

# BURMA BULLETIN

XXXXXXXX A month-in-review of events in Burma XXXXXXXX

ALTERNATIVE ASEAN NETWORK ON BURMA  
advocacy, capacity-building & strategic interventions for human rights & democracy

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- **Counter-terrorism proposal approved without vote, claims insufficient evidence.**

## **KEY STORY: SECRET ROHINGYA REPATRIATION DEAL SPARKS ALARM, CRITICISM**

On 6 June, Burma/Myanmar, the United Nations High Commission on Refugees (UNHCR), and the United Nations Development Programme (UNDP) signed a memorandum of understanding (MoU) to repatriate approximately 700,000 Rohingya refugees from Bangladesh. The UN said the agreement aimed to create conditions for the “voluntary, safe, dignified and sustainable” return of refugees, while the UNHCR and the UNDP will be given unspecified levels of access to Arakan/Rakhine State – the first time since violence broke out in August

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2017.<sup>1</sup> A statement from the Ministry of the Office of the State Counsellor said the UN was invited to take part in “various stages of resettlement”, with UNDP assisting in “recovery and resilience-based development” and UNHCR tasked with assisting the “voluntary repatriation and reintegration” of returnees.<sup>2</sup>

At the request of the Burmese government, the full MoU text was not made public, leaving many concerned about transparency. Rights groups, journalists, and fellow UN officials called for its publication, while a statement from two-dozen Rohingya groups said “false promises” from Burmese authorities “characterized by cheating and brutality” made the lack of transparency alarming.<sup>3</sup> Negotiations took four months due to heated discussions surrounding citizenship and identity, with the UN’s reference to “refugees in Bangladesh” – as opposed to Rohingya – in their MoU press release regarded as a sign of Burmese influence.<sup>4</sup> UN resident and humanitarian coordinator in Burma, Knut Osby, told reporters the MoU specified the Rohingya need to live in safety, be provided basic services, and have access to a “predictable pathway to citizenship”. Osby also stated parties were in “discussion about publicly releasing the contents of the MoU”.<sup>5</sup>

Within Burma, concerns surrounding national sovereignty were paramount, as the Minister for Labor, Immigration and Population moved to calm Arakan National Party and Tatmadaw concerns over the invitation to UN agencies to help with the Arakan issue. “We don’t need to worry about the UN [agencies] coming into the country,” Thein Swe told reporters. “The government has taken steps that are in the nation’s best interest.”<sup>6</sup>

### **Draft MoU leaked as Burma rejects review of citizenship laws**

On 29 June, Reuters reviewed a leaked draft copy of the MoU, apparently written a day before the deal was signed, with key sections consistent with a background briefing given by UNHCR to diplomats and NGOs.<sup>7</sup> The leaked MoU showed that returning Rohingya have no guarantee of citizenship or freedom of movement throughout the country. The MoU stated “returnees will enjoy the same freedom of movement as all other Myanmar nationals in Rakhine State, *in conformity with existing laws and regulations*”, suggesting existing restrictions on movement will remain in place.

Critics said the UN failed to win strong concessions from the Burmese government, with Amnesty International (AI) saying the MoU amounted to “returning them [Rohingya] to an apartheid state”. On 27 June, Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, called the lack of transparency “disconcerting”, while criticizing UN agencies for failing to include refugees in discussions, as well as for “failing to recognise Rohingya living in Bangladesh as refugees and as Rohingya.”<sup>8</sup> UNHCR officials reportedly told Rohingya leaders privately that the agreement was primarily concerned with gaining access to northern Arakan for aid agencies.<sup>9</sup>

Adding to concerns was a 27 June report alleging that Social Welfare Minister Win Myat Aye told Western diplomats in Copenhagen that proposed reviews of the 1982 citizenship law that rendered Rohingya stateless could not be implemented. “He made it very clear that citizenship reform was a non-starter,” said an anonymous source present at the 8 June meeting. Win Myat Aye, who is overseeing reconstruction plans in Arakan State, said Burma began implementing only 80 of 88 recommendations made by Kofi Annan Commission, due to political and practical differences with the remaining eight. Other stumbling blocks included the creation of an independent body to review citizenship verification complaints and the establishment of a feedback mechanism on government performance.<sup>10</sup>

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<sup>1</sup> CNN (31 May 18) UN reaches deal with Myanmar to repatriate Rohingya refugees

<sup>2</sup> Ministry of the Office of the State Counsellor Press Release (06 Jun 18) Government of Myanmar and UN Agencies sign MoU on assistance to repatriation process of displaced persons from Rakhine State

<sup>3</sup> The Washington Post (12 June 18) The U.N. and Burma signed a deal to resettle Rohingya refugees, but no one knows what’s in it

<sup>4</sup> The Washington Post (12 June 18) The U.N. and Burma signed a deal to resettle Rohingya refugees, but no one knows what’s in it

<sup>5</sup> The Washington Post (12 June 18) The U.N. and Burma signed a deal to resettle Rohingya refugees, but no one knows what’s in it

<sup>6</sup> The Irrawaddy (14 June 18) Repatriation Deal With UN No Threat to Sovereignty, Minister Says

