

STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

JANUARY 2021 REPORT

Summary. This report reviews the January 2021 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. Coup

On February 1, Myanmar's military staged a coup and overturned the results of democratic elections that had resulted in a landslide victory for the National League for Democracy ("NLD").¹ In his first public televised address since seizing power, Senior General Min Aung Hlaing told citizens to prioritize "facts" not "feelings," pledged to hold "free and fair" elections and to hand over power to the winner.² Min Aung Hlaing justified his army's seizure of power by claiming Myanmar's electoral commission used the COVID-19 pandemic as an excuse to not allow fair campaigning and said "no organization is above national interest."³ He did not say when elections would be held but repeated claims the November 2020 poll (in which the NLD won an overwhelming victory) was fraudulent. The state of emergency, imposed when Min Aung Hlaing seized power, is in place for one year.⁴ The election commission has denied the claims, saying any irregularities would not have been enough to change the overall result.⁵

Former State Counsellor Aung San Suu Kyi has been held incommunicado since she was detained hours before the military took control.⁶ She is under house arrest, charged with breaching the import-export law, while ousted President Win Myint is accused of violating the natural disaster management law.⁷ Myanmar human rights organization, Assistance Association for Political Prisoners, has documented at least 133 government officials and legislators, and 14 activists detained since the coup.⁸

Tens of thousands of people have taken part in protests against the February 1 coup, despite a long history of brutal crackdowns by the military and threats to use live ammunition against demonstrators.⁹ In Yangon, protesters marched toward Sule Pagoda in the former capital's downtown chanting and holding up the anti-government three-finger salute from the "Hunger Games" movie franchise that became a popular protest sign during the 2014 coup in neighboring Thailand.¹⁰ Sule Pagoda was at the center of anti-government demonstrations that were violently suppressed by the military in 1988 and 2007. On live feeds posted on social media, protesters could be heard shouting "the people stand together against the dictator's government" and held banners with portraits of deposed former State Counsellor Aung San Suu Kyi's face.¹¹

In a statement on February 9 on the government-run MRTV channel, the military warned that "democracy can be destroyed" without discipline and that people who "harm the state's stability, public safety and the rule of law" could face legal action.¹² The warning came as two people were seriously injured in the capital Naypyidaw on February 9 after police officers allegedly shot at protesters, according to the NLD.¹³ On February 9, the government imposed new restrictions on public gatherings and instituted a curfew for major towns and cities across the country, including the capital, Naypyidaw, and largest city, Yangon, where large protests are ongoing.¹⁴ According to a notice published by state-owned newspaper The Global New Light of Myanmar, people are prohibited from gathering in groups of more than five, restricted from joining protest marches on foot or by car, and are not allowed to make political speeches in public areas.¹⁵ A curfew will be in place from 8 p.m. until 4 a.m. in most major towns and cities.¹⁶ While the notice said it came into force on February 8, it did not say when restrictions would lift. At least 27 people were arrested during protests in Mandalay.¹⁷ Two local media organizations confirmed the arrests, which included a journalist for the Democratic Voice of Burma, who said they were detained after filming police violence against protesters.¹⁸ Those arrested could face prosecution under Section 144 of the Criminal Code for "unlawful assembly." Section 144 has been used in the past as a way to stop lawful protests and to justify violent crackdowns on mass demonstrations. Protesters have also been contending with widespread internet and communications restrictions since the coup, with mobile data networks and social media sites Facebook, Twitter and Instagram intermittently blocked.¹⁹

II. Political Developments

A. Rohingya Refugee Crisis

On January 14, a large fire erupted in the Nayapara refugee camp, which houses 22,500 refugees in Cox's Bazar, destroying approximately 550 shelters, 150 shops and a community center.²⁰ United Nations agencies reported that about 3,500 Rohingya refugees lost their homes and belongings in the fire in the middle of winter and the coronavirus pandemic.²¹ Shortly following the fire, United Nations agencies were on the ground in Cox's Bazar assessing the damage, helping the affected refugees, and providing emergency food assistance. They worked alongside humanitarian partners from the Inter Sector Coordination Group, the Bangladesh Red Crescent and other non-governmental organizations.²²

Services in the refugee camps such as medical care and food and water distributions, all of which are provided primarily by humanitarian organizations, have been reduced by 80% due

to the coronavirus pandemic.²³ Doctors Without Borders reports that the lack of these basic services has added to the mental health stress faced by Rohingya refugees in Bangladesh.

