

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

MARCH 2020 REPORT

Summary. This report reviews the March 2020 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. Rohingya Refugee Crisis

According to the United Nations, there are over one million Rohingya living in Bangladesh, of which nearly 900,000 live in camps in Cox's Bazar.¹ In March, Bangladesh confirmed its first COVID-19 death, and fears arose that the virus might soon spread across the densely populated country, including to the Rohingya refugees living in camps along the Bangladesh-Myanmar border. On March 17, a World Health Organization spokesperson warned that the population density in the camps, coupled with unsanitary conditions, would make the refugees vulnerable and prone to all sorts of communicable diseases.² While no COVID-19 infections had been detected in the camps as of March 20, aid workers were discouraged from going to the camps due to fears that they could be carrying the virus.³ It will be impossible to completely halt interactions between refugees and outsiders, as aid workers play a crucial role in dispensing medical care and delivering food to the camps.⁴ In anticipation of a possible crisis, the United Nations High Commissioner for Refugees instructed camp authorities to hold suspected COVID-19 cases in the camps in isolated areas until they can be transferred to specially designated isolation units.⁵ However, there are currently no facilities in the camps to handle the virus. Moreover, refugees are currently not allowed to leave the camps, complicating any efforts to transport a refugee COVID-19 patient to a hospital in Cox's Bazar.⁶ While authorities claim that there has been no community COVID-19 transmission in the refugee camps or surrounding communities, medical experts in Bangladesh state that not enough people have been tested to draw that conclusion. As of March 26, Bangladesh has only tested 920 people among a population of nearly 170 million.⁷

The Bangladesh government's internet blackout and phone restrictions at Rohingya refugee camps are obstructing humanitarian groups from addressing the threat of COVID-19.⁸ Internet access in the camps has been shut down since September 2019. The authorities describe this broad restriction as a security measure, but critics charge that the measure is neither necessary nor proportionate.⁹ Furthermore, under Bangladesh law, Rohingya are not allowed to have SIM Cards, and in September 2019 mobile phone carrier companies were directed to stop selling to Rohingya. Since then, authorities have confiscated over 12,000 phone cards from the refugees.¹⁰ According to aid workers, such measures to restrict communication are obstructing the dissemination of information about symptoms and prevention and will likely end up endangering the lives of refugees, host communities, and healthcare workers, as aid workers and community leaders rely on internet-based communication tools to coordinate emergency services and share important information.¹¹

On March 20, Bangladesh's foreign minister reported that details of 492,000 Rohingya sheltering in Cox's Bazar had been provided to the Myanmar authorities in the interest of immediate repatriation. The foreign minister stated that Bangladesh had now provided detailed information about approximately 600,000 Rohingya in Bangladesh, but that Myanmar's response had been extremely poor.¹² According to the Bangladesh government, around 9,000 Rohingya from the lists have been cleared for return to Rakhine State. The lists provide detailed information regarding place of origin, relatives, and identities, along with all data and biometric information.¹³ Bangladesh claims that Myanmar has continued to accept the lists but has not

otherwise taken action to repatriate the Rohingya, despite having promised China that it would repatriate the refugees.¹⁴

B. Corruption

Myanmar established a civil-military emergency task force to help respond to the country's growing number of confirmed COVID-19 cases.¹⁵ In addition to mandates such as supporting community quarantine and preparing food and medicine supplies, the COVID-19 Control and Emergency Response Committee is also tasked with establishing a new department to track illegal border crossings and corruption.¹⁶

C. International Community / Sanctions

On March 18, Bangladesh provided information on 492,000 Rohingya sheltering in Cox's Bazar to the Myanmar authorities for immediate repatriation.¹⁷ The Bangladeshi government has now handed over detailed information on approximately 600,000 Rohingya in Bangladesh.

