

Physicians for
Human Rights

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A Foreseeable Disaster in Burma: Forced Displacement in the Thilawa Special Economic Zone

PHR

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Human Rights



Mekong Watch

TSDG

Thilawa Social Development Group

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About Physicians for Human Rights

Since 1986, Physicians for Human Rights (PHR) has been using medicine and science to document and call attention to mass atrocities and severe human rights violations.

PHR was founded on the idea that health professionals, with their specialized skills, ethical duties, and credible voices, are uniquely positioned to stop human rights violations. PHR's investigations and expertise are used to advocate for persecuted health workers, prevent torture, document mass atrocities, and hold those who violate human rights accountable.

PHR has worked in more than 60 countries, including Afghanistan, Bahrain, Burma, Democratic Republic of the Congo, El Salvador, Guatemala, Iran, Iraq, Kenya, Libya, Mexico, Sudan, Syria, Turkey, and the United States.

Cover: Ma Than Ei, a resident of the Thilawa relocation site, stands in front of her home.

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Abbreviations

JICA

Japan International Cooperation Agency

MJTD

Myanmar Japan Thilawa Development, Ltd.

MTSH

Myanmar Thilawa SEZ Holdings Public Ltd.

PHQ-2

Patient Health Questionnaire-2

Thilawa SEZ

Thilawa Special Economic Zone

TSDG

Thilawa Social Development Group

TSEZMC

Thilawa SEZ Management Committee

UNDP

United Nations Development Programme

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Map of Burma showing the location of the Thilawa Special Economic Zone.

Executive Summary

Recent liberalization of some governmental policies in Burma' (officially the Union of Myanmar) has led to the lifting of a number of bilateral sanctions and increases in foreign aid and investment. Both governments and corporations are entering into partnerships with Burmese companies to undertake major development projects, including building special economic zones (SEZ), developing hydroelectric dams, signing concession agreements for mining operations, and building pipelines. Despite their potential to create opportunities for economic advancement, such development projects are causing widespread forced displacement throughout the country, undermining the human rights of the people living in affected areas.

Forced displacement threatens people on every continent. Environmental degradation, conflict, the race for scarce resources, development projects, and land grabs have caused a significant number of these illegal displacements. People living in marginalized communities, including ethnic minorities and indigenous groups, are particularly vulnerable to forced displacement.²

Forced displacement affects a number of human rights issues in the short term, and, if unaddressed, can contribute to a downward spiral into increasing insecurity and loss of rights. Health status, access to health care, and food security are indicators that often serve as early warning signs of the longer term negative human rights consequences of forced displacement. Food insecurity is particularly devastating for children as it can lead to stunting, which has lifelong consequences on health and development. The following survey and report seek to document the adverse effects on individuals, families, and communities when relocation policies displace populations in violation of international guidelines.

Physicians for Human Rights (PHR) developed an epidemiological survey tool to identify and assess the human rights consequences of such forced displacements. This tool and resulting findings will strengthen the imperative for governments to avoid displacement whenever possible, and to adhere to existing guidelines when eviction is unavoidable.

The Thilawa SEZ (including the towns of Alwan Sot and Thilawa Kone Tan) is one example in Burma that illustrates the negative effects of development projects on the rights of local populations. Situated near Thilawa port, located approximately 15 miles (25 kilometers) south of Rangoon, the SEZ comprises 2,400 hectares of farmland that will be developed into factory sites. The Japanese government and three Japanese companies partnered with the Burmese government and a consortium of Burmese companies to develop phase one of the site. The business plan for the development project claims that it will yield a profit of \$53.3 million by 2018. For the people living in the area, however, their forced displacement is leading to the loss of the farmland that was their source of income and livelihood. Phase one of the project, which began in 2013, resulted in the forced displacement of 68 households. Phase two of the project will displace an additional 846 households.

