

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

DECEMBER 2020 REPORT

Summary. This report reviews the December 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

During the first week of December, as part of the Bangladeshi government's plan to ease crowding in refugee camps where over one million Rohingya have lived for the past few years, the Bangladeshi navy moved more than 1,640 Rohingya refugees from the refugee camps in Cox's Bazar to Bhasan Char.¹ Human rights groups remain opposed to the resettlement, arguing that the Rohingya were being forced to move against their will. Human Rights Watch stated that it had identified twelve families that were instructed to move to the island, having never volunteered to do so.² A spokesperson for Amnesty International said that the relocation of so many Rohingya refugees to a remote island that remains off limits to rights groups and journalists without prior permission poses grave concerns with respect to independent human rights monitoring.³ In addition, the Asia director of Human Rights Watch stated that if the government were genuinely confident in the habitability of the island, it would be transparent and not hastily circumvent United Nations technical assessments.⁴

The Bangladeshi government's relocation plan involves moving 100,000 Rohingya refugees to Bhasan Char, an island that is more than twenty miles from the mainland and that rights group fear is ill-suited to host tens of thousands of refugees. The island has only been in existence for approximately twenty years – it emerged as a result of sediment deposition from a nearby river, and erosion and flooding are regular occurrences.⁵ On December 4, the Bangladeshi Ministry of Foreign Affairs (the "Ministry") stated that the government had spent \$350 million refurbishing Bhasan Char with modern amenities, year-round fresh water, and proper infrastructure.⁶ Moreover, the Ministry said that the concrete buildings on Bhasan Char would be better able to withstand natural disasters than the makeshift structures in Cox's Bazar.⁷ However, the refugees on the island have reported living in shared barracks with barely enough space to stretch out.⁸

At the end of December, a second group of at least 1,800 Rohingya refugees was transported to Bhasan Char amid concerns that many of these refugees were also coerced into relocating to the island.⁹ Al Jazeera spoke to a few relocating refugees in the presence of government officials, and many said that they volunteered to leave the refugee camps because they are tired of congestion and don't see any future or repatriation, and thus are willing to try a new life on the island.¹⁰

The United Nations confirmed that as of December 31, Bangladesh had not yet permitted it to assess the habitability of Bhasan Char, although the Bangladesh government said it was prepared to facilitate United Nations participation. Independent assessments carried out by the United Nations would review the safety, feasibility, and sustainability of Bhasan Char as a place for refugees to live, as well as the framework for protection and services that refugees would be able to access on the island.¹¹

B. Corruption

Aung Kyi, Chairman of the Anti-Corruption Commission ("ACC"), stepped down on December 1.¹² Although his term was set to expire in March 2021, he submitted a letter of

resignation to the president on November 16.¹³ He had been chair of the ACC since November 2017.¹⁴

During a speech on International Anti-Corruption Day, President Win Myint affirmed that “[i]t is important to remove all the root causes of corruption.”¹⁵ President Myint also stated that the government is in the planning stages of developing a national anti-corruption strategy.¹⁶

C. International Community / Sanctions

Bangladesh began transferring several hundred Rohingya refugees on December 3 to the island of Bhasan Char, a low-lying island that has in the past been flooded by high tides and cyclones.¹⁷ In total, Bangladesh plans to move 100,000 Rohingya refugees to the isolated island.¹⁸ A representative from Amnesty International said that “[a]llegations from within the community about cash incentives being offered to Rohingya families to relocate to Bhasan Char as well as the use of intimidation tactics are making the relocation process questionable.”¹⁹ The United States also voiced concern over the transfer, with State Department spokesman Cale Brown stating, “[t]he United States concurs with the UN that any such relocations must be fully voluntary and based on informed consent without pressure or coercion.”²⁰ The United States called for Bangladesh to allow “thorough and independent technical and protection assessments.”²¹ The Bangladesh foreign minister denied the allegations, saying that critics of the relocation to Bhasan Char were “making up stories.”²²

