STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

JUNE 2020 REPORT

Summary. This report reviews the June 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.

I.	Political Developments	2
A.	- Rohingya Refugee Crisis	
В.	Corruption	2
C.	International Community / Sanctions	3
II.	Civil and Political Rights	3
A.	Freedom of Speech, Assembly and Association	3
В.	Freedom of the Press and Censorship	4
III.	Economic Development	5
A.	Economic Development—Legal Framework, Foreign Investment	5
B.	Economic Development—Infrastructure, Major Projects	6
C.	Land Seizure	7
IV.	Peace Talks and Ethnic Violence	8
A.	Ethnic Violence	8

I. <u>Political Developments</u>

A. Rohingya Refugee Crisis

During the month of June, Cox's Bazar continued to see an increase in COVID-19 cases. As of June 15, the World Health Organization reported over 1,600 cases of COVID-19 in the Cox's Bazar District.¹ Aid workers fear that the treatment and isolation of refugees who have been exposed to the virus has become a stigma for the Rohingya, which has created a trust deficit between the Rohingya and community volunteers.² Rumors and anxiety regarding the consequence of testing positive have led to a reduction in medical consultations by approximately 50% between the end of March and the first week of May.³ In addition, an ongoing restriction on access to internet and telecommunications has limited the refugees' rights to seek urgent protection for sexual and gender-based violence, receive prompt and reliable information about COVID-19, and communicate with family members on the phone.⁴ Rohingva leaders continue to urge Bangladesh to lift the internet ban on refugees, warning that rumors and panic over COVID-19 are deterring testing.⁵ Moreover, the pandemic has reduced opportunities for the Rohinga to receive cash for work within the community, which for women in the camps means confinement in domestic settings and increased vulnerability to sexual and gender-based violence.⁶ Refugees are increasingly seeking informal justice and mediation from section camp leaders in the absence of regular legal counselors in the camp. In some cases, these leaders require bribes from refugees to facilitate access to services, including healthcare.⁷

The Prime Minister of Malaysia, Muhyiddin Yassin, said that Malaysia can no longer take in Rohingya refugees, citing a struggling economy and dwindling resources as a result of the COVID-19 pandemic.⁸ A Muslim-majority country, Malaysia has been a desired destination for Rohingya refugees fleeing Myanmar and crowded refugee camps in Bangladesh.⁹ However, Malaysia, which does not recognize refugee status, has recently turned away boats and detained hundreds of Rohingya refugees.¹⁰ On June 8, Malaysian authorities detained 269 Rohingya refugees who arrived on a damaged boat in Langkawi.¹¹ Passengers on the boat told Malaysian authorities that dozens on board had died and that their bodies were thrown into the sea during a four-month voyage.¹² The passengers were arrested upon arrival and detained.¹³ According to Malaysian Defense Minister Ismail Sabri Yaakob, the authorities have blocked the arrival of 22 boats since May 1.

B. Corruption

Police Brigadier General Zaw Moe Than is under investigation following allegations of coercing subordinate officers into sex in exchange for promotions.¹⁴ While some have called for the case to be prosecuted under the Anti-Corruption law, the Anti-Corruption Commission has declined to acknowledge whether they received a complaint.¹⁵

Ahead of elections slated for November, the NLD instituted "town elders" in each township to assist in the candidate selection process.¹⁶ The town elders are intended to reduce controversy over nepotism and favoritism. However, some have claimed that the town elders are NLD partisans that could sway voters while acting under the guise of independence.¹⁷ Others have pointed out that the town elders' role is largely symbolic, doing little to prevent undue influence in the NLD candidate selection process.¹⁸

C. International Community / Sanctions

On June 28, the United Nations urged both the Tatmadaw and the Arakan Army ("AA") to take "urgent measures to spare civilians" in northwest Rakhine State amid reports of intensified fighting in Rathedaung Township.¹⁹ The UN also reiterated the need for a ceasefire, especially during the current global COVID-19 pandemic.²⁰ On June 30, twenty-one international humanitarian organizations working in Myanmar issued a joint statement echoing the concerns voiced by the UN earlier in the week.²¹ The humanitarian organizations noted that they "are deeply concerned by the reports of burning villages, indiscriminate fire and the arbitrary detention of civilians."²² The international organizations also expressed concern over the negative impact the recent escalation of fighting may have on long-term food security in the region.²³