<sup>7</sup> Reuters (29 June 18) Secret U.N.-Myanmar deal on Rohingya offers no guarantees on citizenship

<sup>8</sup> OHCHR (27 June 18) Oral update by Ms. Yanghee Lee, Special Rapporteur on the situation of human rights in Myanmar at the 38th session of the Human Rights Council

<sup>9</sup> Reuters (29 June 18) Secret U.N.-Myanmar deal on Rohingya offers no guarantees on citizenship

<sup>10</sup> Reuters (27 June 18) Exclusive: Myanmar rejects citizenship reform at private Rohingya talks

## Signing of MoU comes amid continuing sanctions efforts

On 24 June, the European Union (EU) imposed asset freezes and EU travel bans upon seven senior Burmese military officials – ranking from Commander of the Bureau of Special Operations to commanders of police battalions – for the grave human rights abuses committed by the Tatmadaw and security forces in Arakan State.<sup>11</sup> The EU also extended an arms embargo and prohibited any cooperation with the Tatmadaw, marking a change in diplomacy after suspending restrictive measures in 2012 to support the Burmese shift to democracy. On the same day, Canada imposed sanctions barring Canadians and people in Canada from dealing with the listed officers.<sup>12</sup> Within hours of the announcement, the Tatmadaw released a statement saying that one of the sanctioned generals, Maj Gen Maung Maung Soe, was fired. The office of Sr Gen Min Aung Hlaing added that the general displayed “weakness” in the face of militant attacks on police outposts in the country’s western Arakan State in 2016 and 2017.<sup>13</sup> Another, Lt Gen Aung Kyaw Zaw, was “given permission to resign” in May after being removed from his original post.<sup>14</sup>

The sanctions were criticized for not targeting top national commanders.<sup>15</sup> It is notable they failed to target Commander-in-Chief Sr Gen Min Aung Hlaing who had authority over the LID 33 and 99, which were identified as having led the brutal crackdown that forced 700,000 Muslims to flee Burma. Military historian Thaug Wai Oo said only the commander-in-chief can deploy the light infantry divisions in major assaults.<sup>16</sup>

On 14 June, while on a three-day visit to Burma, Matt Pottinger, Senior Director for Asian Affairs at the White House National Security Council, said the US was looking at sanctions on military officials who “... should be held accountable for some of the atrocities”.<sup>17</sup>

## International Criminal Court pressure, more evidence that crackdown was orchestrated

Meanwhile, International Criminal Court (ICC) judges began collecting evidence at week-long, closed-door discussions at The Hague in mid-June. Among the documents considered was a report submitted by the Asian Legal Resource Centre and its partner Odhikar detailing first hand testimonies of rape and murder at the hands of the Tatmadaw.<sup>18</sup> On 21 June, the ICC judges announced a 27 July deadline for Burma to respond to a prosecution request concerning the movement of Rohingya across the border into Bangladesh.<sup>19</sup> ICC prosecutor Fatou Bensouda originally filed the request in April, stating that given the cross-border nature of the crime of deportation, a ruling in favor of ICC jurisdiction would be consistent with established legal principles, despite Burma not being a signatory of the Rome Statute [see *April and May Bulletins*]. Government spokesperson Zaw Htay said the Burmese government would ignore the request. “The ICC has nothing to do with Myanmar. Whatever [steps toward] prosecution the ICC has made, Myanmar has no reason to respond,” he said.<sup>20</sup>

On 26 June, AI listed the names of 13 senior Tatmadaw officials who should face trial for crimes against humanity and concluded that “military-led operations...amounted to an orchestrated campaign of murder, rape, torture, and destruction aimed at punishing the Rohingya population.” They named military chief Min Aung Hlaing, and his deputy, Vice Sr Gen Soe Win, as well as commanders of units responsible for “the worst atrocities,” eight other military members, and three Border Guard Police. AI called for the UN Security Council to refer the report’s findings to the ICC and impose an arms embargo along with financial sanctions.<sup>21</sup>

Also on 26 June, Reuters released a report detailing the actions of Tatmadaw 33rd and 99th light infantry divisions (LID)- ‘elite’ soldiers with a long history of brutal counter-insurgency campaigns against ethnic minorities- in Arakan State (see *Reports*). Through interviews with refugees in

<sup>11</sup>European Union (25 Jun 18) Council Decision (CFSP) 2018/900 of 25 June 2018 amending Decision 2013/184/CFSP concerning restrictive measures against Myanmar/Burma

<sup>12</sup> Reuters (25 June 18) EU, Canada sanction Myanmar generals over Rohingya; Myanmar says two are fired

<sup>13</sup> Washington Post (25 Jun 18) Myanmar fires general who led campaign against Rohingya

<sup>14</sup> Reuters (25 June 18) EU, Canada sanction Myanmar generals over Rohingya; Myanmar says two are fired

<sup>15</sup> Financial Times (26 Jun 18) EU imposes sanctions on Myanmar officers over Rohingya offensive

<sup>16</sup> Reuters (26 Jun 18) Tip of the Spear: The shock troops who expelled the Rohingya from Myanmar

<sup>17</sup> Frontier Myanmar (15 June 18) US to continue support for Myanmar: senior official

