



## I. Introduction

1. Myanmar's fundamentally flawed peace process has, in content and process, contributed to serious human rights violations.
2. Military attacks continue, and many either target or fail to protect civilian populations. In the first half of 2020 alone, there were 608 armed clashes or attacks on civilians, resulting in death, injury, mass displacement and destruction of homes and property, involving arbitrary detention, torture, sexual violence, and forced labor. These incidents took place in 10 out of the nation's 14 states and regions, i.e. Bago, Chin, Kachin, Kayah, Kayin, Mandalay, Mon, Rakhine, Sagaing, and Shan, and included multiple attacks on COVID19 prevention sites.
3. Peace agreements that prioritized business deals for combatants—notably the 2015 Nationwide Ceasefire Agreement (NCA)—have contributed to serious violations of economic, social and cultural rights of communities already impacted by protracted conflict. Several Ethnic Armed Organizations (EAOs) have enjoyed impunity for such violations in return for their cooperation in the peace process. Poor implementation of weak regulatory regimes has made conflict-affected communities particularly vulnerable to abuses linked to infrastructure development projects, mining and resource extraction, and commercial agriculture. The combination of competition between armed groups, local resistance against such harmful projects and violent responses threatens to reignite conflict in these areas.
4. The failure to effectively address threats resulting from extractive industries continues to exact a heavy toll. In the jade mining sector alone, approximately 400 deaths have resulted from eight major and numerous minor landslides in the Hpakant area of Kachin State since mid-2018.<sup>1</sup> On 2 July 2020, 172 people were killed and 31 injured in a landslide in the area. The Myanmar Alliance for Transparency and Accountability (MATA) has consistently called for the government to comprehensively and transparently implement the reforms that Myanmar committed to when it joined the Extractive Industries Transparency Initiative in 2014. MATA's statement on the 2 July landslide is annexed.<sup>2</sup>
5. Myanmar is bound by the international instruments it has ratified, including the ICESCR, CEDAW, CRC, CRPD, Genocide Convention and Geneva Conventions. Under these and all other human rights treaties, the state has a responsibility to respect, protect, and fulfil the rights of all those in Myanmar.
6. Myanmar has not yet ratified or acceded to the ICCPR, CAT, CERD, CMW, CED, or any of the additional protocols on individual complaints procedures. Ratification would allow greater protection, transparency, access to remedy, and guidance.
7. In Myanmar's 2015 UPR process, states recommended that Myanmar take fundamental steps: ratification and respect of all key human rights treaties, responsible economic development, and the establishment of key safeguards for protecting human rights. Though Myanmar supported more than thirty-five recommendations on ratifying the nine core human rights treaties and their additional protocols,<sup>3</sup> it has failed to implement them. Similarly, it has failed to cooperate with OHCHR in establishing a country office (a commitment made in 2012) or allow special procedures to proceed, despite recommendations in

2015.<sup>4</sup> Myanmar has continued to bar the Special Rapporteur from entering the country, despite its obligation under the Convention on Privileges and Immunities of the UN to give privileges to all UN experts such that they can fulfil their mandates.<sup>5</sup>

8. Also of concern is Myanmar's failure, regarding the Myanmar National Human Rights Commission, to heed the Paris Principles, numerous recommendations from states in 2015,<sup>6</sup> or its 'B' rating from the GANHRI Sub-Committee on Accreditation in 2015.<sup>7</sup> The 2019 ANNI report raises critical issues with the MNHRC such as a flawed enabling law and commissioners lacking the appropriate human rights background.<sup>8</sup>

## II. Human rights on the ground

### A. Continued attacks

9. Despite the NCA, the Myanmar military (Tatmadaw) continues to engage in provocations, attacks and skirmishes.<sup>9</sup> The following incidents are simply illustrative; they and many others will be referenced in other submissions.

10. The Tatmadaw frequently initiates hostilities with groups despite their mutual ceasefire agreements. For example, **in May 2020 in Kayin State the Tatmadaw destroyed COVID19 prevention sites and fired at civilians, all in violation of the NCA**, to which the Karen National Liberation Army is a signatory. **In June the Tatmadaw destroyed a COVID19 prevention site in Kachin State**, despite its stated ceasefire there.