International guidelines³ for this type of eviction stipulate that displacement may occur in "exceptional circumstances" 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 displacement should not have negative impacts on the standard of living of those displaced. These guidelines apply regardless of whether or not individuals hold formal title to their home and property. In the Thilawa case, the Burmese government agreed to follow these standards, and the Japanese government has similar policies in place for its development projects.⁴

In August 2014, PHR performed a survey of 29 households displaced by phase one of the project (representing 42.6 percent of the total number of displaced and 78.4 percent of the total number remaining at the relocation site) and conducted 22 key informant interviews. PHR found that the displacement process fell significantly short of meeting international guidelines, most notably because the residents felt threatened by the government with lawsuits and imprisonment if they did not move. Furthermore, the compensation allotted to displaced persons was insufficient for them to maintain their livelihoods. While monetary compensation was given for crops, animals, and houses, sanitation conditions in the relocation

Executive Summary continued

village, constructed by the Burmese government, did not meet international (Sphere) standards⁵ for refugee camps. All of the wells and pumps provided by the government were improperly constructed and found to be contaminated with bacteria found in human feces. Given that the displacement at Thilawa SEZ was planned, the situation for those who were relocated should be significantly higher than required by Sphere, which assumes displacement was caused a humanitarian crisis, such as a natural disaster or complex emergency.

Farmers who lost their land were not provided with other means or training to successfully earn a living. People who previously worked in nearby industries were forced to leave their jobs because the commute from the more isolated relocation site was prohibitively expensive. The average household income dropped by 78.1 percent after relocation, 26 households (89.7 percent) reported not having enough money to meet their needs, and 23 households (79.3 percent) reported borrowing money to meet their needs.

The loss of livelihoods has additional adverse consequences for food security and the health status of displaced households. Eight households (27.6 percent) reported higher levels of household hunger after displacement, and 13.6 percent of children surveyed suffered from mild malnutrition. Displacement has exacerbated already poor access to health care, with more than twice as many households reporting an inability to receive treatment when sick (16 households following relocation versus seven prior to relocation). The combination of severely diminished income, increasing food insecurity, and constrained access to health care creates a precarious situation for displaced residents. Without intervention to improve livelihoods, the nutrition and health situation in the relocation site will continue to deteriorate.

The Thilawa SEZ committee is charged with managing and running the daily affairs of the development project, including the relocation process. During phase one of the project, affected households were not consulted, received inadequate compensation, and were given limited time to prepare for relocation, violating not only the communities' right to adequate housing, but also their right to health and effective remedy.

The small community PHR sampled during this survey serves as a harbinger of adverse consequences for the additional 846 households that will be displaced during phase two of the Thilawa project. Unless the governments of Japan and Burma achieve a standard of practice consonant with their stated commitment to international norms and guidelines, these 846 households will very likely suffer a fate similar to those affected during phase one. The recommendations below highlight several opportunities for the Burmese government and its Japanese partners to prevent the impending disaster and forge a positive future in partnership with affected communities.



*Rows of houses in the Thilawa relocation site.
Photo: Lauren Sakae*

Background

Widespread human rights atrocities and economic sanctions in Burma

Through most of the second half of the 20th century, Burma was ruled by military-led governments that committed grave human rights violations. The scale of these abuses compelled some countries to place economic sanctions on Burma.⁶ Between 1958 and 2011, campaigns by the military governments to repress the population resulted in widespread mass atrocities against civilians. The state employed counter-insurgency military tactics against ethnic minority communities with no attempt to distinguish between civilians and combatants in the border regions⁷ and in the central parts of the country. Burma's Special Branch police and military intelligence imprisoned and tortured thousands of individuals suspected of anti-government and pro-democracy activities.⁸ In 1988, the army crushed pro-democracy rallies in Rangoon, killing an estimated 3,000 protesters.⁹

Burma remained a pariah state for decades. In response to a series of actions by the government in 2011, Western nations eased economic sanctions. The international community heralded the release of political prisoners, the signing of temporary ceasefires with armed groups, the completion of fair by-elections, and the voting of democracy icon Daw Aung San Suu Kyi into parliament. To reward these changes and promote democracy, a number of states – including Australia, Canada, Japan, the United States, and many European countries – increased development aid and allowed their businesses to operate in Burma for the first time in decades. International companies responded with a flood of investment,¹⁰ and the government of Burma enacted several laws and tax exemptions to facilitate foreign investment and economic development.¹¹

This investment has the potential to help lift the country out of its economic woes. Decades of government mismanagement, corruption, and economic sanctions have destroyed the country's economy.¹² Burma was ranked 150 out of 187 countries in the United Nations Development Programme's (UNDP) 2013 Human Development Index – a composite measure of several indicators on health, education, and standard of living.¹³ In 2010, 25 percent of the country was living below the national poverty line,¹⁴ and the gross national income per capita in 2011 was just \$1,144.¹⁵ This poverty coincides with poor food security; UNICEF estimated that between 2008 and 2012, 22.6 percent of children under the age of five years were moderately or severely

underweight.¹⁶ In order for economic growth to benefit the country, more job opportunities and better wages must be provided, as well as a bigger tax base to ensure that the government progressively implements economic, social, and cultural rights, such as the right to food, health, housing, and education.

