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*Permanent Representative*

No. 378 /3-27/91

3 August 2018

*Dear Madam / Sir,*

I would like to refer to your letter no. OL MMR 1/2018 of 29 May 2018, regarding a draft law on International Non-Governmental Organizations (INGOs) in Myanmar. In this connection, I am pleased to forward the information received from 'Pyidaungsu Hluttaw Commission on Assessment of Legal Affairs and Special Issues' on the aforementioned matter, as attached. I also wish to draw your kind attention that the draft has been initiated by the Commission and is still within the Commission for further discussion.

I would like to attach herewith a news article entitled 'Populism hurting Myanmar's Progress' (<http://www.globaltimes.cn/content/1112516.shtml>) for your information.

Please accept, Madams and Sirs, the assurances of my highest consideration.

(Kyaw Moe Tun)

Permanent Representative/Ambassador

Special Rapporteur on the situation of human rights in Myanmar

Special Rapporteur on the promotion and protection of the right to freedom of opinion

Special Rapporteur on the rights to Freedom of peaceful assembly and of association

Special Rapporteur on the situation of human rights defenders

## **Response from the Pyidaungsu Hluttaw Commission on Assessment of Legal Affairs and Special Issues**

- The spirit of the draft law is to adhere to and operationalize the guidance provided in the Myanmar Development Assistance Policy that “.. all development assistance must be designed and delivered in ways that demonstrate conflict sensitivity and do no harm, and in alignment with and supportive of Myanmar’s nationally-owned peace process and national reconciliation process....”.
- The document received and referred to by the Special Rapporteurs was a very early working draft of the Commission members.
- It is noted that there has been literal translation of legal terms from Myanmar to English, which has led to misunderstanding and misinterpretation of the fine distinction and nuances of legal usage.
- There has been ongoing engagement with the INGO forum- a meeting between INGO Forum representatives and Commission members on 6 March 2018, and received detailed comments from ICNL on the working draft on 15 March 2018, which has been reviewed in detail and pertinent points were taken into account.
- The above clarifications were also shared with the OHCHR mission led by Ms. Jyoti Sanghera, Chief, Asia and Pacific Division during a meeting with Commission members on 24 April 2018.
- The reference to UN and intergovernmental organizations had been removed from the working drafts since the beginning, and thus lingering apprehensions and concerns regarding this point are unfounded.
- In the drafting process, consistency with and adherence to the provisions of the Law Relating to the Registration of Associations, 2014 as well as the overall guidance of the Myanmar Development Assistance Policy (January 2018) is being assured, and this policy incorporated detailed

articulation of Scope of Activities, Registration, MoU template, Monitoring and Reporting.

- The Commission will eventually pass on the final draft to the Bills Committee, where due procedures for processing draft bills will be commenced.
- To ensure full transparency and participation, the Bills committee publishes draft laws in the daily newspapers and elicits comments and suggestions from individuals as well as civil society organizations and groups.
- Valuable and constructive comments and perspectives from all interested parties, including the international organizations are most welcome, and will be given due consideration.

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<http://www.globaltimes.cn/content/1112516.shtml>

## **Populism hurting Myanmar's progress**

By Zhang Weiyu

Source:Global Times Published: 2018/7/26 18:18:41

The National League for Democracy (NLD) of Myanmar led by Aung San Suu Kyi entered the political arena in 2016 after scoring an overwhelming victory in the general elections. As a universally recognized democratic government, it is hoped the NLD government would bring a fresh atmosphere to the country and new life to the people.

Shortly after the NLD government took power, it demanded various ministries issue a "100-day" plan mapping out their priorities in the first few months. It also set up economic organs including the National Economic Coordination Committee and the Investment Commission, promulgated important laws such as the Investment Law and the Company Law and revealed a 12-point economic policy with the aim to quickly revitalize the economy.

Two years on, Myanmar has expanded international participation, improved environmental governance and strengthened the crackdown on corruption. However, constrained by the government's governing abilities and efficiency as well as security factors, the investment and business environment of the country has not improved significantly. The past two years have witnessed slowing down economic growth, declining foreign direct investment and rising public discontent with the government.

There are four reasons for the weak development of Myanmar economy.

First, the rise of populism has discouraged foreign investors. Myanmar is a haven of NGOs. Due to lack of legal constraints, NGOs have kept growing in the country, exercising influence on public opinion. With the deepening of the democratic process in Myanmar, the power of NGOs and the impact of public opinion on national policies have continued to expand.

However, in the social context of Myanmar, there are certain blind and irrational factors involved in the expression of public opinion. Influenced by public opinion, the NLD government has high expectations of foreign

investment and lays more emphasis on maximizing its own interests while ignoring the interest of investors. The rise of populism has undermined the enthusiasm of foreign investors and kept them away.

Resource nationalism is another key factor impeding economic development. Resource nationalism is the tendency of governments to realize development goals through economic means of asserting control over natural resources located on their territory. The NLD government has tightened its grip on resources, controlled the ownership of resource enterprises and raised the legal and environmental threshold for foreign investment in the resource sector.

Although effective control over resources is conducive to sustainable economic development, Myanmar's resource nationalism policy leads to the underdevelopment of the resource-based economy, which makes it hard to meet the basic energy demands of economic development and people's lives. Multiple restrictions and too much intervention make it difficult for Myanmar to convert its resource advantages into economic impetus.

Besides, the wave of environmental politics has jeopardized Myanmar's attractiveness and competitiveness. The democratic transition revitalized Myanmar's civil society and a large number of environmental protection organizations sprung up. Through cooperation with major political parties in the country, these organizations have gradually become an important force in environmental politics.

The development of environmental politics has stimulated people's awareness of environmental protection and political participation, but the public's environmental consciousness has been used by political groups to incite environmental movements. Projects were suspended in the name of environmental protection, which seriously dampened investors' confidence. Radical environmental politics has also disrupted smooth transition and rapid development of the economy.

Last but not the least, with China-US competition intensifying, Southeast Asian countries are confronted with the dilemma of choosing between the two big powers. The NLD government has adopted a strategy of neither drifting apart from China nor being overly dependent on it. Compared to countries such as Cambodia and Laos, such a strategy has put Myanmar in a disadvantageous

position in regional competition.

Myanmar to some extent is missing opportunities. It has lagged Cambodia in participating in the Belt and Road initiative and in regional competition on the Indo-China Peninsula. Given Myanmar's inconsistent China policy, Chinese enterprises also harbor more misgivings about investing in the country.

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