<sup>18</sup> The Guardian (23 June 18) Gang raped and set on fire: ICC pushes to investigate Myanmar Rohingya atrocities

<sup>19</sup> Reuters (21 June 18) ICC gives Myanmar deadline over Rohingya case jurisdiction

<sup>20</sup> The Irrawaddy (25 June 18) Government to Ignore ICC Request for Response on Rohingya Case

<sup>21</sup> Amnesty International (27 June 18) Myanmar: Military top brass must face justice for crimes against humanity targeting Rohingya

Bangladesh, Buddhists in Arakan, and members of the security forces, Reuters claim that both LIDs were deployed in the area as early as 10 August, before any attacks perpetrated by Rohingya militants, with the intention to “clear” it of “terrorists”. One commander reportedly told Rohingya groups at a meeting only days prior to the escalation of violence on 25 August: “We behaved very badly in Kachin – and they’re citizens. You’re not citizens, so you can only imagine how we’ll be.” What followed 25 August was a brutal campaign of death and destruction committed by both LIDs, as they effectively “herded” masses of Rohingya civilians into Bangladesh. Reuters implicated Tatmadaw chief Min Aung Hlaing as the “ultimate authority over the LIBs.”<sup>22</sup>

On 27 June, during the 38<sup>th</sup> session of the Human Rights Council, Special Rapporteur, Yanghee Lee called for those responsible for “decades of crimes” in Burma to “be investigated and prosecuted by the ICC or a credible international mechanism”. Lee also raised the plight of displaced people in Kachin and Shan states that have experienced “particularly brutal” conflict in recent months.<sup>23</sup>

### **‘Sham’ Arakan commission established; rumors of military-government rift over it**

On 31 May, the establishment of a new ‘independent’ commission of enquiry on Arakan/Rakhine state was announced. President Win Myint’s office stated the commission’s objective was to “investigate the violation of human rights and related issues following the August 2017 terrorist attacks by Arakan Rohingya Salvation Army (ARSA)” as part of a “national initiative to address reconciliation, peace, stability and development.” The commission will be composed of three members, one of whom will be an international representative assisted by domestic and international legal and technical experts.<sup>24</sup>

Questions arose over the purpose of this enquiry, as the existing UN-mandated fact-finding mission into Arakan rights abuses received no support from Burmese officials. It was speculated that the commission was the latest attempt to alleviate international pressure for an ICC referral. Two previous investigations conducted by the Tatmadaw in 2016 and late 2017, were condemned as biased and inaccurate. On 3 June, Human Rights Watch said justice would only be possible through the ICC, and dismissed the new commission as a “sham” and an “attempt to delay and deflect real justice”.<sup>25</sup>

### **Other Rohingya Crisis updates**

**2 Jun:** National Security Adviser Thaung Tun said Burma will take back all refugees who fled to Bangladesh, and commented “If you can send back 700,000 on a voluntary basis, we are willing to receive them...can this be called ethnic cleansing?”<sup>26</sup>

**16 Jun:** The Burmese Information Ministry said that Radio Free Asia and the BBC could no longer air television content through if they continued to use the word “Rohingya,” which is “strictly prohibited”. Both refused to censor their programs, which were broadcast locally by DVB TV, and quit their partnership, although they will continue to be available by radio, social media, and websites.<sup>27</sup>

**19 Jun:** Outgoing UN High Commissioner for Human Rights, Zeid Ra’ad al-Hussein, kept Burma under pressure in his parting remarks to the Human Rights Council, noting the government’s failure to cooperate with probes into rights abuses despite “clear indications of well-organised, widespread and systematic attacks continuing to target the Rohingya.”<sup>28</sup>

**20 Jun:** Aung San Suu Kyi blamed “hate narratives” from abroad for driving wedges between communities in Arakan State during a meeting with UN Special Envoy Christine Schraner Burgener. The envoy also met with government officials, civil society organizations, and communities in Arakan State during her 9-day visit.<sup>29</sup>

**29 Jun:** China’s FM Wang Yi, assured his Bangladeshi counterpart, Abul Hassan Mahmood Ali, that China will assist in refugee repatriation at a meeting in Beijing.<sup>30</sup>

<sup>22</sup> Reuters (26 June 18) Special report - The shock troops who expelled the Rohingya from Myanmar

<sup>23</sup> OHCHR (27 June 18) Oral update by Ms. Yanghee Lee, Special Rapporteur on the situation of human rights in Myanmar at the 38th session of the Human Rights Council

<sup>24</sup> Radio Free Asia (31 May 18) Myanmar to Set up Inquiry Commission to Examine Human Rights Violations in Rakhine

<sup>25</sup> Human Rights Watch (3 June 18) Myanmar’s Proposed Rakhine Commission Latest Sham

<sup>26</sup> Reuters (2 June 18) Myanmar says willing to take back all Rohingya refugees

<sup>27</sup> Washington Post (16 June 18) Myanmar is now erasing the Rohingya’s very name

<sup>28</sup> DVB (19 June 18) Outgoing UN human rights chief keeps Burma on notice

<sup>29</sup> Radio Free Asia (21 June 18) Aung San Suu Kyi Decries ‘Hate Narratives’ From Abroad Amid Myanmar’s Rohingya Crisis

