

One cannot step into the same river twice: making the Kaladan Project people-centred

June, 2013

www.kaladanmovement.org

Front (clockwise from upper left): Farmers engage in riverside cultivation; woman preparing tobacco leaves for transportation on the Kaladan River; fishing with a hand-net; local residents depend on water from the Kaladan River for household use such as drinking and washing

Back: Fishing boats set-off near Paletwa Town

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Executive Summary

The Kaladan Multi-Modal Transit Transport Project (hereafter “Kaladan Project”) will see the construction of a combined inland waterway and highway transportation system connecting Mizoram State in Northeast India with a Bay of Bengal deepsea port at Sitetway, Arakan State in Western Burma. The Indian government is entirely financing the Kaladan Project, and these funds are officially classified as development aid to Burma. Once completed, the infrastructure will belong to the Burma government, but the project is unquestionably designed to achieve India’s economic and geostrategic interests. The Kaladan Project - conceived in 2003, formalized in 2008 and slated for completion in 2015 - is a cornerstone of India’s “Look East Policy” aimed at expanding Indian economic and political influence in Southeast and East Asia. The Kaladan Project is being developed in Arakan and Chin States - Burma’s least-developed and most poverty-prone states - where improved infrastructure is badly needed. Yet it remains an open question whether the Kaladan Project will be implemented in a way that ensures the people living along the project route are the main beneficiaries of this large-scale infrastructure development.

This report from the Kaladan Movement provides an update on the progress of the Kaladan Project; assesses the potential Project-related benefits and negative impacts for people living in the project area; provides an overview of the current on-the-ground impacts, focusing on the hopes and concerns of the local people; and makes a series of recommendations to the Burma and India governments.

The Kaladan Project has the potential to provide a number of benefits for local people, such as:

- improved transportation infrastructure
- increased trade opportunities for local farmers and producers
- lower food prices and improved access to food
- employment opportunities on project construction and maintenance
- economic development for local small and medium sized enterprises

The Kaladan Project also has the potential to bring a number of negative impacts to local communities, such as:

- the use of forced labour during project construction
- land confiscation and forced eviction
- disruption of and loss of livelihoods
- increased presence of Burma Army troops
- restrictions on freedom of movement and access to transportation
- illegal taxation and extortion
- pollution and environmental degradation
- violations of indigenous peoples’ rights

This report is based on the findings from field research conducted by the Arakan Rivers Network in Arakan State, the Chin Human Rights Organization in Chin State, and the Zo Indigenous Forum in Mizoram State. Kaladan Movement field research includes baseline survey research and information collected from locally-based key informants. This field research is supported by analysis of official documents and media reports related to the Kaladan Project. The report also highlights relevant Burmese and Indian laws, and international human rights and environmental legislation, in assessing the Kaladan Project's current and potential impacts.

Whether the Kaladan Project provides a net benefit or a net loss to local people depends on the way in which the Project is implemented. The Kaladan Movement urges the project implementers to be pro-active in identifying potential negative impacts before they happen. In this light, the report examines the current impacts in the project area at this early stage of project implementation. It focuses on highlighting problematic impacts and proposing sensible practices and policies to prevent and mitigate these impacts in the future.

To date, six major negative impacts have been experienced by people living along the Kaladan Project route:

1. lack of consultation
2. lack of information and transparency
3. labour discrimination
4. land confiscation and forced relocation
5. threats to local cultural heritage
6. ecological destruction

The Kaladan Movement believes that the people living along the route of the Kaladan Project should be the main beneficiaries of this large-scale infrastructure development. Under no circumstances is it acceptable for human rights violations to be perpetrated during the implementation of the Project. The implementation of the Kaladan Project should be fully transparent, and should ensure full local public consultation and participation; the benefits of the project go to the least advantaged communities; and accountability for ALL stakeholders involved in the project. Unless and until these essential elements are fulfilled, the Kaladan Project should be suspended.

The Kaladan Movement recommendations to the governments of India and Burma:

1. Conduct fully-participatory consultations with local people
2. Prevent human rights abuses
3. Conduct Health, Environmental and Social Impact Assessments and make results public
4. Identify and develop a mitigation plan for potential negative health, environmental, social and economic impacts
5. Prioritize economic development for local residents
6. Prioritize employment opportunities for local residents

Recommendations

Kaladan Movement recommendations to the Burma government

- 1. Conduct fully-participatory consultations with local people:** the government of Burma must conduct community consultations along the proposed project route, and further ensure that the concerns and demands of the local people are meaningfully taken into account during project implementation. This should include taking all necessary steps to ensure that the project has the free, prior and informed consent of those living directly in the project area, that alternative options are explored, and that a transparent remedy process for those with project-related grievances is established.
- 2. Prevent human rights abuses:** the government of Burma must be proactive in ensuring that no human rights abuses occur in connection with the Kaladan Project. This should include human rights due diligence for all elements of the project, and cooperating with the ILO to hold workshops on forced labour and its prevention for all stakeholders (including Indian companies and all project sub-contractors).
- 3. Conduct Health, Environmental and Social Impact Assessments and make results public:** the government of Burma must ensure that comprehensive third-party Health, Environmental and Social Impact Assessments are conducted for all Phases of the Kaladan Project. Further, the name, qualifications and methodology employed by the firms conducting the impact assessments must be made public, and the findings must be widely distributed in the project area in local languages as appropriate.
- 4. Identify and develop a mitigation plan for potential negative health, environmental, social and economic impacts:** the government of Burma must be proactive in identifying - through public consultations and third-party Health, Environmental and Social Impact Assessments - and developing policies to mitigate potential negative health, environmental, social and economic impacts that may result from the Kaladan Project. These policies must be widely publicized at the local level.
- 5. Prioritize economic development for local residents:** the government of Burma must conduct an Economic Impact Analysis for the Kaladan Project, and based on the findings provide economic development assistance to local communities to ensure that they have the capacity to benefit from new opportunities that may come with the Kaladan Project. These measures should include the provision of low-interest agriculture extension credit, small business loans, and assistance accessing markets in India and other parts of Burma.
- 6. Prioritize employment opportunities for local residents:** the government of Burma must ensure that local people have access to employment opportunities related to the Kaladan Project. This should include developing quotas on the number of local workers hired during the construction phase, and government-led training programs to ensure that local workers have the skills needed to enter operation and maintenance positions in the future.

Kaladan Movement recommendations to the Indian government

- 1. Conduct fully-participatory consultations with local people:** the government of India must conduct community consultations along the proposed project route, and further ensure that the concerns and demands of the local people are meaningfully taken into account during project implementation. This should include taking all necessary steps to ensure that the project has the free, prior and informed consent of those living directly in the project area, that alternative options are explored, and that a transparent remedy process for those with project-related grievances is established. Indian companies should be strongly encouraged to run operations in Burma in accordance with Indian national laws, as an example of best practice.
- 2. Prevent human rights abuses:** the government of India must be proactive in ensuring that no human rights abuses occur in connection with the Kaladan Project. This should include human rights due diligence for all elements of the project, and cooperating with the ILO to hold workshops on forced labour and its prevention for all stakeholders (including Indian companies and all project sub-contractors).
- 3. Conduct Health, Environmental and Social Impact Assessments and make results public:** the government of India must ensure that comprehensive third-party Health, Environmental and Social Impact Assessments are conducted for all Phases of the Kaladan Project. Further, the name, qualifications and methodology employed by the firms conducting the impact assessments must be made public, and the findings must be widely distributed in the project area in local languages as appropriate.
- 4. Identify and develop a mitigation plan for potential negative health, environmental, social and economic impacts:** the government of India and Indian implementing companies must be proactive in identifying - through public consultations and third-party Health, Environmental and Social Impact Assessments - and acting to mitigate potential negative health, environmental, social and economic impacts that may result from the Kaladan Project.
- 5. Prioritize economic development for local residents:** the government of India must provide economic development assistance to local communities to ensure that they have the capacity to benefit from new opportunities that will come with the Kaladan Project. The Indian government should provide technical and financial assistance to ensure that farmers and entrepreneurs from Arakan and Chin States will be able to access markets in India's Northeast Region as well as the Indian sub-continent through the Kolkata port.
- 6. Prioritize employment opportunities for local residents:** the government of India must ensure that local people have access to employment opportunities related to the Kaladan Project. Indian companies must follow non-discriminatory labour practices, and prioritize the training of local workers to meet the qualifications of 'skilled' positions in the future.

The Kaladan Movement

This report was jointly produced by the Kaladan Movement, an alliance of civil-society organizations concerned about the human rights, social, economic, and environmental impacts of the Kaladan Project for local residents. The core members of the Kaladan Movement are the Arakan Rivers Network (ARN), the Chin Human Rights Organization (CHRO) and the Zo Indigenous Forum (ZIF).

We urge the governments of Burma and India to ensure that the Kaladan project is developed with full local public consultation and participation; to ensure that the benefits of the project go to the least advantaged members of the local communities; and to ensure full transparency and accountability for all stakeholders involved in the project.

The Arakan Rivers Network (ARN) is a civil society organization whose vision is a future where the people of Arakan have the knowledge and the right to protect their rivers from destruction, enjoying total sovereignty over their main source of food and means of travel. Further details about ARN can be found at: www.arakanrivers.net

The Chin Human Rights Organization (CHRO) is a non-governmental, non-profit human rights and advocacy organization committed to promoting democracy in Burma, and documenting previously unreported human rights violations being perpetrated against the Chin people by the Burma army and State authorities. Since it was founded, CHRO has documented extra-judicial killing, arbitrary arrest and detention, torture, rape and sexual violence, land and property confiscation, violations of religious freedom, military conscription and the use of child soldiers, and forced labour in its bi-monthly publication *Rhododendron News*. Further details about CHRO can be found at: www.chro.ca

The Zo Indigenous Forum (ZIF) is an indigenous peoples' organization based in Mizoram, Northeast India. ZIF works for the protection of and promotion of human rights, in particular to the social, economic and cultural rights of Zo indigenous peoples. Its activities include awareness raising and education on human rights, promotion of traditional knowledge including campaign for the recognition of indigenous language rights, campaign and advocacy to combat child labour and trafficking, empowerment of women, children and youth, and management of natural resources. Further details about ZIF can be found at: www.zoindigenous.blogspot.com

This Kaladan Movement report builds on the previous published work of civil society organizations including *Kaladan multi-modal transit transport project: a preliminary report from the Arakan Rivers Network* (2009) and *Collected News Articles and Essays about the Kaladan Multi-Modal Transit Transport Project* (2011).

Part 1:

Introduction to the Kaladan Multi-Modal Transit Transport Project

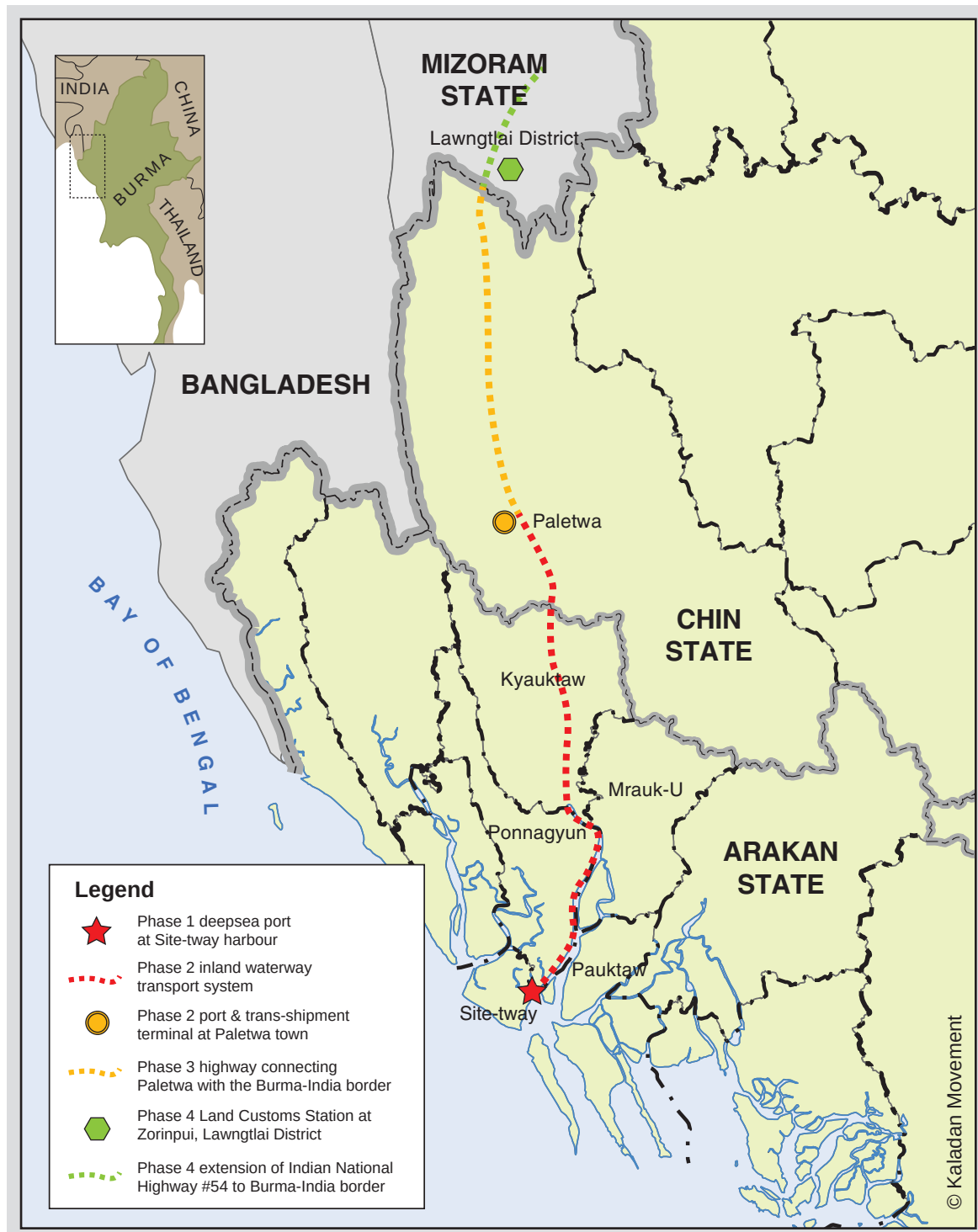
The Kaladan Multi-Modal Transit Transport Project (hereafter “Kaladan Project”) will connect India’s eastern seaport of Kolkata with its landlocked northeastern state of Mizoram by traversing Arakan and Chin States in Burma through a newly constructed river and highway transport system.¹ The project was conceived by the Indian government as a means to develop a trade route between its mainland and Northeast Region, and as a key element of its “Look East Policy.” The Indian government expects the Kaladan Project to lead to increased economic linkages with Burma and the rest of Southeast Asia. The original plan conceptualized the Kaladan Project as a pre-cursor to establishing a gas pipeline along the same route.² The financing for the entire Project - currently estimated at US \$214 million - is being provided through the Indian Ministry of External Affairs (MEA).³

In April 2008, Burma and India signed a foundational agreement titled the “Framework Agreement between the Government of the Republic of India and the Government of the Union of Myanmar for the construction and operation of a multi-modal transit transport facility on Kaladan River connecting the Site-tway port in Myanmar with the state of Mizoram in India.”⁴ Since the Framework Agreement work has progressed sporadically, and the Project is expected to be fully operational by 2015.