The Bangladesh government intended to move over 3,000 more refugees to Bhasan Char within the last few days of January, despite complaints by rights groups concerned about the island's vulnerability to storms and flooding.²⁴ In the first two rounds of relocations that occurred in December 2020, a total of 3,414 Rohingya were relocated to Bhasan Char. A spokesperson for the Refugee Relief and Repatriation Commissioner claimed that the previously relocated refugees were doing well on the island.²⁵ However, the Rohingya currently living on Bhasan Char are not allowed to leave the island without government permission.²⁶ Furthermore, relief agencies continue to criticize these relocations. The United Nations refugee agency stated that they had previously provided their criteria for evaluating the safety and sustainability of life on Bhasan Char but they have not yet been permitted to carry out these assessments.²⁷ The Bangladesh government continues to claim that the relocations are voluntary.²⁸

B. Corruption

The Anti-Corruption Commission filed a lawsuit against Department of Civil Aviation manager Soe Paing, alleging that he asked for \$100 USD in exchange for granting flight permits.²⁹ The complaint alleges that Soe Paing accepted \$72,000 in bribes.³⁰

A lieutenant colonel of the Myanmar military's Northern Command filed a charge against Khin Maung Myint, alleging defamation.³¹ Khin Maung Myint is a National League for Democracy lawmaker who was elected for a five-year term in November 2020.³² In December 2019, Khin Maung Myint filed a report with the president accusing the Northern Command of corruption in connection with a raid of illegal gold mines in November 2017.³³

C. International Community / Sanctions

UK government summoned the Myanmar Ambassador to the UK on February 1 over the declaration of the state of emergency by the Myanmar military and the "unlawful imprisonment of civilians."³⁴ Both former and current world leaders have denounced the coup, including UK Prime Minister Boris Johnson, former Irish president Mary Robinson³⁵ and U.S. Secretary of State Anthony Blinken.³⁶ U.S. President Joe Biden threatened to impose new sanctions on Myanmar and called on the international community to press the Myanmar military to relinquish power, calling the coup "a direct assault on the country's transition to democracy and the rule of law."³⁷ Prior to the coup, which the United Nations ("UN") has condemned,³⁸ UN Secretary-General Guterres reaffirmed the UN's support for the people of Myanmar "in the pursuit of peace, inclusive sustainable development, humanitarian action, human rights and rule of law."³⁹ The UN Security Council held an emergency meeting on February 2 to discuss the situation in Myanmar and a potential international response to the military's power seizure.⁴⁰

The World Bank warned that the coup threatens Myanmar's development as businesses may fear that reforms made under the civilian government may be rescinded. Some foreign firms, including Suzuki Motor Corporation, have already ceased operations in Myanmar in response to the coup.⁴¹

In early January, Myanmar called for the immediate release of 11 Myanmar sailors who were aboard a South Korean vessel detained by Iran’s Islamic Revolutionary Guard Corps on January 4.⁴²

III. Civil and Political Rights

A. Freedom of Speech, Assembly and Association

Sagaing Region authorities filed charges under the Unlawful Association Act and the Immigration Act against an officer and five other members of the People’s Liberation Army of Manipur (“PLA”), a rebel group fighting the Indian government from bases along the Myanmar-India border.⁴³ Five PLA members, who said they came to Myanmar for medical care, were arrested at Chindwin River Bridge in Monywa, Sagaing Region in northwestern Myanmar in August 2020, and their interrogation led to the arrest of a PLA captain who had immigrated to Sagaing.⁴⁴ With the approval of the Indian government, Myanmar authorities opened cases against them under the Unlawful Association Act and the Immigration Act in Monywa and Sagaing.⁴⁵

On January 19, nearly 40 Kachin rights groups prayed in Myitkyina for Myanmar’s government and military to bring long delayed justice for the murder of Kachin teachers in 2015.⁴⁶ Two volunteer teachers of the Kachin Baptist Convention were raped and killed in their Kaung Kha village hut on January 19, 2015. The investigation found no culprits and no charges have been brought.⁴⁷