Burma is ripe for investment – and land confiscations.

In 2011, Burma was one of the last untapped consumer markets: it was a country of 55 million people with almost no access to foreign products. The abundance of natural resources – coal, gold, metals, hydropower, timber, rice, sugar, oil, and gas – makes the country highly attractive for international investment. As economic sanctions were being lifted, foreign direct investment grew from \$1.9 billion in 2011 to \$2.7 billion in 2012,¹⁷ and exceeded \$4.1 billion as of April 2014.¹⁸

“Myanmar is a gold mine any way you look at it – natural resources, gas and oil deposits, spatial dimensions, location between China, India, Southeast Asia.”¹⁹
– Craig Steffensen, Asian Development Bank Official

Economic development in Burma, however, has had devastating impacts on the communities living in project locations. In a 2011 survey, PHR found that households in or near the Dawei Special Economic Zone (SEZ) in eastern Burma were twice as likely to experience a human rights violation and 7.9 times more likely to experience forced labor compared to households in other, comparable locations, mostly due to increased military presence and land rights violations associated with the development project.²⁰

Reports of government confiscation of land for development projects are widespread in Burma; dams, plantations, pipelines, industrial sites, and mines have pushed people off their land in nearly every state and division in the country.²¹ In a review of reports on land confiscations published between January 2011 and January 2014, the U.S. Campaign for Burma identified 94 separate instances of displacement resulting from projects by corporations, the government, and the military.²² The actual extent of displacement is likely much greater, as this review only covered published cases.

Despite political liberalizations in the country, the legacy of Burma's military dictatorship remains, notably in the government's unfair practices of land confiscation. Burma was ranked 157 out of 174 countries in

Background continued

Transparency International's 2013 Corruption Perceptions Index,²³ and several laws²⁴ enacted since 2008 facilitate land confiscation and displacement.²⁵ Challenging confiscation is particularly difficult for individuals given that documentation of land ownership in Burma has been historically weak and people who have lived and worked on the land for decades may not have proof of ownership.²⁶

Burma faces numerous other problems that have gone unaddressed under the new government,²⁷ including government impunity for human rights violations, official corruption, strong central government presence at the township level that does not represent residents,²⁸ bureaucratic red tape and an unpredictable business environment,²⁹ military control over key government agencies,³⁰ and weak rule of law.³¹ The government has little accountability to its people, and power is awarded to wealthy individuals and corporations. These conditions, which enable corporations, the government, and the military to operate with near impunity, set the stage for widespread land confiscation and human rights abuses with little to no repercussions for perpetrators.

Human rights, land, livelihoods, and health are linked.

Human rights violations – such as forced labor, restrictions on movement, and particularly the unlawful seizure of land – affect families' abilities to provide for themselves and avoid poverty. Poverty is the lack of basic human, economic, political, socio-cultural, and protective capabilities that are required for living a life with dignity.³² The World Health Organization (WHO) cites poverty as a cause of low vaccination rates, poor water and sanitation, lack of access to medicines, and maternal mortality.³³ Poverty limits a family's capacity to pay for transportation to a medical clinic and for the provision of services and medicine. It can lead to reduced life expectancy, disability, and starvation.³⁴

Malnutrition is an underlying cause of over 50 percent of child deaths globally, because it limits a child's ability to fight the effects of conditions such as measles, diarrhea, pneumonia, and malaria, which are main causes of child mortality.³⁵ Food security and basic nutrition are preconditions for enjoying the basic human right to health and the ability to provide for one's self and family.³⁶

Poverty represents a significant barrier to fully realizing human rights, as the detrimental effects on health and nutrition impede one's ability to fulfill human potential, realize aspirations, and participate in social, cultural, and political life.³⁷ Some of these rights, specified by the Universal Declaration of Human Rights, include the rights to housing, an adequate standard of living, education, work, health, and life.³⁸

Livelihoods include everything people use – capabilities, assets, and strategies – to provide for themselves and to stay out of poverty.³⁹ For example, people may seek an education to gain the necessary technical skills to find a job and earn money to support their family. In other cases, individuals may borrow money to start a small business to generate income to support their family.



U Ba Than, a Burmese man of Indian heritage sits inside his home at the Thilawa relocation site. Mr. Than formerly earned his living as a farmer, but now has no income because farming is not permitted at the relocation site.

