis.<sup>5</sup>

On August 21, 2018, Human Rights Watch (“HRW”) released a report that cast further doubt over promises by the Myanmar government for the safe repatriation of Rohingya. The report states that Myanmar authorities arrested and tortured Rohingya refugees who reentered Rakhine State from Bangladesh for livelihood purposes.<sup>6</sup> The report includes interviews with six Rohingya refugees, three men and three boys, who had fled back to Bangladesh earlier this year after being held and allegedly tortured by security forces in Rakhine when they returned to earn money.<sup>7</sup> The Myanmar government has not yet provided a response to HRW’s allegations.<sup>8</sup>

#### ***Failure to Hold Myanmar Authorities Accountable***

August 2018 marked the one year anniversary of the Rohingya refugee crisis. Waves of Rohingya had begun fleeing their homes in northern Rakhine State after an August 25, 2017 crackdown by Myanmar security forces. One year after the crisis began, global rights groups say

that the world has failed to hold Myanmar accountable for the atrocities committed against the Rohingya.<sup>9</sup> Tirana Hassan, Amnesty International's crisis response director, stated that by its continued failure to hold accountable those responsible for crimes against humanity the international community risks sending the message that Myanmar's military will be allowed to commit such atrocities again with impunity.<sup>10</sup> In June, Amnesty had accused thirteen people, including Myanmar's commander-in-chief, of playing key roles in the crimes against the Rohingya. However, Myanmar has remained unapologetic, even as the United Nations and other groups have described the military operations as ethnic cleansing.<sup>11</sup>

## **B. Corruption**

Aung San Suu Kyi stressed the importance of making the Burmese economy "corruption free" in a meeting with business leaders this month.<sup>12</sup> She contends that if Myanmar is known as a corruption free country more foreigners will be willing to invest in it.<sup>13</sup>

The Directorate of Investment and Company Administration announced this month that companies will no longer be permitted to directly or indirectly donate money to ministries or regional government departments due to corruption concerns.<sup>14</sup> Under this new regulation, companies will still be permitted to take part in corporate social responsibility activities, including making donations to government-run disaster relief efforts.<sup>15</sup> However, it was made clear that there can be "no business implications to the arrangement."<sup>16</sup>

The Anti-Corruption Commission opened an investigation into a court's decision to drop charges against three men accused of killing a celebrity last New Year's Eve after a "public outcry."<sup>17</sup> The accused were freed after a request from the deceased's family, and there is speculation that the accused may have paid off the family in order to encourage them to submit the request.<sup>18</sup> The case will now move forward with a pretrial hearing and examination of eight remaining witnesses.<sup>19</sup>

In Kachin State, three policemen were arrested for taking bribes from a drug dealer as "protection money."<sup>20</sup> An investigation is currently underway and "[a]ctions will be taken upon the accused officers based on the findings."<sup>21</sup>

Bagan locals made a complaint, signed by 8,000 residents, to the Anti-Corruption Commission relating to building of hotels inside the archaeological zone.<sup>22</sup> This has led to suspicions of corruption at the local authority level.<sup>23</sup> The Anti-Corruption Commission has promised to respond to the group within two weeks of the initial submission.<sup>24</sup>

Corruption is allegedly rife in the Forestry Department, arguably a result of under-funding.<sup>25</sup> Eighty-two Forestry Department staff over the past seven years have been accused of corruption.<sup>26</sup> Action has been taken against nearly 50 of these staff members, and the remaining investigations are ongoing.<sup>27</sup>

Lastly, a journalist wrote an article this month about her experience in the Yangon Central Women's Hospital with her pregnant sister-in-law.<sup>28</sup> This hospital caters to patients who cannot afford private hospitals.<sup>29</sup> The journalist discussed how, at each stage of the process, her sister-in-law was asked for a "donation." She said, "Every service required by pregnant women, nursing mothers and new-born infants seems to involve a request for a donation. You're also

expected to pay for everything needed for the delivery, from surgical gloves and hypodermic needles to medicine and soap.”<sup>30</sup> The journalist objected to the underhanded nature of the donations and that they were not being used to upgrade the hospital’s equipment and facilities.<sup>31</sup>

