5.2

Cumulative & Project-Level Impacts

Community Impacts and Development

Part 5.2

Community Impacts and Development

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A. National Context

While economic development has recently accelerated, the rural communities who make up about 70% of the Myanmar population rely essentially on subsistence agriculture and remain poor. Amongst ASEAN countries, Myanmar has the lowest life expectancy and the second-highest rate of infant and child mortality. Just one-third of the population has access to the electricity grid.

Poverty, social services and social protection

Detailed data on socio-economic indicators is lacking in Myanmar. The 2016 UN Human Development Index ranked Myanmar at 145 out of 188 countries surveyed, putting it in the 'low human development category', with an average life expectancy of just 66.1 years of age and 4.7 mean years of schooling.[298] The ADB has reported that 25.6% of the population lives below the national poverty line, which is a higher rate than other Southeast Asian countries including the Philippines, Cambodia, Indonesia, Thailand and Vietnam.[299] The 2015-16 Government budget was reported at 3.3% for health and 6.07% for education.[300]

[298] UNDP Human Development Report, 2016
[299] ADB, Basic 2016 Statistics, p. 2
[300] Irrawaddy, Government Proposes 20% Budget Rise Boosting Education, Defence and Health

Education

Official literacy rates are more than 90%, although a recent survey has indicated that 20% of households at the national level had no member of working age who could read or write a simple message.[301] Myanmar has a lower rate of expected schooling than other ASEAN countries, such as Cambodia and Laos. There are low secondary school enrolment rates, due to poverty and non-availability of schools. UNICEF indicates that between 2009 and 2013 only 46% of boys and 48% of girls enrolled in secondary school.[302] There is also a clear need for increased vocational training.

Spending on the education sector has increased since 2011. The budget in 2015/2016 increased spending on education to USD 1.3 billion, up from USD 1 billion in the 2014/2015 financial year.[303] The latest increase is being harnessed to employ an additional 50,000 teachers, and will also be allocated to university stipends and scholarships, as well as supplementing fees at technical institutions. Furthermore, according to a report from UNICEF, newly introduced early childhood development services and improved teaching methodologies have expanded.[304]

Health

An estimated 75% of the population of Myanmar does not have access to good quality healthcare.[305] The private sector provides healthcare that is often inadequate and unaffordable for the poor. Public health facilities that do exist often do not have basic equipment and supplies or staff.[306] The Ministry of Health has formulated a National Health Plan (2017-2021) within a 20 year National Comprehensive Development Plan.[307]

Myanmar suffers from one of the highest tuberculosis (TB) rates in the world; a World Health Organisation (WHO) report identified a rate of 53 deaths per 100,000 people in 2014.[308] About 70% of the population is living in malaria-endemic areas.[309] The United Nations Development Programme (UNDP) reports that Myanmar malaria morbidity has decreased by 50% since 2007 and the TB incidence rate has been in decline since 1997.[310] The number of people living with HIV in Myanmar was 230,000 in 2016 according to UNAIDS[311], with a high level of transmission through injecting drug users, sex workers and their clients, and men who have sex with men.

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[301] Ministry of Labour, Employment and Social Security and Central Statistical Organisation, Myanmar labour force, child labour and school to work transition survey, 2015, p. 8
[302] UNICEF, The State of the World's Children 2015 Country Statistics Table, November 2014, p. 62
[303] Oxford Business Group, Changes to Myanmar's education sector needed
[304] UNICEF, Annual Report 2014 Myanmar, 2015, p. 11
[305] World Bank, Power to People: Work Bank Group to invest US $2 billion in Myanmar, to support reforms, reduce poverty, increase energy and health access
[306] WHO, Health Action in Crises: Myanmar, August 2008
[307] National Health Plan 2017-2021, Myanmar Ministry of Health and Sports
[308] WHO, Global Tuberculosis Report 2015, 2015, p. xxvi
[309] WHO, World Malaria Report 2015, 2015, p.75
[310] UNDP, About Myanmar
[311] http://www.unaids.org/en/regionscountries/countries/myanmar