The Kaladan Project area

Approximately one million people live along the Kaladan river, the majority of who are dependent on the river for their livelihoods: as a fishing-ground, a means of transport, and a source of water for irrigation and household consumption.⁵

Figure 1 - Kaladan Multi-Modal Transit Transport Project: the 4 Phases of construction



The Kaladan Project construction can be conceptualized as four major Phases:

Phase One is the construction of jetties and a port facility at Site-tway in Arakan State to accommodate large cargo ships. The Inland Waterways Authority of India⁶ and ESSAR Projects Ltd.⁷ are the implementing partners, and the estimated completion date is June 2014.⁸

Phase Two is the dredging and widening of stretches of the Kaladan river into a 160 km inland waterway transport system for cargo ships, including the construction of a port and transshipment terminal at Paletwa Town in Chin State. The Inland Waterways Authority of India and ESSAR Projects Ltd. are the implementing partners, and the estimated completion date is June 2014.

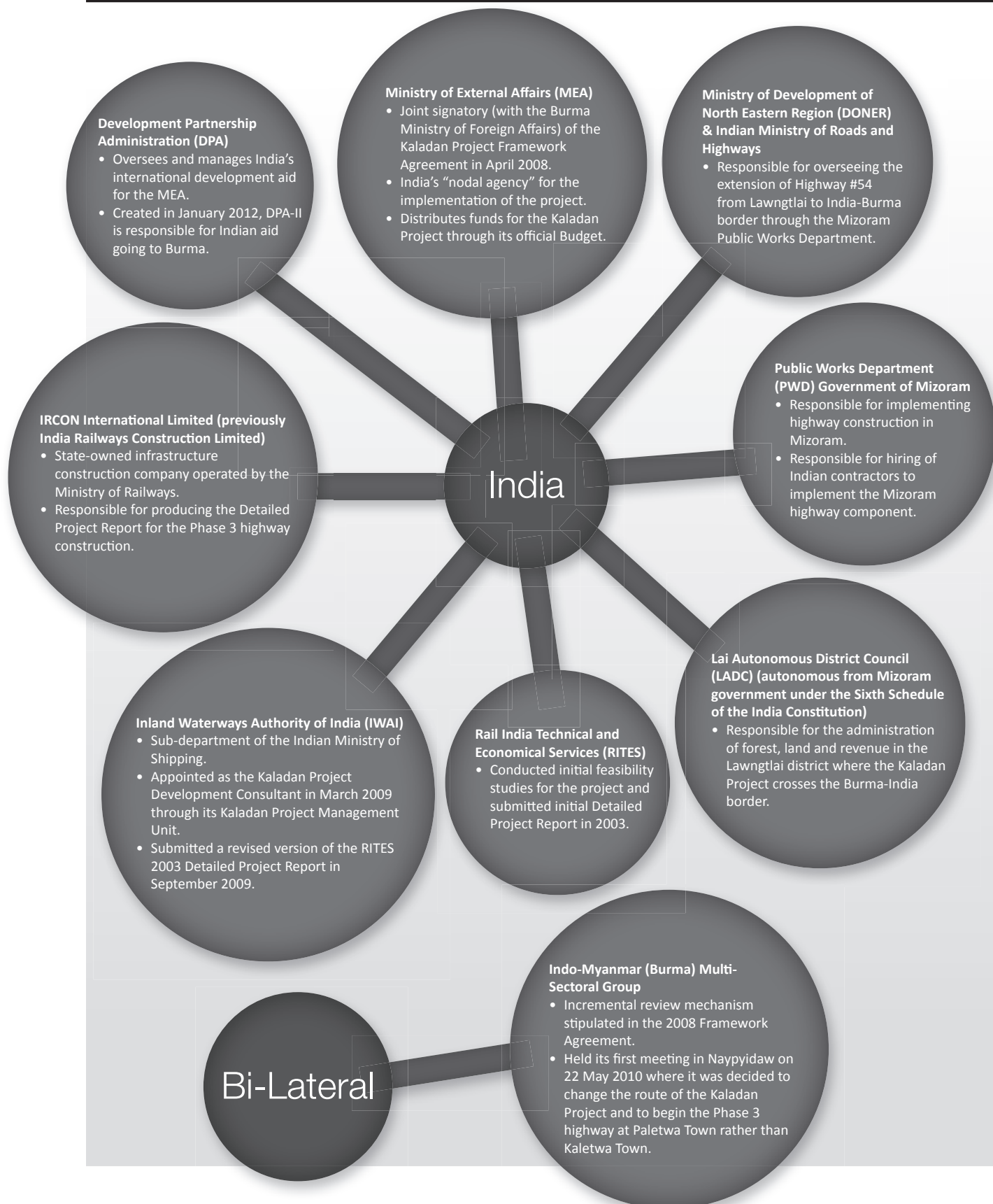
Phase Three is the construction of a 130 km two-lane highway from Paletwa Town to the Burma-India border crossing at MyeikWa/Lomasu. The exact route of the highway on the Burma side is not known as the revised Detailed Project Report has never been made public.^{9,10} The Burma Ministry of Construction and an as yet unnamed Burmese construction company - widely expected to be Max Myanmar Group of Companies based on the previous plan - will be the implementing partners for the road construction in Paletwa Township, and the estimated completion date is 2015.¹¹

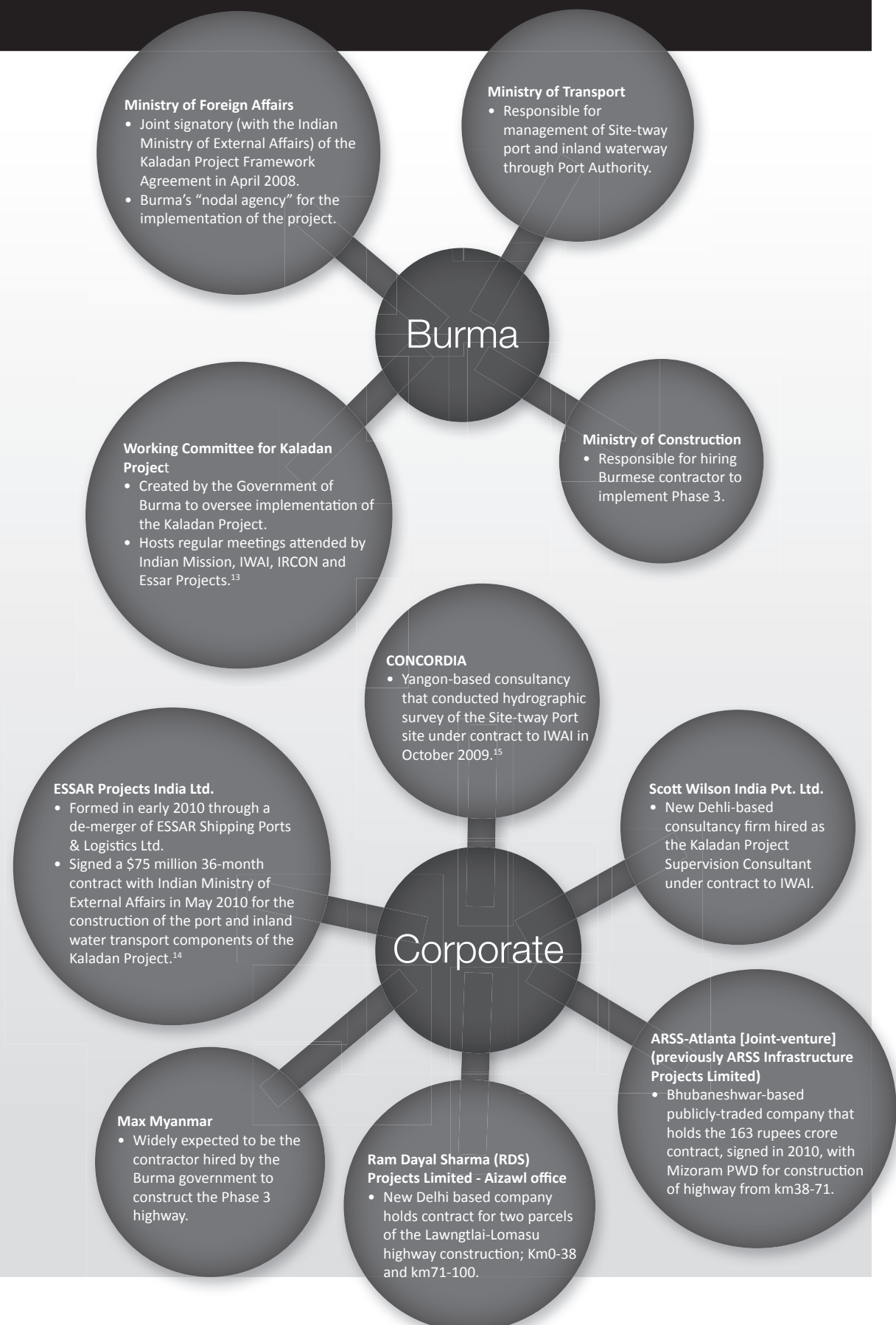
Phase Four is the construction of a 100 km two-lane highway in Mizoram State from Lomasu to Lawngtlai, at which point it will connect with the existing Indian National Highway #54. Phase four also includes the construction of a Land Customs Station at Zorinpui in Mizoram State. The Ministry for Development of North Eastern Region, the Mizoram State Public Works Department and local contractors Ram Dayal Sharma and ARSS-Atlanta will be the implementing partners, and the estimated completion date is early 2014.

Figure 2 - Population along the Kaladan Project route by Township/District¹²

Township / District	Population
Site-tway (Arakan State)	303,614
Pauktaw (Arakan State)	180,740
Ponnagyun (Arakan State)	152,355
Mrauk-U (Arakan State)	220,414
Kyauktaw (Arakan State)	214,298
Paletwa (Chin State)	91,030
Lawngtlai (Mizoram State)	117,444
Total population	1,279,895

Figure 3 - Key Players Implementing the Kaladan Project





1.1 Specifications of the Kaladan Multi-Modal Transit Transport Project

Cost of the Kaladan Project

The Kaladan Project is India's largest infrastructure development project in Burma to date. The total cost of the project is currently estimated at US \$214 million - approximately 1,135 Rupees crore¹⁶ - and is being entirely financed by the government of India through the Ministry of External Affairs (MEA). In fact, the financing for the Kaladan Project is officially classified as development aid to Burma, and is now being overseen by the Development Partnership Administration (DPA) department within the MEA.¹⁷ At the signing of the Framework agreement in 2008 the estimated project cost was just under \$120 million: \$68.25 million budgeted for the Site-tway Port and inland waterway and \$49.14 million budgeted for the highway from Kaletwa to the Indian border.¹⁸ Current estimates put the total project cost at close to double the 2008 figure - due to the shifting of the inland port from Kaletwa to Paletwa, and the related lengthening of the highway component of the project. The latest estimates put the total cost for the Kaladan Project at US \$214 million.¹⁹

Within the Indian government there is concern that the project is behind schedule and over budget. In a recent *Standing Committee of External Affairs 14th Report on Ministry of External Affairs Demands for Grants (2012-2013)* it is shown that the MEA requested 448 Rupees crore for the Kaladan Project, but that only 220 Rupees crore was subsequently approved.²⁰ In response to the Standing Committee's inquiries the MEA claimed that the Kaladan Project is over-budget due to the lengthening of the Phase 3 highway component, but that Phase 1 and 2 are on-budget and on schedule.