### **C. International Community / Sanctions**

The U.S. Treasury Department announced on August 17 that it had imposed economic sanctions on Burmese security forces for their role in what U.S. officials allege are human rights atrocities committed against the Rohingya Muslims in Myanmar. The action targets four Burmese military and border guard commanders and two military units. The U.S. had previously been criticized for only penalizing one Burmese commander for the violence, whereas the European Union and Canada have sanctioned seven officials. The Treasury Department’s announcement also raised human rights abuses by the military in Kachin and Shan States. The Treasury Department did not give details of the foreign assets or foreign financial ties of the sanctioned commanders or units. Brad Adams, Asia director for Human Rights Watch, said that it is a “big deal” and is uncommon for a government to name entire military units as targets of sanctions. The naming of the units will make it difficult or impossible for the United States military and those of some other nations to carry out exercises or otherwise cooperate with the sanctioned units.<sup>32</sup>

A UN report, released on August 27, asserts that top military figures in Myanmar must be investigated for genocide in the Rakhine State and crimes against humanity in other areas. The report is based on hundreds of interviews conducted during a UN Human Rights Council fact-finding mission, and says that the Tatmadaw’s tactics are “grossly disproportionate to actual security threats.” The report is the strongest condemnation to date from the UN, and is the first time that the UN has explicitly called for officials to face genocide charges over the treatment of the Rohingya population last year. The report also criticizes Myanmar State Counselor Aung San Suu Kyi for failing to intervene to stop the violence. BBC South East Asia comments that, while the report finds sufficient evidence to warrant investigation and prosecution of the senior commanders in the Myanmar armed forces, taking Myanmar to the International Criminal Court will be difficult. Myanmar is not a signatory to the Rome Statute, which established the court, so a referral to the ICC would require the backing of the permanent five Security Council members, and China is unlikely to agree to a referral. The report suggests, instead, the establishment of a special independent body by the UN, as happened with Syria, to conduct an investigation in support of war crimes and genocide prosecutions. In response to the report, the UK Foreign Office said that the “appalling” violations against the Rohingya must be punished, with Minister of State for Asia Mark Field stating, “There cannot and must not be impunity for such acts.” EU spokeswoman Maja Kocijancic told reporters, “We have made clear very consistently those responsible for alleged serious and systemic human rights violations must be held to account.”<sup>33</sup>

The Myanmar government rejected the UN report, with government spokesperson U Zaw Htay saying on August 28 that the government does not accept the UNHRC Resolution based on the fact-finding mission report. U Zaw Htay said, “Myanmar has zero tolerance for human rights violations and there are no exceptions.” Myanmar did not allow UN investigators to enter the country, Zaw Htay said, adding, “That’s why we don’t agree and accept any resolutions made by the Human Rights Council.” He said that the country had set up a Commission of Enquiry to respond to “false allegations” made by the UN and “other international communities.”<sup>34</sup>

Meanwhile, U Hau Do Suan, Myanmar's ambassador to the United Nations, said the government has serious questions about the mission's objectivity, impartiality and sincerity. He criticized the timing of the report's release on the eve of the UN Security Council meeting, instead of on September 18, the original planned release date.<sup>35</sup>

South East Asian countries had a variety of responses to the report. Malaysia's foreign ministry said on Wednesday it was Myanmar's responsibility to take action against those to blame for the alleged genocide committed in Rakhine State. Bangladesh Minister for Foreign Affairs Shahriar Alam told reporters that the UN report was "the most comprehensive, factual and crucial report since the attack in August last year."<sup>36</sup> China, however, an ally of Myanmar's junta, called for a political solution to resolve the Rohingya issue, saying "unilateral accusations and pressure" will not work. Chinese foreign ministry spokesperson Hua Chunying said to reporters, "The Rakhine State has a complex background in terms of history, religion and ethnic groups. We hope that Bangladesh and Myanmar could engage in more dialogue and contribute to peace, stability and prosperity in the Rakhine State." When a reporter asked whether China will continue to block actions against Myanmar in the UN Security Council, Hua said, "I do not agree that China has blocked actions against Myanmar in the UN." China, which has been backing Myanmar's military junta over two decades, has extensive investments in the Rakhine State.<sup>37</sup>

