

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

SEPTEMBER 2020 REPORT

Summary. This report reviews the September 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

In May, Bangladesh authorities brought more than 300 Rohingya refugees to Bhasan Char, the remote island made entirely of silt that has not yet been assessed by the United Nations for its habitability.¹ The 300 refugees were returned to Bangladesh after being refused entry into Malaysia after a dangerous boat journey. They were turned back to sea by the Malaysian authorities and were subsequently rescued by Bangladesh's navy and brought to Bhasan Char. Rohingya refugees allege that they are being held against their will in jail-like conditions and subjected to rape and sexual assault.² One woman on Bhasan Char reported that the refugees had been told by the police that they would be held on the island for just two weeks. Another refugee reported that the refugees are being held in 50-square foot rooms with up to 5 people, that refugees were given dirty water filled with insects to drink, and that many women were covered in rashes.³ Women on Bhasan Char stated that when they pleaded with police to be released, they were badly beaten, and alleged that one woman was recently caned so badly that she had to be taken to the hospital.⁴ Amnesty International is calling for the Bangladesh authorities to conduct a full and thorough investigation into these allegations.⁵ In response, the Bangladesh refugee relief and repatriation commissioner denied all allegations of sexual assault and said that no investigation would be carried out. He also said that no refugee would be forcibly relocated to the island.⁶

On September 5, the Bangladesh government arranged for a three-day "go and see visit" to Bhasan Char for 40 Rohingya refugees, many of them camp leaders.⁷ Two of the leaders who were on the tour told the Guardian that they would not support any Rohingya being moved to the island or agree to bring their families there.⁸ They also said that after several Rohingya leaders spoke to the press about their concerns over the island, they were threatened by police and told to stay quiet.⁹ Others in the delegation expressed serious concerns over the quality of medical facilities on the island, the lack of livelihood opportunities and the safety of the island during monsoon season.¹⁰ The visitors reported that those detained on the island were not allowed to move freely on the island and must remain inside shelters that look like jail cells. Human Rights Watch notes that the arbitrary detention of hundreds of refugees on a possibly uninhabitable remote island without access to humanitarian assistance or basic services violates Bangladesh's international human rights obligations to provide security, freedom of movement, access to medical care, education and the right to work.¹¹

As conditions in Bangladesh refugee camps deteriorate, Rohingya refugees that set off on boat journeys continue to be met with a "collective unwillingness" of countries to take them in, according to the UNHCR, the United Nations refugee agency.¹² Most recently, approximately 30 Rohingya refugees are believed to have died in the Andaman sea after spending more than 200 days afloat.¹³ During the first week of September, after seven months at sea, some 300 Rohingya refugees landed on the northern coast of Aceh, Indonesia.¹⁴ The UNHCR notes that the Bali Process, created in 2002 by countries in the region to prevent such tragedies from happening, failed to save lives through rescue and disembarkation, as the group of refugees had repeatedly tried to disembark over the course of the journey to no avail.¹⁵ In addition, the UNHCR states that "having created a mechanism to convene governments from across the region for precisely this purpose, the promise of that commitment remains unfulfilled."¹⁶

B. Corruption

The National League for Democracy (“NLD”) published an election manifesto pledging that it will, *inter alia*, ensure that the military upholds the democratically elected government’s policies.¹⁷ The election manifesto also pledged “to address ethnic affairs and achieve internal peace; a constitution that ensures a genuine democratic federal union; and sustainable development.”¹⁸

President Win Myint removed L Phaung Sho, now-former chief minister of Kayah State and NLD member, from office.¹⁹ Kayah’s parliament had voted two days earlier to impeach L Phaung Sho for misusing state funds.²⁰ The impeachment of L Phaung Sho represents the first time that a state parliament has used constitutional procedures to impeach a chief minister.²¹ The NLD challenged the parliament’s decision, pointing to irregularities in the parliament’s process and accusing the Kayah parliament speaker of acting for personal reasons, including to weaken the NLD’s image.²²

The Ministry of Investment and Foreign Economic Relations announced that the government hired Roland Berger, a German consulting firm, to oversee the tender process for construction related to the New Yangon City project.²³ The firm will oversee a “Swiss challenge” process whereby the China Communications Construction Company’s (“CCCC”) initial development proposal will be made public, allowing other firms to offer competing tenders.²⁴ The CCCC’s involvement in the project has been a source of controversy, with some pointing to the company’s record of corruption and bribery.²⁵