The UN Human Rights Council ("UNHCR") expressed concern over reports of mounting civilian casualties and growing displacement resulting from the latest escalation of clashes in western Myanmar.¹⁸ The UNHCR reiterated its call to all sides in the conflict to protect civilians and civilian infrastructure and implored all parties to implement a ceasefire.¹⁹ Echoing the UN Secretary General's call for a global ceasefire on March 23, the ambassadors of Australia, Canada, Czech Republic, Denmark, the European Union, Finland, France, Germany, the Netherlands, New Zealand, Norway, Poland, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States issued a statement stressing the importance of implementing a ceasefire in Rakhine and Chin States to allow better humanitarian access to the conflict areas.²⁰

In mid-March, the European Union launched a €3.5 million regional project to support increased biosecurity in Southeast Asia, including Myanmar.²¹ During the three-year project, the EU will work with Southeast Asian governments to increase biosecurity and biosecurity risk management, strengthen cross-border cooperation and data sharing and review relevant national legislations, guidelines and enforcement.²² The World Bank will also work with Myanmar and other Southeast Asian countries to help bolster their health systems in response to the COVID-19 pandemic.²³

II. Civil and Political Rights

A. Freedom of Speech, Assembly and Association

The Arakan (Rakhine) Cultural Preservation Committee announced that it will not hold its traditional Thingyan festivities in Sittwe this year due to ongoing fighting in various Rakhine State townships.²⁴ The festival is also subject to cancellation in other townships. One official stated, "People in the town are [supposed to be] having fun, though the clashes are happening on the other side. That's why we have decided not to hold the festival."²⁵ In lieu of the festival, the committee has prioritized providing aid to displaced people. Fighting between the Tatmadaw and Arakan Army ("AA") within Rakhine State first began in December 2018.²⁶

Hpa-An Township brought a lawsuit against Saw Tha Boe, a Kayin environmental activist, for defamation related to a traditional prayer ceremony held on January 17, 2020.²⁷ The prayer ceremony was dedicated to avoiding health problems and other dangers stemming from pollution and tainting of the local water supply near a coal-powered cement factory. Saw Tha Boe has been charged under Section 505(b) of the Penal Code for acting with intent to induce fear or alarm in the public, which carries a potential prison sentence of up to two years.²⁸ The Karen Human Rights Group issued a statement concerning Saw Tha Boe's arrest and highlighted the need for local governments to control local enterprises that endanger people and the environment.²⁹

The worldwide spread of COVID-19 has led to the shutdown of various public gatherings in Myanmar, including festivals and other events in Kalay, Sagaing Region.³⁰ The cancellation of public events is seen as a preventative measure. Myanmar's Foreign Affairs Ministry has also announced the shutdown of many border checkpoints across the country. Foreign nationals can no longer enter the country unless they do so through Yangon, Mandalay and Nay Pyi Taw International Airports.³¹

Various townships in Rakhine and Chin States continue to experience a government-sanctioned internet blackout.³² The internet blackout has left some townships without internet for as long as nine continuous months. While the blackout has harmed businesses and food distribution for displaced people, new concerns have arisen over the spread of COVID-19. Because the Myanmar government uses the internet to communicate information about preventing and mitigating the spread of the virus, commentators are concerned that the internet ban could have "deadly consequences" for residences of the affected townships.³³ Many are also concerned about the internet shutdown being used as a tool to suppress the spread of information related to human rights abuses.³⁴ Ko Htoo Chit, Executive Director of the Foundation for Education and Development, stated, "I am worried that the internet ban will be imposed in other ethnic areas and armed conflict areas with ethnic armed groups. I believe that the internet ban is an attempt to prevent the world from knowing of breaches of human rights in the conflict zone."³⁵

B. Freedom of the Press and Censorship

Myanmar's military withdrew multiple defamation lawsuits against Reuters News Agency, a parliamentarian, and other parties, after pressure from the Myanmar Press Council.³⁶ In one of the suits, the army had sued Reuter News Agency and a local lawmaker for their coverage of the death of two Rohingya Muslim women during an artillery strike in Rakhine State.³⁷ The lawsuit was brought pursuant to Section 66(D) of the Telecommunications Act, which prohibits defamation with a maximum prison sentence of two years.³⁸ The news coverage attributed the women's death to the army, but the army claimed that the artillery fire had come from the AA.³⁹ A colleague of the accused parliamentarian stated, "[The lawsuit] will make it difficult to obtain accurate and reliable information in the future. It may lead to an increase in fake news and rumors. Legislators are the only ones who are legally able to confirm news in Rakhine. The consequences of this charge levelled against the MP will be that no one will speak out in the future."⁴⁰

