A briefing by Arakan Oil Watch
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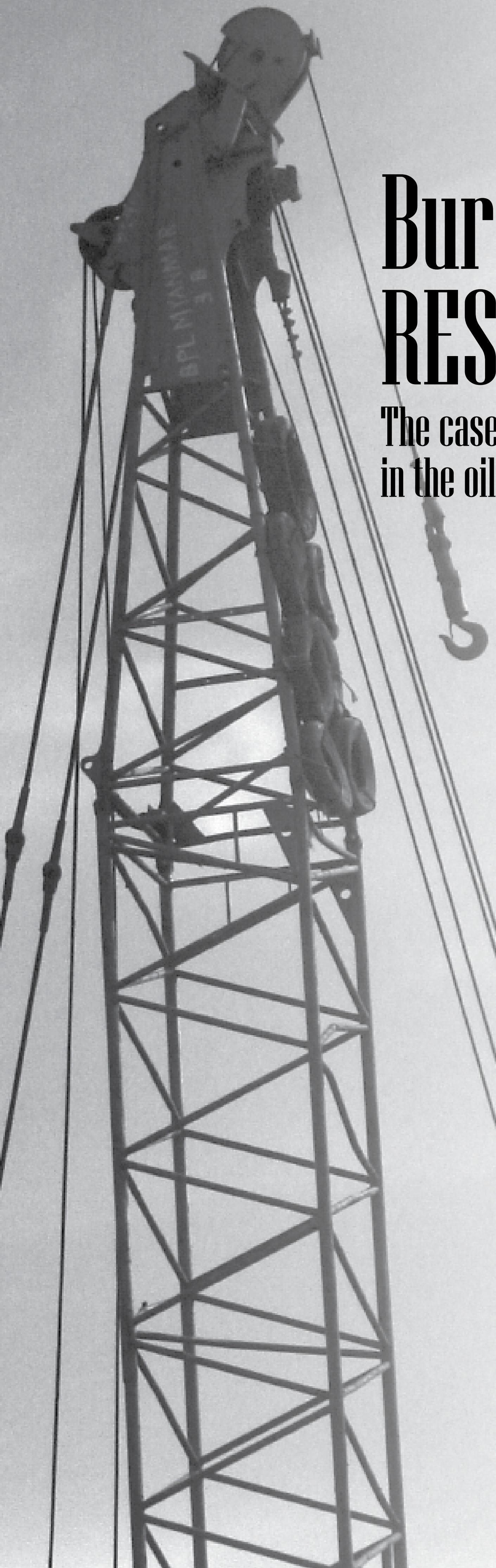


Burma's RESOURCE CURSE

The case for revenue transparency in the oil and gas sector

Burma is rich in natural resources. Exports of natural gas alone amount to approximately US$2.5 billion in annual revenues, and these are expected to increase by 60% as three additional production blocks come on line as early as next year. Yet despite this enormous wealth, Burma is one of the poorest countries in the world.

A lack of transparency around revenues from the sale of oil, gas and other natural resources, a lack of an accountable system to manage revenues, and a lack of equitable benefit sharing of resource revenues are perpetuating a resource curse in Burma.

It is a country crippled by corruption, censured for major human rights violations, and continuing to suffer from a decades-old civil war between the ruling government and ethnic peoples. The country's major businesses are controlled by military companies and cronies. Projects which extract and export natural resources have directly led to human rights abuses such as forced labor, land confiscation, rape and displacement, as well as severe environmental degradation. The revenues from these projects have in turn helped prop up authoritarian rule and enrich top military generals.

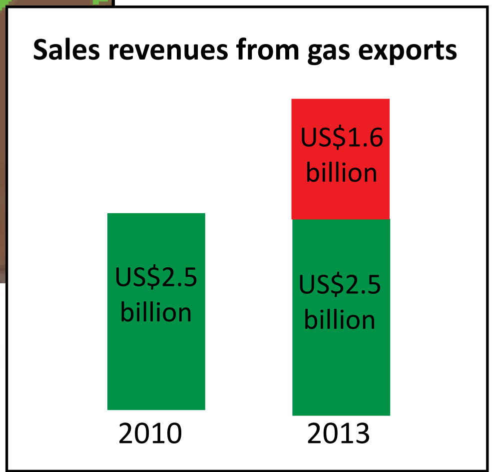
There is therefore an urgent need for Burma to manage oil and gas revenues with a greater transparency and accountability as well as to reform its military-dominated economy to ensure that the benefits of the country's resources are shared more equitably among its people and for the country's sustainable development.