C. International Community / Sanctions

The Tatmadaw is demanding the return of two soldiers currently believed to be in the custody of the International Criminal Court (“ICC”).²⁶ It is unclear how the two soldiers came to the Netherlands.²⁷ The two soldiers allegedly admitted to involvement in atrocities against the Rohingya during the “clearance operations” in 2017, including participation in killing more than 180 Rohingya men, women and children.²⁸ The soldiers’ alleged confessions were filmed by the Arakan Army in July. Myanmar military spokesman Major General Zaw Min Tun said that taking the two soldiers to the ICC is an “intervention in the national judicial process.”²⁹

Bangladesh has expressed concern regarding the movement of troops along the Myanmar border. Myanmar’s military acknowledged increased security along the Bangladeshi border.³⁰

II. Civil and Political Rights

A. Freedom of Speech, Assembly and Association

The Union Election Commission (“UEC”) has said it is working with Myanmar’s media regulatory body and Facebook to fight the spread of fake news and hate speech during the election campaign.³¹ Hla Thein, chair of the UEC, said political parties have expressed concerns about fake news and hate speech spreading on the internet as the campaign gets into full swing.³² He said that while freedom of expression is protected and guaranteed in a democratic society,

information being shared with the public must be accurate.³³ Facebook also released a statement saying that it is preparing for the general election by improving the detection and removal of hate speech and content that incites violence and the prevention of the spread of misinformation.³⁴ Under Myanmar election law, anyone who files false claims of disinformation or hate speech can be punished by up to three years in prison and/or fined.³⁵ Advocating voting or not voting based on racial or religious grounds is also punishable by up to one year in prison and/or a fine.³⁶

In a statement, Human Rights Watch called on the Myanmar authorities to cease responding to criticism of the government and military with arrests and prosecutions of students protesting human rights abuses.³⁷ The group also advocated for the immediate and unconditional release of students in custody.³⁸ At least 20 students have been charged or are facing arrest under various laws after joining protests or sticker campaigns critical of the government or military, including criticizing the mobile internet shutdown in Rakhine and Chin States.³⁹

B. Freedom of the Press and Censorship

Myanmar's Democratic Party for a New Society ("DPNS") has canceled its election broadcasts on state-owned media after facing censorship.⁴⁰ From September 8 to November 6, political parties running in the election are allowed to deliver campaign speeches and explain their policies in 15-minute broadcasts on state-owned media.⁴¹ So far, 28 parties have taken part.⁴² Under campaign broadcast rules, parties must submit a script for the broadcast for the approval of the UEC.⁴³ The DPNS chairman, Aung Moe Zaw, said comments on children's rights and controversial business projects affecting citizens, such as the Letpadaung copper mine in Sagaing Region, and the use of the word "oppressed" were ordered to be removed by the UEC from the broadcast.⁴⁴ The party's vice-chairwoman, Noe Noe Htet San, said that the UEC's censorship harms freedom of expression.⁴⁵ The campaign broadcast rules prohibit any content that is deemed to disturb the rule of law, cause instability, defame the state or military, incite the civil service not to perform its duty or spark hatred among different groups.⁴⁶ Human rights groups have called for the restrictions to be relaxed ahead of the election.⁴⁷

An anonymous group of activists, Justice for Myanmar, has launched a new website to circumvent the Myanmar telecommunication ministry's ban of its official webpage.⁴⁸ The new site serves to "enable continued access" to the group's findings, which include a number of investigations online about the business activities of Myanmar's military.⁴⁹ The Directorate of Communications director-general Myo Swe said the ban was based on a complaint by a social media monitoring group linked to the military.⁵⁰ The ban has been criticized by international and local rights groups.⁵¹ "The Myanmar government has become increasingly brazen in its efforts to silence critical voices," said Asia representative for Article 19, Mathew Bugher.⁵² He continued, "The order to block a website reporting on the misdeeds of the Myanmar military strikes at the heart of the right to freedom of expression."⁵³

Sixteen universities in Myanmar, including the University of Yangon, have been declared autonomous from the government by the Ministry of Education.⁵⁴ The Ministry of Education will no longer take charge of managing the schools and syllabuses that are appropriate for the specific regions and they can be drafted by university officials.⁵⁵ In addition, the universities will have the right to manage their staff.⁵⁶

III. Economic Development

A. Economic Development—Legal Framework, Foreign Investment

South Korean officials plan to hold a virtual meeting with Myanmar officials to share ways to expand economic ties and overcome economic jitters sparked by the COVID-19 pandemic.⁵⁷ Industry Minister Sung Yun-Mo will meet his Myanmar counterpart, Than Myint, via a videoconference to exchange ideas on pending economic issues between the two countries, according to the Ministry of Trade, Industry and Energy. During the meeting, the two countries plan to discuss a wide array of issues covering trade, industry, energy and investment.