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

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

The Assistance Association for Political Prisoners said that there are 275 political prisoners in Myanmar who were arrested for their political activities.<sup>38</sup> The non-profit independent organization said that among these prisoners, 33 have been sentenced, 53 are in jail awaiting trial, and 189 are free on bail while undergoing trial. Most of these individuals were charged and sentenced under Section 20 of the Peaceful Assembly and Peaceful Procession Law and Section 10 of the Protecting the Privacy and Security of Citizens Law. U Tate Naing, secretary of the group, said that failure to take action against repressive laws and allowing critics and activists to be jailed as punishment mean the people are being repressed.

Hundreds of Buddhist nationalists gathered in Yangon in August to protest against an edict from the state Buddhist clerics authority, the State Sangha Maha Nayaka Committee, or Ma Ha Na, banning Myanmar's leading nationalist organization, the Buddha Dhamma Parahita Foundation, formerly called the Association to Protect Race and Religion.<sup>39</sup> The Ma Ha Na's proclamation also banned all activities under the foundation's name, an order to take down its signposts across the country and a threat to take legal action against those who failed to comply. In response to the proclamation, the foundation warned the government and the country's senior monks that the ban could cause disunity among the Sangha and spark a public outcry. Founded in 2014, two years after religiously motivated riots largely targeting Myanmar's Muslim minority, and now with chapters across the country, the Buddha Dhamma Parahita Foundation has become virtually synonymous with Buddhist-led nationalism. Some of its leading members, including U Wirathu, have preached anti-Muslim sermons, claiming that the country's Buddhist

foundations are under assault, that Muslims are threatening to outnumber Buddhists, and that Myanmar needs to be vigilant against fundamentalist influences. The nationalist monk was banned from Facebook early this year due to his fiery posts against Muslims. The association has faced restrictions since the National League for Democracy came to power in 2016. The new government declared it an “unlawful monk association” after only three months in office.

The Tatmadaw ordered that signboards announcing the commemoration of the 71<sup>st</sup> Mon Revolution Day be taken down or changed, on the grounds that they advocate rebellion against the central government amid the ongoing peace process between ethnic Mon and Naypyitaw.<sup>40</sup> Ethnic Mon residing in southern Myanmar had put up the signboards bearing a Mon-language slogan saying, “If you dare to do rebel, you will gain your freedom.” Revolution Day commemorates the day in 1947 that a group of Mon attacked a police station with knives in order to seize weapons from police. That year, ethnic Mon first established armed groups to oppose the central government and fight for their ethnic rights.

Facebook removed Senior Gen. Min Aung Hlaing’s page from its platform, along with those of other top military brass, and preemptively banned others for hate speech linked on the social media platform with atrocities in Myanmar. The UN report had called for Min Aung Hlaing, Myanmar’s commander in chief, to be investigated and prosecuted for genocide, crimes against humanity and war crimes against the Rohingya. In all, Facebook banned 18 accounts, one Instagram account and 52 Facebook pages. Almost 12 million people followed the banned accounts. The decision was made to “prevent them from using our service to further inflame ethnic and religious tensions,” Facebook said. The company said it was preserving data from the deleted accounts and pages. Facebook has faced increasing pressure to stem hate speech on its platform, which has wide reach in Myanmar. General Min Aung Hlaing has been a prolific user of Facebook in recent years, using the platform to document his travels and post updates on military affairs. The platform has also allowed the Myanmar military to provide a counter-narrative to the mounting evidence of crimes committed against the Rohingya.<sup>41</sup> The Myanmar government quickly denied any role or advance knowledge of Facebook’s decision to ban the pages and accounts.<sup>42</sup>