Kaladan Project Timeframe

At the time of the groundbreaking for the project in December 2010 the estimated project completion date was June 2013.²¹ This date has been pushed back a number of times, and the current official estimate is that the project will be fully operational by 2015.²²

There appears to be some degree of controversy within the Indian government surrounding the ballooning project costs and delays in the implementation of the Project.²³ That being said, the Kaladan Project has been a centre-piece of the many official bilateral India-Burma visits through 2012, and it is clear that the highest levels of the Indian government are pushing for the project to be completed as soon as possible. During his visit to Burma in May 2012, the Indian Prime Minister Manmohan Singh stated that "India is implementing the Kaladan multimodal transport project that involves upgrading the Site-tway port and constructing a highway to connect the town of Paletwa in Chin State to the Indian border in Mizoram State. This flagship project will revitalize the economy of the area and link it with important commercial and shipping arteries. We hope to complete it by 2015."²⁴ Speeding the completion of the Kaladan Project was reportedly a key agenda item during

Figure 4 - Construction of a deepsea port and trans-shipment terminal at Site-tway, Arakan State



Burma Minister for Transport and Rakhine (Arakan) State Regional Commander with officials from the Indian Ministry of External Affairs, Indian Embassy, IWAI, and ESSAR at the Site-tway Port foundation stone laying ceremony at Site-tway, Arakan State, December 2010



State Regional Commander gives a speech



Sign for the ceremony



Fishing boats dock at Myo Ma market; January 2013 (Google Earth)



Shoppers at the Myo Ma market; May 2008 (Google Earth)



ESSAR machinery at Site-tway Port construction site; May 2013



a February 2013 official visit of India's Speaker of the Lower House Meira Kumar.^{25 26} With intense pressure to quickly complete the Kaladan Project coming from the highest levels of the Indian government, there is great potential for short-cuts and willful overlooking of problems in order to meet unrealistic deadlines. The Kaladan Movement believes that this is the wrong way to move forward on the Kaladan Project, and that the Project should not go ahead unless it is implemented in a manner that prioritizes full local public consultation and participation; ensures that the benefits of the project go to the least advantaged communities; and provides accountability for all stakeholders involved in the project.

Current Status of the Four Phases of the Kaladan Project

Progress on the four phases of the Project is as follows:

Phase 1: Construction of a deepsea port and trans-shipment terminal at Site-tway

Phase One of the Kaladan Project is the construction of a new port at the Site-tway harbour in Arakan State.²⁷ Construction of the port began on 19 December 2010 with a foundation-stone laying ceremony attended by officials from MEA, the Indian Embassy and IWAI as well as the Burma Minister for Transport and the Rakhine (Arakan) State Regional Commander. The piece of land chosen for the new port is a former public access coastal area and recreational site in central Site-tway which is surrounded by commercial and residential buildings including the Site-tway General Hospital.

According to the 2008 Framework Agreement, the Indian MEA will provide all financing for the new port, while the Burma government is responsible for providing the land for construction and for ensuring project security. The Burma government has earmarked six hectares of public land for the construction of the new Site-tway port.

Next to the new port site is an older port and jetty dating from 1917.²⁸ The existing jetty is currently being used by the Burma Port Authority to serve domestic ships travelling from Rangoon, Mon State and Tanintharyi Region. Next to the existing jetty is the Myo Ma fish market where local fishermen sell their catch. The Myo Ma market is managed by the Township Governmental Municipality Office.

The new Site-tway deepsea port - locally referred to as the "Indian Port" - will feature two large jetties, measuring 219 metres by 15 metres and 54 metres by 15 metres respectively, able to accommodate large cargo ships. The port itself will be built on 60,000 square metres (6 hectares) of public land provided by the Burma government and 48,000 square metres (4.8 hectares) of land reclaimed from the surrounding harbour. The six hectares of public land provided by the Burma government consists of coastal/delta land which was previously used by local fishers and boatmen, and as a recreational site for local residents. The reclaimed area of the new port has been created using 560,000 cubic tonnes of soil dredged from the nearby channel approaching the mouth of the Kaladan River.

Figure 5 - Satellite imagery showing progress of Site-tway Port land reclamation²⁹



The dredging operation at the mouth of the Kaladan River served the dual-purpose of providing the aggregate material used to reclaim land for the new Site-tway port as well as transforming the surrounding 55 hectares of harbor waters into a deepsea port with an eight to nine metre underwater draft to accommodate large cargo ships.³⁰ Once completed, the new Site-tway port will be able to service ships of up to 20,000 dead weight tonnage.³¹

The other key infrastructure being constructed at the Site-tway port is a trans-shipment terminal, including off/on-loading equipment and a complex of 29 warehouses, where cargo from the larger ships will be shifted to smaller vessels suitable to navigate the Kaladan River inland waterway transport system north to Paletwa Town in Chin State.

Phase 2: Development of Kaladan river inland waterway infrastructure from Site-tway to Paletwa

Phase Two of the Kaladan project is the dredging and widening of stretches of the Kaladan River into a 160 km inland waterway transport system for cargo ships. Phase Two also includes the construction of a port and trans-shipment terminal at Paletwa Town, as well as the manufacture of six cargo vessels which will ply the waterway between the Site-tway and Paletwa ports.³²

In May 2010 the Indo-Myanmar (Burma) Multi-Sectoral Group decided to deviate from the original Detailed Project Report by shifting the terminal-point of the inland waterway transport system from Kaletwa to Paletwa. The reason for the change was that the stretch of the Kaladan River between Paletwa and Kaletwa was going to require a significant amount of dredging and widening for it to be navigable by cargo vessels due to the existence of many shallow shoals, rapids and rocks.^{33 34} At the time it was stated that the stretch of river between Site-tway and Paletwa is naturally quite wide and deep; requiring

large-scale dredging at only three points.³⁵ More recently the Indian Ambassador to Burma stated that dredging will need to take place at four or five points between Site-tway and Paletwa.³⁶

The “dredging” required is actually a mix of earthwork operations including the removal of shoals and rapids using standard dredging techniques, the removal of exposed rocks and boulders; the blasting of submerged boulders and rock-outcrops is no longer required. The aggregate material produced during these dredging operations will be moved into designated aboveground or underwater dumping areas.³⁷

Additional riverine infrastructure to be built in Phase Two includes 10 navigational buoys placed in the stretch of river between Site-tway and Kyauktaw, and 70 fixed shore markers - permanent six metre concrete posts on the river banks - installed in the stretch of river between Kyauktaw and Paletwa.³⁸

The terminal-point of the Inland Waterway Transport system will be a port complex to be built at Paletwa Town. The port will be able to accommodate cargo ships up to 200 metres in length with a capacity of 6,000 DWT. The main element of the port complex will be a trans-shipment terminal to transfer cargo from the waterway to trucks which will ply the new highway to the Burma-India border. The riverbed adjacent to the Paletwa port will be dredged to a depth of two metres to enable the easy docking of the IWT cargos ships.³⁹

The Burma government has pledged to provide three hectares of land for the port complex, as per its responsibilities in the 2008 Framework Agreement.⁴⁰ The land was previously used to cultivate beans and peas, as well as for banana and mango orchards.⁴¹

In November 2012 local residents reported that a ferryload of ESSAR workers arrived in Paletwa Town with heavy equipment to begin work on the port. To date, the construction work on the Paletwa port has entailed the construction of company offices and housing for the workers. Construction work will need to cease between April and November 2013 because of the monsoon season.

Finally, Phase Two includes the manufacture of six 260 ton cargo vessels which will ply the route between the Site-tway Port and the Paletwa Port along the Kaladan River.⁴²

Phase 3: Construction of a highway between Paletwa and the Mizoram border

Phase Three of the Kaladan Project is the construction of a 130 km two-lane highway from Paletwa Town to Myeikwa at the India border. When the decision was made to shift the terminal point of the inland waterway system from Kaletwa to Paletwa, the length of the required highway doubled from 62 km to 130 km. Phase Three is the most land-intensive component of the Kaladan Project, and as the Burma government is responsible for providing all required land for the Project the Burma Ministry of Construction is directly overseeing this Phase.

The Burma Ministry of Construction and an as yet unnamed Burmese construction company (widely expected to be Max Myanmar Group of Companies based on the previous plan)

will be the implementing partners for the road construction in Paletwa Township.⁴³ Estimated completion date for Phase Three is 2015, yet to date construction work has not started.

A Detailed Project Report for Phase Three has never been made public, and local people are completely in the dark about the exact route and timeframe for this Phase.⁴⁴ There have been rumours in the Indian media that the revised Phase Three DPR has already been completed by the MEA, but it is not available publicly.⁴⁵ The original DPR stated that the 62 km Kaletwa-Myeikwa highway would run along a valley parallel to the Kalet (Chaung) River. There are fifteen villages situated near the originally proposed route. The original highway DPR includes the construction of 387 culverts, 11 bridges to cross streams as well as a protection wall. The DPR also includes the construction of eleven bus rest-areas and three truck rest-areas. Road construction materials will be obtained by dredging aggregates from nearby rivers or will be imported from India. The DPR also states that sufficient local labour for the road construction is not available and imported labourers are not willing to work in such a remote and malaria-prone area, therefore machinery-intensive methods will be used to construct the highway.⁴⁶

As no revised DPR has been released for Phase Three it is impossible to know exactly how and when this Phase will be implemented. It seems likely that the Kaletwa-Myeik Wa route will remain the same, but local people can only guess as to the route of the Paletwa-Kaletwa section. One likely route for the Paletwa-Kaletwa highway will be along the Kaladan River valley. Southern Paletwa Township is much more densely populated than the Northern part, and this route would pass nearby over 50 villages. With the lengthening of the Phase Three highway from 62 to 130 km, the land and dredged aggregates needed for construction will also increase. An EIA for the new project route in Chin State is essential, particularly if the highway construction requires extensive aggregate mining from nearby rivers, streams and creeks.

Phase 4: Construction of highway from Lawngtlai to Lomasu

Phase four of the Kaladan Project is the construction of a two-lane highway from Lawngtlai to Lomasu at the Indo-Burma border; a distance of approximately 100 km.⁴⁷ This new section of highway will be an extension of Indian National Highway #54, and is being constructed under Phase A of the Indian Ministry of Development of North Eastern Region's Special Accelerated Road Development Program of the Northeast (SARDP-NE).

The Lawngtlai-Lomasu highway will be 12 metres wide, although it may be wider in specific areas where there is increased likelihood of landslides.⁴⁸ Two Indian construction contractors - RDS Projects and ARSS-Atlanta - will be laying the highway under contract to the Mizoram Public Works Department. RDS will construct two parcels. The first RDS parcel stretches from kilometer 0 at Lawngtlai to kilometer 38. The second RDS parcel stretches from kilometer 71 to kilometer 99.83, and travels alongside the Zocha River.⁴⁹ The ARSS-Atlanta parcel covers the middle-section from kilometer 38 to kilometer 71.⁵⁰ With the initial contract signed in September 2010, the contractors of the Lawngtlai-Lomasu highway have committed to completing the project within the agreed four year timeframe.⁵¹ A September 2014 completion-date target was recently reiterated by the Indian Ministry of Transport and Highways.⁵²

Figure 6 - Phase 4 highway construction in Lawngtlai District, Mizoram State



*Truck owned by project sub-contractor
RDS Projects Limited*



*The highway construction passes through
steep terrain*

Phase 4 also includes the building of a Land Custom Station at Zorinpui (close to Zochachhuah) on a 112,200 square meters parcel of land provided by the Revenue Department of the Lawngtlai Autonomous District Council.⁵³ The Zorinpui LCS facility will be financed by the Indian Ministry of Commerce through the ASIDE Scheme.⁵⁴

1.2 Context of the Kaladan Project: India-Burma relations

From conception to implementation, the Kaladan Project is an Indian project. The Indian Government proposed and developed the plan for the project. The project is being entirely financed with Indian government funds. Indian companies, overseen by Indian government ministries, are the key implementing agents. The benefits of the project are framed in terms of India, namely the economic development of the Northeast Region and the geo-strategic advantages for India in Burma, ASEAN, and Asia as a whole.⁵⁵

“The Kaladan Multi-Modal Transit Transport Project is being developed to provide an alternate route for transport of goods from eastern sea board to North-East India. However, the completion of the project will open up possibilities for better connectivity and movement of goods between India and Myanmar (Burma).”⁵⁶

Indian Minister of Foreign Affairs

One of the main motivations behind the Kaladan Project is the economic development of the land-locked states of Northeastern India. Among the economic benefits that the Indian government is expecting to reap from the Kaladan Project is an increase in intra-India trade with a shorter and faster transportation route between mainland India and the Northeast Region, as well as growing trade between India and Burma and the rest of

ASEAN.⁵⁷ India's business press is well aware of these opportunities, stating that "our businesses can explore possible commercial ventures that can ride on the back of some of the infrastructure that will be created from the Indian government-assisted Kaladan project."⁵⁸

The Kaladan Project is geo-strategically important for India as a way to stake its claim in Southeast and East Asia. Indian pundits often point-out that China's influence in the region is expanding quickly, and that India must make its presence felt or risk being left behind. The Chinese state-backed Shwe oil and gas pipelines and Special Economic Zone at Kyauk Phyu on the Arakan coast is of concern for Indian security analysts, as it is expected that China Naval presence in the Bay of Bengal will be increased to protect this economically and strategically important infrastructure.⁵⁹ The Kaladan Project port at Site-tway can be seen as a counter-balance to China's growing influence in the Bay of Bengal. Site-tway - along with the Coco Islands and Kyauk Phyu - are often mentioned as the major Burma-based locations in the so-called Chinese "String of Pearls" strategy.^{60 61} The Indian government considers the Bay of Bengal its sphere of influence, and wants to maintain the status quo. India-Burma Naval cooperation has been increased recently; with the first bilateral naval exercise in the Bay of Bengal taking place in early 2013, ostensibly to patrol the two countries' maritime border.⁶²