The Yangon Region Investment Committee approved six foreign enterprises' planned investments in the region, which are estimated to create 3,876 local employment opportunities.⁵⁸ With a combined capital of US\$15.727 million, the permitted investments will boost the manufacturing sector of Yangon region, which absorbs 60% of investment into the country.

Despite the surge of COVID-19 in Myanmar, Chinese companies, including state-owned energy giants, are seeking opportunities to invest in the Dawei Special Economic Zone (SEZ). The SEZ is a US\$8 billion (10.4 trillion kyats) strategic project in southern Myanmar's Tanintharyi Region that is set to be Southeast Asia's largest industrial complex.⁵⁹ The project includes a deep seaport and is expected to be a boon for firms currently relying on the transport of goods via the crowded Malacca Strait. The planned project also includes high-tech industrial zones, information technology zones, export-processing zones, port area zones, transportation zones, service business zones and other infrastructure projects.

B. Economic Development—Infrastructure, Major Projects

Following a bilateral meeting held on September 3 between Myanmar and Indian officials, the Ministry of Electricity and Energy ("MOEE") proposed buy 1600-megawatts of power from India via cross border transmission.⁶⁰ As of yet, power prices have not been disclosed and Indian companies are conducting ground surveys for the transmission line, construction of which is anticipated to commence in 2025.

The Ministry of Transport and Communications is planning to develop several inland ports along the Ayeyarwady River and Chindwin River to improve inland logistics and river transportation.⁶¹ The five new ports are in Magway, Pakokku and Bhamo, along the Ayeyarwady River, as well as in Kalewa and Monywa, along the Chindwin River.⁶² New infrastructure is needed as the existing inland ports along the rivers are outdated and lack the modern equipment such as cranes needed to handle large volumes of cargo.⁶³ The new ports will also help to enhance trade with India, China and Thailand.⁶⁴

On September 16, four Myanmar engineers involved in the Dala Bridge Project tested positive for COVID-19, after which construction work on the Dala side of the bridge was halted.⁶⁵ The bridge, also known as the Myanmar – Korea Friendship Bridge, is expected to cost US\$168 million and is being funded with a US\$137.8 million loan from the South Korea Economic Development Cooperation Fund at an interest rate of 1%.⁶⁶ The remaining US\$30.3

million will be funded by the Myanmar government.⁶⁷ Up until last month, construction of the Dala Bridge was anticipated to be completed by October 22.

C. Land Seizure

There have been no material updates since the last report.

IV. Peace Talks and Ethnic Violence

A. Ethnic Violence

There have been no material updates since the last report.

B. Peace Talks

A spokesperson for the Kachin Independence Army (“KIA”), Colonel Naw Bu, said the government, Arakan Army, Myanmar National Democratic Alliance Army, KIA and Ta’aing National Liberation Army will discuss signing a ceasefire agreement during peace talks via videoconference.⁶⁸ A date has not yet been set.⁶⁹ Clashes continue between the Tatmadaw and KIA fighters in Muse Township in Shan State.⁷⁰

Tatmadaw Commander-in-Chief Senior General Min Aung Hlaing urged the ethnic armed groups that have not joined the national peace process to put aside their arms and start peace talks.⁷¹ He said the military is committed to the Nationwide Ceasefire Agreement, which the Tatmadaw requires the groups to sign before they can join the peace process.⁷² In response to the Senior General’s comments, Sai Leun, chair of the National Democratic Alliance Army (“NDAA”), one of the seven holdout groups, said the NDAA is pursuing peace.⁷³