Chairman of the ruling National League for democracy party in central Myanmar’s Magwe region said that he issued a notice instructing regional bodies to take legal action against individuals who use Facebook to severely defame State Counselor Aung San Suu Kyi or the regional and national governments.<sup>43</sup>

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

The two Reuters reporters arrested in December 2017 while investigating the killing of Rohingya Muslims in a village in Rakhine State have been sentenced to seven years in prison for breaching the British colonial-era Official Secrets Act.<sup>44</sup> The two journalists violated the law by possessing the phone number of an officer in an ethnic armed group, the itineraries of visits to Rakhine by Pope Francis and Vice President U Myint Swe and police reports of violence in northern Rakhine State.<sup>45</sup> These documents were considered top secret documents. The judge, U Ye Lwin, said, “The suspects said not act as ordinary journalists; they acted together with the intent of harming the interest of the state or state security.” The sentence has been met with deep disappointment and condemnation as a blow to Myanmar’s justice system, press freedom and

democratic transition. Right groups, press freedom advocates, the United Nations, the European Union and countries including the U.S., UK, Denmark and Australia called for the immediate release of the two and an end to the arbitrary prosecution of journalists for doing their jobs.

In a complaint dated August 1, military representatives accused parliamentary journalists of acting without responsibility or accountability by publishing news stories, photos and video clips about the activities of lawmakers.<sup>46</sup> The complaint was accompanied by two photos, published by the European Press Agency and The Irrawaddy respectively, and four screenshots of video files published by Mizzima. The complaint said that the unlawful acts of journalists cause annoyance and public nuisance, disturb the personal privacy and security of citizens and harm human dignity while misleading reports undermine the integrity of Parliament. In response, civilian lawmakers said they have had no issues with the journalists. “What I can say is that I am not disturbed by the media at all,” said Lower House lawmaker Daw Su Lwin, the wife of former President U Htin Kyaw. Lower House Rights Committee Secretary U Hla Moe said journalists are just doing their jobs and they do not cause annoyance to lawmakers. Lawmakers should welcome the media and not shut the door to it because it is a communication channel between lawmakers and the people, said lawmaker U Zarni Min from Shwegu Township in Kachin State.

Prior to the start of the Pyidaungsu Hluttaw meeting on August 15, journalists were given a paper containing the guidelines issued on February 19, 2016 for covering Parliament.<sup>47</sup> A journalist covering the parliament said the re-issuance of the guidelines served as a second warning to the reporters following the Tatmadaw complaint. According to the guidelines, when covering news in the Parliament, reporters must stay in the designated media corner and interviews on Union-level persons and MPs can only be done in the designated area. Moreover, it urges reporters to cover the news in accordance with media ethics so as not to harm the dignity of the State and Parliament.

### **III. Economic Development**

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

The Union Parliament approved another five-year term for Central Bank of Myanmar Governor U Kyaw Maung, drawing criticism from members of the business community and lawmakers.<sup>48</sup> Critics say U Kyaw Maung has failed to implement financial sector reforms or address foreign-exchange volatility under the National League for Democracy-led government. “He is experienced in the banking sector but he has not driven through the much-needed reforms,” said U Than Lwin, a senior adviser at Kanbawza Bank Ltd. and former Deputy Governor of the Central Bank. “The financial sector is the engine of the country’s economy. If the central bank is well led, the economy will definitely accelerate. But now we [have lost] 10 years,” he said.

The Vice Chairman of the Myanmar Real Estate Services Development Association, U Aung Tun, said that a draft Real Estate Service Law would prevent foreigners from owning 100% of any real estate business in Myanmar but they would be allowed to go into partnership with citizens with permission from the Myanmar Investment Commission.<sup>49</sup>

The Central Bank of Myanmar signed an agreement with the Japan International Cooperation Agency (“JICA”) for a grant of up to 5.59 billion yen (\$50.3 million) to upgrade the bank’s financial network system.<sup>50</sup>

Sean Turnell, the special economic consultant to Myanmar State Counselor Daw Aung San Suu Kyi, addressed the problems the administration has faced in implementing its economic reform plan and highlighted the progress it has made during a seminar at the Novotel Yangon.<sup>51</sup> He noted that the main problems include bureaucratic rigidity across government departments, the current account deficit, structural problems in the banking system, weak infrastructure, the crisis in Rakhine State and global economic uncertainty due to the U.S.-China trade war. Turnell also touted upcoming initiatives, including the Myanmar Sustainable Development Plan, which will give the economy a fiscal boost and liberalize key sectors to stimulate growth.