On January 19, around 2,000 construction workers from the US\$400 million Yoma Central Project, which is a mixed development project consisting of luxury residences, five-star hotels, serviced apartments and offices in downtown Yangon, staged a protest after being told that they would receive pay cuts.⁴⁸ The workers protested a list of grievances, including not receiving social security benefits despite having contributed to the social security scheme, salary cuts, discrimination between regular workers, foreign workers and labor foremen and not having received pay increments each quarter.⁴⁹ On January 22, the chair of Yoma Group said the labor dispute between the contractor and construction workers has been resolved, with all workers paid in full and issues regarding the social security benefits clarified with the authorities.⁵⁰

B. Freedom of the Press and Censorship

On January 25, Myanmar’s military filed suit against editor Ne Win San and reporter Hnin Nwe of the Development Media Group (“DMG”), a Rakhine-focused news agency.⁵¹ Both were charged with defamation under Article 66(d) of the Telecommunications Law.⁵² Punishment for violations of Article 66(d) can include up to three years in prison.⁵³ Both Ne Win San and Hnin Nwe were charged in connection with a story published on January 10.⁵⁴ According to their report, the Tatmadaw looted baskets of rice from a Rakhine village in the town of Kyautaw in Rakhine State while residents were fleeing the Rakhine State conflict.⁵⁵ The military, claiming that the village in question has been abandoned since March 2020, asserts that the story was fabricated and not written in accordance with journalistic standards.⁵⁶ Hnin Nwe, who is now the first female reporter to face charges for her work in Rakhine State, asserts that the military’s claim is false—both she and Ne Win San noted in their article that they were

unable to contact military officials.⁵⁷ After interrogation and the confiscation of Hnin Nwe's phone and laptop, both journalists were released on bail set at 1.5m kyat (\$1,128).⁵⁸ Six media organizations lodged a complaint with the Myanmar Press Council ("MPC") and released a statement in response to the charges urging the military to withdraw the suit.⁵⁹ Additionally, the DMG sent a letter to the MPC requesting arbitration, arguing that the Tatmadaw violated the 2014 News Media Law by directly filing charges rather than first going through the MPC.⁶⁰ Ne Win San, one of the journalists charged, claims that the suit constitutes intimidation aimed at preventing reporting on the Tatmadaw.⁶¹

This is not the first time in recent years that the press, and more specifically, the DMG, has been targeted. The DMG's website was banned by mobile operators in March 2020 under a government directive issued by the Ministry of Transport and Communications⁶² after the organization reported on alleged abuses of civilians by government troops and fighting with the Arakan Army.⁶³ The DMG has only been able to publish online since 2019, after it failed to receive authorization to renew its news agency and publication licenses.⁶⁴ Additionally, the DMG's editor-in-chief, Aung Min Oo, is still in hiding after special branch police charged him under the Unlawful Association Act in May 2019.⁶⁵ Furthermore, defamation charges have been filed under Article 66(d) against the DMG's Maungdaw-based reporter Aung Kyaw Min in December 2020 and are currently pending.⁶⁶ According to DMG Editor Nay Win San, the multiple charges have affected reporting, making it difficult for the news department to function.⁶⁷ Fortify Rights, an NGO, has issued a statement calling for all charges to be dropped against the four DMG journalists.⁶⁸

IV. Economic Development

A. Economic Development—Legal Framework, Foreign Investment

In early January, Myanmar and China signed agreements on economic and technical cooperation and a five-year development program for trade and economic cooperation during the Chinese foreign minister's visit to Myanmar.⁶⁹ During the visit, the Chinese foreign minister also promised to provide 300,000 doses of the COVID-19 vaccine to Myanmar.

In late January, Myanmar and Russia signed an agreement under which Russia will supply military technology to Myanmar.⁷⁰ The technology to be provided includes drones, missile systems and radar stations.⁷¹

PTT Exploration and Production, a segment of Thailand's state-owned energy conglomerate PTT, plans to invest US\$2 billion in the development of natural gas fields and power plant construction in Myanmar.⁷² PTTEP received exclusive development rights from the Myanmar government at the end of December 2020. The company will produce natural gas off of Myanmar's coast and use it to supply power within the country.

Twenty-nine solar power projects now being carried out by Chinese companies in Myanmar are expected to be completed in April.⁷³ The solar power projects are expected to generate more than 1,000 megawatts of electricity when complete and to be able to distribute

power to the national grid, according to Zaw Moe Win, a senior engineer at the state-owned Electric Power Generation Enterprise.

