

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

JULY 2020 REPORT

Summary. This report reviews the July 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 World Health Organization's ("WHO") recent Bangladesh Rohingya Crisis situation report, as of July 29, there were 66 confirmed COVID-19 cases among the Rohingya refugee population in Cox's Bazar.¹ The WHO also reports that there were 35 Rohingya refugees in isolation in Cox's Bazar, 6 total deaths due to the pandemic and 1,724 tests had been conducted.² Aid groups and humanitarian agencies remain extremely concerned that 80% of non-governmental organization staff are barred from entering the camps to reduce the risk of transmission, resulting in a reduction in a number of services.³ Despite barriers to access, the United Nations and other humanitarian agencies have scrambled to construct new centers for diagnosing, isolating and treating patients with COVID-19. At the end of June, the HOPE Foundation for Bangladesh opened a 50-bed isolation and treatment center for COVID-19 patients.⁴ In addition, the region's first intensive care unit also opened at the end of June in Sadar Hospital in Cox's Bazar. The UN High Commissioner for Refugees aims to create 1,900 beds for coronavirus patients.⁵ Most of the contact tracing and tracking and community outreach is handled by Rohingya volunteers. Since the government-imposed internet blackout remains in effect, this outreach must be done door-to-door.⁶

In July, Human Rights Watch entreated Bangladesh authorities to immediately move over 300 Rohingya refugees, including at least 33 children, from the island of Bhasan Char.⁷ The Bangladesh government has yet to allow United Nations officials to provide protection services and aid to the refugees detained on Bhasan Char.⁸ In May, the Bangladesh authorities had quarantined the refugees on Bhasan Char to prevent the spread of COVID-19 in the crowded refugee camps.⁹ However, the refugees remain on the island over two months later. The refugees are vulnerable to the risk of flooding and storms in the ongoing monsoon season.¹⁰ Families of the detainees in Cox's Bazar told Human Rights Watch that their relatives are being held without freedom of movement or adequate access to food or medical care and face severe shortages of safe drinking water.¹¹

A group of Rohingya refugees who arrived in Malaysia after a treacherous journey at sea are now facing punishment after they were convicted of immigration violations.¹² At least 40 Rohingya, who were arrested after arriving in Malaysia more than three months ago, have been sentenced to seven months in prison.¹³ In addition, 27 of the of the 31 men convicted have also been sentenced to three strokes of a cane, a brutal punishment that constitutes torture under international human rights law.¹⁴ Human Rights Watch and Amnesty International are calling for Malaysian authorities to halt the prosecution of refugees for immigration violations.¹⁵

B. Corruption

Police Brigadier General Zaw Moe Than has been arrested and imprisoned following an investigation into allegations that he demanded sex from subordinate female officers in exchange for promotions.¹⁶

NGO Global Witness released a report finding that at least ten Myanmar companies failed to disclose their owners' connections to high-ranking present and former military officials

and armed groups.¹⁷ The report reviewed companies in the extractive industries sector,¹⁸ which has been criticized for its violence, corruption and lack of transparency.¹⁹

C. International Community / Sanctions

On July 6, the UK government imposed sanctions on Myanmar's commander-in-chief, Senior General Min Aung Hlaing, and deputy commander-in-chief, Vice Senior General Soe Win, for their involvement in the "systematic and brutal violence against the Rohingya people and other ethnic minorities."²⁰ These sanctions, imposed under the United Kingdom's powerful new sanctions regime, marks the first time the UK has issued sanctions under a UK-only sanctions regime.²¹

The European Commission (the "Commission") has requested that the Burmese government provide a written response on its efforts to improve human and labor rights standards by mid-September.²² Due to the COVID-19 pandemic, the Commission postponed a scheduled monitoring mission to Myanmar to review the human rights situation.²³ The Commission is currently considering whether to trigger a six-month review process on whether to strip Myanmar of its "Everything But Arms" status—Myanmar's current "Everything But Arms" status allows all imports except armaments from Myanmar to the European Union ("EU") to be duty-free and quota-free.²⁴

The EU's outgoing ambassador to Myanmar, Kristian Schmidt, urged the Burmese government to release the report Myanmar submitted to the International Court of Justice, stressing that transparency is "key to the healing process."²⁵ The United Nations Special Rapporteur on Human Rights also identified shortcomings with Myanmar's actions, noting the problematic procedures to close the Internally Displaced Persons camps in Rakhine State.²⁶