11. In total, the Tatmadaw has engaged in **over 608 incidents** so far this year, whether direct attacks on civilians or armed clashes in civilian areas that failed to adequately protect civilians in **seven States and three Regions**, resulting in at least 169 civilian deaths, 499 injured, and thousands forcibly displaced.

12. The table below summarizes the incidents 1 Jan – 30 Jun 2020 and resulting harms, extracted from the Armed Conflict Location and Event Data project:

Abduction/ detention	Air/ drone strike	Armed clash	Attack	Property destruction/ seizure	Shelling/ artillery/ missile	Grenade	Sexual violence	State/Region	Incidents	Civilian deaths	Civilian injuries	Civilian detention	Civilian torture	Homes destroyed
				1				<b>Bago Region</b>	1					
4	12	45	11	4	2		1	<b>Chin State</b>	79	38	70	151		115
		1		1				<b>Kachin State</b>	2					
		2						<b>Kayah State</b>	2	1		8		
		12	6	3	32	2		<b>Kayin State</b>	55	3	12	3	3	
1		1						<b>Mandalay Region</b>	2			1		
			1					<b>Mon State</b>	1		1			
12	19	196	74	10	58	2	2	<b>Rakhine State</b>	373	106	393	308	65	1262
		3	2					<b>Sagaing Region</b>	5	1	3			
7		50	22	5	3	1		<b>Shan State</b>	88	20	20	36	12	
<b>24</b>	<b>31</b>	<b>310</b>	<b>116</b>	<b>24</b>	<b>95</b>	<b>5</b>	<b>3</b>	<b>National TOTAL</b>	<b>608</b>	<b>169</b>	<b>499</b>	<b>507</b>	<b>80</b>	<b>1377</b>

## **B. Harmful business environment**

### **i. Contextual background**

13. In the 1990s the country's military government engaged in a number of peace deals with individual EAOs. In Kayah State, for example, the Kayan New Land Party (KNLP) and Karenni Nationalities People's Liberation Front (KNPLF) both signed ceasefires with the government.
14. In 2009, Tatmadaw encouraged non-aligned EAOs to join the Border Guard Force (BGF) scheme and demanded existing ceasefire groups become either BGFs or People's Militia Forces (PMFs). In Kayah State, two battalions from the KNPLF became BGF 1004 and BGF 1005; the KNLP and other EAOs became PMFs.
15. In return, the BGFs and PMFs were given valuable business concessions including mining, logging, and other profit-making opportunities.
  - a. The granting of concessions in exchange for military cooperation has a long history in Myanmar. The Lawayang PMF, which split from the Kachin Independence Organization, was granted land, logging rights and gold mining rights by the Tatmadaw.<sup>10</sup> In Kayin State, BGFs have been rewarded with permits to build casinos in Myawaddy and an entirely new city in Shwe Kokko.<sup>11</sup> In northern Shan State, the Pan-say PMF makes money from illegal trade in drugs, wildlife, and young women while the government turns a blind eye.<sup>12</sup>
16. In the territory of each ceasefire organization, businesses typically involve that group, whether as protection, investors, or direct management. In addition to inducing human rights violations by businesses, this threatens to reignite conflict—whether by causing intra or intergroup clashes over resources or territory or social unrest over harms suffered by civilians.<sup>131415</sup>
17. The NCA has facilitated an increase in unregulated and harmful development, where businesses often do not conduct due diligence or otherwise respect human rights in their practices. As recognized by the UN Guiding Principles on Business and Human Rights, business projects are particularly dangerous in situations of historical or ongoing conflict. The following case is illustrative.

### **ii. The cement factory**

18. In 2015, the Shwe Kandayawaddy Holding Company took over a cement factory project that had previously faced community opposition in two other locations in Kayah State. This company was under the control of Commander Ton Kyaw's BGF 1004. In 2017, the same BGF leader changed the name of the company again, this time to Hein Myanmar.
19. Civil society organizations (CSOs) and community members continued to oppose the project. Activists shared information on the potential negative effects of the project on eight surrounding villages; collected 8,000 signatures for a petition; and produced posters and t-shirts.