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

Infrastructure projects from 19 Union ministries that were scheduled to be completed during the last fiscal year remain unfinished.<sup>52</sup> Only 57% of projects permitted by 19 ministries and three city development committees have been completed. Most of the projects are from the Department of Education, which was granted approval for the construction of 2,580 school buildings. However, only 622 were completed by the end of the fiscal year.

The new Dawbon Bridge that links Dawbon, Thaketa, Pazundaung and Mingalar Taung Nyunt Townships in Yangon opened on August 25.<sup>53</sup> Yangon Chief Minister U Phyo Min Thein said the bridge would lead to faster development in eastern Yangon and boost the Dagon Industrial Zone and Thilawa Special Economic Zone. With the assistance of Japan, and in cooperation with the Ministry of Construction and Nippon Koei Co., the bridge was built by a consortium led by Tokyu Construction Co Ltd, Toyo Construction Co Ltd and IHI Construction Co Ltd at a cost of \$37.84 million/K58.23 billion.

Shan State lawmakers and civil society organizations called for a halt to a hydropower project being built on the Namtu River in Kyaukme Township in northern Shan State.<sup>54</sup> Ta Long villagers also sent an open letter to 23 parliamentary committees seeking an immediate stop to the project.<sup>55</sup> The project is about 40% complete. Lawmakers say the water level in the river might rise up to 40 feet upon completion of the dam, which could submerge the village of Ta Long in Hsipaw Township. The village is made up of over 200 households with more than 500 people. It also has 174 acres of paddy fields and 184 acres of cropland. The 280-megawatt hydropower plant will generate an annual supply of 1409 kWh, which will be distributed to the national grid. Though the project started in the 2010-11 fiscal year, local residents reportedly did not know about it until 2014, said Nan Khin Mar Aye from the Hsipaw Women’s Entrepreneurs Network.

The Yangon regional government and South Korea-based Myanmar Company Wooree signed a memorandum of understanding for the Dala Industrial Development Project, which will be implemented on the west bank of Yangon River near the ongoing Yangon Dala bridge project.<sup>56</sup> The Yangon government has not yet announced the details of the project or the estimation of cost. The bridge project will begin in September and is expected to be completed during the 2020-2021 fiscal year.



Deputy Construction Minister U Kyaw Lin said that construction of the Yangon Elevated Expressway will begin next year and should be completed within three years.<sup>57</sup> Fifty-three companies from 12 countries, including Myanmar, have expressed interest in the project. The ministry will invite requests for proposals in December. The ministry added that it would not use state funds to build the elevated road, but it will likely have to take out international loans to complete the project. The Ministry of Construction signed a financial advisory services agreement with the International Finance Corporation, a sister organization of the World Bank, in January for the project. When complete, the 47.5 kilometer-long elevated expressway will connect downtown Yangon, Yangon Port, Yangon International Airport, Mingalardon Industrial Zone and Yangon-Mandalay Highway.

A military representative in the Union Parliament called for transparency in the tender selection process for rural electrification projects that will be funded with €30 million (\$34.4 million) in no-interest loans from Italy.<sup>58</sup> The four-year project will supply electricity from solar power and a mini grid to about 10,000 households in over 1,000 villages in Chin State and the Naga Self-Administered Zone in Sagaing Region. Lawmakers said that in previous rural electrification projects implemented with foreign loans, solar power systems started to malfunction after less than a year, and the concerned departments were slow in replacing the malfunctioning parts with new ones. Lawmaker U Sein Win, of Maubin Township in Irrawaddy Region, called for transparency in the tender selection process and responsibility and accountability from the concerned departments.