In another dismissed lawsuit, the Tatmadaw had sued Reuters News Agency and an editor from The Irrawaddy over their coverage of fighting between the military and the AA.⁴¹ The Tatmadaw brought suit alleging the news stories were misleading and undermined the dignity of the military. The Myanmar Press Council praised the withdrawal of the suits and urged others to submit media-related complaints to them prior to initiating a lawsuit.⁴² In previous actions, reporters from Reuters News Agency have been imprisoned for more than 18 months for their investigation into the Rohingya genocide in Rakhine State.⁴³

Shan State journalists have spoken out regarding access restrictions that prevent them from effectively gathering and reporting news from parliamentary meetings.⁴⁴ According to the journalists, reporters from media outlets other than MRTV and Sky Net are forbidden from entering the parliament meeting hall and must observe proceedings from an isolated observation room with great difficulty seeing and hearing.⁴⁵ As a result, journalists have expressed concerns that they are unable to effectively report parliamentary news. Parliamentary officials have not yet commented on the complaints.

III. Economic Development

A. Economic Development—Legal Framework, Foreign Investment

Amid calls from the business community for government assistance to cushion the economic impact of the global COVID-19 pandemic, Myanmar's State Counselor announced a waiver of the 2 percent advance income tax on exports until the end of this fiscal year.⁴⁶ The Myanmar government also announced an initial stimulus package to cushion the impact of COVID-19 on the country's economy, including 100 billion kyats (nearly US\$70 million) worth of loans, eased deadlines for tax payments, and tax exemptions for Myanmar-owned businesses that have been hit by the global pandemic.⁴⁷ The government created the COVID-19 fund with 100 billion kyats to assist CMP (garment and manufacturing) and hotel and tourism businesses, as well as small and medium-sized enterprises owned by local businesspeople.⁴⁸ The interest rate on loans provided by the fund will be only 1 percent with a loan period of one year. The fund draws 50 billion kyats from the country's revolving fund and another 50 billion kyats from the social welfare fund, according to the government.⁴⁹ Moreover, the Central Bank of Myanmar dropped interest rates from 9.5 percent to 8.5 percent, effective April 1, to help spur economic growth.⁵⁰

The Kachin State government signed a memorandum of understanding ("MOU") with a Chinese-backed company to develop a business park project in Kanpiketi, a border town in northern Myanmar, as part of Beijing's Belt and Road Initiative.⁵¹ At an estimated cost of US\$22.4 million (31.85 billion kyats), the Kanpiketi Business Park will cover nearly 70 acres (28 hectares).

The COVID-19 pandemic and resulting shock to the economy are likely to ease pressure on Myanmar to speed up China's ambitious but slow-moving infrastructure program, according to a new report by the International Crisis Group ("ICG").⁵² The ICG noted that President Xi Jinping's visit to Myanmar in January, when the outbreak was in its early stages, had already

failed to secure the major acceleration Beijing was hoping for in the multi-billion dollar China-Myanmar Economic Corridor, which forms a core part of its Belt and Road Initiative. “Uneasiness and lack of capacity within the Myanmar government, as well as political sensitivities around Chinese investment, mean that this trend is likely to continue through at least November 2020, when Myanmar is scheduled to hold a general election,” according to an ICG report.

China will provide US\$6.78 million (9.45 billion kyats) to Myanmar for 22 projects under the Mekong-Lancang cooperation initiative, the Ministry of Foreign Affairs announced on March 23.⁵³ The Mekong-Lancang Cooperation Special Fund is a mechanism set up by China that involves Cambodia, Laos, Myanmar, Thailand and Vietnam with the aim of promoting cooperation in the areas of politics, security, and economic and social development.

Suzuki Thilawa Motor Co Ltd, Suzuki Motor Corp’s subsidiary for assembly and sales of automobiles in Myanmar, will construct a new automobile plant that will conduct welding, painting, and assembly of automobiles, Suzuki Motor announced on March 23.⁵⁴ The company will spend an estimated ¥12 billion (150 trillion kyats) to build the facility, which is expected to start operations by September next year. The plant, which will be located in the Thilawa Special Economic Zone southeast of Yangon, is projected to have an annual production capacity of 40,000 units.