20. On 14 February 2018, a BGF commander threatened “AB”, a Karenni CSO representative, warning him not to oppose the project. BGF soldiers also destroyed campaign posters.
21. On 18 February, AB received another threatening phone call from the BGF commander who warned, “If you do not call off the campaign, I will not take any responsibility for you.” The commander threatened that AB would meet the same fate of his relatives who had been killed by this same BGF previously: “Be careful. I warn you, do not get in the way. Watch out. None of your relatives died in peace.”
  - a. Human rights defenders and civil society must be protected by law. The ICCPR, much of which is considered customary international law, ensures the right to life, freedom from inhuman and degrading treatment, liberty and security of person, freedom from interference with privacy, and freedom of opinion, expression, assembly and association. The CRC expressly states that children must be protected from discrimination on the basis of their parents’ expression or activities. The UN Declaration on the Rights of Indigenous Peoples asserts indigenous rights, including the protection of resources, lives, and livelihoods, and the full scope of international human rights law.
  - b. Several states made recommendations to Myanmar in 2015 to ensure protection of civil society and human rights defenders, including from intimidation and harassment; right to freedom of expression, including freedom from reprisals; freedom of assembly; and a safe environment for civil society.<sup>16</sup> Many states recommended that Myanmar take special care to respect the rights of ethnic minorities.<sup>17</sup>
22. On 22 June 2018, CSOs were able to arrange a meeting with the BGF leadership. The two sides agreed that a community vote on the project would serve as the final decision on the project. However, the company/BGF has not been willing to put the issue to a vote yet.

### **iii. The metal-processing plant**

23. In 2019, Global South Industrial Company Limited, owned by the KNLP, was granted a two-year permit to construct a metal-processing plant in Nwa Lawo village tract, Loikaw Township.<sup>18</sup>
24. According to investigating CSOs, the 113 acre factory will produce approximately 5,000 tons of tungsten per year. The raw material will come from Kasan (KNLP-controlled), where the company hopes to expand their mine from 4,000 acres to 13,000 acres; and Pa-Saung, where the mine is planned to be expanded from 7,000 acres to 80,000 acres.<sup>19</sup>
  - a. The CESCR states that peoples have the right to freely dispose of their natural resources, and that all people have the right to work and to an adequate standard of living. The state’s responsibilities to respect, protect, and fulfill these rights mean that its policies should not allow unfair expropriation of land.

- b. The right to free disposal of natural wealth has an additional dimension here because governments and businesses have special responsibilities toward indigenous peoples.<sup>20</sup>
  - c. States previously recommended that Myanmar address land grabs and expropriation.<sup>21</sup>
25. According to CSOs, the project will dry out the area's aquifer and create waste that will be pumped into the Balu River, hurting communities downstream.
- a. The CESCR recognizes the right of everyone to the highest attainable standard of physical and mental health. This includes through the improvement of all aspects of environmental and industrial hygiene. The CRC explains the right of children to health, including through environmental protections. The Committee on the Rights of the Child has explained that, by polluting the environment, "business activities can compromise children's rights to health, food security and access to safe drinking water and sanitation."<sup>22</sup> Environmental degradation by businesses can violate or negatively affect a wide range of human rights, including the right to an adequate standard of living, health, and property.<sup>23</sup>
  - b. States made recommendations to Myanmar in 2015 to improve health.<sup>24</sup>
  - c. Myanmar has a poor track record in ensuring that business practices respect people's right to health. For example, surveys of air and water pollution around the Tigyt coal-fired power plant in Shan State have shown: PM2.5 levels 7-10 times the guideline value for annual average; PM10 levels 5-6 times the annual average guideline; SO2 levels 12-15 times the 24-hour guideline value; 24-hour average NO2 levels values exceeding the guideline significantly; and concentrations of arsenic, lead, nickel and selenium in downstream water exceeding Myanmar's guidelines.<sup>25</sup> More recently, pollution from a Tatmadaw-controlled cement plant in Kayin State made national news when it turned the local water black.<sup>26</sup>
26. Dialogue began after CSOs sent a letter to the company, opposing the project.
27. On 13 August 2019, the company attended a meeting with the relevant government departments, CSOs, and the community. CSOs pointed out potential negative effects of the project. The senior-most health officer from Kayah State asked about measures for mitigation of potential negative health effects, and about water pollution, but the company did not provide any precise information.
28. The project's scale (see para. 24, supra) requires an initial environmental examination, if not an environmental impact assessment, under Myanmar's Environmental Impact Assessment Procedure guidelines.<sup>27</sup> But the company could not answer questions about either assessments or taxes on the project. The attending government representatives later admitted to the CSOs that they had not previously enquired about the project.