Although Myanmar submitted a report to the United Nations as required by the interim measures imposed by the International Criminal Court, human rights lawyers and activists accuse Myanmar of nevertheless continuing to commit genocide against Rohingya Muslims.²³ The president of Burma Rohingya Organisation UK, a prominent Rohingya rights organization, averred that “[t]he Myanmar government and military are calculating that they can safely ignore the provisional measures and not face any consequences.”²⁴ Rights groups are also calling upon Myanmar to release the report in full, calling the lack of transparency an injustice.²⁵

In a teleconference between Myanmar’s international cooperation minister, Kyaw Tin, and the outgoing U.S. Deputy Secretary of State, the United States pledged to continue its support for Myanmar’s democratic transition and discussed cooperation on Rakhine State development, including the creation of a better environment for the Rohingya.²⁶

II. Civil and Political Rights

A. Freedom of Speech, Assembly and Association

Rakhine State police opened a case against three activists under Article 19 of the Peaceful Assembly and Procession Law over a human rights demonstration in the state capital, Sittwe, in December.²⁷ The three activists, Min Bar Chay (also known as Than Hla), Naing Naing Tun and Khaing Mrat Thu from the Rakhine Youth New Generation Network, led other protesters to mark Human Rights Day on December 10.²⁸ The activists were detained as they protested on Strand Road in Sittwe and released on bail later that evening.²⁹ Sittwe Township police chief, Major Zaw Naing, said the three activists organized the event without seeking approval from the authorities.³⁰ The activists insisted that the event was too important to cancel because the

authorities failed to grant approval.³¹ At the event, the activists held placards calling for human rights, women's rights and to end terrorism³²

More than 200 nationalists, including Buddhist monks, joined a protest in solidarity with Myanmar's military and to condemn the handling of the November 8 general election.³³ The march was led by Moe Moe Khaing, central executive member of the Yeomanry Development Party, which was established by Michael Kyaw Myint, a Buddhist nationalist.³⁴ On August 16, Myanmar banned gatherings of more than 29 people to curb the spread of COVID-19.³⁵ Yangon residents have been ordered to stay at home while organizations and companies have been required to work from home since September. Protesters did not observe social distancing and some leaders did not wear masks.³⁶ Yangon residents have called on the government to take action against the organizers of the event.³⁷

B. Freedom of the Press and Censorship

Media organizations and civil society groups have urged the incoming Myanmar government to change existing laws that restrict press freedom.³⁸ As it stands, journalists are frequently prosecuted under the Telecommunications Law, the Counter-Terrorism Law, the Unlawful Associations Act and the Penal Code.³⁹ According to the 2020 edition of the World Press Freedom Index, Myanmar is ranked number 139 out of 180 countries.⁴⁰ In compiling the report, the level of pluralism, media independence, environment for media and self-censorship, legal framework, transparency and quality of infrastructure are all considered; government policy, however, is not.⁴¹ Yin Yadanar Thei, director of Free Expression Myanmar and a signatory of a petition urging reform for six defamation laws, noted that if criminal charges for defamation are not withdrawn, "Myanmar's index rankings for freedom of expression will continue to drop, and Myanmar will never achieve its goal of becoming a democratic nation."⁴²

On December 14, Development Media Group ("DMG") reporter Aung Kyaw Min was questioned at the Maungdaw Myoma police station and was released on bail in connection with a defamation complaint filed against him under 66(d) of the Telecommunications Law.⁴³ Punishment under 66(d) can include up to two years in prison.⁴⁴ The story, "Soonest repair needed at Maungdaw 3rd Mile Bridge,"⁴⁵ was a brief piece detailing the need for repairs on a bridge in the western state of Rakhine.⁴⁶ Maung Win, an engineer from the Road/Bridge Special Group (4), who was quoted in Min's story, filed the complaint.⁴⁷ By first filing with the police, Win acted contrary to the 2014 News Media Law, which requires that complaints against members of the media first be filed with the Myanmar Press Council (the "MPC").⁴⁸ According to the DMG editor in chief, the plaintiff was forced to sue by the local government.⁴⁹ In response to the suit, DMG requested mediation by the MPC, pursuant to a provision of the New Media Law, and in response, the MPC wrote to the Rakhine State government urging the suspension of the lawsuit; thus far, there has been no response.⁵⁰ In addition to demanding mediation, DMG has also insisted that the case be withdrawn as the article did not at any point misattribute or misquote any individual.⁵¹