Myanmar Treasure Hotel & Resort Group Co Ltd and Singapore-listed Banyan Tree Holdings signed a joint venture agreement to carry out a hotel management business in Myanmar, according to a March 16 statement issued by Banyan Tree on the Singapore Exchange.⁵⁵ By leveraging Banyan Tree’s expertise, the joint venture will run 17 of Myanmar Treasure’s hotel properties located across the country.

The government approved a proposal by a Thai-Myanmar joint venture to build a US\$250,000 (346.3 million kyats) hotel project on Hlaing Gu Island off Kawthoung in Tanintharyi Region, according to the Directorate of Hotels and Tourism.⁵⁶ KMOT Company intends to build the project with 20 bungalows under the build-operate-transfer system.

The Securities and Exchange Commission of Myanmar (“SECM”) announced that share trading by resident and non-resident foreigners shall start on March 20. SECM issued an instruction on March 6 allowing the opening of securities accounts by foreigners and daily share trading of listed companies on the Yangon Stock Exchange.⁵⁷ According to the instruction, securities companies can now receive applications from foreigners who are resident and non-resident under the foreign exchange management regulations.

B. Economic Development—Infrastructure, Major Projects

The COVID-19 pandemic has caused widespread negative repercussions across Myanmar. “The sharp drop in border trade has impacted the conditions of our economy. We can’t escape this,” Myanmar State Counselor Aung San Suu Kyi said, speaking at a public

meeting in Pyin Oo Lwin, Mandalay Region on March 10.⁵⁸ “We have launched a plan to tackle not only health issues but also economic issues.”⁵⁹ The COVID-19 outbreak has already caused an overall slowdown in Myanmar’s economy, and experts have warned that the effect of COVID-19 could lead to a full-blown economic crisis for the country. Since late January, the outbreak has continued to hit Myanmar’s tourism, border trade and export sectors, causing massive losses for producers, exporters and workers. Myanmar has already lost several hundred million dollars as business slows in China, the country’s largest trading partner.⁶⁰ On March 10, the government of India’s Manipur State indefinitely shut down the Tamu-Moreh border gates, a key corridor for border trade between Myanmar and India, over concerns about the spread of COVID-19.⁶¹ On March 8, the Confederation of Trade Unions of Myanmar (“CTUM”) said that 16 factories have closed in Myanmar due to a lack of raw materials from China. Closures of garment factories have led to mass layoffs, affecting more than 7,000 workers, according to the CTUM.⁶² Minister of Labor, Immigration and Population Thein Swe said that his ministry will collaborate with workers and factory owners to tackle the crisis. However, workers have expressed doubt that factories need to shut down due to a lack of raw materials and instead allege that the closures are to avoid labor disputes.⁶³ Thousands of garment workers have gone on strike in an attempt to save their jobs.⁶⁴ The Union of Myanmar Federation of Chambers of Commerce and Industry (“UMFCCI”) also said tourist arrivals by plane have declined 53 percent since late January.⁶⁵ The Myanmar Tourism Federation also said that the outbreak is expected to cut tourism revenue by as much as 50 percent.⁶⁶ The kyat exchange rate has also become volatile. The exchange rate dropped from 1,405 kyats per dollar on March 4 to 1329 kyats per dollar on March 10.⁶⁷

Myanmar officials visited the Chinese border in Hopang District of the Wa Self-Administered Zone in northern Shan State in March to observe a boundary issue with China.⁶⁸ China is reportedly building retaining walls on two streams along the border near Namtit Town. The Myanmar government is concerned that the Chinese retaining walls will cause soil erosion on Myanmar’s side of the streams, both tributaries of the Salween River. According to the Myanmar Ministry of Foreign Affairs (“MOFA”), the Chinese authorities have placed large stones in the Nanting stream to expand the bank on their side of the waterway and to build retaining walls.⁶⁹ The Chinese have also reportedly built a road in the area.⁷⁰ MOFA said the Chinese side has also built retaining walls on the Namit Kun stream and the Namit tributary stream.⁷¹ The area near the retaining walls is under the control of Myanmar’s largest ethnic armed group, the United Wa State Army/United Wa State Party. “We have already established mechanisms to deal with such disputes and we will use them,” Thein Min Tun, director of the Boundary Division under the Consular and Legal Affairs Department, said, adding that border boundary disputes are not uncommon for countries that share borders.⁷²