- a. The responsibilities of the government regarding businesses include making sure that laws encourage respect for human rights, enforcing these laws, providing guidance on how businesses can respect human rights, and taking extra steps to avoid abuses when the state is connected to businesses.<sup>28</sup> With respect to children, states must ensure that businesses “are adequately regulated within a legal and institutional framework that ensures” respect for the rights of the child.<sup>29</sup> The Universal Declaration of Human Rights, ICESCR and ICCPR include rights that require the commission of environmental impact assessments in many cases.<sup>30</sup>
  - b. The state’s responsibilities are heightened in the context of conflict-affected areas, where they must help businesses identify and decrease risks of human rights abuses, pay particular care to sexual and gender-based violence, and ensure that state rules and enforcement are effective.<sup>31</sup>
  - c. States made recommendations to Myanmar in 2015 to encourage economic development that brings, rather than threatens, peace and human rights.<sup>32</sup>
  - d. Myanmar’s investment and environmental safety laws are often flouted. For example, the above-mentioned projects continue to significantly harm the environment despite national laws prohibiting environmental damage or production of hazardous waste.<sup>33</sup> On 2 July, a landslide at a Kachin State jade mine killed at least 172 people.
29. In the meeting with Global South, CSOs proposed a joint CSO-Government mechanism to monitor project impacts on local people. KNLP commander Win Maw refused to accept the proposal. He declared that the government had granted the permit to them as thanks for 25 years of peace, and that was the end of the discussion.
- a. Myanmar is required under the UN Convention Against Corruption to take measures to prevent and punish domestic corruption, including by “preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licenses granted by public authorities for commercial activities.”<sup>34</sup> It must ensure that state processes respect the rule of law.
  - b. Several states made recommendations to Myanmar in 2015 to address corruption, impunity, and the rule of law, and to better support the peace process.<sup>35</sup> In particular, states called on Myanmar to ensure that the peace process adequately takes human rights into consideration and protects human rights, and includes meaningful input of often ignored groups.<sup>36</sup> Overlapping recommendations include improving social cohesion and ethnic community involvement in government decisions.<sup>37</sup>
30. Though the Shwe Kandalayawaddy/Hein Myanmar project has been suspended, the BGF commander warned CSOs the cement factory project will be restarted if the tungsten factory project is allowed to proceed. Despite local opposition, Global South continues to build its factory.

### III. Recommendations

31. We therefore recommend to the Government of Myanmar:

- Ratify all core human rights treaties and their optional protocols allowing for individual complaint mechanisms.
- Cooperate with the Office of the High Commissioner for Human Rights in all regards, including allowing unimpeded access of the Special Rapporteur on the Situation of Human Rights in Myanmar and the establishment of a country office.
- Ensure the Myanmar National Human Rights Commission is consistent with the Paris Principles.
- Take measures to stop armed groups under the government's control (e.g. Tatmadaw, BGFs and PMFs) from engaging in human rights abuses against civilians.
- Ensure that all economic projects conduct inclusive impact assessments and implement measures that allow communities to exercise Free, Prior, and Informed Consent.
- Prioritize comprehensive protection of human rights above profit, and ensure genuine inclusion of women and civilians in the peace process.
- Apply rules regarding impact assessments and other business regulations in a conscientious, effective, and consistent manner, regardless of whether companies are associated with armed organizations or not.