Infrastructure

In 2013, studies indicated that on average, only 69.4% of the population had access to safe drinking water.[312] According to a report by the World Bank, 70% of the population lacked access to grid electricity in 2014.[313] The transport sector is considerably underdeveloped, including roads and railways, impeding economic activity and hampering the movement of goods and rural people to markets, schools, and clinics; road fatality rates are also high.[314] A report by Mastercard, with support from Myanmar think tank MDRI-CESD, notes that formal banking penetration in urban areas is 10% and considerably less in rural areas because of reliance on cash and a lack of trust in the banking system.[315]

Cultural heritage

According to the definition offered by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in the context of the Universal Declaration on Cultural Diversity (2001), culture is "the set of distinctive spiritual, material, intellectual and emotional features of a society or a social group that encompasses art and literature, lifestyles, ways of living together, value systems, traditions and beliefs."[316] Myanmar is a very culturally diverse country with many spiritual and cultural sites throughout the country. Communities often attach great importance to their local temples and shrines. There are therefore likely to be areas of cultural importance to the community in areas where mining takes place.

The Revised Protection and Preservation of Ancient Monuments Law was passed in August 2015[317] to increase protection of the country's ancient buildings that are more than 100 years old and have cultural, historical, architectural and artistic value. It introduced tougher sanctions for anyone found to have damaged, removed or destroyed heritage buildings. Myanmar ratified the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (2003), which entered into force in August 2014 and has now begun to inventory this. UNESCO is also working with the Ministry of Culture on the conservation and management of heritage sites, establishing cultural heritage information management systems using Geographic Information Systems (GIS), and assisting the Government to develop nominations for submissions to the World Heritage List including Bagan.[318] However, this process does not effectively identify sites of local community importance.

Social investment programmes

Myanmar has a strong tradition of giving, including corporate philanthropy, driven at least in part by the dominant Buddhist faith. This is often understood by Myanmar companies as the responsibility to make donations or contribute to social development projects. The Myanmar Investment Commission under the Thein Sein government pushed investors (in particular foreign investors) to commit to spend a certain amount of their profits on CSR

[312] OECD, Multidimensional Review of Myanmar, Initial Observations, 2013, p. 168.
[313] World Bank, Achieving Universal Access to Electricity by 2030: Myanmar Electricity Plan
[314] ADB, Myanmar in Transition: Opportunities and Challenges, August 2012, pp. 22-24.
[315] Mastercard and MDRI-CESD, Cash in Context: Uncovering Financial Services in Myanmar, January 2015, pp. 6-13.
[316] UNESCO, Universal Declaration on Cultural Diversity, 2001.
[317] 2015 Protection and Preservation of Ancient Monuments Law,
[318] Travel Impact Newswire, UNESCO to Launch Project for Safeguarding Cultural Heritage in Myanmar, 30 March 2012.

projects. However, this approach – which as outlined in Part 4B can give rise to a number of governance problems – did not, fortunately, become a general legal requirement.[319]

The 2015 amended Myanmar Mines Law does not include any provisions relating to socio-economic development or employment of local communities. Nor does it make any provisions for benefit sharing or agreement making between local communities and companies. It only provides that the permit-holder shall ensure no socio-economic harm to local people.[320] However, the 2018 Rules contain (identical) requirements in Rule 51c (large-scale), 67c (medium-scale) and 85c (small-scale) for the company to submit at the time of its application for a Production Permit the evidence that it has discussed with local communities on 'social responsibility', and obtained their agreement.

The 2016 Myanmar Investment Law does not contain requirements for local content or employment of Myanmar nationals.[321] The previous 2012 Foreign Investment Law contained thresholds for minimum percentage appointments of Myanmar nationals and the requirement that foreign and Myanmar workers holding the same qualifications ought to be paid the same salary.

B. Field Assessment Findings

The field research identified a number of mining-related human rights impacts on communities. The following paragraphs provide an overview.

Community health and safety

Human Rights Implicated: Right to the highest attainable standard of physical and mental health; right to life and security of person; right to non-discrimination

- **Cracks in buildings:** Close to several mine sites where blasting occurred regularly, cracks could be observed in houses, monasteries, schools and other buildings. This included a culturally important limestone cave a few miles from one of the mine sites. While community members interviewed expressed certainty that this was linked to the blasting (as they reported to have felt the vibrations in the villages), companies did not acknowledge any association or responsibility. None of the companies had assessed whether such cracks in buildings and heritage sites were caused by their activities.
- **Safety on roads and around mine sites due to falling rocks:** Close to one large-scale limestone mine site, the old road used by the community had been closed and the community, in particular school children, had to use a new (dirt) road with a lot of traffic from the mine site to the associated processing facility. Villagers expressed concern about the safety of their children due to heavy traffic, rocks potentially falling from trucks, and exposure to dust. While one company was found to have a regular time for the blasting and to announce it with a megaphone, at other sites blasting hours were unknown to villagers and the township administrator.

