

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

NOVEMBER 2020 REPORT

Summary. This report reviews the November 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

At the end of November, the Refugee Relief and Repatriation Commissioner's Office (the "RRRC") in Cox's Bazar announced that it will move over 1,200 Rohingya refugees from 500 families living in Cox's Bazar to Bhasan Char during the first week of December.¹ According to multiple sources at the RRRC, the office has finalized the process for the relocation. It is expected that twenty-three local non-governmental organizations will accompany the refugees.

On November 20, Amnesty International called for Bangladeshi authorities to abandon plans to relocate more than 100 Rohingya families to Bhasan Char, which has not yet been declared safe for human habitation by the United Nations and to which many refugees are still reluctant to relocate.² While the Bangladeshi government claims that the preparations are for those Rohingya refugees who wish to relocate on a "voluntary basis," Rohingya refugees interviewed by Amnesty International in November stated that government officials in charge of refugee camps in Cox's Bazar had coerced refugees into registering for relocation.³ For example, two Rohingya families were placed on the relocation list after they reported partial damage of their shelters. Instead of repairing these shelters, the authorities told these two families that they must relocate to Bhasan Char.⁴ Amnesty International noted that there are serious questions over the relocation procedure – many Rohingya have not given full and informed consent.⁵ In addition, Amnesty International requested that Bangladeshi authorities allow the United Nations to carry out an assessment of Bhasan Char and immediately return the hundreds of Rohingya refugees currently on the island to their families in Cox's Bazar.⁶

B. Corruption

Following the National League for Democracy's ("NLD") win in the November 8, 2020 election, NLD Vice Chairman Dr. Zaw Myint Maung stated that "the administration will be reformed" and that "highly efficient people will be chosen for the ministerial positions."⁷ The NLD has been criticized since its win in the 2015 election for appointing individuals who were not qualified for their roles.⁸ Some of those individuals were subsequently investigated for corruption.⁹

A report by Transparency International, a "global coalition against corruption," found that among 17 Asian countries, "Myanmar has the highest percentage of citizens who think that the government is doing well in tackling corruption (93%)" and has the anti-corruption body with the highest approval rating.¹⁰ The report's Global Corruption Barometer also found that 35% of those surveyed in Myanmar thought that corruption had increased in the previous 12 months, while 50% of those surveyed thought that "corruption in government is a big problem."¹¹ The report noted that "there are many legal and structural gaps that hinder anti-corruption efforts" in Myanmar, such as "anti-corruption laws [that] only criminalize one side of bribery, punishing bribe recipients" and "[an] anti-corruption commission [that] lacks jurisdiction over the military."¹²

C. International Community / Sanctions

The United Nations (“UN”) passed a draft resolution on the human rights situation in Myanmar with support from 131 UN members.¹³ The draft resolution expresses “grave concern at continuing reports of serious human rights violations – as well as violations of international humanitarian law – in Myanmar against Rohingya Muslims and other minorities.”¹⁴ Myanmar condemned the draft resolution, saying that it is “intrusive” and “politically motivated.”¹⁵

Ten human rights groups have called on the Burmese government to drop criminal proceedings against and release over thirty-five students who organized protests against alleged human rights violations in Rakhine and Chin States.¹⁶ Eleven of the students have been jailed for up to seven years and others remain in hiding.¹⁷

II. Civil and Political Rights

A. Freedom of Speech, Assembly and Association

Seven people face sedition complaints in Sagaing Region for allegedly playing an audio tape accusing State Counsellor Aung San Suu Kyi and the government of irregularities in the use of COVID-19 funds.¹⁸ The defendants were charged under Section 505(b) of the Penal Code for conducting public mischief.¹⁹ The deputy township administrator of Kalaywa township said, “this is the very important case during the campaign period.”²⁰

On November 17, Aung San Suu Kyi, who chairs the Central Committee on Prevention, Control and Treatment of COVID-19, held talks with her health, investment and international cooperation ministers and the rest of the COVID-19 committee.²¹ The committee discussed relaxing stay-at-home orders, depending on COVID-19 rates in each township, as well as resuming domestic flights and other travel within the country.²² Myanmar imposed stay-at-home orders on about 75 townships in Bago, Ayeyarwady and Mandalay regions, the Kachin and Mon States, and the whole of Yangon Region and Rakhine State.²³ Under the orders, only essential businesses and organizations and garment factories are allowed to open.²⁴