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<sup>1</sup> Swedwatch (10 Jun 2020) Still Overlooked.

<sup>2</sup> MATA (4 Jul 2020) Statement of Myanmar Alliance for Transparency and Accountability (MATA) on Hpakant Landslide of 2<sup>nd</sup> July 2020.

<sup>3</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13, paras. 143.1, 143.2, 143.3, 143.4, 143.5, 143.6, 143.7, 143.8, 143.9, 144.1, 144.2, 144.3, 144.4, 144.5, 144.6, 144.7, 144.8, 144.9, 144.10, 144.11, 144.12, 144.13, 144.14, 144.15, 144.16, 144.17, 144.18, 144.19, 144.20, 144.21, 144.22, 144.23, 144.24, 144.25, 144.26, 144.27, 145.1, 145.6. Of the 38 recommendations on this topic, the only two that Myanmar did not support, 145.1 and 145.6, repeated recommendations made elsewhere but also included accession to the Rome Statute and particular attention to Rakhine State, respectively.

<sup>4</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13. Several states made recommendations to Myanmar, as part of its second cycle UPR, to facilitate the opening of an OHCHR country office in Myanmar (144.39, 144.40, 144.41, 144.42, 144.43, 144.44, 144.45) and cooperate with all aspects of the UN human rights system, including importantly the Special Rapporteur on the Situation of Human Rights in Myanmar (143.50, 143.51, 143.52, 144.33, 144.34, 144.35, 144.36, 144.37, 144.38, 145.9).

<sup>5</sup> UN General Assembly (13 Feb 1946) Convention on the Privileges and Immunities of the United Nations; ICJ (15 Dec 1989) Advisory Opinion of 15 December 1989: Applicability of Article IV, Section 22, of the Convention on the Privileges and Immunities of the United Nations; ICJ (29 Apr 1999) Advisory Opinion of 29 April 1999: Difference Relating to the Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights.

<sup>6</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13. Many states made recommendations to Myanmar, as part of its second cycle UPR, about establishing a National Human Rights Mechanism that is fully in accordance with the Paris Principles (143.42, 143.43, 143.44, 143.45, 143.46, 143.47, 143.48, 144.76, 144.31).

<sup>7</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (16-20 Nov 2015) Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA).

<sup>8</sup> Asian NGO Network on National Human Rights Institutions (2019) 2019 ANNI Report On the Performance and Establishment of National Human Rights Institutions in Asia.

<sup>9</sup> The information referenced in paragraphs 8-12 comes from the Armed Conflict Location & Event Data Project (ACLED) Data Export Tool, available at <https://acleddata.com/data-export-tool/>

<sup>10</sup> BNI Multimedia Group (11 July 2013) Burma's pro-government Kachin militia leader grabs land for gold mining; Environmental Investigation Agency (Sep 2015) Organised Chaos: The illicit overland timber trade between Myanmar and China.

<sup>11</sup> Frontier Myanmar (16 Dec 2019) The business of the Kayin State Border Guard Force.