Senior General Min Aung Hlaing and Indian Defense Minister Rajnath Singh met in Moscow during the week of June 22 to discuss how best to promote ties between Myanmar and Indian armed forces, border security and counter-insurgency operations along the Myanmar-India border.²⁴ The discussion of military cooperation is part of "increasingly close ties between the two governments."²⁵

On June 26, the International Monetary Fund announced that it will provide Myanmar with US\$356.5 million in emergency funding.²⁶ The funding "will help address Myanmar's urgent financing needs related to the COVID-19 shock and catalyze support from development partners."²⁷

Effective June 30, Abubacarr Tambadou, Gambia's justice minister who spearheaded international action in defense of the human rights of the Rohingya, stepped down as justice minister and attorney general to accept an unspecified job at the United Nations.²⁸ Dawda Jallow will replace Tambadou as justice minister and attorney general starting in July 2020.²⁹

II. <u>Civil and Political Rights</u>

A. Freedom of Speech, Assembly and Association

Dr. Kyaw Win Thant, who was arrested last month for criticizing Buddhist monks over social media, has been sentenced to one year and nine months in jail.³⁰ The doctor was charged under sections 294(b) and 295(a) of the Myanmar Penal Code for insulting and defaming religion after he made Facebook posts criticizing the monks for their opposition to a sex education curriculum in Myanmar high schools.³¹ Many monks have opposed the curriculum, claiming that it is inappropriate for Myanmar culture. After his critical posts gained significant exposure, Dr. Kyaw Win Thant traveled to a Buddhist monastery to apologize. During his apology, a violent crowd gathered and attempted to harm the doctor, who was later arrested and charged for his social media posts.³²

Leaders of the Daungdohmyoset theater troupe were sentenced to up to four years in jail for a series of satirical performances directed at the military in April and May of 2019.³³ The performances, which occurred in several townships, have resulted in the prosecution of the

troupe's leaders and members over the past year across different regions.³⁴ Troupe members have been charged under Article 505(a) of the Myanmar Penal Code, which criminalizes any statement which could cause military personnel to mutiny or disregard their duty, and Article 66(d) of the Telecommunications Law, which allows suits for alleged online abuse.³⁵ According to one member, the troupe has not used lawyers or challenged the charges because they do not trust the judiciary, which they claim accepts all lawsuits from the military without question.³⁶ One member remarked, "Our political stand will not change because of imprisonments. We will keep taking on the military to get them out of politics."³⁷

In response to the spread of COVID-19, the Myanmar government extended restrictions on public gatherings through the end of June.³⁸ Among other restrictions, the government implemented a countrywide curfew from 12:00-4:00 a.m. along with certain social distancing measures for restaurants and shops. The general prohibition on public gatherings has led to the cancellation of various events, including Arakan National Day in Sittwe Township.³⁹ These restrictions extend to religious gatherings and, as a result, the Ministry of Religious Affairs and Culture has opened eight cases against persons assembled in religious gatherings.⁴⁰ Although the Ministry has brought charges against those practicing various religions, it did not take any action after Chief Minister Phyo Min Thein and his cabinet participated in a Buddhist religious ceremony last month.⁴¹

B. Freedom of the Press and Censorship_

After a two-year hiatus, the Tatmadaw returned to Facebook.⁴² The military, which had previously been banned from the social media website, recently opened two Myanmar-language pages called "Tatmadaw True News Information Team" and "Zaw Min Tun", according to military spokesman Brigadier General Zaw Min Tun.⁴³ He further confirmed that the pages have been opened to combat the spread of misinformation regarding the Tatmadaw, saying, "We decided to use Facebook in order to provide news concerning the Tatmadaw in a timely and accurate manner where real and fake news are mixed together on Facebook."⁴⁴ In August 2018, Facebook removed multiple accounts and 50 pages associated with the military following its alleged widespread human rights violations against Rohingya Muslims. Various rights groups, including Human Rights Watch, have questioned the Tatmadaw's intent to provide "true news" to the public through Facebook.⁴⁵ It remains uncertain how Facebook may potentially police the newly opened Tatmadaw accounts.