Ten human rights groups, including Athan, Assistance Association for Political Prisoners, Civil Rights Defenders, Fortify Rights, Human Rights Watch, Amnesty International, Access Now, Forum Asia, Burma Human Rights Network and Article 19, issued a joint statement on November 23 calling on Myanmar’s government to free at least 36 students who organized protests over alleged human rights violations in Rakhine and Chin States.²⁵ Since the second week of September, rights activists from Yangon, Mandalay, Sittwe, Loikaw and elsewhere have faced prosecution for organizing anti-government protests over restricted internet access and violence in Rakhine and Chin States.²⁶ Thirty-six students have been detained for organizing the protests and eleven of the students have been jailed for up to seven years while others are in hiding.²⁷ Following their arrest in Sittwe, fellow students organized a sticker campaign in Yangon and Mandalay to protest human rights abuses in Rakhine State.²⁸ The protests then spread to Meiktila, Monywa, Pyaw and Loikaw and Mandalay.²⁹

B. Freedom of the Press and Censorship

In a break from the 2015 manifesto, Aung San Suu Kyi's election manifesto does not include commitments to information and media freedom.³⁰ In 2015, the National League for Democracy pledged to support independent media outlets in a free market, create a transparent public financial management system and enhance the public's access to information.³¹ These pledges are not included in the 2020 manifesto, an omission that has alarmed civil society and rights groups.³²

The Myanmar government ordered mobile operators to introduce filtering to censor specific keywords across the Internet and block access to three websites.³³ The directive was issued to telecom operators on November 10 and will result in the blocking of any sites mentioning the filtered words.³⁴ The director general of the Directorate of Telecommunications said the instruction was requested by one of the military-controlled ministries.³⁵ He declined to name the websites blocked and the keywords banned.³⁶ He also warned that non-compliance will incur punishment under the Telecommunications Law.³⁷

III. Economic Development

A. Economic Development—Legal Framework, Foreign Investment

Japan and Myanmar have signed a total of 42.78 billion yen (\$414 million) in low-interest loans to allow Myanmar to build road infrastructure and to facilitate financing for small and midsize companies.³⁸ 27.78 billion yen of the loans are earmarked for a project to build a bridge in the East-West Economic Corridor, a route that crosses Myanmar, Thailand, Laos and Vietnam, according to the Japanese Foreign Ministry. The deal was signed between Ichiro Maruyama, Japan's ambassador to Myanmar, and Maung Maung Win, Myanmar's deputy minister for planning, finance and industry.

Japan will invest in the full phase implementation of the Dawei Special Economic Zone ("SEZ") in southern Myanmar.³⁹ The US\$8 billion project is set to be Southeast Asia's largest industrial complex. Maruyama said discussions on Japanese assistance to implement both the deep-sea port and SEZ with the private sector are continuing. The long-delayed project is one of the National League for Democracy's priorities.

The Myanmar government issued "request for proposal" documents to nine companies—including firms based in India, Singapore, France and Taiwan—to develop the initial phase of the New Yangon City project.⁴⁰ The nine firms are now qualified to submit rival plans to compete against the initial development proposal put forward by Beijing-based China Communications Construction Co. Ltd. ("CCCC"). Moreover, they will be granted access to CCCC's proposal for the industrial park, including details such as the scope of work for essential ancillary infrastructure. The Ministry of Investment and Foreign Economic Relations said these nine entities may bid either by themselves or as part of a consortium. The final deadline to submit proposals is January 18, 2021.

To boost bilateral trade and investment, India and Myanmar held the 7th Joint Trade Committee Meeting on November 24.⁴¹ The meeting was held virtually and was co-chaired by Dr. Than Myint, Union Minister for the Myanmar Ministry of Commerce, and Piyush Goyal, Commerce and Industry Minister of India. During the meeting, both sides reviewed various bilateral issues ranging from trade, investment, banking, connectivity, capacity building and up-gradation of border infrastructure. Both sides also reviewed their preparedness to meet COVID-19 challenges and cooperation in the pharma and health sector, including traditional medicines.