Background continued

In developing countries like Burma, ownership of and access to land is a crucial component for maintaining livelihoods. Approximately 66 percent of Burma's population lives in rural areas, and half work in agriculture, hunting, or forestry, while only 6 percent work in manufacturing.⁴⁰ The United Nations Population Fund reported in June 2011 that the size of a family's farm was inversely correlated with poverty and that landlessness was correlated with poverty.⁴¹ People in Burma who are not farmers but have access to land frequently supplement their incomes and nutrition by gardening. As a key component in food and income production, access to land is closely linked to livelihoods and food security.⁴²

Indicators related to livelihoods and food security can demonstrate the secondary effects of displacement and call attention to the harm inflicted when evictions do not conform to international standards. Forced displacement – a human rights violation when international standards are not followed – has the potential to drive families into poverty, cause subsequent human rights violations, or otherwise worsen the situation for people who were already living in poverty.

The Thilawa SEZ development project threatens livelihoods and the health of farming communities.⁴³

The port of Thilawa has been operating for decades in Thanlyin township located on the Rangoon River approximately 15 miles (25 kilometers) south of Rangoon. The Burmese government confiscated land around the port in 1983, 1993, 1996, 1997, 1998, and 2007 to make space for industrial sites, and in 2014 reaffirmed that the area was a SEZ, which created tax breaks for foreign companies investing there.⁴⁴

At the end of 2012, the governments of Japan and Burma signed a memorandum of agreement to develop the Thilawa SEZ, and the Japanese government pledged a ¥ 50 billion (\$500 million) loan to start the project.⁴⁵ The Japan International Cooperation Agency (JICA), an independent governmental agency coordinating Japan's development assistance programs with other countries, represents the Japanese government in the Thilawa

project. The agreement joined Myanmar Japan Thilawa Development, Ltd. (MJTD) with JICA and three Japanese firms: Mitsubishi, Sumitomo, and Marubeni corporations. The Japanese companies control 49 percent of MJTD, and the remaining 51 percent is controlled by the Thilawa SEZ Management Committee (TSEZMC), the Burmese government agency formed specifically to oversee development of the Thilawa SEZ, and Myanmar Thilawa SEZ Holdings Public Ltd. (MTSH), a consortium of nine Burmese companies.⁴⁶

MJTD plans to develop 400 hectares of farmland, with a focus on producing clothing, cars, and other manufactured items.⁴⁷ MTSH projects \$10.6 million in profit in 2014, increasing to a projected \$53.3 million in profit by 2018.⁴⁸ The Myanmar Investment Commission, a government body that regulates foreign investment, said the SEZ would create 200,000 jobs.⁴⁹

The project is divided into multiple phases: phase one, which began in 2013, includes the development of a 400 hectare area including parts of Alwan Sot and Thilawa Kone Tan villages. Phase two will develop 2,000 hectares in nearby farmlands. Developing the farmland required the displacement of 68 households during phase one (one household refused to move and remains in Alwan Sot), and will require the displacement of an additional 846 households (3,869 people) in phase two.



Japanese Parliamentary Vice Minister of Economy, Trade, and Industry Yoshihiko Isozaki speaks during the Commencement Ceremony of Thilawa Special Economic Zone Project in Thilawa, on the outskirts of Rangoon, in November 2013.

Photo: Soe Than WIN/AFP/Getty Images

Background continued

People can be relocated under international law and in accordance with international human rights principles if certain standards are followed. JICA and the Burmese government have established guidelines for relocating people based on these international standards. States have the power to remove people from their homes or land under the principle of eminent domain, whereby private property is taken over by the state for public use. However, this power is constrained by other obligations of the state. Article 17 of the International Covenant on Civil and Political Rights – which prohibits unlawful or arbitrary interference with one’s home, among other protections – safeguards individuals against forced evictions. Forced evictions are involuntary removals of people from their homes or land through actions that involve some element of force, coercion, or threat, which are directly or indirectly attributable to the state. For such removals or relocations to be consistent with human rights standards, they must, at a minimum, adhere to the following principles⁵⁰:

- Relocation should be avoided and if it is not avoidable, all efforts should be made to ensure that it is minimized;
- Those who are relocated should never be worse off after relocation than before and any resettlement plan should allocate sufficient resources to ensure those who are impacted are fairly compensated and should benefit from the development process on a sustainable basis;
- Those facing relocation should be full participants in the planning and management of the relocation;
- Those benefiting from the development project that is causing the relocation should pay the full costs of the relocation process, including socio-economic rehabilitation, which has particular resonance for those who lose land that was their source of income and food security; and
- There should be a legal forum in which people facing relocation can challenge either the substance (for example, the argument that relocation is the only option) and/or the process.