The government-sanctioned internet shutdown has now persisted for over a year across eight townships in Rakhine and Chin States.⁴⁶ In the midst of the COVID-19 outbreak and regional armed conflict, over one million individuals are unable to access important information and humanitarian aid as a result of the internet blackout.⁴⁷ Some regional schools have instituted "DBE boxes", allowing teachers to communicate with pupils remotely through mobile phones.⁴⁸ One June 12, various Rakhine political parties, civil society organizations and media groups sent an open letter to the President and State Counsellor urging them to lift the internet blackout, which has been correlated with a significant increase in armed clashes in the affected townships.⁴⁹ The President and State Counsellor have not yet responded to the open letter.⁵⁰

III. <u>Economic Development</u>

A. Economic Development—Legal Framework, Foreign Investment

The Japan International Cooperation Agency ("JICA") announced emergency loans worth 5 billion yen (US\$46.5 million) to assist small and medium-sized enterprises ("SMEs") in Myanmar hit by the coronavirus pandemic as part of its plan to help the country mitigate the impacts of COVID-19.⁵¹

PanAust, an Australian-based subsidiary of Guangdong Rising Assets Management Co. Ltd, a Chinese state-owned company, has obtained a gold and copper exploration license for an area nearly the size of Singapore in Myanmar's northern Sagaing Region. ⁵² The area is already home to many controversial copper mega-mining projects operated by Chinese companies. According to PanAust, the joint venture that it formed with Myanmar Energy Resources Group International Company Ltd currently holds seven exploration licenses that encompass more than 370,000 acres (1,500 square km) in the region. According to a local lawmaker, local artisanal and small-scale miners are upset by the government's decision to give large mining exploration licenses to the foreign-backed company as "many locals are worried about what they are going to do for a living, because almost all of the major mining projects here are currently in the hands of companies backed by foreign investors." In addition, the area has already suffered massive environmental and social impacts due to mining projects.

The Myanmar government says it is receiving aid from a Swiss company to scrutinize a China-backed feasibility study on Beijing's ambitious railway project to connect Mandalay with Kunming, the capital of Yunnan Province in southwestern China.⁵³ The US\$8.9 billion Muse-Mandalay Railway project is part of the China Myanmar Economic Corridor, which is itself part of the Belt and Road Initiative, Beijing's grand Asia-Pacific infrastructure plan. The Muse-Mandalay Railway is expected to be a key part of the economic corridor and would connect with the Chinese rail network at the Chinese border town of Ruili in Yunnan Province. Critics have raised concerns that the project area as the railway will pass through conflict zones in northern Shan State. Locals said they had received no specific information about the project, though they are increasingly fearful about forced displacement, farmland confiscation, losing water resources and the social impacts of the planned project.

The Myanmar government formed a tribunal to investigate irregularities surrounding a controversial China-backed city development project near the Thai border in Kayin State.⁵⁴ The project sparked criticisms due to a lack of transparency, land confiscation, confusion over the scale of construction and the growing influx of Chinese money as well as suspected illicit activity and local concerns about the social impacts of casino businesses. The Chinese developers want to connect the area to Kyaukphyu in Rakhine State, where they will be developing an industrial zone and deep-sea port.

The construction of the China-backed Kyaukphyu deep-sea port will begin soon, as preparations on both the Myanmar and China sides are on track, according to the Ministry of Commerce.⁵⁵ The project is a crucial part of the Kyaukphyu Special Economic Zone ("SEZ") in western Myanmar. The SEZ is expected to boost development in China's landlocked Yunnan Province and provide China with direct access to the Indian Ocean, allowing its oil imports to bypass the Strait of Malacca.

Ascent Capital, a Singapore-registered fund manager, is leading an investment of US\$26 million in Myanmar internet service provider Frontiir, marking its first equity investment in the country.⁵⁶ The deal is expected to help Frontiir expand its services to more than half of Myanmar's states and regions within five years, with the aim of connecting a quarter of the population with broadband access.

Myanmar finalized its second Investment Policy Review ("IPR") with the help of the France-based Organization for Economic Cooperation and Development to identify further policy reforms needed to make the country a more attractive destination for both foreign and domestic investment.⁵⁷ The IPR is expected to published during the next three months.

The Sandhi Governance Institute, a civil society watchdog for local development projects, has flagged "risky conditions" and a lack of transparency at the New Yangon City Project in a report dated June 24.⁵⁸ The group notes that the project is risky because of huge costs and a prolonged implementation period. The report also warned that several areas within the project site are likely to be flooded.