Pre-cursor to a pipeline

The Indian government has additional strategic aims with the Kaladan Project; originally the project was conceived as a pre-cursor to establishing a gas pipeline along the same route as illuminated by former Indian Ambassador to Burma Shyam Saran in 2011.^{63 64} While the immediacy of the Burma-India pipeline plan has lessened since India lost-out to China's state-owned China National Petroleum Company in a bid to secure buying-rights to the A-1 and A-3 natural gas blocks off the Site-tway coast, Indian companies and government bodies maintain an interest to exploit oil and gas resources in Western Burma.⁶⁵

A number of Indian firms are interested in investing in Burma's oil and gas sector. ESSAR Oil Ltd. holds exploration rights to Bay of Bengal offshore block A2 and onshore Block L. Indian Oil has publicly stated plans to explore for investment opportunities in Burma's oil and gas sector.⁶⁶ ONGC Videsh Ltd. (OVL) and Oil India Ltd. (OIL) - both connected to the Indian government - have expressed intention to bid in an upcoming auction for offshore and onshore oil and gas blocks in Burma.⁶⁷

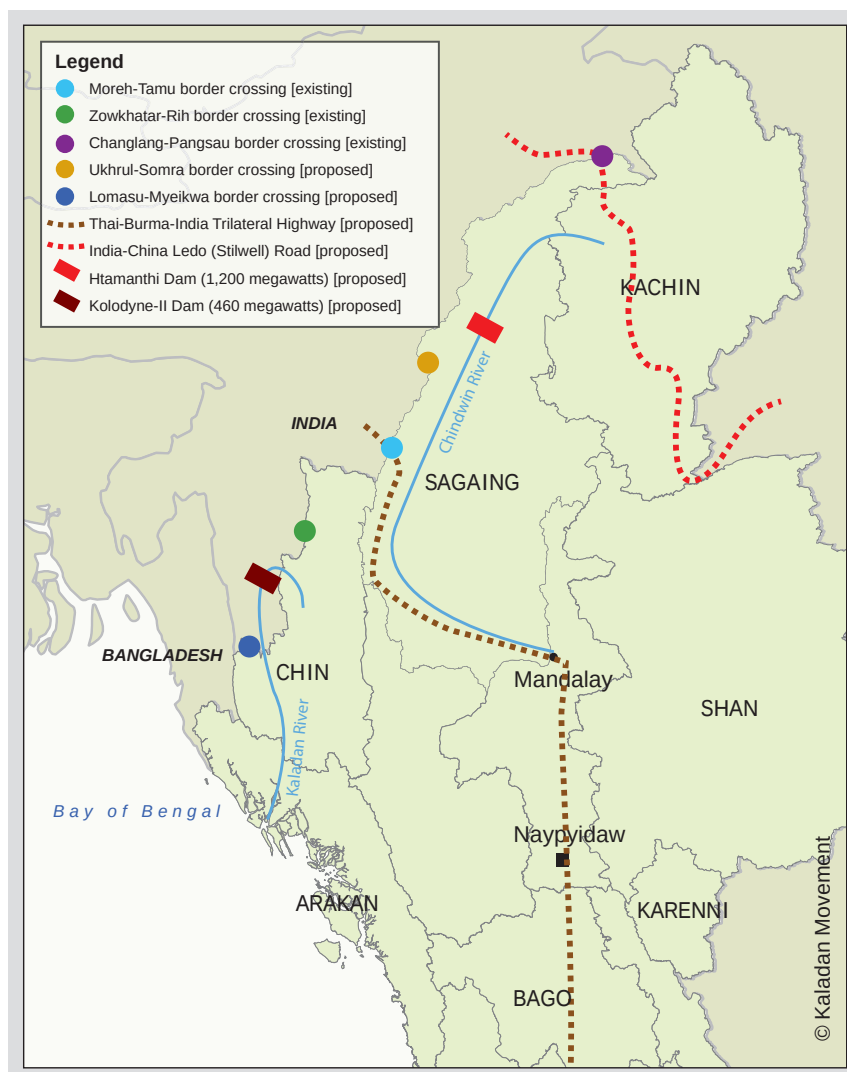
Different Indian government bodies have also expressed interest in seeing a Burma-India pipeline come to fruition. The Meghalaya Governor recently publicly mentioned a plan to pipe Burma gas to Northeast India.⁶⁸ A recent statement from the "Bangladesh-China-India-Myanmar (Burma)" regional grouping reinforced the fact that Burma is viewed by neighbouring countries as ripe for resource exploitation, as it was noted that there should be increased number of energy and resource exploration joint ventures within the group as all countries except Burma face energy shortages.⁶⁹

India's Look East Policy

The Kaladan Project is a fundamental element of India's Look East Policy as it seeks to strengthen the country's economic and political influence in Asian countries to the east. In official discussions about India's connectivity strategy towards East and Southeast Asia, the Kaladan Project is often grouped with the two other large-scale transportation infrastructure projects presently being developed by India: the Thai-Burma-India Trilateral Highway and the India-China Stilwell Road.⁷⁰

The current Indian government appears determined to redouble efforts to follow through with previous Look East Policy projects which have so far failed to materialize as planned. In a recent Budget announcement, Union Finance Minister Chidambaram stated that "combining the 'Look East' policy and the interests of the North Eastern States, I propose to seek the assistance of the World Bank and the Asian Development Bank to build roads in the North Eastern States and connect them to Myanmar (Burma)."⁷¹

Figure 7 - Map of infrastructure along India-Burma border



India's Trade Agenda

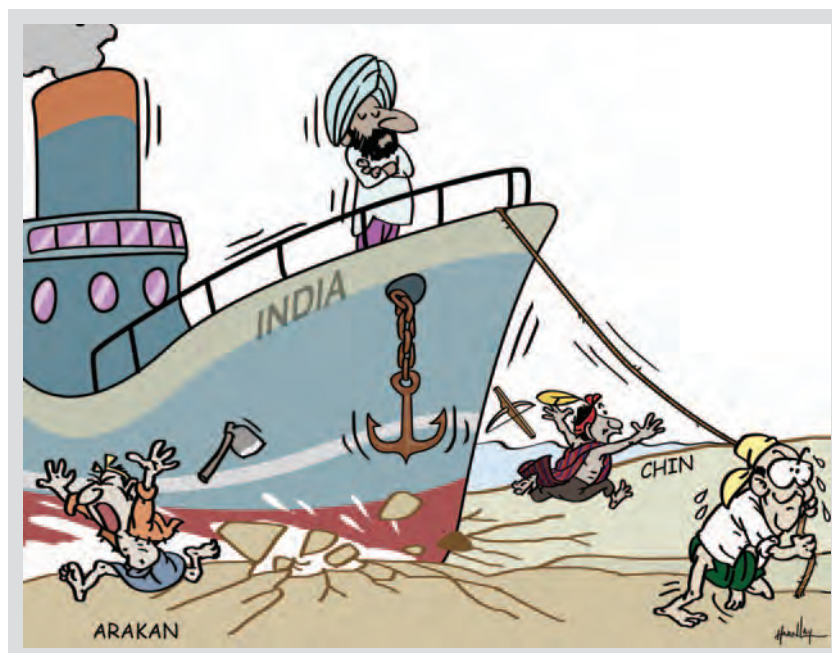
India's willingness to generate new economic ties with Burma waned for political reasons in the 1980s and 90s, but in recent years India-Burma bilateral trade has been steadily increasing. In 2009-10 bilateral trade stood at US\$1.2 billion.⁷² In 2010-11 bilateral trade stood at US\$1.3 billion, and was projected to double to \$3 billion by 2014-15.⁷³ In 2012 India-Burma bilateral trade pushed closer to \$1.4 billion, but with the overwhelming majority being Indian imports from Burma.⁷⁴

Recent high-level meetings between the two countries have largely focused on increasing bilateral trade and developing the infrastructure to facilitate it.⁷⁵ Despite India and Burma sharing a 1643 km border, the amount of official cross-border trade stands at a negligible 1% of all bi-lateral trade.⁷⁶ While unofficial border trade is estimated at \$400 annually, this still represents a small share of overall bilateral trade.⁷⁷

India-ASEAN trade has been growing steadily - averaging 20% annual growth over the last decade - yet there remains much growth potential which India's Look East Policy is aiming to capture. At present, India-ASEAN trade accounts for only 3% of ASEAN's total.⁷⁸ The India-ASEAN free trade agreement, including trade in services component signed in December 2012, means that it is likely this growth trend will continue.⁷⁹

In addition to the Kaladan Project border crossing at Zorinpui-Myeikwa, there are three existing India-Burma border crossings: Moreh-Tamu, Zowkhatar-Rih, and Changlang-Pangsau. A fourth border crossing is set to open in the near future at Ukhrul-Somra in the Naga Autonomous Region.

Figure 8 - Political cartoonist Harn Lay addresses the Kaladan Project



In 1994, India and Burma signed a border trade agreement, and the following year the Moreh-Tamu border crossing was established. In 2001 this crossing was improved with the construction of the so-called “Indo-Burma Friendship Road” connecting Manipur’s National Highway #39 to Tamu, Sagaing Region. The Indian government provided a grant to upgrade this 150km stretch from Tamu to Kalewa to a 5.5 metre width, although it has yet to be given full Asian Highway standard.⁸⁰ Some have noted that the original 2001 Friendship Road failed to meet its potential because the Burma government neglected to fulfill its part of the deal; namely continuing the highway from Kalewa in Central Burma and upgrading the 71 existing bridges along the route.⁸¹ During his visit to Burma in 2012 Indian Prime Minister Manmohan Singh agreed that India would repair and upgrade 71 bridges along the Friendship Road.⁸² The Moreh-Tamu border crossing will continue to grow in importance, and is the planned starting point for the Burma section of the India-Burma-Thailand Trilateral Highway slated for completion by 2016.^{83 84} All of the India-Burma border crossings are set to expand in line with India’s Look East Policy, and the Indian government is looking to enlist the support of regional multilateral development banks to assist with the implementation this policy.^{85 86}

India-Burma Bi-lateral Trade

The main items that India imports from Burma are agricultural products; especially beans, pulses, broken rice, livestock and forest products.⁸⁷ The main items that Burma imports from India are raw materials and manufactured goods; especially steel, machinery and pharmaceuticals. Traditionally, bilateral trade has been hampered by the relative poverty in the border areas, trade restrictions, poor transportation infrastructure as well as regional instability due to a number of insurgencies taking place along the border.

In recognition of the increased trade opportunities that the Kaladan Project and other initiatives will create, in September 2011 leaders from the two countries pledged to double bi-lateral trade by 2015. In order to achieve this goal the governments agreed to implement a range of projects to enhance bi-lateral trade including: increasing the number of permitted tradable items from 22 to 44, building a Land Customs Station at Zokhawthar, and opening new border trade points.⁸⁸ Undoubtedly this drive to increase bilateral trade will impact the people living in the border states of Mizoram, Arakan, and Chin States.

1.3 Economies of Mizoram, Arakan, and Chin States

Mizoram State

Four of India’s seven northeastern states share borders with Burma.⁸⁹ Mizoram - the state which the Kaladan project transport route will connect to - has a predominantly agricultural-based economy with a large portion of its population practising slash and burn agriculture (known as Jhum cultivation).⁹⁰ In 2008-9 Mizoram imported large quantities of food to meet its domestic needs, although some rice is produced in Mizoram, as it is the staple food crop Mizoram relies on rice imports to meet demand. The Mizoram government’s New Land Use Policy aims at improving livelihoods in Mizoram by reducing dependence

on Jhum cultivation and promoting sustainable farming including agri-horticultural crops, micro-enterprise, modernisation of cottage industries, increased rice cultivation, expansion of markets with competitive pricing for farming products and improved transport networks.⁹¹ With the New Land Use Plan the government of Mizoram is betting that the improved production of agri-horticultural produce including crops such as ginger, turmeric, chilli, passion fruit, oranges, pineapple, tung oil, medicinal herbs as well as bamboo resources will lead to increased exports from the state, much of it going to neighbouring countries including Burma.

Chin and Arakan States

In 2012, Burma was ranked 149 out of 187 on the UN Human Development Index.⁹² The country is categorized as having low human development compared to other countries in the region.⁹³ Within Burma, Arakan and Chin States are two of the poorest and least developed.⁹⁴ According to the UNDP Burma 2009-10 IHLCA survey the poverty incidence in Chin and Arakan States was 73% and 44% respectively compared to 25% nationally, and the food poverty incidence was 25% and 10% respectively compared to 5% nationally.⁹⁵ The Kaladan Project will affect a significant proportion of the population in these states as approximately one million people live along the Kaladan river.⁹⁶

In Chin State, agriculture is the main livelihood activity; including upland crops, shifting cultivation and fruit trees.⁹⁷ Maize and pulses are the staple foods in the state. Fish and meat production are comparatively low. As rice paddy production locally is low, rice supply comes from surplus paddy production in other areas of Burma, namely the Ayeyarwady region. The main pressure on agricultural production in Chin State is that a limited availability of arable land coupled with a growing population has led to shorter cycles of field rotation resulting in poor soil fertility and lower crop yields.