Oil and gas fields: Money in the pipeline

Global Corruption Ranking 2011

180	Afghanistan
180	Myanmar
182	Korea (North)
182	Somalia

* ranked out of 183 countries worldwide



In June 2011 a 17-year old ceasefire was broken in Kachin State; the fighting has displaced an estimated 60,000 people. Control of the state's natural resources is at the heart of the conflict.

PROLONGING CONFLICT

The majority of lucrative resources in Burma, including oil and gas, are extracted from ethnic states and exported to neighboring countries. The revenues from the sale of these resources are not shared back with the resource owner states. These states also do not receive compensatory social or environmental funds although they bear the burden of environmental destruction and human rights abuses that accompany the extraction and export of resources. Similar to other countries in the world, decisions about the ownership and use of natural resources – i.e. the equal sharing of benefits – remains a key factor fueling conflict in Burma today.

GAS MONIES AND MILITARY CONTROL

Gas revenues: A boon for weapons purchase and military build up

Although Burma has no external enemies, its Army has almost doubled since 1988, and with an estimated 492,000 soldiers, it is considered the largest in the region. Human rights abuses of civilians, including killing, torture and rape, are being committed by the Burma Army until today.

Revenues from the export of gas are the country's biggest foreign income source and keep the armed forces equipped. Military purchases since gas revenues have started to flow include armored personnel carriers, tanks, fighter aircraft, radar systems, surface-to-air missiles and short-range air-to-air missile systems.

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Military parade in the new capital which cost over US$200 million to build

Shortly after receiving the first payment of US$100 million for the sale of the Yadana gas to Thailand, the Than Shwe regime purchased 10 MiG-29 aircraft from Russia at a cost of about US$ 130 million. Since then, military purchases worth billions were made from China, Russia, India, Singapore, Pakistan, North Korea, Ukraine and Israel.

In 2009, while the Tripartite Core Group (UN, ASEAN, and Burma's junta) was seeking US$693 million for urgent humanitarian assistance for the more than 100,000 people affected by Cyclone Nargis, the military regime made a US$630 million purchase of twenty MiG-29 fighter jets and MiG-35 attack helicopters from Russia.

Military enterprises controlling gas revenues?

UMEHL, the Union of Myanmar Economic Holding Limited (known in Burmese as "U Pai") is a military-run enterprise that manages the Armed Forces' pension fund. UMEHL is well known as a major arms dealer for the military regime as 40% of the company's shares are owned by the Directorate of Procurement at the War Office.

As oil and gas revenues are the single largest income source for the regime, it is widely believed that UMEHL has access to these revenues for the purchase of weapons.

In Burma the exploration, extraction, sale, and production of oil and natural gas, as well as other natural resources, are undertaken by State Owned Enterprises which are commonly chaired by in-service or former military generals. UMEHL, together with the Myanmar Economic Corporation (MEC), another military enterprise, have been involved in a majority of business activity in Burma for over twenty years. Many major foreign investments are channelled through UMEHL, which since 1999 has set up 50 joint ventures with foreign firms.

Arms dealer

Lieutenant General Tin Aye, chairperson of UMEHL from 2002-2010 and ranked Number 5 in Burma's armed forces, has made official visits to China, Russia and Ukraine to buy arms and military equipment. He is a liaison for military cooperation between Burma and North Korea and is allegedly involved in acquiring nuclear technology.

MIZZIMA

BURMA'S REVENUE BLACK HOLE

Where's the money?

Since receiving its first payments for the export of gas in 2001 until today, both the military junta led by Than Shwe and the current Thein Sein regime have not disclosed how gas revenues enter the country or how they are managed. The gas money is not entered into public accounts or the national budget, so where is it? Most analysts speculate that payments are deposited into foreign bank accounts which are accessed by military generals for arms purchases and personal expenses.

Missing billions: dual exchange rates under-calculate revenue value

Gas revenues in Burma are recorded at the 'official' exchange rate of 6 kyat: US$1 while the market exchange rate ranges from 800-1,000 kyat: US$1, leaving billions of dollars worth of gas payments completely unaccounted for.

Pocket money: contracts and bonuses worth millions undisclosed

There is no public information on how much companies pay as signature bonuses for each signed contract to explore and produce oil and gas in Burma. Since 1988 Burma has signed over 40 such contracts, each worth millions of dollars. Yet how much, how, and to whom companies pay for these contracts, and how the revenues are utilized, are a complete secret.

Unknown money flows: no audit of state entities

None of the agencies or enterprises involved in the oil and gas sector, including the state-owned Myanmar Oil and Gas Enterprise, undergo independent auditing or disclose how gas income is spent.