B. Economic Development—Infrastructure, Major Projects

The Myanmar government announced that it will deploy its seventh tranche of COVID-19 loans to about 300 business affected by the pandemic in the first week of July.⁵⁹ Construction businesses are likely to be considered for next loan tranche from the 200 billion kyats to 500 billion kyats pool under the government's COVID-19 Economic Response Plan released on April 27, 2020, according to the Union of Myanmar Federation Chamber of Commerce and Industry.⁶⁰

A project to upgrade the 113-mile Yangon-Pathein highway is expected to be completed before the end of the current fiscal year in September 2020.⁶¹ The project, which includes widening the highway to 30 feet, began on October 1, 2019.⁶² Once the upgrades are complete, the time taken to commute from Yangon to Pathein in Ayeyarwady Region is expected to be shortened to about three hours from more than five hours.⁶³

The Ministry of Electricity and Energy ("MOEE") plans to build new oil refineries in Myanmar to meet domestic oil demand and boost the energy security in the country.⁶⁴ The new refinery projects will be implemented with the private sector under Public Private Partnership schemes.⁶⁵ The MOEE expects to build one new refinery capable of processing up to 5 million tons of crude oil near the government's Petrochemical Complex (Thanbayarkan) in Magway

Region.⁶⁶ The MOEE has also permitted small-scale refineries and more than 170 related businesses to operate in various states and regions.⁶⁷

China Railway Eryuan Engineering Group Co Ltd ("CREEG") is applying to conduct feasibility studies for a high-speed railway between Mandalay and Kyaukphyu, which is a part of a larger railway project connecting Muse to Mandalay.⁶⁸ A memorandum of understanding ("MoU") for the railway was signed between the Myanmar government and CREEG on October 22, 2018.⁶⁹ The Muse-Mandalay MoU requires the application for permission to conduct feasibility studies to build the railway from Mandalay to Kyaukphyu.⁷⁰ It is in China's interest to connect Kyaukphyu in Rakhine State, where China will be developing an industrial zone and deepsea port.⁷¹ The route will also connect Mandalay with Yangon. Ba Myint, managing director of Myanmar Railways, said the project is expected to bring benefits in the form of increased border trade.⁷²

The developer of the New Yangon City project, New Yangon Development Company, which is a company wholly-owned by the Yangon Region government, says it has submitted the environmental impact assessment ("EIA") covering five project proposals to the authorities.⁷³ The EIA covers five proposals including bridges, power infrastructure, industrial estates, freshwater supply and wastewater treatment.⁷⁴ Launched by the regional government in March 2018, the project covers an area twice the size of Singapore with a target of US\$1.5 billion (2.83 trillion kyats) of investment.⁷⁵

The Myanmar government reiterated its desire to press ahead with the proposal to build an international airport in Bago Region, around 80km from Yangon.⁷⁶ The government is seeking to kickstart the project through a government-to-government agreement between Myanmar and Japan.⁷⁷ The Myanmar government is also seeking to upgrade local airports in various states and regions. A contract to upgrade the airport serving Inle Lake and Taunggyi to provide customs, immigration and quarantine facilities is anticipated to be signed this year.⁷⁸ The upgrade is led by KBZ Group, which owns Air KBZ and Myanmar Airways, and Toyota Tsusho, a member of the Japanese Toyota Group.⁷⁹ Mawlamyine airport in Mon State and Kawthaung airport in Tanintharyi Region will also be upgraded, while Chin State is set to welcome its first airport in Falam Township.⁸⁰

C. Land Seizure

Land farmed by villagers in the ethnic Pa-O area in southern Shan State since 1996 has been taken over by the military, resulting in destruction of the villagers' crops and seizure of their farming equipment.⁸¹ Prior to the seizure, signs were erected on the disputed land indicating that it was "military-owned" and threatening farmers with legal action.⁸² The military had historically allowed the villagers to farm the land on a temporary basis but last year started blocking access to some parts of village, suggesting that the land was "military-owned" and threatening to sue "trespassers."⁸³ More than 70 of the alleged trespassers were sued in four cases starting in August 2019.⁸⁴ Notwithstanding the recent military intervention, the farmers have indicated that they will continue to farm the land because it is "the only way they had to make a living."⁸⁵ Over 190 civil society groups have "issued a statement calling on the military to return the land."⁸⁶ The farmers said that, while they sent a letter asking for resolution to the issue, they were "still waiting for an official reply," although they have been told that the Central