- ¹ Amnesty International, September 15, 2020: <https://www.amnesty.org/en/latest/news/2020/09/bangladesh-rohingya-refugees-must-participate-in-decisions-affecting-their-lives/>.
- ² The Guardian, September 21, 2020: <https://www.theguardian.com/world/2020/sep/22/rohingya-refugees-allege-sexual-assault-on-bangladeshi-island>.
- ³ *Id.*
- ⁴ *Id.*
- ⁵ *Id.*
- ⁶ *Id.*
- ⁷ Human Rights Watch, September 15, 2020: <https://www.hrw.org/news/2020/09/15/bangladesh-reunify-rohingya-refugee-families#>.
- ⁸ The Guardian, September 21, 2020: <https://www.theguardian.com/world/2020/sep/22/rohingya-refugees-allege-sexual-assault-on-bangladeshi-island>.
- ⁹ *Id.*
- ¹⁰ *Id.*
- ¹¹ *Id.*
- ¹² United Nations, September 7, 2020: <https://news.un.org/en/story/2020/09/1071812>.
- ¹³ *Id.*
- ¹⁴ *Id.*
- ¹⁵ *Id.*
- ¹⁶ *Id.*
- ¹⁷ The Irrawaddy, September 2, 2020: <https://www.irrawaddy.com/elections/myanmars-ruling-party-vows-reform-military-election-manifesto.html>.
- ¹⁸ *Id.*
- ¹⁹ The Irrawaddy, September 3, 2020: <https://www.irrawaddy.com/news/burma/myanmar-president-removes-kayah-state-chief-minister-office-misusing-funds.html>.
- ²⁰ *Id.*
- ²¹ *Id.*
- ²² *Id.*
- ²³ The Irrawaddy, September 7, 2020: <https://www.irrawaddy.com/news/burma/myanmar-hires-german-firm-oversee-bidding-initial-phase-china-backed-new-yangon-city.html>.
- ²⁴ *Id.*
- ²⁵ *Id.*
- ²⁶ The Irrawaddy, September 14, 2020: <https://www.irrawaddy.com/news/burma/myanmar-military-demands-return-two-soldiers-confessed-rohingya-atrocities.html>.
- ²⁷ *Id.*
- ²⁸ *Id.*
- ²⁹ *Id.*
- ³⁰ The Irrawaddy, September 16, 2020: <https://www.irrawaddy.com/news/burma/bangladesh-worried-myanmar-border-deployments.html>.
- ³¹ Myanmar Times, September 2, 2020: <https://www.mmtimes.com/news/uec-works-media-body-facebook-halt-fake-news.html>.
- ³² *Id.*
- ³³ *Id.*
- ³⁴ Mizzima, September 2, 2020: <http://mizzima.com/article/facebook-prepares-combat-misuse-its-platform-2020-myanmar-election>;
Mizzima, September 20, 2020: <http://mizzima.com/article/facebook-takes-measures-its-platform-myanmar-2020-election>.
- ³⁵ Myanmar Times, September 2, 2020: <https://www.mmtimes.com/news/uec-works-media-body-facebook-halt-fake-news.html>
- ³⁶ *Id.*
- ³⁷ Mizzima, September 24, 2020: <http://mizzima.com/article/hrw-calls-charges-against-students-be-dropped>.
- ³⁸ *Id.*
- ³⁹ *Id.*
- ⁴⁰ The Irrawaddy, September 21, 2020: <https://www.irrawaddy.com/elections/political-party-withdraws-election-broadcast-censorship-myanmar-authorities.html>.
- ⁴¹ *Id.*
- ⁴² *Id.*
- ⁴³ *Id.*
- ⁴⁴ *Id.*
- ⁴⁵ *Id.*
- ⁴⁶ *Id.*
- ⁴⁷ *Id.*
- ⁴⁸ Myanmar Times, September 3, 2020: <https://www.mmtimes.com/news/activists-launch-mirror-site-bypass-myanmar-censorship.html>.
- ⁴⁹ *Id.*
- ⁵⁰ *Id.*
- ⁵¹ *Id.*
- ⁵² *Id.*
- ⁵³ *Id.*
- ⁵⁴ Myanmar Times, September 3, 2020: <https://www.mmtimes.com/news/16-myanmar-universities-declared-autonomous.html>.
- ⁵⁵ *Id.*
- ⁵⁶ *Id.*
- ⁵⁷ Mizzima, September 17, 2020: <http://mizzima.com/article/myanmar-south-korea-expand-ties>.
- ⁵⁸ Mizzima, September 24, 2020: <http://mizzima.com/article/yangon-region-investment-committee-permits-six-foreign-investors>.

⁵⁹ The Irrawaddy, September 25, 2020: <https://www.irrawaddy.com/news/burma/chinese-companies-flocking-southern-myanmars-industrial-complex-megaproject.html>.

⁶⁰ Myanmar Times, September 4, 2020: <https://www.mmtimes.com/news/myanmar-buy-1600mw-power-india.html>.

⁶¹ Myanmar Times, September 8, 2020: <https://www.mmtimes.com/news/myanmar-build-inland-ports-improve-river-transportation.html>.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Myanmar Times, September 24, 2020: <https://www.mmtimes.com/news/dala-bridge-construction-suspended-during-yangon-stay-home-period.html>.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Myanmar Times, September 16, 2020: <https://www.mmtimes.com/news/myanmar-govt-northern-alliance-agree-online-talks.html>.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Myanmar Times, September 10, 2020: <https://www.mmtimes.com/news/tatmadaw-chief-urges-armed-groups-talk-peace.html>.

⁷² *Id.*

⁷³ *Id.*