On July 18, George Sibley, Chargé d'Affaires at the U.S. Embassy in Myanmar condemned China's foreign policy in Myanmar, accusing China of undermining Myanmar's sovereignty and exploiting Myanmar's natural resources. Sibley also drew parallels between China's actions in the South China Sea and its actions in Myanmar.²⁷ In response, the Chinese Embassy called the U.S.'s actions hypocritical and accused the U.S. of acting with an "outdated Cold War mindset."²⁸ China also criticized the U.S. for failing to send assistance to Myanmar during the COVID-19 pandemic.²⁹

II. Civil and Political Rights

A. Freedom of Speech, Assembly and Association

The Tatmadaw announced its plans to prosecute protest leaders in connection with a demonstration held in Kyaukme, northern Shan State.³⁰ The demonstration called for justice against perpetrators of military violence after several civilian deaths in the area. According to the Tatmadaw, the protestors will be charged with violating Article 19 of the Peaceful Demonstration Act and Article 18 of the Anti-Contagious Disease Law.³¹ Sai Yawd Leun of the Shan Human Rights Foundation criticized the impending prosecution, noting, "The Tatmadaw needs to take responsibility for the victims but the Tatmadaw has failed to do this again. The

Tatmadaw has yet to see that is guilty...I think it is intentional, they are threatening people. They are creating fear in people.”³²

Two members of the Coral Child New Generation Youth Group were arrested and charged on July 13 for violating Article 19 of the Peaceful Assembly Law.³³ The youths had organized a gathering at the entrance to Kyuakphyu Township to observe the one-year anniversary of the internet blackout in Rakhine and Paletwa Township in Chin State, demanding that the internet blackout be lifted.³⁴ Relatedly, members of a different youth group were arrested under the Peaceful Assembly Law for gathering at the Ramree town entrance in protest of the ongoing internet blackout.³⁵ Additionally, two student leaders from the Rakhine Students’ Union (Yangon Universities) were sentenced to one month in prison under Article 19 of the Peaceful Assembly Law.³⁶ The two students were charged with protesting the internet ban. A member of the Rakhine Students’ Union commented, “We are not happy about this at all. The internet has been blocked in Rakhine for more than a year. It is a violation of human rights. Students in the area can’t attend online courses...this is why we had to protest.”³⁷

Athan, a freedom of expression group, released a statement on July 16 revealing a variety of statistics involving freedom of expression in Myanmar, including that in the first four years of the National League for Democracy government’s five year term more than 1,050 people faced charges that infringed upon their free speech.³⁸ One Athan researcher stated, “As a government that is claiming to be on the democratic path, the government’s oppression of the public’s freedom of expression shows what it does runs counter to what it says.”³⁹

B. Freedom of the Press and Censorship

With bans on public gatherings due to the COVID-19 pandemic, attention has shifted to Facebook as a primary forum for discourse in the upcoming November elections.⁴⁰ However, given official rules forbidding “campaign activity” more than 60 days before the election, there is uncertainty surrounding how the government will police electronic discourse. Because many political parties regularly post on Facebook outside of election season, it remains unclear how policymakers will distinguish between normal activity and “campaign activity.”⁴¹ There are also questions around how the government will enforce spending on political ads and “Facebook boosts” for party webpages—the latter have already been outlawed by the government, but as a practical matter, electronic enforcement poses unique challenges.

III. Economic Development

A. Economic Development—Legal Framework, Foreign Investment

India’s prime minister confirmed that ONGC Videsh Ltd, the overseas arm of Indian national oil company, Oil and Natural Gas Corporation Ltd, will invest more than US\$121 million to drill new development wells to produce more gas off the coast of Rakhine State.⁴² ONGC Videsh has already invested US\$722 million in Shwe. The project is being developed by a consortium of six companies led by South Korea’s POSCO International, which owns a 51% stake. The other investors are ONGC, which currently owns a 17% stake, Myanmar Oil and Gas Enterprise with a 15% stake, as well as Gas Authority of India and Korean Gas Corporation, each of which holds a 8.5% stake.