From late 2006 to 2010, a cyclical rat infestation devastated agricultural production in Chin State, leading to famine-like conditions in many areas.⁹⁸ Food insecurity remains a wide-spread problem across the State.⁹⁹ This insecurity impacts people's lives in a number of ways: people have been forced to forage in forests to find food; there is increasing dependence on external food aid; and households are facing mounting debt after taking out loans to purchase food items.¹⁰⁰ These food security related hardships have also contributed to a widespread out-migration from Chin State.

Figure 9 - Livelihoods along the Kaladan River



River water is used to irrigate riverside farmland



Fishing with a hand-net



Local residents depend on water from the river for household use such as drinking and washing



Woman preparing tobacco leaves for transportation on the river

Small-scale agriculture is also a major livelihood in Arakan State.¹⁰¹ The main types of agriculture production in the State are rice, pulses, oilseeds and nipa palm.¹⁰² A 2009 FAO/WFP Crop and Food Security Assessment found that Arakan State accounts for about 7% of the total sown rice paddy area nationally, although production of pulses, fish and meat is relatively high compared to other areas of Burma.¹⁰³

Agriculture and fishing are crucial to the lives of people living in the State. A 2010 livelihood and food clusters joint assessment livelihood report¹⁰⁴ included findings on Pauktaw township in Arakan State, which borders the Kaladan river. The study found that the main source of livelihoods of households in Pauktaw Township included crop production (27%), casual labour (25%), combination of crops and fishing (19%) and solely fishing (17%). The majority of agricultural land in Pauktaw Township is dedicated to wet paddy land (75%) with 13% as orchard. Despite these figures, many parts of Arakan State face food insecurity.

The 2011 WFP food security assessment found that Northern Arakan State was a food deficit-area largely depending on food trade from surplus areas within Burma.¹⁰⁵ The study found that the main underlying factors contributing to food insecurity in Northern Arakan State included low levels of access to agricultural land and limited purchasing power, which is related to limited wage labour opportunities and low wages on the one hand, and high food prices partly linked to limited market integration with surplus regions on the other hand.

1.4 The natural environment in the Kaladan Project area

The terrestrial environment surrounding the Kaladan project route is part of the 'Burma Coastal Rain Forests' ecoregion, characterized by lowland evergreen and semi-evergreen rain forests on the western side of the Arakan Yoma.¹⁰⁶ This is one of the most species-rich ecoregions in Burma; an area supporting many threatened and endemic plant and animal species. Birdlife International has identified 14 species of restricted-range bird species in the Eastern Himalayas Endemic Bird Area adjacent to the Kaladan project route.¹⁰⁷

The Kaladan river itself is an important ecological system. The river is one of the largest in Western Burma; flowing 350 km from its source into the Bay of Bengal at Site-tway. The lower part of the river opens up to form a fertile alluvial plain that covers a total area of 3,640 square km. Due to the relative inaccessibility and instability of the area little recent research exists on the ecology of the Kaladan river, although it has been recognized as an area of exceptional biodiversity meriting further research and conservation.

The marine environment in which the Kaladan Project is being constructed is characterized by exceptional biodiversity, especially in the delta area. The ecology of the Kaladan delta includes fragile seagrass and mangrove ecosystems which provide habitat for many species of fish, crustaceans, sea turtles and sea mammals such as the dugong. The potential environmental impacts of the Kaladan Project are explored in greater detail in Part 2 of this report.

Part 2:

Potential Impacts of the Kaladan Project

2.1 Potential beneficial impacts of the Kaladan Project

If implemented in the right way, the Kaladan project offers a range of potential opportunities for local communities. Potential benefits from the Kaladan Project include:

- potential for improved transportation infrastructure
- potential for increased trade opportunities for local farmers and producers
- potential for lower food prices and improved access to food
- potential for employment opportunities on project construction and maintenance
- potential for growth opportunities for local small and medium sized enterprises

Arakan and Chin States in Western Burma and Mizoram State in Northeastern India are in need of people-centred development policies which will improve the livelihoods of all residents and enable local residents to participate in the decision-making processes that impact their lives. As shown above, Arakan and Chin States have the highest levels of food insecurity and poverty in Burma. The Kaladan Movement believes that the local population should be the core beneficiaries of the Kaladan Project. We ask a simple question: if the Kaladan Project is not a net benefit to the local people, what is the purpose of implementing this project?

According to Article 2 of the UN Declaration on the Right to Development, States have the responsibility to formulate development policies that “aim at the constant improvement of the well-being of the entire population...on the basis...[of] the fair distribution of the benefits resulting therefrom.”¹⁰⁸ The Kaladan Project, if implemented with sensitivity to the needs of - and with the full participation of - the local people, has the potential to bring many benefits to the project area and beyond.

In concrete terms, the improved transportation links with India could enable increased cross-border trade, bringing economic opportunities for local residents and improving the problematic food security situation in western Burma. For people living in Arakan and Chin States increased access to markets in India would serve a dual-purpose. On the one hand, increased access to markets for consumers could enhance the supply of food locally, reducing food prices and improving overall access to food. On the other hand, increased access to markets for producers could provide local people with additional sources of income with which food and other goods could be purchased. The same is true for communities living in remote areas of Mizoram State close to the Burma border.

Additionally, the Kaladan Project itself could be a source of employment for the local people in a region with high levels of unemployment. There will be employment opportunities during the construction stages and, to a lesser degree, in the long-term as infrastructure operators, ship drivers and maintenance workers.

Economic multiplier effects from the increased cargo traffic on the Kaladan River - especially around the ports at Site-tway and Paletwa - could provide opportunities for local small and medium-sized service providers and retail businesses.

Overall these positive impacts could improve local livelihoods and help alleviate food insecurity and poverty in the area. These beneficial impacts are all complementary with the Burmese government's Rural Development and Poverty Reduction Strategy.¹⁰⁹

Figure 10 - Local residents engage in a variety of economic activities along the Kaladan River



Riverside cultivation and Kamone processing for export



Fishing boats near Paletwa Town

2.2 Potential negative impacts of the Kaladan Project

While the Kaladan Project brings a number of potential benefits it also has a number of potential negative impacts. Local people have expressed concern about the potential negative impacts of the Kaladan Project, including:

1. potential for the use of forced labour during project construction
2. potential for land confiscation and forced eviction
3. potential for disruption of and loss of livelihoods
4. potential for increased presence of Burma Army troops in project area
5. potential for restrictions on freedom of movement and access to transportation
6. potential for illegal taxation and extortion
7. potential for pollution and environmental degradation
8. potential for violations of indigenous rights

2.2.1 Potential for forced labour during project construction

Burma has ratified the International Labour Organization (ILO) Forced Labour Convention (1930)¹¹⁰ and the Freedom of Association and Protection of the Rights to Organize Convention (1948).¹¹¹ In March 2012, the Burma government and the ILO signed a Memorandum of Understanding (MOU) including the commitment to the elimination of all forms of forced labour in Burma by 2015. In May 2012 a comprehensive joint ILO-government strategy was agreed upon to reach the goals set-out in the MOU.

Despite this positive progress, civil-society groups continue to report cases of forced labour in Burma. A recent CHRO advocacy report notes that “although forced labour is in decline [in Chin State], it is still the second-most prevalent abuse, with the military responsible for 54 percent of the 28 incidents documented since March 2011.”¹¹² CHRO has documented a case of forced portering for the Army as recently as January 2013.¹¹³

While there have not been any documented cases of forced labour directly connected to the Kaladan Project, based on past experience of large-scale infrastructure development projects and increased militarization in Burma this is an issue that deserves scrutiny as the project moves forward.¹¹⁴ Phase Three - the construction of a highway from Paletwa Town to the India border - is the type of construction project where there is a high risk of forced labour.

Any instance of forced labour associated with the Kaladan Project is unacceptable, and due diligence must be taken by the project implementers to ensure that neither they nor their sub-contractors are implicated in this serious human rights violation. The Kaladan Movement urges project implementers to engage with the ILO to ensure there is no forced labour connected to the Kaladan Project.

2.2.2 Potential for land confiscation and forced eviction

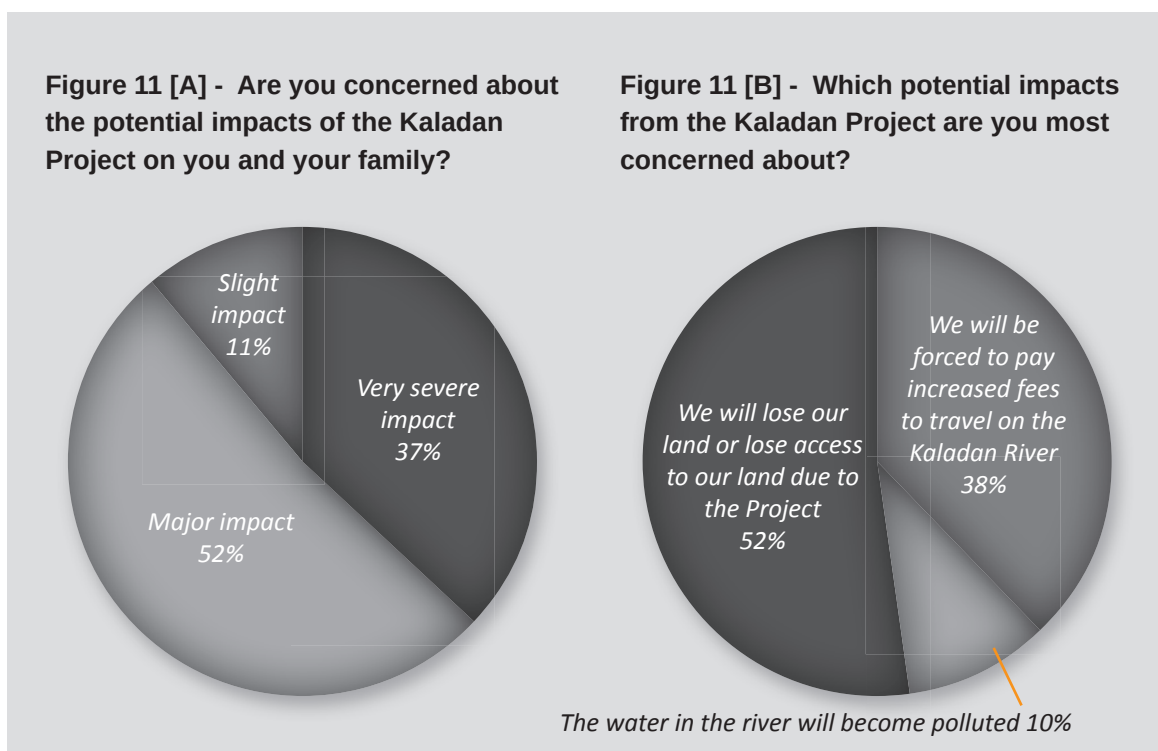
Experience in Burma shows that large-scale infrastructure development project are often connected to large-scale land confiscation. Land confiscation happens in Burma for a number of reasons including: top-down development decision-making processes, a lack of consultation with local residents, corruption among military and civilian authorities, land-grabbing by crony capitalists, a legal framework (including the 2008 Constitution¹¹⁵) which gives the Central Government ultimate ownership of all land in Burma and official ignorance of local customary land-use systems. Large public demonstrations against land confiscation have been violently repressed by the Burma government as recently as February 2013.¹¹⁶

The September 2011 report of the UN Special Rapporteur on human rights in Burma, noted that ethnic groups in Burma face serious human rights violations and discrimination in relation to land rights including “the impact of infrastructure projects...and development-induced displacement.”¹¹⁷ The report notes that “estimates of the number of people forcibly displaced in Myanmar since 1962 owing to natural disasters, armed conflict and increasingly, to infrastructure and development projects, place the figure over 1.5 million.”¹¹⁸

Phase 3 of the Kaladan Project is the most land-intensive Phase of construction, and thus holds the biggest risk of project-related land confiscation. As no revised Detailed Project Report for Phase 3 has been publicly released, the location and amount of land required for this Phase is completely unknown to people living in the project area in Paletwa Township. A pro-active policy of full public consultations and Free, Prior, Informed Consent by the Burma government is necessary to ensure that there is no land confiscation and forced eviction connected to the Kaladan Project.

A CHRO baseline survey covering 621 people living along the probable Kaladan Project route showed that of the 89% of people who felt they would suffer “severe” or “major” impacts from the Project, the majority said loss of access to their land was the most concerning impact.

Figure 11 - Survey results show Paletwa residents concerned about negative impacts from Kaladan Project



Local residents from Paletwa Township have recently reported to CHRO that an interpreter named U Ye Win has been meeting with residents along the proposed highway route and offering compensation for the land they will lose to the Kaladan Project.¹¹⁹ Local residents say they are not clear who the interpreter is working for, and report disappointment with the small amount of compensation being offered. In one instance, villagers were offered 50 Kyats (0.6 of 1 US cent) per banana tree lost to the Project.¹²⁰

Land confiscation and forced relocation to make way for large-scale infrastructure development has been increasing under the Thein Sein government’s “opening” of Burma

to foreign investment. Land grabbing by crony capitalists in the areas surrounding these infrastructure projects has also been on the rise.¹²¹ With the Burma government obligated to provide the land for the Kaladan Project, local communities are concerned that they may be forced from their land without compensation. Any land acquisition done in the name of the Kaladan Project, must be conducted in a fully transparent manner based on the principle of free, prior and informed consent, and compensation offered to affected communities must be on par with global best practice.

2.2.3 Potential for disruption of and loss of livelihoods

According to Kaladan Movement research, in the Project area approximately 90% of residents depend on fishing and riverbank shifting-cultivation as a major part of their livelihood. There is concern that local livelihoods will be at risk from project-related river dredging and bank erosion caused by waves from large cargo vessels.