On January 11, China Railway Eryuan Engineering Group and Myanmar Railways signed a memorandum of understanding to begin the study of the Mandalay-Kyaukphyu Railway project, a crucial part of Beijing's strategic railway plan to connect China's southern city of Kunming and Myanmar's Kyaukphyu port on the Bay of Bengal.⁷⁴ Accessing the port will play a key role in China's efforts to boost its presence in the Indian Ocean through its Belt and Road Initiative.

The Myanmar Investment Commission approved 14 new investments, as well as proposals to increase capital in four existing projects.⁷⁵ The approved projects covered the energy, fisheries, real estate and service sectors and totaled US\$295.3 million. The projects are expected to create 4,371 job opportunities.

B. Economic Development—Infrastructure, Major Projects

Myanmar approved the development of an Integrated Domestic Gas to Power Project involving US\$2 billion in investment in Kyaiklat, Ayeyarwady Region.⁷⁶ The Ministry of Electricity and Energy ("MOEE") granted a notice to proceed to Thai national oil company PTTEP for the 592-megawatt project, which will be carried out under a 20-year build, operate and transfer basis.⁷⁷ The project, which is expected to be implemented in the first half of 2024, was approved in line with Myanmar's Sustainable Development Plan and its Energy Master Plan, which aims for all households to have access to electricity by 2030.⁷⁸

On January 19, a Power Purchase Agreement was signed between the MOEE's Electric Power Generation Enterprise and TTCL Power Myanmar Co to implement a power plant in Yangon that will generate 365MW of power from liquefied natural gas ("LNG").⁷⁹ The project in Ahlone Township is Myanmar's first LNG project involving a land-based LNG terminal and re-gasification unit.⁸⁰ The project has been earmarked for completion in early 2024 and is one of the three major 3,000MW LGN-to-power projects green-lighted by the MOEE in January 2018.⁸¹

The second phase of the Patheingyi Industrial Complex (the "PIC") is slated to commence this year.⁸² The PIC will be developed on an area of 6,700 acres in Patheingyi Township.⁸³ Phase 1 saw the construction of factories that are available for long and short term leases on 1,200 acres of land.⁸⁴ It also included the construction of a port.⁸⁵ Phase 2 will include the construction of shopping centers, hotels, resorts and luxury and affordable housing projects, which are designed to create an urban lifestyle.⁸⁶

The Ministry of Electricity and Energy says the whole of Myanmar is on track to receive electricity from the national grid by 2030.⁸⁷ Currently, 58% of the country has access to the national grid but plans are in the pipeline to expand this coverage to 100% in ten years.⁸⁸

C. Land Seizure

After nine years of conflict, some farmers have agreed to be compensated for their land, which became part of the Letpadaung copper mine, partially ending a land dispute which has, at times, turned deadly.⁸⁹ In connection with the deal, the farmers agreed to relocate to other land.⁹⁰ However, some farmers do not want to move to the new location and some did not take the compensation as they dispute the rate.⁹¹

More broadly, development organizations and farming groups have argued that the government should postpone land reforms due to be discussed in connection with the planned resumption of parliament in February.⁹² The groups are concerned that “[a] centralized land law will neglect people’s rights and disregard demands for federal reforms among ethnic minorities.”⁹³ In particular, there is concern that communal ownership of land will not be adequately recognized, leaving “communities vulnerable to land grabs by the authorities and businesses.”⁹⁴ Approximately one third of the land in Myanmar is owned through customary land systems, which may not be adequately protected under the new law.⁹⁵ Previous attempts to amend the land laws have been unsuccessful and resulted in land owners and communities facing trespassing charges for failing to register with the government in time.⁹⁶