Residents of Thilawa told PHR researchers that international, Burmese government, and JICA guidelines were not followed during the relocation process. Families living near the Thilawa SEZ who were concerned about their future formed the Thilawa Social Development Group (TSDG) to advocate for their needs. PHR joined advocacy group Mekong Watch to investigate possible human rights violations associated with the displacement process, including food security, health status, humanitarian needs of displaced persons, and changes in livelihoods and household income. This report describes the findings of the investigation.

Methods and Limitations

The goal of this survey was to determine if human rights violations occurred during displacement from the Thilawa SEZ, and to assess the loss of livelihoods, health status, and humanitarian needs of affected families.

Given that forced displacements are an everyday occurrence in Burma, PHR developed an epidemiological survey tool that could be used in displaced communities throughout the country. To pilot the survey, PHR intentionally selected a community that was not otherwise facing significant human rights violations in order to test whether the negative consequences of forced displacement alone could be captured in a timely manner. Therefore, we did not test this survey tool in a conflict area or on communities that were already suffering persecution based on their ethnicity or religion.

PHR researchers visited the site several times between August and October 2014, and performed 24 key informant interviews with community leaders, activists, displaced persons, and people who had been displaced by the project, but had since moved away from the relocation site. PHR used a checklist based on the minimum standards established by the Sphere Project to assess the health and sanitation situation in the relocation site.⁵¹ Sphere standards are guidelines that define minimum standards of living for people in humanitarian emergencies. Given that the displacement at the Thilawa SEZ was planned, the situation for those who were relocated should be significantly higher than required by Sphere, which assumes displacement caused by an emergency, such as a natural disaster or complex emergency.

PHR trained seven community members from TSDG on conducting surveys and another seven individuals who had previous survey experience. The surveyors worked in pairs composed of one community member and one experienced surveyor. PHR researchers used random sampling to identify 29 out of 37 displaced households that were still living at the relocation site to interview. This sample size was selected in order to gather as much data as possible while also ensuring anonymity among respondents.

After approaching a house, PHR surveyors obtained informed consent from an adult (18 years or older if unmarried, 15 years if married). During the informed consent process, surveyors explained the risks and possible benefits of participating in the research, that the respondent would not be compensated, that there was no penalty for refusing to participate or answer any question, and that the respondent could stop the interview at any time.

The survey questionnaire consisted of five pages of questions covering health status, food security, access to healthcare, changes in income and livelihoods, and transparency of the displacement process. Surveyors used the Food and Nutrition Technical Assistance Project's six-question Household Food Insecurity Access Scale, a validated instrument used to evaluate household hunger in low and middle income countries and assess food insecurity before and after displacement.⁵² To screen for depression, surveyors used the Patient Health Questionnaire-2 (PHQ-2),⁵³ which measures a respondent's perception of their health status. PHQ-2 is used by clinicians as the first step in a screen for depression, but it cannot be used to diagnose depression or assess its severity.⁵⁴ Acute malnutrition was assessed by measuring the mid-upper arm circumference of children.⁵⁵

Due to logistical constraints, PHR surveyors did not perform the household survey with families that had moved away from the relocation site, though two heads of household in areas outside the relocation site were interviewed by phone as key informant interviews, and key informants in the relocation site described why other households had moved away.

Although land confiscation is widespread in Burma, the sampling frame of this survey included only households displaced in phase one of the Thilawa SEZ development project. Results from this survey thus apply only to households that had a statistical chance of participating in this survey, and they cannot be generalized to people displaced by land confiscations in other parts of Burma. Other limitations of the survey include its cross-sectional design and lack of a comparison group, as well as potential for dissatisfied households to minimize challenges they faced prior to displacement and exaggerate challenges after displacement (recall bias).

Methods and Limitations continued

Responses may also have been influenced by social desirability if respondents perceived that surveyors expected to hear complaints and that these complaints might have resulted in stronger advocacy and benefits for the respondents. It is also possible that respondents minimized the severity of the challenges they faced due to fear of retribution by the government; however, this seems unlikely given the frank terms villagers used to describe their plight.