Finland-backed fund, Finnfund, injected US\$5.5 million in Early Dawn Microfinance Co Ltd, the third largest microfinance company in Myanmar in terms of client outreach.⁴² This is the third investment from Finnfund in Myanmar's microfinance sector, where 70% of the population lacks access to formal financial services.

B. Economic Development—Infrastructure, Major Projects

Construction of an expressway connecting the city of Bago and Kyaik Hto township in Mon State is expected to start in fiscal 2022-23.⁴³ The Asian Development Bank approved a US\$483.8 million loan to build the 64-km expressway.⁴⁴ The project, which is expected to be complete in fiscal 2028-29, will include a 2.3-km bridge across the Sittaung River.⁴⁵ The Japan International Cooperation Agency will finance the New Sittaung Bridge construction with a 27.8 million yen loan.⁴⁶

Implementation of the Ayeyarwady Coastal Region Development Project, an expressway connecting Ayeyarwady Region and Rakhine State, will start this fiscal year.⁴⁷ The project is estimated to cost US\$94 million and expected to be complete in fiscal 2023-24.⁴⁸ The project will involve the construction of a 274-km coastal road from Nga Yoke Kaung township, Patheingyi District in Ayeyarwady Region to Gwa township in Rakhine State.⁴⁹ When complete, it will help spur economic development and improve security along the expressway.

Chinese firms will soon begin contract farming maize and paddy rice in Lashio district, northern Shan State.⁵⁰ The firms will look to partner with Myanmar farmers to bolster maize and paddy rice production as a way to supplant poppy production in the region.⁵¹ Local firms AAP and Kwan Sai Hein Co will also partner with the Chinese firms.⁵² This agricultural alliance is expected to lead to the farming of 11,500 acres of maize and 8,200 acres of paddy rice.⁵³

Myanmar will press ahead with the implementation of four hydropower projects to meet the country's demand for electricity.⁵⁴ The hydropower projects include the 51MW Upper Keng Tawng Hydropower Project in Mone Township of southern Shan State in 2021-22, the 280MW Upper Yehwa Hydropower Project on Dotawady River in northern Shan State in 2022-23, the 152MW Yehwa Hydropower Project in 2024-25, and the 111MW Thu Htay Hydropower Project in 2025-26.⁵⁵ All of the projects are progressing according to plan and will be ready to generate electricity to meet the growing demand for power in the coming years.

C. Land Seizure

In Chin State, farmers expressed unhappiness with plans to construct a new dam that would wipe out their lands if completed.⁵⁶ The farmers claim that completion of the dam will “force [them] off the land they’ve been cultivating since 1920.”⁵⁷ Farmers report being threatened to take compensation for their farms or, alternatively, lose their farms without any compensation.⁵⁸ While some farmers have reportedly taken the compensation, many have pushed back, claiming that “they have too much to lose by accepting the deal.”⁵⁹ Notwithstanding their objections, the project is expected to start in January 2021.⁶⁰

In Thandaunggyi Township in Kayin State, a newly elected official has promised to work on the issuance of a land use permit for traditionally-owned lands.⁶¹ There are approximately 900,000 acres of land in the township, of which only 70,000 acres have current land use permits.⁶² The rest of the land is currently classified by the government as “vacant” because there are no current official ownership documents.⁶³

IV. Peace Talks and Ethnic Violence

A. Ethnic Violence

Two weeks after a largely peaceful nationwide vote, a newly elected member of parliament was shot dead by unknown assailants in Shan State.⁶⁴ It was not immediately clear if the killing of Htike Zaw, who had just won a seat for the National League for Democracy representing northern Shan State in the upper house of Parliament, was motivated by politics or a personal matter in a region that has seen shootings and armed skirmishes among militiamen.⁶⁵ Another shooting incident that occurred on November 15 targeted the home of the chairman of Kyaukme Township’s election subcommission.⁶⁶ The official was not injured, though his home was damaged.⁶⁷