Nay Win, the vice chair of the Mandalay Industrial Zone management committee, said that the Mandalay Industrial Zone, located in Pyigyitagun, needs to expand to attract more investments once the COVID-19 pandemic subsides.⁷³ The original industrial zone was built in 1990 and has been expanded twice since then due to demand from investors.⁷⁴ Before the pandemic struck, businessmen from Japan, Germany, South Korea and some ASEAN countries met with the committee to express their interest in opening a facility in the area.⁷⁵ The Mandalay Industrial Zone hosts about 700 businesses on about 1820 acres.⁷⁶

C. Land Seizure

Protests took place in March in Mandalay region against a Chinese-backed coal-powered cement factory which allegedly took confiscated farmland from farmers.⁷⁷ The protests turned violent, and it was reported that “[o]ne villager was shot in the leg, and several police were injured by stones and slingshots.”⁷⁸ There have been multiple protests over this site, including one in May 2019 which resulted in numerous arrests.⁷⁹ Five villagers were each sentenced to five years in prison on charges of destroying a factory building and vehicles for their role in the May 2019 protests.⁸⁰

In southeastern Myanmar, farmers expressed anger over the loss of their land which “slipped into the water.”⁸¹ There was speculation that the erosion was caused by sand mining.⁸² Much of the sand is bound for Singapore.⁸³

IV. Peace Talks and Ethnic Violence

A. Ethnic Violence

A total of 21 villagers were killed and about two dozen were injured when Myanmar military fighter jets opened fire on four villages in Paletwa Township in Chin State in mid-March, according to local residents and relief groups.⁸⁴ Since February 5, parts of the township have become battlegrounds as the AA attempts to seize a Tatmadaw outpost on a hill in Meewa Village.⁸⁵ According to local political leaders, about 2,000 residents from 10 villages, including the four in which the casualties were reported, fled to Samee, a nearby town east of Paletwa, following fatal attacks on Wetma, Pyaing Tain and Meiksa Wa in mid-March.⁸⁶

Military spokesman Brigadier General Zaw Min Tun said that as the military returned fire, it was hard to tell which side caused the villagers’ casualties.⁸⁷ He referred to a statement posted on the website of the Office of the Commander-in-Chief of Defense Services that “the military outpost was heavily surrounded by the [AA] insurgents near Meiksa (east) and Meiksa (west) villages in Paletwa, therefore the soldiers had no choice and shot them back. Because of the mutual fire, some of the villagers died and [were] injured.”⁸⁸ According to a Khumi Affairs Coordination Council member, at least 17 Khumi villages have been affected by the fighting between the AA and the Tatmadaw.⁸⁹

The Ta’ang National Liberation Army (“TNLA”) and the Pangsay People’s Militia Force (“PMF”) clashed in northern Shan State’s Namkham Township as the TNLA was destroying opium poppy fields.⁹⁰ The clash caused at least one PMF death and 3 TNLA injuries.⁹¹ Residents in Namkham said that the fighting brought instability to the area, and residents had to temporarily flee their villages.⁹²

Also in late March, the Tatmadaw arrested a village headman and his son after government forces clashed with the Restoration Council of Shan State (“RCSS”) in Mongton Township, eastern Shan State.⁹³ Combined forces from the three battalions under the Mong Hsat-based Military Operations Command 14 attacked an RCSS military camp near Mong Eis village on the morning of March 25.⁹⁴ The Tatmadaw then detained the headman and his son.⁹⁵ The son was later released but the father remained in custody as of the end of March.⁹⁶

B. Peace Talks

The government and ethnic armed groups agreed to delay all peace talks, including the fourth session of the Union Peace Conference - 21st Century Panglong, to May or June due to the COVID-19 pandemic.⁹⁷ Preliminary ceasefire talks with the Northern Alliance of four ethnic armed groups, which have yet to sign the Nationwide Ceasefire Agreement (“NCA”), have been suspended, a spokesman of one of the groups said.⁹⁸