V. Peace Talks and Ethnic Violence

A. Ethnic Violence

The Tatmadaw shelled several Kayin villages early in January, forcing 4,000 civilians into hiding.⁹⁷ Displaced people from villages within the Kyauk Gyi Township lack basic shelter, medical supplies, food and clean water. Kayin community-based organizations trying to get aid through to the desperate villagers have been blocked from providing relief.⁹⁸ According to the European Karen Network, one civilian has been killed and two injured, including a child, in the attacks.⁹⁹ Kayin villagers told Karen News that the recent increase in Tatmadaw attacks is the worst they’ve experienced since the ceasefire was agreed to in 2012.¹⁰⁰ Villagers said the initial ceasefire brought some stability to their lives, but the recent attacks and displacement into jungle hideouts have once more made their lives insecure.¹⁰¹ “We can’t tend to our crops, our children can’t go to school and it’s unsafe to even stay in your own home.”¹⁰² The European Karen Network said the “increased militarization by the Burma Army and hundreds of incidents of the Burma Army breaking the terms of the [Nationwide Ceasefire Agreement]” is a clear indication the “current peace process is deeply flawed and is not bringing peace or bringing us closer to a genuine political settlement that will help bring lasting peace.”¹⁰³

B. Peace Talks

According to a senior Tatmadaw officer, the Tatmadaw is eager to sign a ceasefire agreement with the Arakan Army (“AA”) following the release of three seized National League for Democracy (“NLD”) politicians on January 1.¹⁰⁴ Major General Zaw Min Tun, chief of the Tatmadaw True News Information Team, said, “We hope to achieve the ceasefire agreement and substantive progress in the peace process... Both sides are optimistic about the future of the negotiations.”¹⁰⁵ The three NLD politicians, Ni Ni May Myint, Min Aung and Chit Chit Chaw, were seized on October 14 while campaigning in Taunggyok Township.¹⁰⁶ The politicians were freed on January 1 along with three Tatmadaw members who were captives of the AA.¹⁰⁷ The releases were a result of an online meeting between the Tatmadaw and the AA on December

30.¹⁰⁸ The two sides also agreed to extend the temporary ceasefire until the end of February to allow for additional negotiations on a more permanent truce.¹⁰⁹

Myanmar government peace negotiators are seeking new rounds of peace talks with the Northern Alliance, which includes the AA, the Ta'ang National Liberation Army (“TNLA”), the Kachin Independence Army and the Myanmar National Democratic Alliance Army.¹¹⁰ Lamai Gum Ja, a member of the Peace-Talk Creation Group, said the meeting will continue discussions of a possible bilateral ceasefire agreement between the government and the Northern Alliance.¹¹¹ A TNLA spokesperson said the Northern Alliance is amenable to the government’s peace proposal.¹¹²

On January 1, Myanmar State Counselor Aung San Suu Kyi introduced a new approach to the country’s peace process, the “New Peace Architecture,” designed to allow participation by political groups, civil society organizations and the public.¹¹³ She said that both formal and informal dialogues will be pivotal to the peace process and that the government will prioritize implementation of the new approach over the next five years.¹¹⁴ “We recognize the important role of public participation [in the peace process]. This depends on how much we can pave the way for all stakeholders to participate,” she said, calling for changes to the frameworks, systems and mechanisms of the peace process so that it can be more effectively implemented.¹¹⁵ She said the Constitution must be amended to establish a democratic federal union.¹¹⁶ She also called for a Constitution that aligns with existing peace agreements, the long-term needs of the country and the expectations of the people.¹¹⁷

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- 30 *Id.*
- 31 The Irrawaddy, January 19, 2021: <https://www.irrawaddy.com/news/burma/myanmar-military-files-defamation-charge-nld-lawmaker.html>.
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- 34 Mizzima, February 2, 2021: <http://mizzima.com/article/uk-summons-myanmar-ambassador>.
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- 39 Mizzima, January 30, 2021: <http://mizzima.com/article/un-secretary-general-follows-developments-myanmar-great-concern>.
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59 Development Media Group, January 25, 2021: <https://www.dmediag.com/news/2569-dmg-news>.

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61 The Irrawaddy, January 25, 2021: <https://www.irrawaddy.com/news/burma/myanmar-military-sues-rakhine-media-theft-allegations.html>.

62 Human Rights Watch, September 1, 2020: <https://www.hrw.org/news/2020/09/01/myanmar-end-harassment-rakhine-media-outlets>. The loss of print media has significantly affected information access in parts of Rakhine State, where 3G and 4G are unavailable, and which is still under internet shutdown. As Human Rights Watch has noted, though “2G data services can allow some limited downloading, the speed is drastically slower than 3G and does not allow access to webpages with pictures or videos.”

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