The Myanmar government may request that its international development partners provide funds to build key infrastructure in the country during fiscal year 2020 to 2021.⁴³ During the Assembly of the Union, Kyaw Linn, the Deputy Minister of Construction, proposed that Myanmar take a loan of US\$483.8 million from the Asian Development Bank (“ADB”) to build the Bago-Kyaikhto highway. According to the Deputy Minister, this project will connect the country via the Bago-Thanlyin road, Yangon outer ring road, Hanthawaddy International Airport and Yangon-Mandalay highway. If approved, construction can begin in the next fiscal year and will be completed within a period of seven to eight years.

On July 29, Myanmar unveiled two major new infrastructure projects during the Myanmar-Japan Investment Dialogue Forum, according to the Ministry of Investment and Foreign Economic Relations.⁴⁴ The Myanmar government announced a special economic zone (“SEZ”) to be built in Mon State and an industrial park to be built in western Yangon.⁴⁵ The new SEZ will connect the Indian and Pacific oceans, linking the Thilawa SEZ to Da Nang in Vietnam via the Greater Mekong Sub-Region East-West Economic Corridor.⁴⁶ The Myanmar government also approved a US\$483.8 million (660 billion kyats) loan from ADB for an expressway that is part of the international East-West Economic Corridor.⁴⁷ The project hopes to link Vietnam’s port of Da Nang and Thilawa port in Yangon, passing through Laos, Cambodia and Thailand.⁴⁸ The approved 62 km Bago-Kyaikhto Expressway Project will connect Bago Region and Mon State, with the Ministry of Construction taking responsibility.⁴⁹

B. Economic Development—Infrastructure, Major Projects

On July 24, the Union Parliament approved a plan to seek US\$180 million (243.7 billion kyats) in funding from the ADB for the Yangon City Water Resilience Project, which aims to strengthen the security of Yangon City’s water supply.⁵⁰ The five-year project will be implemented in Hlegu Township from December this year through December 2025. It will include construction of an intake structure at Ngamoeyeik Reservoir, a pumping station and a pipeline, among other features.⁵¹

On July 27, Myanmar’s Union Parliament approved a US\$171.27 million (232 billion kyats) loan for its Accelerated Rural Electrification Project from ADB to improve access to the national grid in four areas with the least access to electricity.⁵² The ADB loan will be used for the electrification of 400,300 households in 2,815 villages in Kayin State and Ayeyarwady, Magwe and Bago regions, according to the Ministry of Electricity and Energy.⁵³ The seven-year project is due to start in 2021.

C. Land Seizure

Residents in northwest Myanmar are concerned about the recent approval of plans for a large Chinese-backed copper mining exploration operation.⁵⁴ In addition to environmental concerns, residents are worried about the possibility of increased land seizures as a result of the mining operation, heightened by recent experience with other mining activities backed by the Chinese.⁵⁵

Meanwhile in the Sagaing Region, the Defense Ministry indicated that it has no plan to return land confiscated in 1999 for a sugar mill project nor to give additional compensation to the land's original owners.⁵⁶ The farmers argue that they "neither received appropriate compensation nor were they given land elsewhere."⁵⁷ A 2017 survey found that there were "100 acres of spare land on the compound" and that the land was "leased out to tenants and for fishing."⁵⁸ The Committee for Scrutinizing Confiscated Farmlands and Other Lands that conducted the survey asked that the unused land be returned to the original farmers and that other farmers who had land confiscated that could not be returned be given additional compensation.⁵⁹ The Defense Ministry pushed back on the Committee and farmers, claiming that the compensation awarded at the time of the initial confiscation was fair and that there is currently "no spare land because an ethanol plant, staff quarters, roads, sugarcane plantations and beans and pluses plantations are taking up land in the compound."⁶⁰

In the south of the country, Dagon University opposed the transfer of approximately 50 hectares of land for use in a housing project for retired government workers.⁶¹ The responsible government ministry claimed that the land was unused, and so had sought its return to the government.⁶² However, the University argued that the land was not unused as they had a plan for its use, but that that plan was on hold due to budgetary delays.⁶³