Meanwhile, protests have continued against the protracted internet shutdown in parts of Rakhine State, which began in 2019.⁵²

III. Economic Development

A. Economic Development—Legal Framework, Foreign Investment

On December 22, UNICEF and Japan signed onto a \$4.71 million project that aims to strengthen the capacity of health, water, sanitation and hygiene, and education services in communities in Rakhine, Kachin and northern Shan States and is expected to benefit up to 400,000 Myanmar citizens.⁵³

Mitsubishi Corp. signed two contracts with Myanmar’s state-run railway, Myanma Railways, to deliver new rolling stock.⁵⁴ The total cost of the two projects is expected to be approximately 69 billion yen (\$663.2 million), which will be covered by an international yen loan agreement between the governments of Japan and Myanmar. The two projects are part of the Japanese government’s railway infrastructure export drive. Mitsubishi will deliver 66 cars for the Yangon Circular Railway, which runs through central Yangon, and 180 cars for the Yangon-Mandalay Railway, which connects Yangon, Naypyitaw and Mandalay.

Myanmar’s government expects to implement three major infrastructure projects planned for Yangon Region with the participation of South Korea, Singapore and Thailand in an effort to mitigate the impact of the COVID-19 pandemic.⁵⁵ According to Thaung Tun, the head of the Union Ministry of Investment and Foreign Economic Relations, the Korea-Myanmar Industrial Complex (“KMIC”) began construction on December 24 and the government will kick-off implementation of the AMATA Smart and Eco City, which will be jointly implemented by Myanmar and Thailand, and the Myanmar-Singapore Industrial Park, to be jointly implemented with Singapore. KMIC is the first economic collaboration of its kind between Myanmar and South Korea. Myanmar’s Ministry of Construction holds 40% of KMIC, while the Korea Land and Housing Corporation and Global Sae-A Co. Ltd hold 40% and 20% respectively. The project is expected to be completed in 2023, and around 200 South Korean companies are expected to invest in the production facilities, which will generate a projected \$10 million in taxes annually.

B. Economic Development—Infrastructure, Major Projects

The construction of a 140-kilometer two-lane highway connecting the Dawei Special Economic Zone (“SEZ”) in Tanintharyi Region to Htikhee at the Thai border will commence in mid-2021, according to the Dawei SEZ Management Committee.⁵⁶ When complete, it will take travelers from the SEZ about two and a half hours to reach Htikhee by car.⁵⁷ It will take another two hours to reach Bangkok from Htikhee.⁵⁸ The Ministry of Construction will oversee the project, which will be carried out with a loan from Thailand’s Neighbouring Countries Economic Development Cooperation Agency.⁵⁹

Myanmar’s first online market to trade rice and seeds will be available in the beginning of 2021, according to the Myanmar Rice Federation (“MRF”).⁶⁰ The MRF will establish a mobile application called the MRF Rice Portal, which will be made available to farmers, seed production farmers and companies, rice mill owners and local and foreign rice traders.⁶¹

Meanwhile, to further develop the paddy seed production industry in Myanmar, the MRF is cooperating with Germany's Welthungerhilfe for the first time to produce higher quality seeds expected to improve crop harvests and enable farmers to fetch better prices in the foreign rice market.⁶² There are currently just five farms producing seeds in Myanmar.⁶³ Efforts are now being made to grow the seed production market in Myanmar and to also develop a more robust local seed trade.⁶⁴