<sup>30</sup> The Daily Star (29 June 18) China assures help in Rohingya repatriation

## HUMAN RIGHTS

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### Reuters journalists: ‘Evidence missing’, trial decision on 9 July

On 4 June, the defense team of Reuters journalists Wa Lone and Kyaw Soe Oo claimed that data supporting their defense was missing from police evidence submitted to the court by prosecutors. Defense lawyer, Than Zaw Aung, said communications records from the reporters’ phones before their arrest, that would help reveal “truth and justice”, were not included in a police report submitted in May.<sup>31</sup> Prosecutor Kyaw Min Aung told the court the call logs were not relevant to the confidential government documents allegedly found on the devices. Judge Ye Lwin rejected the defense’s request, saying a police IT expert demonstrated the files were extracted ‘systematically’ and without bias.<sup>32</sup>

There remain critical divisions over the timeline of events that led to the journalists’ arrest for allegedly obtaining secret documents on the Arakan/Rakhine crisis, with the defense claiming Wa Lone and Kyaw Soe Oo were the victims of a sting operation [see *April and May Bulletins*]. Phone logs remain important, as the defense claim Wa Lone was contacted by police to set up a meeting, while the prosecution claim it was the reverse.<sup>33</sup> Last month, Police Capt Moe Yan Naing testified that a senior officer ordered subordinates to hand Wa Lone secret documents to “trap” him [see *May Bulletin*].

On 11 June, Than Zaw Aung asked Police Capt Myint Lwin, during cross-examination, if he was aware that Wa Lone and Kyaw Soe Oo were “not allowed to sleep” for three consecutive days during the initial investigation after their detention on 12 December. Kyaw Soe Oo told reporters that he was made to kneel on the floor for “three to four hours” when he refused to give the address of a hotel where he was staying in Rangoon/Yangon or give details of the Reuters investigation.<sup>34</sup>

On 18 June, defense lawyers accused a police witness of being “unreliable” for violating police code. Police Maj Tin Win Maung admitted he obtained copies of statements made by all witnesses as “he wanted to know more about the case” as a senior investigating officer. Defense lawyer Khin Maung Zaw said the police officer’s actions violated the Burma Police Manual, rendering him an unreliable witness.<sup>35</sup> On 2 July, following six-months of hearings, Judge Ye Lwin said he would rule on whether the pair would be charged at their next hearing on 9 July. The Official Secrets Act carries a maximum penalty of 14 years in prison.<sup>36</sup>

### Other updates

**5 Jun:** Thu Siri Ya, a Buddhist monk, sued for the assault of a 14-year-old boy in Mandalay Region, has admitted to act but countersued the family for insulting religion over threats from the boy’s aunts. Video footage of Thu Siri Ya beating the boy to ‘teach him manners’ was shared on social media.<sup>37</sup>

**8 Jun:** Buddhist nationalist monks vowed to continue using Facebook in defiance of a ban from the social media giant for spreading hate messages. “It is a violation of freedom of expression,” said Thuseitta, a member of the Patriotic Myanmar Monks’ Union. “We will keep using Facebook with different names and accounts to tell the truth to people.”<sup>38</sup>

## ETHNIC AFFAIRS AND CONFLICT

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### Third session of Panglong Peace Conference set to start on 11 July

On 25 June, Zaw Htay, director-general of the State Counsellor’s Office, announced that the third session of the 21<sup>st</sup> Century Panglong Peace Conference will start on 11 July. The number of days will vary depending on the opinions of the working committee meetings.<sup>39</sup>

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<sup>31</sup> Reuters (4 June 18) Defence says Myanmar police withheld evidence from Reuters reporters’ phones

<sup>32</sup> Reuters (4 June 18) Defence says Myanmar police withheld evidence from Reuters reporters’ phones

<sup>33</sup> Reuters (4 June 18) Defence says Myanmar police withheld evidence from Reuters reporters’ phones

<sup>34</sup> Reuters (11 Jun 18) Reuters reports say deprived of sleep during Myanmar probe

<sup>35</sup> Reuters (18 June 18) Myanmar officer in Reuters case broke police code by copying statements - lawyer

<sup>36</sup> Reuters (2 July 18) Myanmar court to rule next week on whether to charge jailed Reuters reporters

<sup>37</sup> The Irrawaddy (5 June 18) Monk Sued for Assault Sues Victim’s Family for Insulting Religion

<sup>38</sup> Reuters (8 June 18) Myanmar hardline monks vow to stay on Facebook despite ban

<sup>39</sup> Myanmar Times (26 Jun 18) Panglong Conference 3<sup>rd</sup> session set to begin on July 11

## **KIA accuses Tatmadaw of human rights abuses on the seven-year anniversary of fighting in Kachin State**

On 9 June, the Kachin Independence Army (KIA) accused the Tatmadaw of genocide and human rights abuses including rape and murder. In a speech to mark the 7th anniversary of the resumption of the Kachin war, KIA spokesperson Col Naw Bu said that the KIA and the Tatmadaw clashed 3,862 times since the collapse of a bilateral ceasefire agreement in 2011.<sup>40</sup> In those seven years:

- 19 children were killed and 1,339 injured by landmines.
- The fighting destroyed 406 villages and drove some 130,000 people from their homes – including approximately 6,000 since early 2017 – to 13 camps spread across several townships.
- The Tatmadaw raped 124 women and murdered 90.
- At least 300 civilians were arrested; 78 were tortured in custody.<sup>41</sup>

## **HUMANITARIAN**

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### **Government announces plans to close all IDP camps in four states**

On 2 June, the Ministry of Social Welfare, Relief and Resettlement announced plans to close all camps for internally displaced persons (IDPs) in Kachin, Shan, Arakan/Rakhine and Karen/Kayin states. There are more than 169 IDP camps in Kachin and Northern Shan holding 120,000 IDPs.<sup>42</sup> Poe Ngeal, general-secretary of the Women's League of Burma, expressed concern about the consequences of the ministry's announcement, "as the IDPs will have to return to their homes, which they do not yet feel are fully safe."<sup>43</sup>

### **Kachin aid group forced to stop humanitarian work in rebel-held areas**

On 15 June, the Kachin Baptist Convention (KBC) stopped its humanitarian work in areas controlled by an ethnic militia in Kachin State after the Tatmadaw-controlled Border Affairs Ministry sent it a letter warning the Christian organization to stop going to areas held by the Kachin Independence Army (KIA).<sup>44</sup> The Tatmadaw said that KBC workers made trips to Border Points No. 6 and 8 in Waingmaw Township in early May where they delivered humanitarian aid, and threatened to charge members of the KBC with unlawful association under Article 17(1) if they continue to meet IDPs in rebel-controlled areas near the Chinese border.<sup>45</sup>

Rev Hkalam Samson, general-secretary of the KBC, said that since the Tatmadaw issued the letter, some KBC aid convoys were blocked. The Tatmadaw blocked UN agencies from delivering humanitarian aid to Kachin IDPs in KIA-controlled areas but allowed them to travel to government-held areas.<sup>46</sup>

## **ECONOMY/NATURAL RESOURCES**

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### **Fighting in Kachin State scares off investors, but not China**

Tun Kyaw Kyaw, assistant director of the Kachin State Directorate of Investment and Company Administration (DICA), said that clashes in Kachin State scared off investors, even those who expressed interest in investing in construction, mining, livestock, breeding, agriculture, electricity, and tourism in the area. He said that it was difficult for investors to come, given the instability of many areas in the state.<sup>47</sup>

On 18 May, the Kachin government signed a Memorandum of Understanding (MoU) with Yunnan-Hteinchone-Htein Chon-Hein Rong Investment Co Ltd to build the Myitkyina Economic Development Zone. The company promised to spend K1.6 billion (US\$1.16 million) on the project. Tun Kyaw Kyaw added that a Russian company also expressed interest in oil extraction in the state but shelved the plan as the fighting worsened.<sup>48</sup> Despite the lack of peace in Kachin State, some Chinese companies

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<sup>40</sup> The Irrawaddy (12 Jun 18) KIA Blasts Myanmar Military on Anniversary of Civil War in Kachin

<sup>41</sup> The Irrawaddy (12 Jun 18) KIA Blasts Myanmar Military on Anniversary of Civil War in Kachin

<sup>42</sup> Myanmar Times (05 Jun 18) Government launches talks to close all IDP camps

<sup>43</sup> The Irrawaddy (13 Jun 18) With Camps Slated for Closure, IDPs Fear for Safety in Home Villages

<sup>44</sup> RFA (15 Jun 18) Kachin Aid Group Halts Humanitarian Work After Threat by Myanmar Army

<sup>45</sup> The Irrawaddy (14 Jun 18) Main Kachin Aid Group Ordered to Halt Humanitarian Work in Rebel-Held Areas

<sup>46</sup> The Irrawaddy (14 Jun 18) Main Kachin Aid Group Ordered to Halt Humanitarian Work in Rebel-Held Areas

<sup>47</sup> Myanmar Times (21 Jun 18) Kachin fighting scaring off investors: official

<sup>48</sup> Myanmar Times (21 Jun 18) Kachin fighting scaring off investors: official

continued to invest in banana farming; State Parliamentarian Naw Li said that there were over 100,000 acres of Chinese banana plantations in the state as part of the government's poppy substitution program.<sup>49</sup> Villagers complained that their land was being lost to the expanding banana fields, and it was increasingly difficult to earn a living.<sup>50</sup>

### **International businesses linked to abuses in Rakhine, Kachin**

On 14 June, Japanese beer company Kirin admitted its subsidiary, military-operated Myanmar Brewery, made donations to the Tatmadaw during the height of its violent clearance operations of the Rohingya in Arakan/Rakhine State last year. Kirin told Amnesty International (AI) that Myanmar Brewery, jointly owned with Union of Myanmar Economic Holdings Limited (UMEHL), made three donations totaling US\$30,000 to military authorities between 1 September and 3 October 2017. Kirin said that the donations were initially intended for the Arakan State government to provide humanitarian support to victims, but admitted it was not aware of how the funds were ultimately used nor was it able to produce any paper trail of the transactions. Amnesty International called the situation "...a textbook example of why companies need to conduct human rights due diligence."<sup>51</sup> Kirin later confirmed Myanmar Brewery staff awarded one donation of US\$6,000 personally to Sr Gen Min Aung Hlaing, which he said would be used for "security personnel and state service personnel" operating in Arakan State, during a televised ceremony in Naypyidaw on 1 September 2017.<sup>52</sup>