Committee for Scrutinizing Confiscated Farmlands and Other Lands was "considering the cases" and would soon assess the area.⁸⁷ The farmers are also attempting to establish land ownership through alternate means such as confirmation from local elders that they "traditionally own the land."⁸⁸

IV. Peace Talks and Ethnic Violence

A. Ethnic Violence

In the first half of June 2020, the Myanmar military and the Kachin Independence Army ("KIA") clashed violently in northern Shan State's Kutkai Township five times.⁸⁹ Kutkai Township has also seen clashes between the Tatmadaw and the Ta'ang National Liberation Army ("TNLA").⁹⁰ Dozens of people taking shelter at a camp for internally displaced persons in Zup Awng Village in Kutkai had returned to their villages to farm and search for food amid a shortage due to COVID-19, but renewed fighting in mid-June forced around 30 of them to flee back to the camp.⁹¹ Myanmar military troops also reportedly forced five locals in Kutkai to serve as guides for them.⁹²

The fighting in Kutkai erupted despite the Myanmar military's ceasefire due to COVID-19, which is in effect until August 31.⁹³ The Tatmadaw claim that clashes took place because KIA troops trespassed into territories controlled by the Myanmar military. However, the KIA said it has not reached any agreement with the Myanmar military regarding troop deployments as it is still in discussions with the Myanmar government and military about a bilateral ceasefire agreement. The KIA also said the clashes occurred because the Tatmadaw sent three columns of troops to attack the frontline headquarters of KIA Battalion 9.⁹⁴ The TNLA, the Myanmar National Democratic Alliance Army ("MNDAA") and the AA have also announced a unilateral ceasefire effective until August 31.⁹⁵ However, there have already been five clashes between the TNLA and the Myanmar military since early June.⁹⁶

B. Peace Talks

The Myanmar government and ten armed groups that have signed the Nationwide Ceasefire Agreement ("NCA") have decided to delay the fourth session of the Union Peace Conference-21st Century Panglong until August.⁹⁷ The peace talks are currently scheduled for July.⁹⁸ A representative of one of the groups said that the country's COVID-19 restrictions have prevented the groups from meeting to discuss the conference.⁹⁹ However, she said the groups would be willing to reduce the number of delegates to ensure proper social distancing at the talks.¹⁰⁰ The government has proposed cutting the number of attendees to about 400 from the approximate 700 that attended the previous three conferences.¹⁰¹

The AA, the KIA, MNDAA and TNLA, which make up the Northern Alliance, rejected the government negotiators' offer to resume peace talks via video conference.¹⁰² San Aung, spokesperson of the Peace Talks Creation Group in Kachin State, said an alliance representative had said the group would only join the peace talks after the lifting of travel restrictions due to the COVID-19 crisis.¹⁰³ Hla Maung Shwe, a member of the government's Peace Commission, said the groups previously rejected a government offer to hold talks with the alliance in Myitkyina in Kachin State or in Kyaingtong in Shan State over security concerns.¹⁰⁴

The KIA has ruled out the possibility of signing the NCA this year.¹⁰⁵ A spokesperson said the group wants to amend the NCA because the agreement in its current form is inadequate to solve the ethnic conflicts in the country.¹⁰⁶

¹ UNHCR, June 15, 2020: <u>https://data2.unhcr.org/en/documents/download/77279</u>.

- ² Amnesty, June 21, 2020: <u>https://www.amnesty.org/en/latest/news/2020/06/protecting-rights-of-rohingyas-need-international-cooperation/.</u>
- ³ Id.
- ⁴ Id.

⁶ Amnesty, June 21, 2020: <u>https://www.amnesty.org/en/latest/news/2020/06/protecting-rights-of-rohingyas-need-international-cooperation/</u>.

7 Id.

⁸ AlJazeera, June 26, 2020: <u>https://www.aljazeera.com/news/2020/06/rohingya-refugees-malaysia-pm-asean-meet-</u>

200626100301937.html.

⁹ Id.

¹⁰ Id.