In a significant boost to the national peace process, the Tatmadaw agreed to allow ethnic armed groups to draft their own state and regional charters.⁹⁹ However, the Tatmadaw insisted that the state and regional constitutions must be in line with the 2008 Constitution.¹⁰⁰ The ten ethnic armed groups that signed the NCA had been fighting for the right to draft their own state or regional constitutions as part of implementing the federal union in Myanmar. Naing Aung Ma Ngay, spokesperson of the New Mon State Party, one of the ten NCA signatories, said at a briefing in Yangon last month that the drafting of the state and regional constitutions would be part of the discussion on power-sharing between the central government and the states at the fourth session of the Union Peace Conference - 21st Century Panglong.¹⁰¹

A military spokesman expressed doubts that the AA, which is fighting the Tatmadaw in Rakhine and Kachin States, will be allowed to join the country’s peace process, because the Myanmar government has designated the group as an unlawful terrorist organization.¹⁰² The spokesman made his comments in response to statements by AA officials that the government’s designation would not hurt the peace process.¹⁰³

RCSS postponed national talks in Shan State over concerns about the COVID-19 virus, a spokesman for the ethnic armed group said.¹⁰⁴ Sai Laeng, RCSS spokesperson, said its leaders decided to attend the planned fourth session of the Union Peace Conference - 21st Century Panglong in April without holding the national meeting.¹⁰⁵

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- ² Asia Times, March 20, 2020: <https://asiatimes.com/2020/03/rohingya-refugee-camps-a-covid-19-time-bomb/>.
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- ⁴ *Id.*
- ⁵ *Id.*
- ⁶ *Id.*
- ⁷ Human Rights Watch, March 26, 2020: <https://www.hrw.org/news/2020/03/26/bangladesh-internet-ban-risks-rohingya-lives#>.
- ⁸ *Id.*
- ⁹ *Id.*
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- ¹² The Irrawaddy, March 20, 2020: <https://www.irrawaddy.com/news/burma/bangladesh-hands-list-492000-rohingya-myanmar.html>.
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- ¹⁴ *Id.*
- ¹⁵ The Irrawaddy, March 31, 2020: <https://www.irrawaddy.com/news/burma/myanmar-forms-civil-military-emergency-task-force-boost-covid-19-response.html>.
- ¹⁶ *Id.*
- ¹⁷ The Irrawaddy, March 20, 2020: <https://www.irrawaddy.com/news/burma/bangladesh-hands-list-492000-rohingya-myanmar.html>.
- ¹⁸ Mizzima, March 29, 2020: <http://mizzima.com/article/unhcr-voices-concern-over-mounting-myanmar-casualties>.
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- ²⁶ *Id.*
- ²⁷ Burma News International, March 12, 2020: <https://www.bnionline.net/en/news/sued-karen-environmental-activist-fight-his-case>.
- ²⁸ *Id.*
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- ³¹ Burma News International, March 21, 2020: <https://www.bnionline.net/en/news/myanmar-suspends-entry-foreign-nationals-through-border-checkpoints>.
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- ³⁴ Burma News International, March 7, 2020: <https://www.bnionline.net/en/news/vox-pop-cutting-internet-access-makes-people-blind>.
- ³⁵ *Id.*
- ³⁶ The Irrawaddy, March 18, 2020: <https://www.irrawaddy.com/news/burma/myanmars-military-ditches-irrawaddy-reuters-lawsuits.html>.
- ³⁷ Burma News International, March 11, 2020: <https://www.bnionline.net/en/news/myanmar-army-files-lawsuit-against-reuters-lawmaker>.
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- ⁴⁶ The Irrawaddy, March 17, 2020: <https://www.irrawaddy.com/news/burma/myanmar-govt-suspends-advance-tax-exports-aid-virus-hit-businesses.html>.
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- ⁵⁵ Myanmar Times, March 17, 2020: <https://www.mmtimes.com/news/singapores-banyan-tree-htoo-group-sign-hotel-management-jv.html>.
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- ⁵⁷ Myanmar Times, March 9, 2020: <https://www.mmtimes.com/news/foreign-participation-ysx-set-start-march-20-officials-say.html>.
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