Lawmaker U Kyaw Swe Win said that the Myanmar government should take action against companies that do not abide by build-operate-transfer (“BOT”) contracts for the country’s roads.<sup>59</sup> He said that companies that won BOT tenders are not maintaining the roads according to the contract but are still pocketing the money they collect from tolls.

U Kan Zaw, former Minister for National Planning and Economic Development under the U Thein Sein administration, said the Myanmar’s government did not want Chinese investment in the deep-sea port and special economic zone (“SEZ”) projects in Rakhine State’s Kyaukphyi.<sup>60</sup> He said that the previous government expected investment from the U.S. and EU in the two projects. China International Trust and Investment Corporation (“CITIC”) won contracts for the two projects in 2015. The deep-sea port project was initially valued at \$7.3 billion and the SEZ at \$2.7 billion. Under the terms of the deal, CITIC will build and then operate the project for 50 years with a potential extension of an additional 25 years. According to the initial agreement signed with U Thein Sein’s administration, CITIC took an 85% stake in the deep-sea port and a 51% stake in the SEZ. However, amid political sensitivity surrounding Chinese investment in Myanmar, CITIC agreed to drop its ownership stake from 85% to 70%, according to the Asia Maritime Transparency Initiative. New ownership stakes in the SEZ have yet to be finalized.

### **C. Land Seizures**

In Patheingyi Township, Mandalay, authorities have “razed a number of structures built illegally on farmland.”<sup>61</sup> Farmers had reportedly sold land to businessmen, who subdivided the

land and then put it up for sale as residential land, despite the fact it was not zoned as such.<sup>62</sup> Structures demolished include multiple concrete bridges and two buildings under construction.<sup>63</sup> Commentators have noted that many of the buyers of the land were low income families that cannot afford to live in the town itself, and that they are the “ultimate victims” of the illegal sales.<sup>64</sup> On a related note, legislators in the Upper House have argued that the national government should regulate subdivision and selling of farmland, not local management and development committees.<sup>65</sup> The concerns relate to both food security and a worry that land is being purchased on behalf of non-citizens.<sup>66</sup>

Nearby in Mandalay more than 3,000 acres of farmland confiscated for the Mandalay international airport project have been returned to their previous owners.<sup>67</sup> Over 1,080 farmers were impacted by the seizure.<sup>68</sup> Officials involved in the project have indicated that they plan to return all land seized for the project by December 2018.<sup>69</sup> Meanwhile, 480 acres of confiscated land was return to farmers in Taungoo Township in Bago region.<sup>70</sup> A ceremony was held to commemorate the return by the Ministry of Defence.<sup>71</sup>

In Naypyitaw, local farmers staged a protest demanding that their seized land be returned.<sup>72</sup> Land was seized for a city building project, but not all of the seized land was used.<sup>73</sup> Farmers claim that, in addition to the seizure of their land, they have been subject to lawsuits relating to the seizure.<sup>74</sup>

In the Taninthyi region, large amounts of land will be confiscated because it is not being used for its permitted purpose of growing oil palm.<sup>75</sup> Approximately 100,000 acres will be confiscated.<sup>76</sup> Any businesses interested in growing oil palm are being invited to apply for the land.<sup>77</sup> A similar approach is to be taken with vacant industrial lots in Yangon.<sup>78</sup>

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

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

In the beginning of August, a fresh clash broke out between troops from the Restoration Council of Shan State/Shan State Army-South (“RCSS/SSA-S”) and the Ta’ang National Liberation Army (“TNLA”) in Shan State.<sup>79</sup> The conflict caused more than 800 people to flee to temporary camps, while others sought refuge at relatives’ houses.<sup>80</sup> A TNLA spokesperson said the two armies have engaged in about six clashes in June, three in July, and one as of early August.<sup>81</sup> He claimed that the TNLA fought the SSA-S because they entered TNLA territory and troubled the locals.<sup>82</sup> Another 300 villagers fled their homes on August 2, fearing renewed fighting between the national military and ethnic armed groups seen approaching Namtu Township.<sup>83</sup>