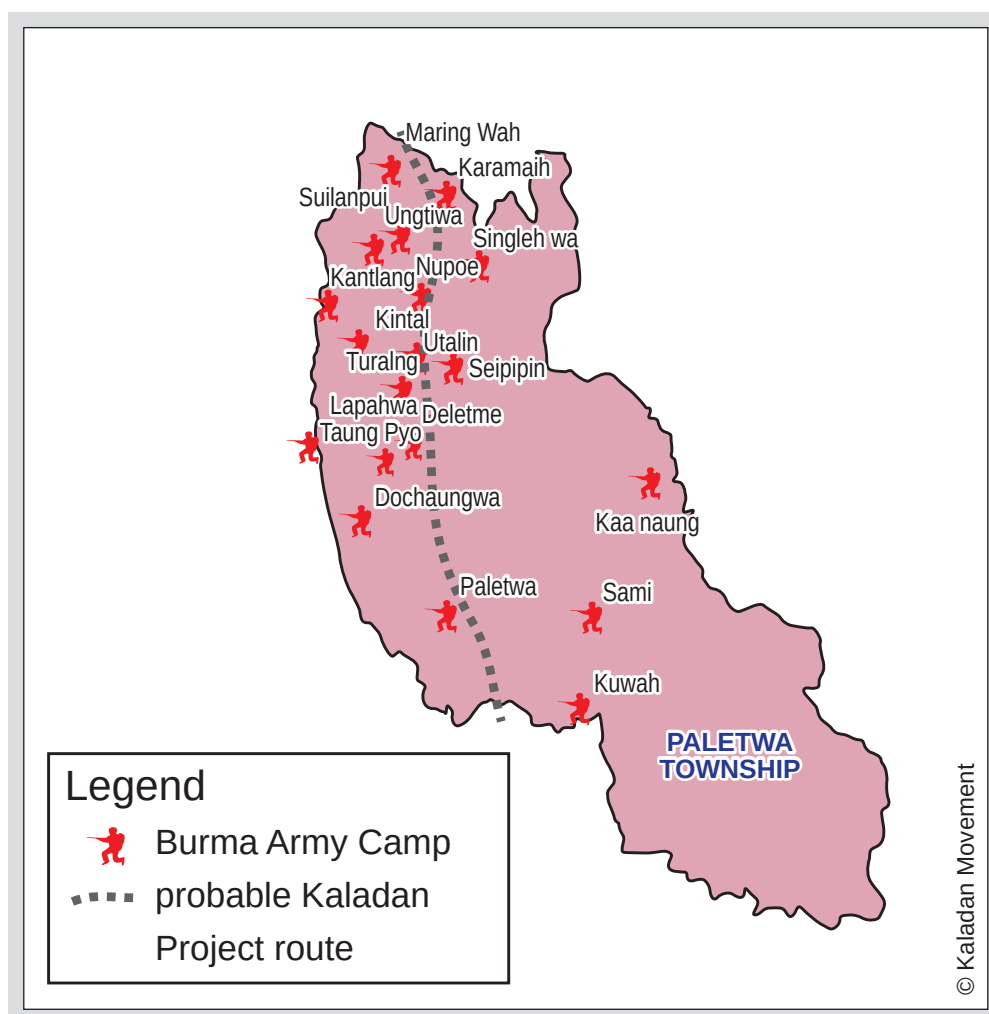
The United Nations Declaration on the Rights of Indigenous Peoples states that “indigenous peoples have the right to redress [or] fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.”¹²²

Project implementers must ensure that the Kaladan Project does not negatively impact the livelihoods of local residents. They should prioritize economic development for local residents by conducting a comprehensive Economic Impact Analysis for the Kaladan Project; from the macro-level to the micro-level. The respective governments should provide economic development assistance to local communities to ensure that they have the capacity continue their previous livelihoods unhindered and, if they choose, to benefit from new livelihood opportunities that may come with the Kaladan Project. These measures should include the provision of low-interest agriculture extension credit, small business loans, and assistance accessing markets in India and other parts of Burma.

Figure 12 - Agriculture and fishing are the main livelihoods along the Kaladan River



Figure 13 - Map of Burma Army Camps in Paletwa Township, Chin State



2.2.4 Potential for increased presence of Burma Army troops in project area

The Kaladan Project Framework Agreement states that the Burma Government must provide “adequate security for the machinery, materials and personnel” brought into Burma under the Kaladan Project implementation.¹²³ In previous large-scale projects in Burma this “provision of security” has meant increased militarization and increased human rights violations against local residents.¹²⁴ Paletwa Township is already the most militarized Township in Chin State, with 19 Burma Army camps. Local residents are concerned that the presence of the Burma Army along the Kaladan Project route could be increased under the guise of “project security.” The bottom-line is that in Burma there is an undeniable relationship between increased militarization and the increased incidence of human rights violations against local people.

2.2.5 Potential for restrictions on freedom of movement, access to transportation, and illegal taxation and extortion

Given the dependence of local populations on agricultural land, rivers and forests for their livelihoods, increased military or police presence under the pretext of providing security for the Kaladan Project could deny local communities their freedom of movement to access their livelihoods. According to Article 13 of the UN Declaration on Human Rights “everyone has the right to freedom of movement...within the borders of each state.” In a recent CHRO survey of over 600 Paletwa Township residents living along the Kaladan Project route, 38% of respondents reported concern about increased obstacles to accessing river transportation once the Project becomes operational. Local media have previously reported on illegal taxation levied by authorities on local traders and residents along transport routes including the Kaladan river.¹²⁵ Civil society organizations have documented incidences of arbitrary taxation of local people by the authorities towards the cost of infrastructure construction and maintenance.¹²⁶ Residents of Paletwa Town have reported to CHRO that local traders have recently been charged a 2.5 percent tax.¹²⁷ Such practices could seriously hinder access of local people to the benefits offered by the Kaladan project and could have a detrimental effect on local people’s livelihoods.

2.2.6 Potential for pollution and environmental destruction

A large-scale infrastructure development project like the Kaladan Project by its essence impacts the environment in which it is built. Western Burma and Northeast India are regions that are relatively isolated and ecologically diverse. Some of the major ecological risks posed by the Kaladan Project are:

- Disturbance to marine and freshwater ecosystems; including the destruction of mangrove forests and seagrass beds and an alteration to the brackish water line in the Kaladan River impacting farmers who use the river water for irrigation
- Increased levels of air and water pollution
- Destruction of lowland wet evergreen rainforest
- Loss of endangered and endemic animal and plant species

- Disruption of officially recognised protected areas which provide a habitat to threatened species in the proximity of the Kaladan project area
- Loss of access to traditional medicine for local indigenous peoples

The potential loss of mangrove forests and sea grass ecosystems is linked to the coastal area development and pollution. Mangrove forests protect against coastal erosion and storms, are a source of fire wood, charcoal and timber for construction as well as providing a favourable environment for fish and shrimp farming.¹²⁸ Seagrass beds are important for coastal stabilization, and as habitats for marine life including the endangered Dugong.¹²⁹ With the significant loss of mangrove forests and sea grass beds in Burma in recent years, their conservation going forward is of vital importance.¹³⁰ River dredging and significantly increased ship traffic can affect the brackish water line river deltas. An alteration to the brackish water could lead to loss of soil fertility due to salination of riverbank farmland where farmers use river water for irrigation.

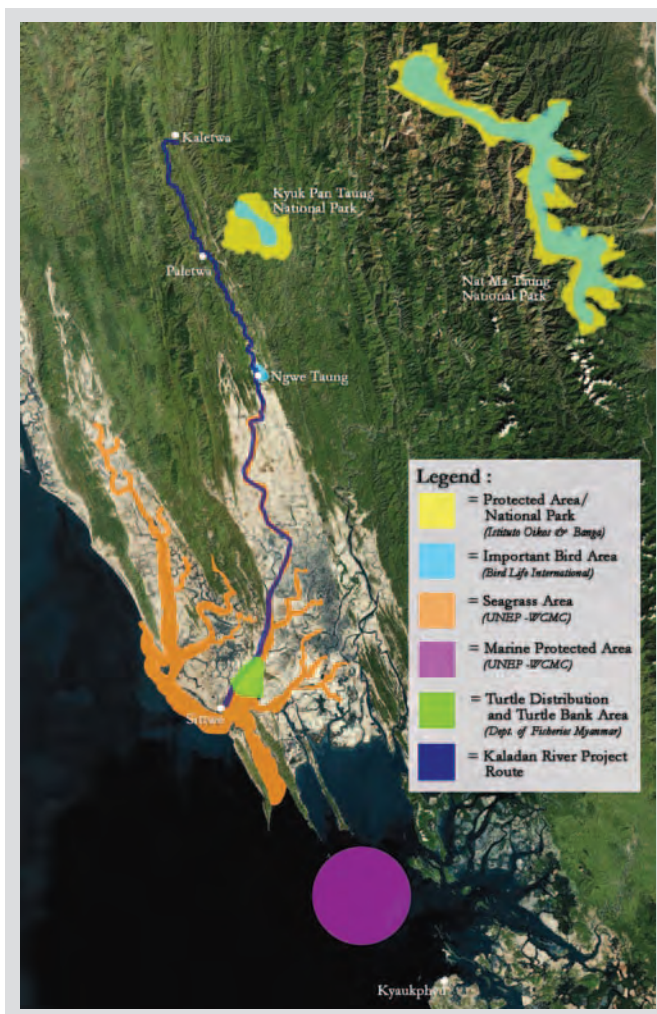
The Phase Three highway construction is likely to lead to the degradation of areas of lowland wet evergreen rainforest, which is known to be one of the most species-rich ecosystems in Burma.¹³¹ Conserving the forests of Burma is important because these areas act as sinks and reservoirs of greenhouse gases, crucial for combating climate change. These forests also support numerous plant and animal species, and provide livelihoods for local people through the collection of non-timber forest products. Protection of forests in Burma is particularly important now, considering that the country had the fourth most rapid annual net loss of forest areas globally between 1990 and 2010.¹³²

The Kaladan Project could lead to a loss of threatened and endemic animal and plant species due to pollution and destruction of habitats. Threatened mammal and reptile species found in the vicinity of the Kaladan Project include the Hoolock Gibbon (*hoolock hoolock*), Clouded Leopard (*neofelis nebulosa*), Arakan Forest Turtle (*heosemys depressa*), Loggerhead turtle (*caretta caretta*), green turtle (*chelonia mydas*), hawksbill turtle (*eretmochelys imbricata*), olive ridley turtle (*Lepidochelys olivacea*), gaur (*bos gaurus*), Asiatic Black Bear (*ursus thibetanus*), Tiger (*panthera tigris*), Himalayan serow (*capricornis thar*), Asiatic wild dog (*cuon alpinus*) and Asian elephant (*elephas maximus*).¹³³ Threatened bird species found in the vicinity of the Kaladan project include rufous-necked hornbill (*aceros nipalensis*), Asian white-backed vulture (*gyps bengalensis*), oriental darter (*anhinga melanogaster*), Lesser adjutant (*leptoptilos javanicus*), white winged duck (*carina scutulata*) and white-browed nut hatch (*sitta victoriae*).

An assessment of the Kaladan River found a high number of endemic freshwater fish, mollusc and odonata (dragonfly and damselfly) species and cited a study that recorded 42 species of fish in the Kaladan river.¹³⁴ Birdlife International has identified the Kaladan estuary as a Key Biodiversity Area worthy of conservation.¹³⁵ Similarly, the International Union for Conservation of Nature has identified the Kaladan river as an area of high biodiversity, but also one with many data deficient species that would merit further environmental research.¹³⁶

There are four recognized protected areas in the proximity of the Kaladan Project area; three in Burma and one in Mizoram State. In Burma, the Nat Ma Taung (Khonumtung) National Park, the Kyuk Pan Taung Wildlife Sanctuary, and the Wunbaik Reserved Forest (a Marine Protected Area of mangrove forest) are all in close proximity to the Kaladan Project area.¹³⁷ In Mizoram State, the Phase Four construction will pass nearby the Ngengpui Wildlife Sanctuary. This is significant insofar as the UN Convention of Biological Diversity, which Burma and India have ratified, states that contracting parties are responsible to “promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas.”¹³⁸ To date, environmental protection plans of this kind either do not exist or have never been made public.

Figure 14 - Location of protected areas along the Kaladan project route, as well as other areas of high biodiversity¹³⁹



These protected areas represent a very small land area, and should be increased. Only 4% of the Burma Coastal Rainforest Ecoregion is protected, and only 7% of forestland in Burma has conservation of biodiversity as its primary designated function.¹⁴⁰ Much of the land adjacent to the Kaladan Project, though not officially protected, is characterised by exceptional biodiversity and therefore also merits protection. The Kaladan estuary has been identified as a Key Biodiversity Area for bird habitat, and two Important Bird Areas can be found near the Kaladan project site: one located in Kyuk Pan Taung Wildlife Sanctuary and the other in Ngwe Taung on the Kaladan river, near the Chin State border.^{141 142 143}

Protection of forests and other marine and freshwater ecosystems is enshrined in international laws that Burma has ratified including: the Kyoto Protocol (1998),¹⁴⁴ the UN Framework Convention on Climate Change (1992)¹⁴⁵ and the UN

Convention on the Law of the Sea (1982).¹⁴⁶ Domestic laws seeking to protect forest, marine and river ecosystems include the Burma Forest Law (1992),¹⁴⁷ Conservation of

Water Resources and Rivers Law (2006)¹⁴⁸ and the Territorial Sea and Maritime Zone Law (1997).