Corruption: the sponge that soaks up the money

The secrecy and lack of accountability mechanisms around oil and gas revenues provide a perfect enabling environment for corruption. According to nine Wikileaks cables, in early 2009 military regime leader Than Shwe considered a US$ 1billion bid to buy Manchester United FC, one of the most expensive football clubs in the world, yet where the General got the funds to consider such a bid is unknown.

Corporate irresponsibility: no disclosure by investors

The 10 major companies currently operating and/or investing in Burma's oil and gas sector do not disclose how much or how they pay for Burma's gas.

WINDS OF CHANGE?

General Thein Sein now president

Former military officers control key positions in new government

Following military-controlled elections in November 2010, former military officers, including President Thein Sein and 28 out of 35 high level cabinet ministers, took control of key positions in the new regime. All 28 former military officers resigned their military posts just weeks before the election. Under the new government, former military generals head the ministries of Burma's largest money-making sectors - energy, mining, and electricity.

Budgetary process not transparent

In 2012, a budget drafted by the president was submitted to Parliament for some debate on allocation decisions, which was an improvement over the previous year. However, the source of budget revenues, including revenues from the sale of oil and gas, remain undisclosed. This makes it impossible to calculate whether all gas payments have been entered into the budget and, if so, at what exchange rate. This lack of transparency makes it impossible to allocate gas revenues for specific expenses, such as social spending.

No taxes for military enterprises

Government enterprises and military owned companies are exempt from the "Withholding Tax" law enacted on January 1, 2011; they are not required to pay any taxes.

Management of gas revenues, role of military enterprises remain opaque

Under the new regime, there continues to be no public information on whether gas revenues are managed by the Ministry of Finance and Revenue or whether gas accounts continue to be accessed by military enterprises such as UMEHL and MEC.

In March 2011 a Public Accounts Committee was formed to "scrutinize the budget of the Union Government" yet it is uncertain how or if this committee will be able to manage oil and gas revenues. According to the laws and rules establishing the committee, proceedings of committee meetings should "not be leaked out" and meeting minutes "shall not be handed out."

Budgetary autonomy of defense expenditures: The Special Fund Law

On January 27, 2011, just four days before the newly elected parliament opened, General Than Shwe enacted The Special Fund Law. This law establishes reserve funds which are to be allocated for "defending the Constitution and the State from external and internal threats." According to the law, the commander of the Armed Forces has free rein to determine expenditures from the fund, which cannot be audited.

SHWE GAS FOR CHINA, NOT ARAKAN STATE

A campaign demanding 24-hour electricity in gas-producing Arakan State before any gas is exported highlights the continuing lack of equitable benefit sharing under Burma's new government. Arakan is the second-poorest state in the country and 90% of households use wood for cooking fuel.

The upcoming Shwe gas project in the state is expected to produce 500 million cubic feet of natural gas per day for 30 years. Although Burma suffers from chronic energy shortages, the vast majority of the gas will be exported to China.

Poverty rates are high in Arakan State

CORPORATE IRRESPONSIBILITY

Companies operating in Burma face significant financial, reputational and legal risks. According to a 2011 study on respect for the rule of law, Burma is rated Number 1 among 197 countries for "extreme risk" to investments, offering the least legal protection for foreign companies and investors and being least transparent in implementing policies and regulations.

In addition, extraction projects are proceeding in active conflict zones and increasing foreign presence coupled with the lack of local benefits from such projects is contributing to rising local resentment, putting investments under threat of retaliatory attacks. The abuses associated with such projects have led to lawsuits, consumer boycotts, and withdrawal of shareholders, ruining the reputation of investing companies.

Companies can reduce risks, safeguard their business, and attract more investors by adhering to international revenue transparency guidelines and corporate social responsibility standards. In turn, shareholders are more likely to invest in a company that operates in a country where revenue transparency is practiced rather than in corrupt nations such as Afghanistan, Somalia and Burma.

Despite this, a brief analysis of the 10 major oil and gas companies currently operating and/or investing in Burma's oil and gas sector reveals that participation in international initiatives encouraging business transparency is extremely limited and only half are – or have major subsidiaries that are – listed on a major international stock exchange. The majority of the companies are from Asia and relatively new to international exploration.