In August, the Tatmadaw said two Kachin men shot dead by government soldiers in January were Kachin Independence Army personnel killed in battle.<sup>84</sup> The two men were residents of the Maing Hkawng internally displaced persons (“IDP”) camp in Mansi Township and were killed on January 31 while attempting to return to their village to check on their animals, according to other IDPs.<sup>85</sup> Their bodies were found in March when local residents defied a Tatmadaw order and went to search for the missing pair.<sup>86</sup> The Tatmadaw said in its report that no gunpowder was found on the two bodies, which indicates that the two men were

not shot at close range, but instead shot and killed during combat against the Tatmadaw.<sup>87</sup> However, a member of the Kachin Baptist Convention, who participated in the retrieval of the bodies, said the Tatmadaw report contradicts what he saw on the ground, and said there were many dark colored wounds on the bodies.<sup>88</sup>

Human rights group Fortify Rights said in August that although civilians displaced by the Kachin violence suffered increased food insecurity, avoidable health-related deaths, poor living conditions and protection concerns due to the lack of essential aid, the Myanmar government and the military have willfully obstructed local and international aid groups, denying Kachin civilians access to aid.<sup>89</sup> One witness has reported Myanmar soldiers taking money from aid trucks and then blocking their deliveries.<sup>90</sup> Fortify Rights said this may amount to a war crime, providing further basis for the UN Security Council to refer Myanmar to the International Criminal Court.<sup>91</sup>

In Kachin State, some 60 churches are reported to have been bulldozed by the Tatmadaw in the last five months and replaced by Buddhist temples.<sup>92</sup> Almost 7,000 villages of the Christian stronghold have been displaced and in August, a Tatmadaw-backed militia allegedly battered two youth pastors with rifle butts after they requested a stop to the decimation of homes.<sup>93</sup> It is estimated that the campaign against Christians has displaced at least 100,000 people and has left thousands stranded in the Burmese jungle terrain, either from fleeing heavy bombing, or living in fear of what will come when the current monsoon season ends.<sup>94</sup>

## **B. Peace Talks**

Signatory groups to the Nationwide Ceasefire Agreement (“NCA”) and the peace process steering team, (“PPST”) will review the current political landscape and the peace process in September in Thailand.<sup>95</sup> The meeting, however, will not touch upon the recent clashes between the Tatmadaw and Brigade 5 of the Karen National Union (“KNU”) in Karen’s Papun District because it is a military issue.

The United Wa State Army (“UWSA”) said it would consider signing the NCA if the Myanmar government and Tatmadaw promise in writing to grant the UWSA the right to seek changes to and/or resign from the NCA.<sup>96</sup> Government spokesperson U Zaw Htay said that while the NCA does not explicitly address the issue of leaving the NCA, under Section 27, signatories and the government can negotiate issues not covered by the agreement. The UWSA and the government’s Peace Commission are arranging a date for talks.

The KNU decided to continue working toward a peace deal with the Myanmar government after a three-week meeting to review the NCA, which it signed in 2015.<sup>97</sup> The KNU will continue to work with the government primarily through the Joint Ceasefire Monitoring Committee and the Union Peace Dialogue Joint Committee. The KNU also said that it will also engage with non-signatory ethnic armed groups in an effort toward achieving peace.<sup>98</sup>

- 1 Xchange, May 23, 2018: <http://xchange.org/rohingya-repatriation-survey/>.
- 2 New York Times, May 31, 2018: <https://www.nytimes.com/2018/05/31/world/asia/myanmar-rohingya-refugees-return.html>.
- 3 Radio Free Asia, August 8, 2018: <https://www.rfa.org/english/news/myanmar/un-agencies-call-on-myanmar-to-improve-conditions-in-rakhine-08082018153712.html>.
- 4 *Id.*
- 5 *Id.*
- 6 Radio Free Asia, August 21, 2018: <https://www.rfa.org/english/news/myanmar/rohingya-torture-08212018153515.html>
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