Although PHR surveyed only 29 households, this group represented most (78.4 percent) of those remaining in the relocation site. Thus, the findings likely reflect the experience of households displaced in phase one of the Thilawa SEZ development project, suggesting the internal validity of the survey is high. PHR was not able to determine whether households that had moved away from the relocation site were better or worse off than households that remained.

PHR's Ethical Review Board (ERB) approved this research. PHR has had an ERB since 1996 to ensure protection of human subjects in its research and investigations. PHR's ERB regulations are based on Title 45 CFR Part 46 (see: <http://ohsr.od.nih.gov/guidelines/45cfr46.html>) provisions, which are used by academic Institutional Review Boards (IRBs). All of PHR's research and investigations involving human subjects must be approved by the ERB and conducted in accordance with the Declaration of Helsinki as revised in 2000.

International Guidelines on Forced Evictions

The obligation of states to refrain from and protect against forced evictions is included in several international legal instruments: the Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the Convention on the Elimination of all Forms of Discrimination against Women; and the International Convention on the Elimination of All Forms of Racial Discrimination.⁵⁶ The government of Burma has ratified the Convention on the Rights of the Child as well as the Convention on the Elimination of All Forms of Discrimination against Women, which place binding obligations on the government.

The two major international legal frameworks relating to evictions and displacements are the *Guiding Principles on Internally Displaced Persons (Guiding Principles)* and the *Basic Principles and Guidelines on Development-based Evictions and Displacement (Basic Principles and Guidelines)*.⁵⁷ According to these frameworks, displacement may occur in “exceptional circumstances,” as long as certain guidelines are followed, 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. These standards apply regardless of whether or not individuals hold formal title to their home and property. Before displacement, states must ensure that all those likely to be affected receive appropriate notice, reasonable time for public review, opportunities to challenge displacement, and other options for relocation. States must explore all possible alternatives to displacement, demonstrate that an eviction is unavoidable, and ensure that it will not result in individuals becoming vulnerable to human rights violations.

During evictions, government officials must be present, neutral observers should be allowed access, any use of force must respect principles of necessity and proportionality, and precautions must be taken to ensure that no one is subjected to violence or arbitrarily deprived of property.

After evictions, the government and other responsible parties must provide timely and appropriate compensation, proper accommodation that adheres to internationally recognized standards, and access to necessary medical care.

According to the *Guiding Principles* and the *Basic Principles and Guidelines*, the government of Burma is obligated to:

- Disseminate a comprehensive resettlement plan in advance of the eviction;
- Provide affected persons with the option of legal, technical, and other advice;
- Give affected persons the opportunity to challenge the eviction;
- Demonstrate that the eviction is unavoidable and consistent with international human rights commitments that protect general welfare;
- Guarantee that individuals are not rendered homeless or vulnerable to other human rights violations; and
- Ensure that – to the extent not covered by assistance for relocation – the assessment of economic damage takes losses and costs into consideration.

Results

PHR surveyors approached 29 households, and all consented to the interview. Respondents included 17 men and 12 women, between the ages of 25 and 80 years. The number of people living in each household ranged from two to five, for a total of 93 people. This population was 53 percent female, and the ages ranged from two months to 88 years. All percentages reported in the figures outlined below, as well as the tables and graphs (page 18–22), use the 29 respondents as a denominator, which can be generalized to the 37 households living in the relocation site at the time of the survey.

Residents were not informed of the results of social and economic impact assessments.

PHR's investigation found that the government of Burma deviated from most of the *Guiding Principles* and the *Basic Principles and Guidelines*. Although the regional government in Rangoon performed social and economic surveys, most people in the Thilawa SEZ did not know they had the right to see the results of the assessments until after they were relocated.

Residents were not clearly informed about the relocation process, in direct contradiction to international principles that require transparency and concerted outreach to affected communities. JICA requires that affected residents have access to the resettlement work plan in order to promote transparency, but PHR found that 82.8 percent of residents did not read the work plan before they moved, and that 62.1 percent of residents did not know they could see the resettlement work plan at the SEZ office (Graph 2 on page 19).

The government did not provide opportunities for residents to seek legal or technical advice, nor to challenge the displacement in court.

In September and October 2013, the township authorities offered households in Alwan Sot compensation for the displacement: a government-supplied house in the relocation site or 2.5 million kyat (\$2,500), and varying amounts of money for fruit trees and animals. People who owned farmland were given the cash equivalent of six years of harvest. Households with elderly people received a one-time award of 50 kilograms of rice. Despite this compensation, families were struggling just seven months after displacement. Many of them spent much more than 2.5 million kyat on building their houses and were left with insufficient funds for living expenses.