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- <sup>12</sup> Bangkok Post (31 Jan 2019) Muse: Myanmar's militia-run, billion-dollar gateway to China.
- <sup>13</sup> See, e.g., The Irrawaddy (20 Dec 2013) 'Peace Permit' Bonanza Puts Ethnic Groups on Defensive.
- <sup>14</sup> See, e.g., Myanmar Times (30 Sep 2016) CSOs say Hatgyi dam fuelling recent clashes in Kayin.
- <sup>15</sup> See, e.g., John Buchanan (July 2016) Militias in Myanmar, p.34.
- <sup>16</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13. The recommendations were to ensure protection of civil society and human rights defenders (144.82, 144.83), including from intimidation and harassment (145.23); right to freedom of expression (143.88, 143.98), including freedom from reprisals (143.99); freedom of assembly (144.84); and a safe environment for civil society (143.100).
- <sup>17</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13, paras. 143.24, 143.26, 143.118, 144.28, 145.10, 145.42.
- <sup>18</sup> On 5 July 2019, the Myanmar Investment Commission (MIC) granted an investment permit (168/2019) to Global South Industrial Company Limited for a 2-year construction period.
- <sup>19</sup> Myanmar Times (15 July 2019) Kayah State to get \$50 million metal refinery.
- <sup>20</sup> United Nations (13 Sep 2007) United Nations Declaration on the Rights of Indigenous Peoples; UN Office of the High Commissioner for Human Rights (2011) Guiding Principles on Business and Human Rights; The Government of the Republic of the Union of Myanmar (29 Dec 2015) Ministry of Environmental Conservation and Forestry Notification No. 616/2015, Environmental Impact Assessment Procedure.
- <sup>21</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13, paras. 144.88, 143.123, 143.124.
- <sup>22</sup> Committee on the Rights of the Child (17 Apr 2013) General Comment No. 16 on State obligations regarding the impact of the business sector on children's rights, CRC/C/GC/16, para. 19.
- <sup>23</sup> See Human Rights Council (30 Dec 2013) Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox (A/HRC/25/53).
- <sup>24</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13, paras. 143.108, 143.109, 143.112.
- <sup>25</sup> Myanmar Alliance for Transparency and Accountability (26 June 2018) Assessment of air quality sampling results around Tigyt coal-fired power plant, Shan State, Myanmar; Myanmar Alliance for Transparency and Accountability (27 Aug 2018) Pollution impact assessment of Thi Kyit, Myanmar.
- <sup>26</sup> The Irrawaddy (1 Nov 2019) Water Polluted by Myanmar Military-Run Cement Plant Causes Health Issues in Karen State.
- <sup>27</sup> The Government of the Republic of the Union of Myanmar (29 Dec 2015) Ministry of Environmental Conservation and Forestry Notification No. 616/2015, Environmental Impact Assessment Procedure.
- <sup>28</sup> UN Office of the High Commissioner for Human Rights (2011) Guiding Principles on Business and Human Rights, principles 1-10.
- <sup>29</sup> Committee on the Rights of the Child (17 Apr 2013) General Comment No. 16 on State obligations regarding the impact of the business sector on children's rights, CRC/C/GC/16, para. 42.
- <sup>30</sup> Human Rights Council (30 Dec 2013) Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox (A/HRC/25/53), paras. 29,30,32.
- <sup>31</sup> UN Office of the High Commissioner for Human Rights (2011) Guiding Principles on Business and Human Rights, principle 7 and commentary.
- <sup>32</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13, paras. 143.32, 143.33, 143.34, 143.38, 143.39, 143.41.
- <sup>33</sup> The Government of the Republic of the Union of Myanmar (18 Oct 2016) Myanmar Investment Law; The Government of the Republic of the Union of Myanmar (30 Mar 2012) Environmental Conservation Law, §§14,15; The Government of the Republic of the Union of Myanmar (5 June 2014) Ministry of Environmental Conservation and Forestry Notification No. 50 / 2014, Environmental Conservation Rules, art. 69.
- <sup>34</sup> UN General Assembly (31 October 2003) United Nations Convention Against Corruption, Articles 13, 12(1)(e).
- <sup>35</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13. The specific recommendations were to address corruption (143.84, 143.85), impunity (143.78, 143.79, 143.80, 143.81, 143.82, 145.28), and the rule of law (143.86, 144.73, 144.74, 144.75), and better support the peace process (143.28, 143.29).
- <sup>36</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13, paras. 143.27, 144.29, and 144.30.
- <sup>37</sup> UN General Assembly (23 Dec 2015) Report of the Working Group on the Universal Periodic Review, A/HRC/31/13, paras. 143.61 and 143.24.