The entire Kaladan Project area is rich in traditional medicine. Habitat of traditional medicinal species such as *Mizoram Achyranthes aspera*, *Alstonia scholaris*, *Actephila exelsa*, *Aporosa octandra*, *Heyotes scandens*, and *Mimosa pudica* will be threatened by the Kaladan Project if protection initiatives are not given priority. Research undertaken by the Zo Indigenous Forum shows that “the region is home to a diversity of indigenous communities [who are] dependent on natural resource-based livelihoods [and] this diversity of communities comes with unique socio-cultural, agro-ecological and land-holding systems.”¹⁴⁹ This complex interrelationship between environmental protection, natural resource management, Indigenous Peoples’ traditional livelihoods and culture must be seriously addressed during the implementation of the Kaladan Project.

2.2.7 Potential for violations of Indigenous Rights

The majority of the people living in Arakan and Chin States in western Burma and Mizoram State in northeast India are ethnic and indigenous peoples who are national-level minorities in their respective countries. To date, there has been precious little official effort to involve these indigenous peoples in the decision-making processes surrounding the planning and implementation of the Kaladan Project.

State-led large-scale infrastructure development projects that do not include the full participation of local indigenous peoples are in breach of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which Burma and India both voted in support of at the UN General Assembly.¹⁵⁰ The Declaration provides for the protection of indigenous peoples from forcible removal from their lands and stipulates that no relocation may take place without their consent and compensation.¹⁵¹ The concept of Free, Prior and Informed Consent is fundamental to ensuring the rights of indigenous peoples, and has become global best practice for state-led infrastructure development projects. If the free, prior and informed consent of local indigenous peoples is not sought and achieved for the Kaladan Project, then it is clear that the Project is in violation of the UNDRIP.

Part 3:

Current Impacts of the Kaladan Project

Work has begun on all four Phases of the Kaladan Project, although progress is still at an early stage for Phases 2, 3 and 4. Despite being some time from full operation, significant impacts have already been experienced by local residents in the Kaladan Project area. A comprehensive accounting of these impacts is essential at this time in order to find suitable solutions to any negative impacts that have already occurred, as well as to predict and prevent potential negative impacts going forward.

This report groups the current impacts of the Kaladan Project into six categories:

1. Lack of consultation
2. Lack of transparency
3. Labour discrimination
4. Land confiscation and forced relocation
5. Threats to local cultural heritage
6. Ecological destruction

3.1 Lack of consultation

Surveys conducted by the Kaladan Movement in Arakan and Chin States demonstrate that to date there is a general lack of awareness among the local population about the Kaladan Project. Residents reported they have been provided with very little official information about the scope of the Project or the potential positive and negative impacts to their communities. People have not been able to participate in any decision-making processes concerning the Kaladan Project in order to express their hopes and concerns for this kind of large-scale infrastructure development project in the region.

The UN Declaration on the Rights of Indigenous Peoples provides for the protection of indigenous peoples' right to influence decisions about the development of their land and resources, and requires that states must consult and obtain consent on development initiatives affecting the land and resources of Indigenous Peoples'.¹⁵² To this end, the Declaration stipulates the need for states to ensure that indigenous peoples provide their free, prior and informed consent before implementing large-scale development projects where they live. It is clear that local residents have not given their free, prior and informed consent for the Kaladan Project.

In April 2012, CHRO field staff conducted survey interviews with over 600 people across Paletwa Township, and not a single interviewee reported being involved in any public consultation process regarding the Kaladan Project. Without any official information about

what the Kaladan Project actually entails, local residents are very concerned about potential negative impacts in their communities. There is widespread concern among local residents that they will suffer serious negative impacts due to the Kaladan Project. The top three potential negative impact concerns reported by survey interview respondents were: 1) potential for loss of land due to project construction; 2) potential for increased obstacles to current Kaladan River use-rights; and 3) potential for increased pollution in the Kaladan River.

A survey conducted by Kistpanaddi Working Group¹⁵³ members' the Rakhine Coastal Environment Conservation and the Gender and Development Initiative among local residents in Arakan and Chin States in late 2011 found that few people had heard of the Kaladan Project. The findings of this "Kaladan Listening Project" suggest that limited or no consultation on the project with local communities has taken place in Burma to date.¹⁵⁴ The organizations' concluded that many local people neither know they have rights to organize in response to the Kaladan Project, nor do they know how to respond positively due to a lack of information, fear, and a militarized civil administration culture.

Local residents must be consulted about the plans for the Kaladan Project and be able to voice their hopes and concerns in a meaningful way before they can consent to having this large-scale development project in their area.

3.2 Lack of information provided to the community and lack of government transparency

Related to the lack of consultation among the local residents, to date very little official information about the Kaladan project has been made available to the public by the India and Burma government in Arakan and Chin States. A key element of Free, Prior and Informed Consent is for affected communities to have access, in their mother language, to detailed information on implementation plans, impact assessments, and other project documents before any construction starts. This level of information has not been made available by the project implementers. This lack of information provided to affected communities is related to the more general lack of government transparency which is status quo for large-scale infrastructure and resource extraction projects in Burma.¹⁵⁵ Findings from the Kaladan Movement show that these concerns about lack of transparency remain at present with the Kaladan Project.

Figure 15 - Burma government pamphlet on the Kaladan Project



The Burma Ministry of Transport and Burma Port Authority have produced a Burmese-language pamphlet about the Kaladan Project, but this effort at public information falls short in a number of ways. The information in the pamphlet is very basic. The pamphlet makes no mention of the potential negative impacts that local residents may experience as a result of the Project, nor ways that locals may mitigate these impacts or communicate their concerns with the government. The pamphlet has not been produced in the languages widely spoken within the project area, namely Arakanese, Khumi and Mara. There is no indication that this pamphlet was distributed widely in the project area. None of the 621 respondents to the CHRO survey reported receiving such information.

Among residents along the Kaladan Project route there is very little public awareness of what the Project actually entails or how it will impact their lives. Kaladan Movement findings show that very few local people have a real understanding that a large-scale international infrastructure project will be passing through the area where they live. Those that are aware of the project had learned about the Kaladan Project through a variety of informal means such as through local gossip and by seeing project engineers or labourers working nearby their villages. Many people living in the project area feel it is a project being implemented for foreign benefit and call it 'The Indian Project.'

The India and Burma governments have an obligation to share project plans with local residents, yet detailed implementation plans have never been made public. Important information for local residents, such as the location of construction sites and work schedules for the various project components, are not available. An English-language Executive Summary of the Detailed Project Report guiding ESSAR's Phase 1 and 2 implementation was available on the internet, but the full DPR was never released publicly. The DPR or other information about the project was never translated into local languages, and was never distributed among communities in the project area.

A DPR for the Phase 3 Paletwa-Myeikwa highway has never been publicly released, and there is a great deal of uncertainty among local people as to what this land-intensive infrastructure construction Phase will entail. The bidding process for the Phase 3 highway construction contract has not been transparent, and the main contractor for this Phase is still not publicly known. Early indications were that the Burma Ministry of Transport had selected the Burmese conglomerate Max Myanmar to complete Phase 3 construction. This process for selecting the Phase 3 contractor must be conducted transparently and all related documents must be made publicly available in local languages.

While the early stages of the Kaladan Project were conducted in a very non-transparent manner, the parties implementing the project can ensure that everything is conducted transparently in the future. President Thein Sein's government has recently made a public commitment to work towards full transparency in Burma's resource extraction sector, through initiatives such as the Extractive Industries Transparency Initiative.¹⁵⁶ Critics claim that this was a cynical move aimed solely at attracting foreign investment, with only lip-service being paid to the civil society monitoring side of the equation. If the Burmese government is serious about democratic development, the Kaladan Project should not go ahead unless basic principles of transparency and accountability are guaranteed for local people.

3.3 Lack of comprehensive and public Environmental, Health and Social Impact Assessments

The Kaladan Project tender documentation states that “no Environmental Impact Assessment study is required” for the Burma-side project construction, thus removing this responsibility from any future Indian contractor.¹⁵⁷ The document does go on to state that “permission from local authorities on account of environmental or any other clearance required under local laws of Myanmar (Burma) are to be facilitated by the Consultant as per the provisions in Article-5 of the Framework Agreement” meaning that any environmental clearance is the responsibility of the Burma government alone.¹⁵⁸ The Indian government has effectively cleared itself of any responsibility to ensure environmental best practice for the Kaladan Project.

The Indian embassy in Burma continues to stick to this position in the face of calls from local communities for a full EIA to be conducted. In January 2011, a spokesperson from the Indian Embassy in Burma made a statement dismissing the need for impact assessments for the Kaladan Project, stating that there is “no value in a third party reassessment of the environmental, social and health impact of a clean project of this kind.”¹⁵⁹

However, an EIA has been conducted for the Phase 4 construction in Mizoram State, revealing that different standards are being applied in Burma and India.

That being said, according to field research by the Zo Indigenous Forum, local residents in Lawngtlai have complained that the EIA conducted in Mizoram State for the Phase Four construction has been unsatisfactory. Locals feel that the issues raised by community representatives at the Public Hearing have not been taken into consideration during project implementation and the commitments made by government officials at the hearing have never been implemented.

The Kaladan Project is being entirely financed by India, and the Indian government should take all necessary steps to ensure that best-practice is used on the Burma-side as well as the India-side. A bare minimum for best-practice would be deferring to equivalent Indian laws in cases where Burmese law does not exist or is unclear. As there is no clear requirement for Environmental Impact Assessments in Burmese law, India should defer to its own 2006 Notification on Environmental Impact Assessment which would require an Environmental Impact Assessment and Environmental Clearance for an infrastructure development project such as the Kaladan Project.¹⁶⁰

There are also international guidelines¹⁶¹ - such as the World Bank’s Safeguard Policies¹⁶² and the International Finance Corporation’s Performance Standards¹⁶³ - under whose criteria a project the size of the Kaladan Project must be preceded by a full EIA. The World Bank states that projects that are likely to have significant adverse environmental impacts and therefore require a full EIA include port and harbour development and river basin development projects.¹⁶⁴

To date, no Environmental Impact Assessment (EIA), Health Impact Assessment (HIA) or Social Impact Assessment (SIA) have been conducted for the Burma-side implementation of the Kaladan Project - or if they have the findings have never been made public. In February 2012 Burmese government officials promised to conduct an EIA and SIA for the Kaladan Project. At a 15 February 2012 press conference presidential adviser U Ko Ko Hlaing - alongside representatives of the Burma Port Authority and Inland Waterways Authority of India - pledged that the Burmese government would conduct an EIA and SIA before any future large-scale development project.¹⁶⁵ The following week, in response to a question raised by Dr. Aye Maung chairman of the Rakhine Nationalities Development Party in the Amyotha Hluttaw, Minister for Transport U Nyan Tun Aung stated that the government would coordinate with India to conduct an EIA and SIA in order to reduce any negative effects from the Kaladan Project.¹⁶⁶ According to Kaladan Movement research, to date, people living in the Kaladan Project area are not aware of any concrete action taken by the government to follow-up on these important promises. There have been rumours that an EIA for the Phase 3 of the Kaladan Project has been conducted by a South Korean Consultancy under contract to the Indian Ministry of External Affairs, but no evidence of this work, nor the findings of the assessment have ever been made public.

The Rio Declaration on Environment and Development Principle 10 states that environmental issues are best handled with the participation of all concerned citizens, which includes ensuring that individuals have access to information and the opportunity to meaningfully participate in decision-making processes. Considering the large size of the Kaladan Project - and the scope of its potential negative impacts - the government of Burma must be proactive in working with the Indian government to ensure that comprehensive impact assessments are completed and made public before the project goes any further.

3.4 Labour discrimination

Labour discrimination is embedded in the Kaladan Project's 2008 Framework Agreement. Article 17 of the Agreement states that "Indian labour laws, including rates of payment and compensation, will apply to Indian personnel including technicians [while] Myanmar (Burma) workers shall be subject to Myanmar labour laws."¹⁶⁷ On the ground this stipulation has resulted in unrest among local labourers who feel as if they are being treated as second-class citizens in their own state. At the Site-tway Port site, local labourers face discrimination in terms of their working conditions and wages. The unrest has been growing. On 8 August 2012, approximately 40 ESSAR workers from the Site-tway Port construction site staged a strike in front of the local ESSAR office to bring attention to their grievances about not being treated equally to Indian workers on the site.¹⁶⁸

Figure 16 - Workers strike at ESSAR office in Site-tway, Arakan State



According to field research conducted by the Arakan Rivers Network, the workers had four main demands in response to what they consider to be unfair treatment compared to Indian workers at the site:

1. Local workers should receive a standard minimum wage of 5,000 kyats per day. In comparison Indian workers receive at least 700,000 kyats per month (approximately 23,000 kyats per day).
2. Local workers should receive their wages in a timely and standardized manner. At present wages are often distributed late, and managers are able to cut workers wages at their discretion.
3. Local workers should receive the pay raises that were promised when they were hired.
4. Local workers should be provided with adequate equipment. At present Indian welders receive two boiler suits, whereas local welders have only received one boiler suit and are reprimanded if the suit is dirty. At present local labourers are made to work all day in the rain without proper rain protection gear (hats, jackets and boots).

During the strike, Burma army soldiers brandishing machine guns approached the crowd and dispersed the strikers. ESSAR has to date not responded to any of the strikers' demands.