Company	Country of origin	Major projects in Burma	UNGC*	EITI**	Transparency International Ranking***
Daewoo International	Korea	Shwe Natural Gas Project	No	No	N/A
CNPC	China	Trans-Burma China pipelines; Shwe Natural Gas Project	No	No	Low
ONGC Videsh	India	Shwe Natural Gas Project and 8.35% stake in Trans-Burma China pipelines	Yes	No	Low
PTTEP	Thailand	Yadana and Yetagun Natural Gas Project	No	No	N/A
CNOOC	China	Onshore and offshore oil blocks	Yes	No	Low
Total	France	Yadana Natural Gas Project	Yes	Yes	Mid
Chevron	USA	Yadana Natural Gas Project	No	Yes	Mid
GAIL	India	Shwe Natural Gas Project and 4.17% stake in Trans-Burma China pipelines	No	No	N/A
KOGAS	Korea	Shwe Natural Gas Project	No	No	N/A
Petronas Carigali	Malaysia	Yetagun Natural Gas Project and offshore blocks	No	No	Low

*UNGC: the United Nations Global Compact encourages businesses to work against corruption
** EITI: the Extractive Industries Transparency Initiative (EITI) calls on extractive industry companies to disclose revenue payments.
*** Transparency International Ranking: High performers disclose information systematically on a country-by-country basis, go beyond existing mandatory regulations applicable to them and have strengths in different areas of transparency. Middle performers mainly disclose information by geographical area and a few selected countries of operation. Low performers disclose only by region and provide almost no information relevant to revenue transparency.

TRANSPARENCY MECHANISMS

Burma is currently not following any international standards on revenue transparency, including the International Monetary Fund's guide on transparency, the Extractive Industries Transparency Initiative, the UN Convention Against Corruption and the Natural Resources Charter. These standards call for a legal framework on how revenues are spent, indpendent auditing, an open budget process, public disclosure, and active engagment of civil society.

Oil-producing countries from around the world, including Indonesia, Brazil, Norway, the United States, East Timor, and Sudan provide models of revenue transparency mechanisms that could be applied in Burma. After analyzing these countries in a series of case studies, Arakan Oil Watch makes the recommendations listed below.

One thing is sure: systems for public disclosure of money flows, independent revenue management and auditing, civil society input, and equal benefit sharing are necessary for avoiding the curse of natural resources and the revenues they generate.

Sudan ended decades of civil war with an agreement to share oil revenues equitably

Residents of the state of Alaska in the United States receive dividends from oil revenues

RECOMMENDATIONS

- The establishment of functioning mechanisms for revenue transparency and accountability should be a prerequisite for any economic engagement with the new military-backed government in Burma by **international governments and banks**.

- **Corporations** should refrain from any new investments in Burma's oil and gas sector until legitimate laws and mechanisms to implement proper protection of human rights and the environment, as well as to ensure revenue transparency, are established and functioning.

Prior to inviting further foreign investments, **Burma's government** should:

1 Immediately disclose the full amount of gas revenues, where the revenues are, how they are managed, and how they have been spent
2 Establish and enforce revenue laws in order to manage oil and gas revenues transparently, accountably and sustainably, including requiring corporations to disclose payments, production, and project costs
3 Establish a separate oil and gas revenue fund which is overseen by an independent management body that includes members from civil society
4 Establish a benefit sharing system whereby affected communities and producing regions receive a portion of oil and gas revenues
5 Establish and enforce laws that require Free, Prior and Informed Consent before project implementation and to conduct and publish mandatory Environmental, Social and Health Impact Assessments for all oil and gas projects before implementation
6 Establish and enforce laws to protect human rights and the environment from resource extraction projects, including requirements for de-comissioning and clean-up procedures

END THE CURSE

Although Burma is rich in oil and gas, military leaders have been exporting these resources for over a decade, leaving the people to suffer from chronic energy shortages and some of the lowest development indicators in the world.

How revenues from the sale of gas resources are spent is not known, yet it is clear that government spending for social development is paltry while the military continues to expand. Inequitable sharing of resource benefits is also contributing to ethnic conflicts.

Although a new "civilian" government is now in place, under Burma's new constitution, the military remains firmly outside the law and beyond civilian control. The role of military companies in Burma's economy and in accessing and managing Burma's massive oil and gas revenues remain unknown and unregulated. Foreign oil companies engaging in Burma's oil and gas sector also refuse to publish how much and how they pay the military regime.

It is urgently needed to ensure transparency and sound management of the country's largest source of foreign income - revenues from the export of oil and gas - and address military dominance in the economy. Without this, corporations, banks, and governments that engage with Burma today will simply prolong the country's resource curse.

Pipeline that will take gas to China being built in Shan State, Burma

Full version report at
www.arakanoilwatch.org
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