*"They took all our lands without fair compensation, and we have no land left to grow the crops."
– Household interview #8, in Rangoon Division
(August 2014)*

Thilawa residents told PHR that the amount of money awarded in compensation was inadequate, and that they received below-market rates for the land, animals, and orchards that they lost in the process. Households also reported that they did not receive ownership papers for the plots of land they were given with their houses, and were concerned that they could easily be displaced again. The offers of compensation from the government were made under threat of arrest for noncompliance, and many households accepted the offers out of fear that the alternative was to receive nothing. Graph 3 (page 20) shows that 93 percent of the households surveyed by PHR reported that they felt threatened or afraid of what would happen if they refused to move.

*"The new land is too small, so we couldn't keep the animals and sold them for whatever price was offered. The compensation is very low."
– Household interview #18, in Rangoon Division
(August 2014)*

Instead of providing affected families with an opportunity to challenge the displacement or offered compensation, as outlined in international standards, the government issued threats to Thilawa residents. On January 31, 2013, Thanlyin and Kyayktan township authorities sent letters to residents of Thilawa, requiring them to leave their land within 14 days or face a punishment of 30 days in prison.⁵⁸ At a public meeting concerning the displacement held on Sept 21, 2013, an SEZ representative said that Thilawa residents could accept the offer as it stood, or dispute the offer in court.⁵⁹ Community members misinterpreted the phrase "dispute in court," understanding that if they did not accept the offer, the government would sue them. Community members told PHR about other displacements they had read about in newspapers, believing that the government could easily push them off their land. Most people told PHR that they felt it was better to take the deal than to risk losing everything, even though they thought that the compensation was inadequate.

*"They [the government] told us to be satisfied with what they provided. If not, we will face a legal charge from the regional government. As we do not have a good understanding of the laws, we just have to accept it."
– Household interview #1, in Rangoon Division
(August 2014)*

Results continued

In September 2013, township officials visited Alwan Sot and had residents sign an agreement that they would accept compensation and move. At that time, authorities did not provide residents with copies of the agreement; paperwork was eventually distributed to affected individuals in August 2014, but only after members of the TSDG filed an official objection to JICA that complained about the lack of transparency in the relocation process.

"We aren't experienced in these matters and are worried that we will be arrested. I have heard that the government destroyed houses with bulldozers previously, and I am afraid."

- Household interview #23, in Rangoon Division (August 2014)

Some residents were not able to read the agreement, given that approximately 30 percent of community members are of Indian descent and do not read Burmese script; these individuals reported that they signed the agreement without a translated version or understanding the document. The Indian population had been living in the region for several generations and there were no differences in treatment or discrimination by the government before or after relocation, from what the Burman population reported.

"We are afraid because they said 'Take 25 lakhs [2.5 million kyat] and land or face a lawsuit from the regional government.'"

- Household interview #19, in Rangoon Division (August 2014)

Throughout the displacement process, TSDG sent 12 letters in total to the Burmese government and JICA requesting meetings to negotiate better compensation. Public consultations were held, but no decisions were reached regarding compensation.

Residents were dissatisfied with the displacement process, but have little recourse.

Of the 29 households PHR surveyed, 23 were not satisfied with the compensation they received, and 23 were not satisfied with the relocation process.

Of the 68 displaced households, 31 left the relocation site within the first nine months after the displacement. Most of these households were not from the Thilawa SEZ originally, and had moved there to work in nearby industries, according to interviews with residents who remained in the relocation site. When they were displaced from the towns of Alwan Sot and Thilawa

Kone Tan, they could not afford the long commute and subsequently returned to their original villages.⁶⁰ Other households reported to PHR that they were forced to borrow money to pay for food after displacement and had to put their houses up as collateral. As they continued to borrow money and their debts increased, some residents decided it would be better to sell the house to pay off the debts and move to another place.⁶¹

The displacement had negative effects on livelihoods.

In contradiction to standards that require any displacement to safeguard the human rights of those affected, the government of Burma failed to ensure that individuals were not rendered vulnerable to abuse. The government also did not consider the costs associated with loss of farmland in determining appropriate compensation. As a result, displaced families' incomes have been severely affected, which has led to a decline in food security and the ability to access health care.