¹¹ Human Rights Watch, June 12, 2020: <u>https://www.hrw.org/news/2020/06/12/malaysia/thailand-allow-rohingya-refugees-ashore</u>. ¹² Reuters, June 24, 2020: <u>https://www.reuters.com/article/us-indonesia-rohingya/suspected-rohingya-refugee-boat-floating-off-</u> indonesia-idUSKBN23V1F2.

¹³ Human Rights Watch, June 12, 2020: <u>https://www.hrw.org/news/2020/06/12/malaysia/thailand-allow-rohingya-refugees-ashore</u>.
¹⁴ The Irrawaddy, June 26, 2020: <u>https://www.irrawaddy.com/news/burma/senior-myanmar-police-officer-accused-sexual-</u>exploitation-female-officer.html.

¹⁵ *Id*.

¹⁶ Frontier Myanmar, June 27, 2020: <u>https://frontiermyanmar.net/en/nld-candidate-selection-sparks-controversy-ahead-of-election</u>.
¹⁷ Id.

¹⁸ Id.

¹⁹ The Defense Post, June 29, 2020: <u>https://www.thedefensepost.com/2020/06/29/intensified-fighting-rakhine-state/</u>.

²⁰ Id.

²¹ The Irrawaddy, July 1, 2020: <u>https://www.irrawaddy.com/news/burma/humanitarians-join-un-ambassadors-calling-ceasefire-myanmars-rakhine-state.html</u>.

²² *Id*.

 23 *Id.*

²⁴ The Irrawaddy, June 26, 2020: <u>https://www.irrawaddy.com/news/burma/top-myanmar-general-indian-defense-chief-talk-border-security-insurgency.html</u>.

²⁵ Id.

²⁶ Frontier Myanmar, June 27, 2020: <u>https://www.frontiermyanmar.net/en/imf-approves-emergency-funding-for-pandemic-hit-myanmar</u>.

²⁷ Id.

²⁸ Mizzima, June 28, 2020: <u>http://mizzima.com/article/gambias-justice-minister-who-took-myanmar-court-resigns</u>.

²⁹ Id.

³⁰ Mizzima, June 3, 2020: <u>http://mizzima.com/article/doctor-given-prison-term-insulting-religion</u>.

³¹ The Irrawaddy, June 3, 2020: <u>https://www.irrawaddy.com/news/burma/myanmar-doctor-jailed-online-criticism-monks-oppose-sex-education.html</u>.

³² Id.

³³ The Irrawaddy, June 11, 2020: <u>https://www.irrawaddy.com/news/burma/satirical-troupe-face-extra-prison-terms-ridiculing-myanmars-military.html</u>.

³⁴ Id.

³⁵ *Id*.

³⁶ Id.

³⁷ Id.

³⁸ The Irrawaddy, June 15, 2020: <u>https://www.irrawaddy.com/news/burma/myanmar-extends-bans-gatherings-intl-flights-imported-covid-19-cases-rise.html</u>.

³⁹ Burma News International, June 4, 2020: <u>https://www.bnionline.net/en/news/arakan-national-day-scuppered-year-sittwe</u>.

⁴⁰ The Irrawaddy, June 12, 2020: <u>https://www.irrawaddy.com/specials/myanmar-covid-19/eight-cases-opened-religious-gatherings-violating-covid-19-restrictions-govt.html</u>.

⁴¹ Id.

⁴² Burma News International, June 15, 2020: <u>https://www.bnionline.net/en/news/facebook-discrimination-tatmadaw-resurfaced-after-two-years-absence-social-media</u>.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Burma News International, June 22, 2020: <u>https://www.bnionline.net/en/news/rights-group-calls-lifting-internet-restrictions-rakhine-chin-states</u>.

⁴⁷ Id.

⁴⁸ Burma News International, June 6, 2020: <u>https://www.bnionline.net/en/news/schools-without-internet-arakan-chin-get-tech-work-</u> around-continued-learning.

⁴⁹ Burma News International, June 23, 2020: <u>https://www.bnionline.net/en/news/number-clashes-double-after-internet-shut-down</u>.
⁵⁰ Id

⁵¹ The Irrawaddy, June 1, 2020: <u>https://www.irrawaddy.com/news/burma/japan-provide-us46-m-emergency-loan-small-businesses-myanmar.html</u>.

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⁵ The Guardian, June 11, 2020: <u>https://www.theguardian.com/world/2020/jun/11/internet-ban-sparks-covid-19-rumours-in-rohingya-camp</u>.

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