[319] Australia-Myanmar Chamber of Commerce Responsible Investment Working Group, Position Paper: Incentivising Shared Value, September 2016.
[320] Valentis Resources, 2015 amended Myanmar Mines Law [unofficial translation and comparison], 27 January 2016, Article 16 (e) (1)
[321] VDB, What Changes in Practice Under the New Investment Law, 8 October 2016, p. 7

- **In-migration causing changes to lifestyles and safety:** In many areas, communities felt that theft and crime had increased as a result of the presence of large numbers of mine migrant workers in the area. Women sometimes expressed that they felt unsafe due to the presence of a large male workforce in the area. Some cases of harassment and rape were reported. An increase in karaoke bars, suspected sex work, alcohol consumption and easy access to drugs, were concerns expressed by many community members, in particular those living in small-scale and subsistence gold mining areas. In several subsistence gold mining areas, drug use was said to be widespread. Local community members interviewed linked the increase in drug use to the presence of mining, as this meant money was more readily available. Community members in these areas also expressed concerns about children starting to use drugs at an early age. The possibility for local communities to raise cash by selling plots of land to subsistence miners was reported as an issue, since the money was quickly spent and the farmers were then left without long-term livelihoods.
- **Accidents:** A number of community accidents associated with mining activities were reported, including relating to children (see further, Part 5.5: Women and Children). The field research also found that most subsistence mining areas and some of the small-scale mine sites were not physically demarcated and secured, for example through the use of fences and security personnel. This raised the risk of accidents.
- **Health impacts from factory fumes and dust from mine sites and roads:** The field research teams noted large amounts of dust from the dirt roads close to villages used by company trucks and cars around limestone mine sites, as well as fumes from the associated cement factories. Dust and fumes from cement factories were a major concern of communities living around these sites. In one community area close to a cement factory, the prevalence of tuberculosis-like symptoms was high and community members suspected that there was a link with the factory. However, no proper medical investigation had been conducted.
- **Impacts of soil and water pollution on community health:** In small-scale and subsistence gold mining areas, mercury and cyanide had been released into wastewater creating serious health risks for communities.[322] As a result of excavation, some heavy metals such as lead and arsenic that are naturally present in rocks may also be liberated into the environment causing damage to the environment and human health (see Part 5.7: Environment and Ecosystem Services).
- **Noise and smells:** Constant noise from cement factories was disturbing community members, especially at night. Noise was also said to be affecting livestock. Some communities also reported being disturbed by bad smells coming from mine sites (see Part 5.7: Environment and Ecosystem Services).

Community development, employment and economic opportunities

Human Rights Implicated: Right to work; right to education; right to the highest attainable standard of physical and mental health; right to take part in the cultural life of the community

[322] See also 'Dirty Water', a short film about the negative impacts of a lead mine on a Danu community in Shan State, Yangon Film School, 2016

