

Physicians for  
Human Rights



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Bureau of Democracy, Human Rights, and Labor  
C/O Jennifer Stein, Rm 7822  
U.S. Department of State  
2201 C Street NW  
Washington, D.C. 20520

**Using Science and Medicine to  
Stop Human Rights Violations**

*OMB Control Number: 1405-0209*

*Information Collection Title: Reporting Requirements for Responsible Investment in Burma*

Dear Ms. Stein:

Physicians for Human Rights (PHR) welcomes the opportunity to voice our support for the U.S. Reporting Requirements for Responsible Investment in Burma. We ask the U.S. government to renew the Reporting Requirements, as they provide an important tool for ensuring new foreign investment in Burma is accountable, transparent, and contributes to the development of Burma and the democratic reform process.

PHR has investigated human rights abuses against Burmese civilians, dissidents, minorities, and refugees since 2004. Our most recent research, conducted in 2014 and 2015, examines land confiscations in Burma using an epidemiological survey tool to assess the human rights, livelihood, and health impacts on communities forcibly displaced by economic development projects. Specifically, we focused on those displaced by the reservoir created by Paunglaung Dam in southern Shan state as well as by the Thilawa Special Economic Zone factory development project and deep-sea port near Yangon.

PHR's findings contribute to a growing body of evidence that land confiscations for economic development projects are having devastating impacts on the livelihoods and health of the people of Burma, threatening local communities and responsible investment alike. Our data show that the displacements did not follow international standards for forced relocation, and that affected populations were left without resources they need to survive. In both Paunglaung and Thilawa, average household incomes dropped 80 percent after the forced displacement because the rural farming populations were not compensated for their farmland. We measured increases in food insecurity, and documented limited access to basic necessities like drinking water in relocation sites. Land confiscations, which are driven in part by foreign investment, have affected at least 100,000 people since the new government took power in 2011. Displacement should not have negative impacts on the standard of living of those displaced. International guidelines stipulate that displacement may occur as long as certain guarantees are met, including that the eviction is carried out in accordance with international human rights laws, is reasonable and proportional, and is regulated to ensure full and fair compensation. The Burmese government has not relocated people in a way that protects their livelihoods, food security, or dignity, in violation of internationally-recognized standards on displacement. U.S. companies have a corporate

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responsibility to respect human rights, and we must ensure that they exercise sufficient due diligence in this context.

PHR's reports<sup>1</sup> have called upon the U.S. government to strengthen the voluntary reporting requirements for U.S. corporations doing business in Burma and have urged companies investing in development projects in Burma to ensure that corporate codes of conduct address the rights of relocated persons. We believe that the alternative, allowing companies to invest in these areas without firm accountability mechanisms, will result in greater human rights abuse.

New investment is still in the early stages, and the information required by the Reporting Requirements will be increasingly important to Burmese civil society as new investment floods into the oil and gas sectors, which have long been associated with human rights abuse. The abundance of natural resources – coal, gold, metals, hydropower, timber, rice, sugar, oil, and gas – makes the country highly attractive for international investment. Human rights groups and local communities have documented the forced labor, forced displacement, and other human rights violations that perpetually accompany such investment. Surveys conducted by PHR measuring human rights violations and humanitarian needs in various ethnic communities in Burma found an especially high prevalence of human rights violations on the part of the Burmese military in areas where development projects, such as oil and gas extraction or industrial development, were underway. Many of these projects were run by foreign companies. Despite their potential to create opportunities for economic advancement, development projects are causing widespread forced displacement throughout the country, undermining the human rights of the people living in affected areas. The Reporting Requirements are critical to help certify that U.S. investment does not contribute to human rights violations in Burma.

The outcome of the recent elections will likely lead to an increase in foreign investment in Burma. But the military remains outside of democratic accountability structures under the new constitution. Removing the Reporting Requirements just as high-risk foreign investment ramps up would weaken the NLD's and civil society's push for transparency and responsible investment. A return to secretive foreign investment in an economy still operating without transparency risks exacerbating conflict, land rights disputes, corruption, and other serious human rights threats.

The Reporting Requirements offer transparency that would not exist if they were not required by the U.S. government. Without access to information about new investment in Burma, the ability to address human rights violations and demand accountability is severely weakened. U.S. investors in Burma have a responsibility to respect human rights, which includes ensuring that

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<sup>1</sup> See Forced Displacements and Destroyed Lives around Upper Paunglaung Dam in Shan State, Myanmar, October 2015 at [https://s3.amazonaws.com/PHR\\_Reports/burma-shanstate-english-report-oct2015.pdf](https://s3.amazonaws.com/PHR_Reports/burma-shanstate-english-report-oct2015.pdf) and Forced Displacement in the Thilawa Special Economic Zone, November 2014 at [https://s3.amazonaws.com/PHR\\_Reports/Burma-Thilawa-English-Report-Nov2014.pdf](https://s3.amazonaws.com/PHR_Reports/Burma-Thilawa-English-Report-Nov2014.pdf).

the impacts of their investment do not undermine Burma's progress and transformation into a peaceful, democratic society.

PHR investigations in Burma demonstrate trends and regressions in rights policies and provide international stakeholders with evidence-based arguments that the Burmese government is failing to fulfill its international obligations. Flaws in Burma's land law, combined with corruption and government intimidation, create an environment of extremely high risk of rights abuse; U.S. companies must take extra precautions to mediate this risk. Reporting requirements are a start—by requiring companies to report on potential impacts of their work, these requirements help to mainstream human rights thinking among investors in Burma. Moreover, they help to reassure civil society that foreign investors are supporting reforms in the country and not profiting from the vestiges of dictatorship that have enabled poor business practices to continue.

We urge the Obama administration to strengthen the Reporting Requirements by expressly requiring investors to report who their Burmese business partners and contacts are, including names and national identity numbers of all individuals who ultimately own and control the Burmese businesses involved. Corporations have a responsibility to implement due diligence policies that include human rights risk and impact assessments and not to ignore, or hide, the connections that some of their partners have to serious corruption or human rights abuse. Companies that fail to comply with this, or other provisions of the Reporting Requirements, should be sanctioned. We also urge the Administration to make all reported information public, including contact with Burmese military and armed groups, as well as steps companies have taken to identify and mitigate risks with respect to environmental issues, human rights, worker rights, and anti-corruption.

We recognize that foreign investment has the potential to have a significant impact on Burma's transition, so long as it is accountable and transparent. We urge you to renew the Reporting Requirements as part of the U.S. government's stated policy of promoting and supporting transparency in Burma.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna McKay". The signature is fluid and cursive, with the first name "Donna" being more prominent than the last name "McKay".

Donna McKay  
Executive Director