Clashes occurred north of Mogoke during the last week of November between the Ta’ang National Liberation Army (“TNLA”) and Myanmar’s military.⁶⁸ Nearly 1,000 people in Mandalay Region’s Mogoke Township have since left their villages due to the clashes and have been sheltering at monasteries, churches and community halls and with relatives.⁶⁹ Myanmar’s military said that fighting broke out between about 30 TNLA troops and a military battalion during an ambush north of the town, and some Myanmar military soldiers were killed and injured.⁷⁰ The TNLA has not signed a ceasefire agreement with Myanmar authorities.⁷¹

B. Peace Talks

Myanmar’s military says it has formed a peace negotiation committee to kickstart peace talks with ethnic armed organizations, regardless of whether they have signed the Nationwide Ceasefire Agreement (“NCA”) to achieve lasting peace.⁷² The Office of the Commander-in-Chief of the Defense Service said that the committee is tasked with holding talks to build a stronger peace with NCA signatories, to negotiate with non-signatories over signing the ceasefire, and to move ahead with the peace process immediately after the 2020 general election.⁷³ The five-member committee will be led by Lieutenant General Yar Pyae, the current head of the Joint Ceasefire Monitoring Committee.⁷⁴ Other members include secretary Lt-

General Aung Lin Dway, Lt-General Tun Tun Naung, Lt-General Tin Maung Win and Lt-General Min Naung.⁷⁵

Major General Zaw Min Tun, chair of the Tatmadaw True News Information Team, said the Tatmadaw is committed to prioritizing peace talks after the election and to continue peace talks not only with the signatory groups to the NCA but also with non-signatory groups.⁷⁶ This appears to be a compromise from the Tatmadaw's original stance that ethnic groups must first sign the NCA before joining the peace process.⁷⁷

Tatmadaw Senior General Min Aung Hlaing urged the United Wa State Army ("UWSA"), the largest ethnic armed group in Myanmar, to sign the NCA.⁷⁸ Senior General Min Aung Hlaing met with a delegation of UWSA senior leaders in Shan State on November 17 to discuss the peace process.⁷⁹ U Nyi Kap, the political commissar of UWSA, vowed to strike for peace building and continued cooperation with the Tatmadaw in regional development, health and education.⁸⁰