The first phase of construction of the Korea-Myanmar Industrial Complex ("KMIC") in Hlegu Township, Yangon, commenced on December 24.⁶⁵ Construction of the basic infrastructure, such as roads and essential services needed for the project, is expected to be completed by 2023.⁶⁶ The project is funded by the Korean Economic Development Cooperation Fund. The total capital expenditure expected is in excess of US\$100 million, and will create about 100,000 new jobs.⁶⁷ The KMIC will be jointly implemented by the Ministry of Construction and state-owned Korea Land and Housing Corporation on 558 acres of land in Nyaung-nhit-pin, Hlegu.⁶⁸ The project will be managed by KMIC Development Company Ltd and will include Myanmar's first online land reservation system.⁶⁹

The Lailenpi Airport, the second airport in Chin State, is expected to open early in 2021 and is already about 80% complete.⁷⁰ Once complete, the Lailenpi Airport will have the capacity to accommodate small aircraft for up to 20 people.⁷¹ The airport will significantly shorten the flight time between Yangon and Chin States.⁷²

C. Land Seizure

There is concern that insufficient water is being collected to supply farms over the summer months. Farmers in Sagaing asked authorities to fill a dam with river water given shortages in prior years. The shortages have prevented certain summer crops from being grown.⁷³ Meanwhile, locals in Shan State expressed concern about the environmental impact of potential coal extraction and, in particular, worries that a nearby water source might dry up or become unusable as a result of new proposed mining.⁷⁴ The concerns stem from experiences of coal mining in other areas in Shan State.⁷⁵

Villagers in Kachin State have asked that 4,000 acres of land be reclassified in use from a "national park" to "community forest."⁷⁶ The designation as a national park restricts the villagers from living and farming on the land, which was previously used as rotated farmland.⁷⁷

IV. Peace Talks and Ethnic Violence

A. Ethnic Violence

The Myanmar military's increased encroachment into territory inhabited by ethnic Karen people in southeastern Myanmar's Kayin State has caused fresh armed clashes that have forced more than 3,000 villagers to flee their homes, a Karen activist group said on December 30.⁷⁸ Additionally, on December 30, more than 10,000 ethnic Karen staged a protest demanding that the military withdraw soldiers, close a local army base, and suspend military construction work.⁷⁹

Meanwhile, thousands of area residents have left their homes, fearing full-blown hostilities in the area where sporadic clashes have occurred between Myanmar soldiers and the Karen National Union since early December, said a local who declined to be named out of concern for his safety. This local resident said more than 100 soldiers from Taiti village have been ordered to reinforce existing troops, and most of the men in the village have left, leaving only women and children remaining at home.⁸⁰

B. Peace Talks

Hla Maung Shwe, a senior government negotiator, said on December 9 that the government is seeking the immediate resumption of peace negotiations with the ten ethnic armed groups that have signed the Nationwide Ceasefire Agreement (“NCA”) as well as those that have not yet signed the NCA.⁸¹ On December 8, the government and the Tatmadaw reviewed the framework for the political dialogue agreement that was signed during the 4th Union Peace Conference – 21st Century Panglong in August.⁸² The government and the Tatmadaw also discussed ways to start peace negotiations with the holdout ethnic armed groups that have yet to sign the NCA.⁸³ The NCA signatories held a meeting on December 10 to prepare for new peace talks.⁸⁴

Major General Zaw Min Tun, chief of the Tatmadaw True News Information Team, said that negotiations between representatives of the Tatmadaw and the Arakan Army (“AA”) are proceeding smoothly as both sides are working toward a ceasefire agreement and peace negotiations.⁸⁵ A face-to-face meeting was held on December 9 in Panghsang.⁸⁶ Major General Zaw Min Tun said, “We have to continue the negotiations so as to end the fighting and move forward the peace process in the Rakhine State.”⁸⁷ He continued, “The Tatmadaw and the AA have the view that we need to keep on negotiating because the civilians in Rakhine support the negotiations for peace.”⁸⁸ The next meeting between the Tatmadaw and the AA will involve Tatmadaw Peace Talks Committee leaders and AA Commander-in-Chief General Tun Myat Naing.⁸⁹

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