- **Limited employment opportunities in mining for local communities:** Only one large-scale mine was found to have a practice in place for the employment of local community members. This company said that while it actually only needed 500 workers to run its operations, it had hired an additional 300 local people to maintain a positive relationship with local communities. In most of the large- and small-scale operations visited, only a few local community members were identified to be working for the companies as low-skilled workers (e.g. security guards, cooks), often on a casual daily basis. In one village close to a cement factory, people complained that they had never been offered jobs with the company. Generally, both female and male community members said that they would like more, and more permanent, jobs at the factory because of the wages and accommodation. However, many community members at this site also resented the company for land grabbing and said that they would not want to work for the company. At another site, where local subsistence miners were in conflict with a company over land issues, the few local people employed by the company as unskilled labour were considered to be 'on the side of the company'. Company representatives in turn were found to not trust local community members whom they suspected of stealing ore from the company. No training programmes for local community members were found at any of the sites visited.
- **Employment as compensation for loss of land:** According to a worker at cement factory, around 10 people from the local community had received jobs as a form of compensation for the loss of their land. In another case, community members affected by a tailings dam incident reported that they had been promised one job at the company per affected household. These jobs had not materialised.
- **Community investment or development projects are ad hoc:** All of the large-scale companies financed projects to support communities. In one case, the company said that MoM (now MoNREC) required some spending for community development. One company reported that it would devote 2% of its profit to community development projects, another mentioned 7%. Generally, the projects and donations which were supported in the area of education, infrastructure and religious institutions seemed to result from ad hoc requests from important people in the villages, i.e. village leaders or the school headmaster, and never from a systematic plan or consultations with community members. In one case, priorities for social investment spending were said to have been determined during the EIA process when consultants had talked to village leaders. In another case, the CSR budget shown to the field research team also included compensation payments for damage caused by the collapse of a tailings dam. In one subsistence gold mining area, mining in the area was claimed to have contributed to the development of the community, as people had access to more money and electricity had been installed in some of the villages.
- **Limited local procurement:** Local communities sometimes had opportunities to sell products and services to mining companies but not on a wide scale. One large-scale company was found to purchase vegetables at the local market, and at several sites local and migrant workers were running small shops or restaurants around the mine site. However, the field research found that mining companies were not sourcing goods and services from neighboring communities to an extent that meaningfully contributed to local economies. In subsistence mining areas, local community members not directly engaged in mining were found to benefit economically from mining as they sold diesel, machinery, food etc. to the miners. In places where there were conflicts between

communities and companies, it was found that there were also very few commercial relationships between them. For example, at one large-scale mine site local farmers did not want to sell their produce at the market within the company area, and at another site, the company was said to have instructed its workers not to buy anything from the local villagers.

- **Adverse impacts on agricultural and fishing activities:** In addition to livelihood impacts associated with the loss of land or damage to land (see Part 5.3: Land), farmers expressed concerns about the impacts of environmental degradation on their livelihoods. For example, farmers near cement factories complained about dust on vegetables that they were unable to clean off and were sometimes afraid to eat, and also about their need to use more fertilizers. Some farmers were also concerned about possible health impacts of dust on their livestock. In a gold mining area, where subsistence miners were discharging wastewater into creeks used for fishing, communities reported fewer fish catches (see Part 5.7: Environment and Ecosystem Services).
- **Subsistence miners losing their livelihoods:** In several gold mining areas, the granting of a permit to a large-scale mining company meant that subsistence miners who used to mine in the area lost their source of income without receiving any compensation or alternative job opportunities. This also led to conflicts (see further, Part 5.6: Security and Conflict). In one case, the mine permit-holder assisted subsistence mine owners previously operating in the area to set up a company and obtain a small-scale permit, in another case a group of miners set up a cooperative and obtained a small-scale licence for another plot of (forest) land. One large-scale gold mining permit-holder was found to have allowed subsistence miners to become shareholders of the company and to operate shafts within the concession area.
- **Mining and in-migration:** In most of the mining areas visited, a significant number of internal migrant workers had come to the area to work either at large-scale mine sites or as subsistence miners. While employees were usually accommodated in specific areas by the companies and did not have much contact with the local communities, daily workers and subsistence miners lived either in their own villages (created as a result of the in-migration) or in pre-existing villages alongside the local population. In one subsistence mining area, migrant workers from other regions were said to engage with local communities to buy land cheaply from local ethnic people and to try to register it in their own name to then lease it to gold miners. In one area where the local ethnic communities were mostly practicing Christians, the presence of migrant workers was said to disturb local religious practices, as they did not respect Sunday as a day of rest.

Public and community services

Human Rights Implicated: Right to an adequate standard of living; right to the highest attainable standard of physical and mental health; right to education; right to freedom of movement; right to life, liberty and security of person

- **Electricity and water:** Many of the communities visited did not have access to electricity. In several instances, large-scale companies had installed wires or were providing electricity to nearby communities. One company, for example, had installed electricity connections as a form of compensation to the community for using community water sources. At two sites at least, the communities paid more for electricity provided

by a company than they would if they were connected to the national grid. In a few cases, in particular where water had become scarce or was allegedly polluted as a result of mining, companies were observed to be providing water to communities or supporting the construction of deeper wells. In one such case, where communities had to pay for the service, community members reported that there was not enough water provided by the company for drinking and sanitation. In another case, communities expressed doubt about the quality of the water provided by the company.