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- 2 Amnesty International, November 20, 2020: <https://www.amnesty.org/en/latest/news/2020/11/bangladesh-plan-to-relocate-hundreds-of-rohingya-to-remote-island-must-be-dropped/>.
- 3 *Id.*
- 4 *Id.*
- 5 *Id.*
- 6 *Id.*
- 7 The Irrawaddy, November 18, 2020: <https://www.irrawaddy.com/news/burma/myanmars-ruling-party-vows-improve-quality-cabinet-appointments-new-govt.html>.
- 8 *Id.*
- 9 *Id.* (citing, for instance, former Planning and Finance Minister U Kyaw Win and Tanintharyi Region Chief Minister Daw Le Le Maw); *see also* The Irrawaddy, November 23, 2020: <https://www.irrawaddy.com/opinion/commentary/another-nld-victory-means-myanmar-world.html> (“There were mistakes in terms of appointing the wrong people to government positions, as well as in the state and regional governments. And sometimes, they were quite slow when they took action against authorities who made mistakes or were corrupt.”).
- 10 Global Corruption Barometer, November 24, 2020: https://images.transparencycdn.org/images/GCB_Asia_2020_Report.pdf; *see also* The Irrawaddy, November 25, 2020: <https://www.irrawaddy.com/news/burma/myanmars-corruption-commission-tops-regional-poll.html>.
- 11 Global Corruption Barometer, at 8, 10.
- 12 *Id.* at 12.
- 13 United Nations, November 14, 2020: <https://www.un.org/press/en/2019/gashc4282.doc.htm>.
- 14 *Id.*
- 15 The Irrawaddy, November 20, 2020: <https://www.irrawaddy.com/news/burma/myanmar-condemns-un-rohingya-resolution.html>.
- 16 The Irrawaddy, November 24, 2020: <https://www.irrawaddy.com/news/burma/rights-groups-demand-release-myanmar-students-rakhine-protests.html>.
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- 18 Myanmar Times, November 13, 2020: <https://www.mmtimes.com/news/seven-people-faces-sedition-complaint-sagaing.html>
- 19 *Id.*
- 20 *Id.*
- 21 The Irrawaddy, November 19, 2020: <https://www.irrawaddy.com/specials/myanmar-covid-19/myanmar-considers-relaxing-covid-19-restrictions.html>.
- 22 *Id.*
- 23 *Id.*
- 24 *Id.*
- 25 The Irrawaddy, November 24, 2020: <https://www.irrawaddy.com/news/burma/rights-groups-demand-release-myanmar-students-rakhine-protests.html>.
- 26 *Id.*
- 27 *Id.*
- 28 *Id.*
- 29 *Id.*
- 30 Myanmar Times, November 4, 2020: <https://www.mmtimes.com/news/ruling-party-ditches-support-independent-media-election-manifesto.html>.
- 31 *Id.*
- 32 *Id.*
- 33 Myanmar Times, November 17, 2020: <https://www.mmtimes.com/news/myanmar-tightens-censorship-internet-post-election.html>.
- 34 *Id.*
- 35 *Id.*
- 36 *Id.*
- 37 *Id.*
- 38 Mizzima, November 9, 2020: <http://mizzima.com/article/japan-and-myanmar-have-signed-total-usd-414-million-low-interest-loans>.
- 39 The Irrawaddy, November 24, 2020: <https://www.irrawaddy.com/news/burma/japan-reveals-full-commitment-myanmars-dawei-sez.html>.
- 40 The Irrawaddy, November 24, 2020: <https://www.irrawaddy.com/news/burma/nine-firms-qualify-challenge-chinese-proposal-myanmars-new-yangon-city-project.html>.
- 41 Mizzima, November 26, 2020: <http://mizzima.com/article/india-and-myanmar-hold-7th-joint-trade-committee-meeting>.
- 42 Myanmar Times, November 27, 2020: <https://www.mmtimes.com/news/finland-backed-fund-invests-myanmar-microfinance-sector.html>.
- 43 Myanmar Times, November 4, 2020: <https://www.mmtimes.com/news/construction-bago-kyaik-hto-expressway-commence-2022.html>.
- 44 *Id.*
- 45 *Id.*
- 46 *Id.*
- 47 Myanmar Times, November 11, 2020: <https://www.mmtimes.com/news/construction-ayeyarwady-coastal-expressway-start-year.html>.
- 48 *Id.*

49 *Id.*

50 Myanmar Times, November 23, 2020: <https://www.mmtimes.com/news/chinese-firms-get-green-light-begin-contract-farming-northern-shan.html>.

51 *Id.*

52 *Id.*

53 *Id.*

54 Myanmar Times, November 24, 2020: <https://www.mmtimes.com/news/myanmar-generate-more-energy-hydro-solar-sources.html>.

55 *Id.*

56 Farmers Refuse to Move for Dam Project, November 26, 2020: <https://www.bnionline.net/en/news/farmers-refuse-move-dam-project>.

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59 *Id.*

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61 KPP MP promises to deal with land disputes, December 7, 2020: <https://www.bnionline.net/en/news/kpp-mp-promises-deal-land-disputes>.

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63 *Id.*

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70 *Id.*

71 *Id.*

72 The Irrawaddy, November 10, 2020: <https://www.irrawaddy.com/news/burma/myanmar-military-sets-new-committee-peace-talks.html>.

73 *Id.*

74 *Id.*

75 Mizzima, November 10: <http://mizzima.com/article/peace-talks-committee-formed-myanmar-military>.

76 Myanmar Times, November 12, 2020: <https://www.mmtimes.com/news/govt-military-focus-peace-talks-post-election-myanmar.html>.

77 *Id.*

78 Myanmar Times, November 19, 2020: <https://www.mmtimes.com/news/tatmadaw-chief-urges-uwsa-sign-nca.html>.

79 *Id.*

80 *Id.*