IV. Peace Talks and Ethnic Violence

A. Ethnic Violence

Thirty-six Shan civil society organizations ("CSOs") have called for punitive action against Myanmar military personnel who allegedly killed a civilian and injured two others in Kyaukme Township in northern Shan State in late June.⁶⁴ The CSOs released a joint statement demanding that the case against the soldiers be tried in a civilian court rather than a court martial.⁶⁵ According to the joint statement, government troops forced local resident Sai Maung to serve as a guide to Pan Kin Village during fighting with the Restoration Council of Shan State in Kyaukme Township on June 29.⁶⁶ Sai Maung said the soldiers beat him.⁶⁷ Upon arrival in Pan Kin, the troops allegedly fired at villagers' houses, killing a 60-year-old man and injuring a 55-year-old woman.⁶⁸ Local residents also said they witnessed the Myanmar military shooting in Pan Kin.⁶⁹ The four parliamentarians representing Kyaukme Township in the Shan State and Union parliaments also filed complaints with the Myanmar National Human Rights Commission, the President's Office and the National Reconciliation and Peace Center, asking for an investigation into the killing.⁷⁰ The Myanmar military has contacted local authorities in Kyaukme and said it will investigate the case.⁷¹

A village head from Chin State's Paletwa Township was found dead after he was abducted more than one month ago by the Arakan Army ("AA"), said Khumi Affairs Coordination Council.⁷² He was last seen on June 5 by his relatives when he left his village to buy rice.⁷³ The village is surrounded by forest on the western bank of the Kaladan River and lies close to Kyauktaw Township in Rakhine State.⁷⁴ His body was found in a valley, which approximately a day's walk from Tone Ma Wa.⁷⁵ According to a relative, the body was disfigured and the man's elder brother identified the body by looking at the clothes, body shape and face.⁷⁶

B. Peace Talks

Senior government ministers met in Nay Pyi Taw on June 30 to begin preparing for the fourth session of the Union Peace Conference – 21st Century Panglong, which will be held August 12-14.⁷⁷ The talks between the 10 ethnic armed groups that have signed the Nationwide Ceasefire Agreement (“NCA”) and the government are aimed at ending the country’s seven decades of armed conflict and reviving the national peace process.⁷⁸ The third session of the conference held in July 2018 ended without any agreements, as both sides refused to discuss the contentious issues of implementing the NCA and the basic principles of a federation.⁷⁹ The upcoming conference will be smaller than usual in compliance with regulations aimed at preventing the spread of COVID-19.⁸⁰

The NCA signatory ethnic armed groups are pushing for the right to write their own constitutions under the principles of federation to be discussed at the Union Peace Conference.⁸¹ In March, Salai Lian Hmung Sakhon, vice chair of the Union Peace Dialogue Joint Commission, said the Tatmadaw agreed to the proposal as long as it does not contravene the 2008 Constitution.⁸²

The government has not yet invited the Northern Alliance, comprising the AA, Ta’ang National Liberation Army, Myanmar National Democratic Alliance Army and Kachin Independence Army, to attend the fourth Union Peace Conference.⁸³ The Northern Alliance attended the third Panglong Conference in July 2018 as observers.⁸⁴ However, the government declared the AA a terrorist organization on March 23 and an AA attack on a police vehicle in Rathedaung Township on June 23 killed four police officers and their civilian driver, prompting retaliatory attacks by the Tatmadaw.⁸⁵

The Tatmadaw said there have been fewer clashes with the NCA signatory ethnic armed groups because of the intervention of the Joint Ceasefire Monitoring Committee.⁸⁶ Lieutenant General Yar Pyae, chair of the committee, said the ceasefire monitoring body had reduced fighting, regulated the extraction of natural resources and cut the production of illegal drugs in conflict zones.⁸⁷ However, Saw Isaac Po, a leader of the Karen National Liberation Army and vice chair of the committee, said the committee had failed to meet his expectations, noting the difficulty of monitoring the ceasefire.⁸⁸ He also criticized the lack of a mechanism to hold emergency meetings and negotiations between fighting forces.⁸⁹

The Tatmadaw and the NCA signatory ethnic armed groups have agreed to appoint civilian ceasefire monitors to the Joint Ceasefire Monitoring Committee to better prevent armed clashes and to resolve conflicts between fighting parties.⁹⁰ Saw Isaac Po said it is crucial that civilians who are the victims of conflicts have a role in monitoring the NCA.⁹¹

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- ⁷ Human Rights Watch, July 9, 2020: <https://www.hrw.org/news/2020/07/09/bangladesh-move-rohingya-dangerous-silt-island>.
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