- **Inflation and pressure on community services:** In one area where several small-scale and one large-scale mining projects were being run, increases in food prices linked to the increase of the population due to mining activities was noted by community members as an adverse impact. In the same area the local healthcare centre was reportedly overstretched, as only permanent employees of the company had access to the company's healthcare centre while the local population and most migrant workers had to access a single community hospital.
- **Roads damaged or closed down:** Local roads formerly used by communities were reported to have been closed down at two large-scale mine sites. One road was damaged as a result of heavy traffic by the company trucks and cars. At one site, the road used by local communities was closed during blasting at times which were not announced in advance to the local community, causing disturbance.
- **Education:** While in some cases large-scale mining companies as well as informal mine owners had contributed to building schools and/or accommodation for teachers, some negative effects were reported (see further, Part 5.5: Women and Children). In an ethnic area, it was reported that the local children going to the same school as children of Bamar factory workers were disadvantaged as they had less Burmese language skills.

Cultural heritage

Human Rights Implicated: Right to take part in the cultural life of the community; right to freedom of religion

- **Damage to religious buildings:** Close to quarrying sites where blasting occurs, cracks in pagodas and other culturally significant sites were observed. Close to a large-scale mine site, local community members complained about land surrounding a pagoda being damaged to the extent that the structure itself was threatened. To compensate, the company had provided construction materials to the local communities but they remained unsatisfied with the response. In general, however, companies were found to be respectful of religious sites and often made donations to the local monasteries or for religious festivals. As a result, in some mining areas, communities had built pagodas on top of limestone karst mountains to deter future mining. In one subsistence mining area, the monastery land around three very old monasteries (one over 200 years old) was being mined at night for gold.
- **Deforestation threatening medicinal plants:** In several subsistence mining areas, local communities expressed concerns that miners coming from other regions did not respect the natural environment, as local people did. In particular, concerns were noted about ancient knowledge of ethnic groups regarding medicinal plants being threatened by deforestation.

C. Relevant International Standards, Guidance & Initiatives

Box 14: International Standards, Guidance & Initiatives on Communities & Mining

International Standards:

- ICMM Sustainable Development Framework
- IFC Performance Standards and Guidance Notes:
  - PS 1 – Assessment and Management of Environmental and Social Risks and Impacts
  - PS 4 – Community Health, Safety and Security
  - PS 8 – Cultural Heritage
- UN Guiding Principles on Business and Human Rights
- UN International Bill of Human Rights and Core Human Rights Instruments

Guidance on Community Investment, Development and Agreements:

- Centre for Social Responsibility in Mining, Good Practice Note: Community Development Agreements
- EI Sourcebook, Good Practice Note on Community Development Agreements
- ICMM, Approaches to Understanding Development Outcomes from Mining
- ICMM, Community Development Toolkit
- ICMM, Human Rights in the Mining and Metals Industry: Integrating Human Rights Due Diligence into Corporate Risk Management Processes
- ICMM, Understanding Company-Community Relations Toolkit
- IFC, Understand Project Induced In-Migration
- IFC, Strategic Community Investment: A Good Practice Handbook for Companies Doing Business in Emerging Markets
- IIED, A Guide to Applying the Spirit of Free, Prior, and Informed Consent in Industrial Projects
- IIED, Shared Value, Shared Responsibility
- Oxfam, Women, Communities and Mining: The Gender Impacts of Mining and the Role of Gender Impact Assessment
- Rio Tinto, Why Cultural Heritage Matters
- UNDP, Extractive Industries Strategy Note
- World Bank, Gender Dimensions of the Extractive Industries: Mining for Equity
- World Bank, Large Mines and Local Communities: Forging Partnerships, Building Sustainability

Guidance on Local Employment and Supply Chains:

- GIZ, Cooperative Vocational Training in the Mineral Resource Sector
- ICMM, Mining: Partnerships for Development Toolkit
- IFC, A Guide to Getting Started in Local Procurement
- IFC, Investing in People: Sustaining Communities through Improved Business Practice