AI called on Japan to investigate the payments and expressed disbelief that investors would donate to the Tatmadaw while its units were "carrying out ethnic cleansing of the Rohingya in northern Rakhine State", given the risk that the funds would be used by "military units involved in crimes against humanity."<sup>53</sup> Kirin decided to halt all donations in Burma/Myanmar while an investigation is under way.<sup>54</sup> Kirin currently controls 80% of the Burma beer market and operates two joint ventures with UMEHL.<sup>55</sup>

On 20 June, Swedish NGO Swedwatch released a report alleging machinery brands Caterpillar, Volvo, and Komatsu are implicated in rights abuses via sales of their products used at the Hpakant jade mines in Kachin State [see *Reports*].<sup>56</sup> The report detailed significant impacts related to operation of the three brands' machinery by domestic mining companies, including unlawful land confiscation, environmental destruction, and links to armed conflict. "[M]ining equipment companies fail to address risks associated with the irresponsible use of their products in this high-risk environment. Companies should step up their efforts and strengthen their adherence to human rights standards...", said Swedwatch researcher Therese Sjöström.<sup>57</sup> Consistent with the United Nations Guiding Principles for Business and Human Rights (UNGPs), businesses manufacturing mining equipment are responsible for preventing or mitigating negative human rights impacts of their products, even when abuses are caused by a third party, as is the case at Hpakant.<sup>58</sup> In response to Swedwatch's findings, US-based Caterpillar said it maintains a code of conduct, while Japanese Komatsu said it is considering conducting a human rights assessment. Swedish Volvo told Reuters it conducted a corruption probe of its Burma distributor and that the company does "not in any way contribute to any human rights abuses in Myanmar".<sup>59</sup> Kachin State is the center of Burma's multi-billion dollar jade industry but past reports have linked the industry to the continued conflict in the state, as both the Tatmadaw and Kachin Independence Army (KIA)

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<sup>49</sup> Myanmar Times (21 Jun 18) Kachin fighting scaring off investors: official

<sup>50</sup> Myanmar Times (22 Jun 18) Chinese banana plantations flourish as villagers lose their land in Kachin

<sup>51</sup> Amnesty International (14 Jun 18) Japan: Investigate brewer Kirin over payment to Myanmar military amid ethnic cleansing of Rohingya

<sup>52</sup> Amnesty International (14 Jun 18) Japan: Investigate brewer Kirin over payment to Myanmar military amid ethnic cleansing of Rohingya; Guardian (15 Jun 18) Japanese brewery gave donation to Myanmar army chief during Rohingya crisis; Min Aung Hlaing shared photos of the event on his personal Facebook account: The military chief's shared photos of the event on his own Facebook page

<sup>53</sup> Amnesty International (14 Jun 18) Japan: Investigate brewer Kirin over payment to Myanmar military amid ethnic cleansing of Rohingya

<sup>54</sup> Guardian (15 Jun 18) Japanese brewery gave donation to Myanmar army chief during Rohingya crisis

<sup>55</sup> Amnesty International (14 Jun 18) Japan: Investigate brewer Kirin over payment to Myanmar military amid ethnic cleansing of Rohingya

<sup>56</sup> Reuters (20 Jun 18) Caterpillar, Volvo, Komatsu linked to mining abuses in Myanmar: report

<sup>57</sup> Swedwatch (20 Jun 18) Press Release: Swedwatch report highlights human rights risks in sale of mining equipment to Myanmar

<sup>58</sup> Swedwatch (20 Jun 18) Report: Overlooked and Undermined: Communities affected by jade mining operations in Myanmar and the responsibilities of companies providing machinery.

<sup>59</sup> Reuters (20 Jun 18) Caterpillar, Volvo, Komatsu linked to mining abuses in Myanmar: report

generate income from the jade business.<sup>60</sup> The increased use of heavy machinery and negligent business practices at the Hpakant's mines caused frequent landslides, resulting in hundreds of deaths annually.

### **New Yangon City Project CEO reveals joint venture with Chinese partner**

On 23 June, at a town hall in Rangoon/Yangon, New Yangon Development Company (NYDC) CEO Serge Pun revealed the company has entered into a joint venture with state-owned China Communications Construction Company Ltd (CCCC) to develop the first phase of the New Yangon City project.<sup>61</sup>

This revelation conflicts with information disclosed only last month, in which NYDC announced it merely signed a framework agreement with CCCC to conduct preconstruction surveys for phase-one of the project [see *May Bulletin*]. NYDC previously said the agreement did not give CCCC the right to initiate infrastructure work and that the project would remain public to allow other companies to submit rival bids. However, at the town hall, Pun explained that the framework agreement included a joint venture between the two companies, with NYDC taking a 25% stake and CCCC the other 75%, including 95% of the income for three of the income-generating projects in phase-one.<sup>62</sup> He added that NYDC will provide land for CCCC for the development of six infrastructure works including bridges, roads, and power and water treatment plants. Despite these updates, NYDC appeared to still assert it will keep the bid public once CCCC's pre-project proposal is complete.<sup>63</sup>

As NYDC is fully owned by the Rangoon Regional Government, participants at the town hall also expressed concern about government involvement in business issues, but CEO Pun asserted that the NYDC's only goal is to attract private sector investment.<sup>64</sup> NYDC plans to develop 20,000 acres of land in phase-one of its project, including the construction of five village townships, two bridges, power plants, water and wastewater treatment plants and an industrial zone. NYDC quoted that the initial cost of phase-one is expect to exceed more than US\$1.5 billion [see *June Bulletin*].