One of the potential benefits of the Kaladan project is the provision of employment opportunities for local people, which can help improve livelihoods and contribute towards poverty alleviation. However, for this benefit to be realized it is important that fair remuneration and employment standards are maintained for all employees on all Kaladan Project construction sites.

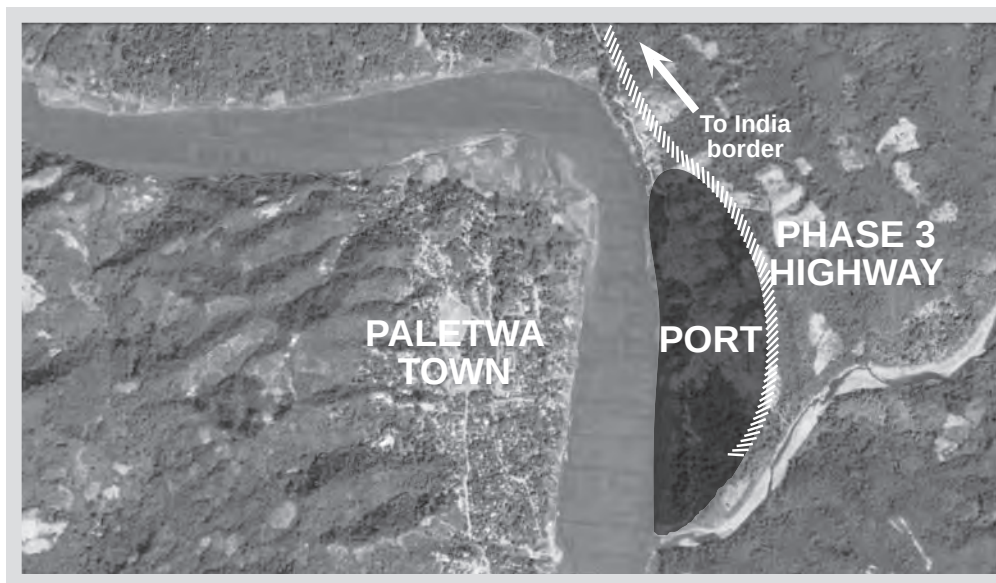
3.5 Land confiscation and forced eviction

Article 3 of the Kaladan Project Framework Agreement states that “the land required for the project will be provided gratis by the Government of the Union of Myanmar (Burma).”¹⁶⁹ As per its responsibilities in the Agreement, the Burmese government has committed to providing six hectares of land to accommodate the new port complex at Site-tway, and three hectares to accommodate the new port complex at Paletwa.¹⁷⁰

The six hectares of public land provided by the Burma government at Site-tway consists of coastal/delta land which was previously used by local fishers and boatmen, and as a recreational site for local residents.

The three hectares of public land provided by the Burma government at Paletwa Town were previously used to cultivate beans and peas, as well as for banana and mango orchards.¹⁷¹ The area of the port and trans-shipment terminal will be nearly the same size as Paletwa Town itself.

Figure 17 - Planned location of port and starting point of Phase 3 highway at Paletwa Town, Chin State



The Burma government is also responsible for providing the land on which the Phase 3 highway is to be built. Local residents are concerned that significant land acquisition will be needed for the highway construction between Paletwa Town and MyaikWa at the India border. As the DPR for this Phase has not been made public, it is unknown what route the highway will take or exactly how much land will be required for its construction. This is concerning for locals as it is anticipated that much of the land acquired will be agricultural land that local residents depend on as a crucial element of their livelihoods.

In Mizoram State, construction of the Phase four Lanwgtlai-Lomasu highway has been halted since December 2012 in response to “stay-orders” and physical blockades organized

by the Indo-Burma Border Road Land Owners Association (LAO) representing local residents upset over the little or no compensation they have been offered for land that is marked for confiscation.¹⁷²

Out of a total of 913 land compensation claims along the planned Lawngtlai-Lomasu highway route, only 166 had been paid-out, with the government denying the validity of the 747 outstanding land claims.¹⁷³ The LAO is demanding that these 747 land claims be assessed by the Mizoram District Commissioner, and that the rate of 50 Rupees per square foot be paid as compensation.¹⁷⁴ The President of the LOA stated that “the compensation in Lawngtlai is very low compared to other places . . . for the Aizawl-Lunglei highway the Mizoram government paid compensation of Rs 50 per square foot, and for the Indo-Bangladesh Border Fence the Central government of India paid the same compensation rate . . . we are only being offered compensation of Rs 3.50 per square foot.”¹⁷⁵

The disagreement stems from discrepancies between the national, state and local level land tenure records as well as the recognition of customary land rights. The main issue is that land titles for “Degraded jhum land” issued by the Lai Autonomous District are not recognized by the Mizoram State and National governments. To date, the 747 outstanding claimants from Lawngtlai District have made land claims based on their title papers for “Degraded jhum land”; land which had been re-classified as “Forest land” in the revised DPR for the Phase four highway construction.

The original 2008 Detailed Project Report (DPR) prepared by the Mizoram Public Works Department, in cooperation with the Lai Autonomous District, states that three classifications of land are required to be appropriated for the Lawngtlai-Lomasu highway construction: “Private land” (42.84 ha), “Forest land” (15.24 ha) and “Degraded Jhum land” (181.50 ha). In July 2009, the North East Region Ministry of Environment and Forest requested the Environment and Forest Department of Mizoram State to re-examine the 2008 DPR, specifically concerning the classification of “Forest land,” and create a revised DPR based on their findings. As there is no national-level recognition of the classification “Degraded jhum land,” the Environment and Forest Department disregarded the Lai Autonomous District’s land title papers for “Degraded jhum land.” All land previously classified as “Degraded jhum land” - by far the largest category - were re-classified as “Forest land” without the consent of the Lai Autonomous District Council, the principal authority on land and land revenue in Lawngtlai district. This re-classification effectively blocked the owners of the 181.50 hectares of “Degraded jhum land” from accessing compensation for their lost land.

The Deputy Commissioner of Lawngtlai District sent a letter on 10 December 2012 to the Mizoram State Chief Minister’s office outlining the grievances of the LAO, and requesting that a solution be found.¹⁷⁶ The Lawngtlai Deputy Commissioner suggested that the Mizoram State Environment and Forest Department work to reverse the re-classification from “Degraded jhum land” to “Forest land” in the revised DPR, so that the Lawngtlai District Commissioner would be able to accommodate the demands of the LOA.

The root of the problem is that the central Indian government, the Mizoram State government and the local government - the Lai Autonomous District Council - have all been issuing different classifications of land title papers for the same area of land. Mizoram-based anti-corruption NGO PRISM has reported that the process for documenting land ownership in the area is seriously hindered by duplication and corruption. The organization used Right To Information requests to calculate that for Mizoram State, government documents from all levels record land holdings of 435,446,533 square kilometers while the entire land area of Mizoram State is only 21,080 square kilometers.¹⁷⁷ This massive discrepancy is caused by multiple claims being made over the same land through duplications of Land Settlement Certificates and pattas (land ownership document from the Revenue Department).¹⁷⁸

While there is clearly a serious problem with the way that land title documents have been issued in Mizoram State, this does not mean that the grievances and land claims of the local residents in Lawngtlai district can be bulldozed. The Indian government must ensure that every person who will lose land to the Kaladan Project Phase four highway construction will receive adequate compensation for their loss.

3.6 Destruction of local cultural heritage

“These mountains are historically significant places and are 73 miles from Site-tway. If they really need stones for the Kaladan project, there are a number of other mountains along the river. It is illogical to dig the stones from the Shwe Taung and Ngwe Taung mountains. This is the destruction of the beliefs of an ethnic nationality and more importantly, our valuable historical heritage.” [protesters at Shwe Taung and Ngwe Taung]

Two important local cultural sites at Shwe Taung and Ngwe Taung villages in Mray Bon Township, Arakan State have been destroyed due to stone mining for the Site-tway port construction. The Shwe Taung and Ngwe Taung mountains are respected locally as ancient Arakanese monuments. It is believed that these monuments were built in AD-792 by King Saw Mwan in dedication to the Arakanese kingdom. King Saw Mwan originally built six monuments, four of which have since been rebuilt. Shwe Taung and Ngwe Taung were in the process of being rebuilt when the mining operation was started.

Figure 18 - Arakan Historical Heritage being destroyed for the Kaladan Project



Figure 19 - The construction of the Site-tway Port has altered the harbour environment



Rakhine State Chief Minister U Hla Maung Tin hired local businessman U Than Shwe Maung to mine aggregates and large slabs of stone from the Shwe Taung and Ngwe Taung mountains. On 12 February 2012, without prior warning or consultation, U Than Shwe Maung and 20 of his employees arrived at Ngwe Taung mountain, and began digging-up stones. It is believed that the aggregates mined from the mountain were to be used for the Site-tway port construction.

In response to the mining operation, approximately 150 local people staged a protest at the site. The protesters state that the mountains are ancient Arakanese heritage sites. Local residents are angry because they did not give their consent for this mining operation. Residents feel that this is a disrespectful attempt to destroy their local cultural heritage.

In order to complete this work in the face of opposition from local residents, U Than Shwe Maung collaborated with current Mray Bon Township Administrator Min Khine Win. The protesters successfully suspended the mining work for twelve days, but on 24 February 2012 Mray Bon Township Administrator Min Khine Win ordered the village to end the protest. Min Khine Win vowed that the mining would go ahead, and threatened the use of heavy machinery if the villages did not cooperate. Min Khine Win then appointed a new Village Head, U Maung Ba Sein, to quell protests.

3.7 Riverine ecological destruction from aggregate mining and dredging

Residents of Site-tway have complained of pollution and destruction of local coastal land and beaches as a result of the port construction.

At the end of 2011, a local newspaper in Arakan state reported that residents of Site-tway complained of dust and sand pollution linked to the deepsea port construction.¹⁷⁹ This was of particular concern due to the proximity of the construction site to the Site-tway hospital. Arakan River Network field research has found that the natural beauty of Point Beach in Site-tway has also been damaged due to sand being removed and used for landfill at the port construction site. These concerns were raised by a local MP to the regional government and a local campaign started in January 2012 in protest at the damage to the environment.¹⁸⁰

There are concerns about the environmental impacts of the dredging operations that will be conducted at various points along the Kaladan River between Site-tway and Paletwa, and at the Paletwa Port site itself, to clear the way for the up to 200 metres long IWT cargo ships. Additional dredging of local streams and creeks is planned in order to collect aggregates to be used for the construction of the Phase Three highway. Local residents are concerned that this dredging will negatively impact the fragile stream and creek ecosystems in remote areas of northern Paletwa Township.

Comprehensive environmental impacts assessments must be conducted for all dredging operations related to the Kaladan Project; including those on the Kaladan River as well as its tributaries and nearby streams and creeks.

Conclusion

As this report has shown, the Kaladan Project has the potential to be either a net benefit or a net loss to the people living along the project route. The Kaladan Movement believes that the people living in the project area should be the main beneficiaries of this large-scale infrastructure development. Under no circumstances is it acceptable for human rights violations to be perpetrated during the implementation of the Project. The implementation of the Kaladan Project should be fully transparent and should ensure full local public consultation and participation; the benefits of the project go to the least advantaged communities; and accountability for ALL stakeholders involved in the project. Unless and until these essential elements are fulfilled, the Kaladan Project should be suspended.

This report has examined some of the potential benefits which the Kaladan Project may bring to local people, including: improved transportation infrastructure; increased trade opportunities for local farmers and producers; lower food prices and improved access to food; employment opportunities on project construction and maintenance; and economic development for local small and medium sized enterprises.

This report has also examined some of the potential negative impacts which may be experienced by local people due to the Kaladan Project, including: the use of forced labour during project construction; land confiscation and forced eviction; disruption of and loss of livelihoods; increased presence of Burma Army troops; restrictions on freedom of movement and access to transportation; illegal taxation and extortion; pollution and environmental degradation; and violations of indigenous peoples' rights.

To date, six major negative impacts have already been experienced by people living along the Kaladan Project route. These are: lack of consultation; lack of information and transparency; labour discrimination; land confiscation and forced relocation; threats to local cultural heritage; and ecological destruction.

Whether the Kaladan Project provides a net benefit or a net loss to local people depends on the way in which the Project is implemented. The Kaladan Movement urges the project implementers to be pro-active in identifying potential negative impacts before they happen. This report has aimed to highlight problematic impacts and propose sensible practices and policies to prevent and mitigate these impacts in the future. In this light, the Kaladan Movement makes the following recommendations to the governments of India and Burma:

1. Conduct fully-participatory consultations with local people
2. Prevent human rights abuses
3. Conduct Health, Environmental and Social Impact Assessments and make results public
4. Identify and develop a mitigation plan for potential negative health, environmental, social and economic impacts
5. Prioritize economic development for local residents
6. Prioritize employment opportunities for local residents

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- 154 The survey was conducted by Rakhine Coastal Environment Conservation and the Gender and Development Initiative among 140 residents in Arakan and Chin states. See Thein, Cherry. "Kaladan transport project in spotlight." *Myanmar Times*, 5-11 December 2011. www.mmtimes.com/2011/news/604/news3160407.html & Thein, Cherry, and Thomas Kean. "India defends project after review call." *Myanmar Times*, 30 January – 5 February 2012. <http://www.mmtimes.com/2012/news/612/news61221.html>

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- 156 See <http://eiti.org/news/myanmar-appoints-eiti-lead>
- 157 Inland Waterways Authority of India. "Standard Request for Proposals." January 2009.
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