မြန်မာနိုင်ငံ ပွင့်လင်းမြင်သာမှုနှင့် စာဝန်ယူမှု၊  
စာဝန်ခံမှုဆိုင်ရာ အုပ်ချုပ်မှု ဖွဲ့စည်းပုံအခြေခံဥပဒေ

Statement of  
Myanmar Alliance for Transparency and Accountability (MATA)  
on Hpakant Landslide of 2<sup>nd</sup> July 2020

4 July 2020

**“Is the Government lacking the will to make effective reforms of bloodstained jade mines where innocents citizens are dying in hundreds every year? For whose interests?”**

Due to the landslide in jade mining lots of Wai Kha site in Hpakant of Kachin State in the morning of 2 July 2020, there have been deaths of 172 citizens and 31 injured so far. Myanmar Alliance for Transparency and Accountability (MATA) conveys our deepest condolences and sorrow, along with the population of Myanmar, to the friends and families for the citizens who have lost their lives and been injured in this horrible event where hundreds of lives were taken. Such atrocious events have occurred before once in June 2019 where over 50 people lost their lives and similarly in 2015 where waste dump collapsed in a mining lot and killed over 100 souls.

Nevertheless, we concluded that the Government has failed to actively, efficiently and effectively implement the changes in governance as well as administrative and management reforms in gems and jade sector and had considered these prior tragic events superficially as an everyday event. It has led to another similar dreadful incident this year and taken the lives of the citizens.

We strongly denounce and object the shameless allegation of those who have been injured or killed in this incident as “illegal/illegitimate workers” by the authorities without acknowledging and being accountable for their socio-economic injustices such as absolute lack of natural resources policy of the Government and monopoly and exploitation of a small group of cronies and elite, which are the root causes that have resulted in such a horrible event this year.

We want to ask the Government: “Is the Government lacking the will to make effective reforms regarding blood-stained jade mines where hundreds of citizens are killed every year?”

During the immediate 24 hours of the incident, the Government and duty-bearers have failed to respond to the incident and illustrate their duty to protect the citizens by not describing any plans to take legal action regarding the incident. MATA expresses our great disappointment of the authorities since they remained silent and acted as if they had nothing to concern with and denounces such failure to demonstrate their accountability and responsibility.

အခန်းအမှတ်(၁၀/ခ)၊ ၁၀လွှာ၊ မြေနေီကုန်းပလာဇာ (ဒဂုံစင်တာနှင့် ဝန်းပန်းပွင့်ကြား)၊ ဗားကရာလမ်း၊ စမ်းချောင်းမြို့နယ်၊ ရန်ကင်းမြို့။

Room. 10(B), 10<sup>th</sup> Floor, Myay Ni Gone Plaza, Bargayar Road, Sanchaung Township, Yangon, Myanmar.

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# မြန်မာနိုင်ငံ ပွင့်လင်းမြင်သာမှုနှင့် စာဝန်ယူမှု၊ စာဝန်ခံမှုဆိုင်ရာ ဒဂုန်ဘက် မဟာမိတ်အဖွဲ့

By reviewing the investigation team led by government senior officials and their four mandates, it is clear that the investigation will be very superficial and is merely an act to calm the situation down and we excoriate them for their obvious lack of potential in identifying issues of social, economic and environmental injustice that the dead and injured population have faced and suffered from in order to set long-term policies to resolve these issues.

We demand strongly that an independent body of experts should be established as a National Investigation Commission rather than that investigation team and give the new body a mandate to work on fundamental issues such as urgent need to immediately and comprehensively implement legal, administrative and governance reforms and restructuring including absolute lack of gems and jade policy at state level which is the root cause of the incidents like this.

We reiterate and urge the fundamental need for the Government to take full accountability and responsibility while implementing the reforms including EITI and natural resources sector transparency reform processes so the reforms will not only happen in workshops, documents and reports but also on the ground in communities where natural resources extraction occurs.

In conclusion, we highlight the need to prevent incidents of resource curse like that of 2 July 2020 from repeating, it is essential that the concerned duty-bearers including the Government and Hluttaw (parliament) implement the extractive sector reform processes not just for show but more actively, comprehensively and systematically. Finally, we convey our sadness and sympathy for the families of those who have lost their lives and been injured in this incident.