On 18 June, urban planning experts warned that the location for the New Yangon City project is in a low-lying area prone to floods, as it is only five meters above sea level, and the required investment to develop the land would be "extremely costly". Town planner Aung Myint said that "[y]ou would need landfills as high as 30 feet if you want to build a new city there." NYDC CEO Serge Pun replied that a flood-risk assessment is underway and its recommendations will be integrated into the project plans.<sup>65</sup>

### **Other updates**

**11 June:** The Rangoon Regional Government's proposal for 12 additional development projects [see *May Bulletin*] was again criticized by the regional parliament for lack of details.<sup>66</sup> Lawmakers requested clarification on the cost of the projects, the timeline, the social and environmental impacts, as well as how currently-occupied land would be legally confiscated.<sup>67</sup> Dagon Township MP Kyaw Zeya asserted that is "unrealistic" to implement all projects simultaneously, suggesting that the government first set up a model industrial zone.<sup>68</sup> It is still unclear if these projects are also part of the wider New Yangon City project, as some of the proposed sites are the same.

**14 June:** Local company Kyaw KS Development Trading Co Ltd. is seeking approval for a five-year, large-scale sand mining project in Tenasserim/Tainintharyi Division without conducting the legally mandated environmental impact assessments (EIA).<sup>69</sup> The proposal is for the extraction of 5 million cubic meters of sand over five years – Burma's Environmental Impact Assessment Procedures stipulate that sand mining projects extracting more than 50,000 cubic meters per annum require an EIA. The company argued that the site was far enough away from the local community that an EIA was

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<sup>60</sup> Swedwatch (20 Jun 18) Report: Overlooked and Undermined: Communities affected by jade mining operations in Myanmar and the responsibilities of companies providing machinery; Global Witness (23 Oct 15) Jade: Myanmar's "Big State Secret"

<sup>61</sup> Irrawaddy (25 Jun 18) New Yangon City Project CEO Questioned About Role of Chinese Firm

<sup>62</sup> Irrawaddy (25 Jun 18) New Yangon City Project CEO Questioned About Role of Chinese Firm

<sup>63</sup> Frontier Myanmar (25 Jun 18) New city CEO Serge Pun quizzed over transparency, state role at public meeting

<sup>64</sup> Frontier Myanmar (25 Jun 18) New city CEO Serge Pun quizzed over transparency, state role at public meeting

<sup>65</sup> Irrawaddy (18 Jun 18) Experts Raise Alarm Over Flood-Prone Location of 'New Yangon City' Project

<sup>66</sup> Irrawaddy (11 Jun 18) Yangon Lawmakers Say Port Project Short on Specifics, Ask for Details; Irrawaddy (14 Jun 18) Yangon Lawmakers Call Local Govt's Industrial Zone Projects 'Unrealistic'

<sup>67</sup> Irrawaddy (11 Jun 18) Yangon Lawmakers Say Port Project Short on Specifics, Ask for Details

<sup>68</sup> Irrawaddy (14 Jun 18) Yangon Lawmakers Call Local Govt's Industrial Zone Projects 'Unrealistic'

<sup>69</sup> Myanmar Times (14 Jun 18) Experts object to firms' plans to mine sand in Tainintharyi Region

unnecessary, as it would not affect fishing site. Yet experts warn sand mining can damage the biodiversity, impact local livelihoods, and weaken the coast's resilience to cyclones.<sup>70</sup>

**28 June:** Farmers in Payathonzu Township, Karen/Kayin State reported illegal excavation of their lands and destroyed crops due to the installation of new fiber optic cables by Mytel, the military-owned telecoms company. Mytel affirmed they received approval from the proper administrative offices, but the farmers said they did not grant permission for use of their lands nor were notified prior to excavation and fear they will not receive proper compensation for their losses.<sup>71</sup>

**29 June:** The Myanmar Extractive Industries Transparency Initiative (EITI) launched its 2016 and 2017 annual reports concerning the status of the country's natural resources in Rangoon/Yangon.<sup>72</sup> EITI is a multi-stakeholder initiative that promotes accountable and transparent management of extractive resources – Burma joined the initiative in 2014 and is required to publish annual reports on key aspects of its natural resource management. Burma is the world's largest single source of jade and also supplies 90% of the world's rubies<sup>73</sup>, but the industry has been plagued by lack of transparency and human rights abuses.<sup>74</sup>

## DEMOCRACY AND GOVERNANCE

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### Anti-Corruption Commission stops pursuit of former minister, citing insufficient evidence

On 9 June, the Anti-Corruption Commission (ACC) announced that it found insufficient evidence of corruption to pursue legal action against former Finance Minister Kyaw Win.<sup>75</sup> “We are not saying that he is innocent. The stated reports are not strong enough to draw a conclusion to charge him under the law,” according to ACC Chairperson Aung Kyi.<sup>76</sup> The former minister was allowed to resign last month after it emerged he was the subject of bribery investigations [see *May Bulletin*].

On 6 June, the Lower House of Parliament approved the amendments the Anti-Corruption Law to grant the ACC more investigatory power [see *May Bulletin*].<sup>77</sup> The Union Joint Bill Committee will discuss the bill and following no objections, will deliver it to President Win Myint for final approval.

## PARLIAMENT WATCH

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### Counter-terrorism proposal approved without vote

On 15 June, the Parliament approved a counter-terrorism proposal – without holding a vote – which authorized government action against the Arakan Rohingya Salvation Army (ARSA) in cooperation with international agencies.<sup>78</sup> The proposal was a response to the ARSA attacks on Tatmadaw outposts in Arakan State in 2017 – attacks which prompted violent military action resulting in the mass exodus of almost 700,000 Rohingya [see *August 2017 Bulletin*] – and followed last month's controversial Amnesty International (AI) report detailing alleged ARSA-perpetrated massacres of Hindus in Arakan [see *May Bulletin*]. The counter-terrorism proposal was submitted by former Lt Gen Thaug Aye of the Union Solidarity and Development Party (USDP) and supported by various military representatives. Thaug Aye and others likened the security situation of Arakan to ethnic conflict in Kosovo, expressing concern that “Bengali” extremists (a derogatory term used for Rohingya Muslims) and ARSA terrorists are attempting to carve out a territory in Arakan State.<sup>79</sup>

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<sup>70</sup> Myanmar Ministry of Environmental Conservation and Forestry (29 Dec 15) Environmental Impact Assessment Procedure

<sup>71</sup> Coconuts (28 Jun 18) Army-Linked Telco Mytel Uproots Villagers' Plantations to Lay Fiber Optic Cables

<sup>72</sup> Myanmar International Radio (29 Jun 18) Press Conference on Extractive Industries Transparency Initiative (EITI)

<sup>73</sup> Myanmar Extractive Industries Transparency Initiative (Mar 18) EITI Report for the Period April 2015-March 2016: Oil, Gas and Mining Sectors

<sup>74</sup> Global Witness (17 May 17) Myanmar's Multi-Billion Dollar Jade Trade Contributing to Ethnic Armed Conflict, New Film Shows Ahead of Landmark Peace Talks; Global Witness (Oct 15) Jade: Myanmar's “Big State Secret”

<sup>75</sup> Irrawaddy (09 Jun 18) No Grounds to Act Against Ex-Planning and Finance Minister, Anti-Corruption Commission Says;

Myanmar Times (11 Jun 18) Corruption allegations against ex-finance chief don't hold up

<sup>76</sup> Myanmar Times (11 Jun 18) Corruption allegations against ex-finance chief don't hold up

<sup>77</sup> Irrawaddy (06 Jun 18) Amendments to Expand Authority of Anti-Corruption Commission in the Works

<sup>78</sup> Irrawaddy (18 Jun 18) Parliament Approves Govt Security Measures to Prevent Terrorism; Irrawaddy (16 Jun 18) This Week in Parliament

<sup>79</sup> Irrawaddy (18 Jun 18) Parliament Approves Govt Security Measures to Prevent Terrorism; Eleven (16 Jun 18) Lower House approves proposal to fight ARSA-organized terrorist acts together with international organizations and provide enough security in Rakhine

## WOMEN'S RIGHTS

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### **Prisons Department rejects MNHRC recommendation to close women's labor camp**

The Prisons Department responded that it had no plans to close a women's stone-breaking labor camp in Mon State despite last month's recommendation made by the Myanmar National Human Rights Commission (MNHRC) to do so.<sup>80</sup> Prisons Department Director Min Soe Htun said that no official notice for closure was received and that "the camps are needed". MNHRC recommended the shut down last month after concerns over the health of the women inmates.

## REPORTS

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**Amnesty International** [Myanmar: "We will Destroy Everything": Military responsibility for crimes against humanity in Rakhine state](#)

**Government of Burma/Myanmar** [Report to the People on the Progress of the Implementation of Recommendations on Rakhine State \(January to April 2018\) \[EN/MY\]](#)

**International Criminal Court** [Decision Inviting the Competent Authorities of the Republic of the Union of Myanmar to Submit Observations pursuant to Rule 103\(1\) of the Rules of Procedure and Evidence on the "Prosecution's Request for a Ruling on Jurisdiction under Article 19\(3\) of the Statute"](#)

**Myanmar Extractive Industry Transparency Initiative** [Myanmar EITI Annual Progress Report July 2017 – June 2018](#)

**Oxfam** [Displaced and Dispossessed: Conflict-affected communities and their land of origin in Kachin State, Myanmar](#)

**Swedwatch** [Overlooked and Undermined: Communities affected by jade mining operations in Myanmar, and the responsibilities of companies providing machinery](#)

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<sup>80</sup> Myanmar Times (08 Jun 18) No plans to shut women's labour camp: department