The displacement dramatically affected households' abilities to provide for themselves. Over half of the households reported depending on some kind of farming before displacement, as shown in Table 1 (page 18). All of these households lost their land and the ability to generate an income. Several households (including most that moved away from the relocation site) worked in factories before displacement, but the cost of getting to work increased dramatically after displacement because the relocation site was more remote.



Daw Myint Myint Thein and her son in front of their home in the Thilawa relocation site. Ms. Thein said that her children missed a full year of school as a result of their displacement.

Results continued

Only four households reported increases in income after the displacement, while 24 reported decreases, including nine that reported the loss of all income. The average monthly income dropped from 327,000 kyat (\$327) before displacement to 71,000 kyat (\$71) afterwards, as shown in Graph 5 (page 21). Of the 23 households living above the UNDP poverty line for Burma – 376,151 kyat (\$376) per adult per year – before displacement, 14 households (61 percent) dropped below this line after displacement, for a total of 20 households (69 percent) living below the poverty line after displacement (Graph 6 on page 21).⁶² The UNDP establishes a food poverty line by assessing the amount of money required to meet caloric requirements if all household income is spent on food. This figure represents a level of extreme hardship. The UNDP has calculated the food poverty line in Burma at 274,990 kyats (\$275) per adult per year.⁶³ Of the 23 households living above the food poverty line before displacement, 10 households (43 percent) went into food poverty after displacement.

“In the previous place, even if we did not have enough income, we could eat the crops from the garden. Here in this place, we starve when we do not have income.” – Household interview #19, in Rangoon Division (August 2014)

Given the loss of income, 23 households reported that they needed to borrow money to pay for expenses after displacement; the average household debt since relocation was 2.2 million kyat (\$2,200) – or about 225,000 kyat (\$225) per month – and only three households reported having enough money to meet their needs. Households told PHR that they put their homes up for collateral, and those that avoided debt were forced to sell off their assets, such as gold or other items. These households voiced concerns that they will soon run out of items to sell, driving them to borrow money.

Most households (23) said they were farming land before they were displaced, and that they lost between 0.4 and 35 acres, for a total of 154 acres between all families. Households received money for crops, vegetable gardens, and trees, but no household received new land as compensation for the displacement. Displaced residents told PHR that the government had previously confiscated their lands in

1996 and 1997, but allowed them to continue farming on it. In the case of the Thilawa SEZ, the government may be classifying the residents as squatters, absolving the state from providing compensation for the land itself, according to the country’s 2012 Farmland Law.

Some humanitarian conditions at the relocation site are below international standards for refugees.

PHR found that the water sources and latrines provided by the TSEZMC did not conform to international standards established by the Sphere Project. Sphere standards are dignity-based guidelines that define minimum standards of living for people in humanitarian emergencies. Given that these standards were developed for emergency situations, they represent the extreme minimum requirements for living with dignity. Table 2 (page 18) shows assessment areas, Sphere standards, and PHR findings.

In addition, members of TSDG collected water samples – following Myanmar Ministry of Health (MoH) guidelines – from the seven pumps and wells provided by the TSEZMC at the relocation site, and had them tested at a MoH water quality testing lab in Rangoon to assess water quality. The lab found that all of the samples were “bacteriologically unsatisfactory,”⁶⁴ meaning that the amount of bacteria from human feces that was found in the water samples exceeded a level deemed acceptable by the MoH, and thus was unfit for human consumption.



Community leader, Aye Khaing Win, in front of a row of houses at the Thilawa relocation site. His family had 20 acres of land before being relocated to a plot of less than half an acre.

Results continued

Food security, depression, and access to health care became worse following displacement.

PHR documented the health effects that these changes in livelihoods have had on displaced households. Most respondents of the survey reported having poor health over the last six months.

PHR used the Patient Health Questionnaire-2 (PHQ-2) scale to screen for possible depression; respondents who score a 3 or greater may have depression or anxiety, although further tests would be required to confirm this diagnosis. Out of 29 respondents, 20 (69 percent) scored 3 or higher, suggesting that they may have depression or anxiety.

"I was born there [Alwon Sot] and all my previous generations lived there. Since after I moved here [the relocation site], I have no interest in my work and I got depressed every day staying at home." – Household interview #8, in Rangoon Division (August 2014)

Eight households (27.6 percent) reported an increase in household hunger in August 2014 (after displacement) compared with the previous August, and 13.6 percent of children surveyed suffered from mild malnutrition. Ability to access medical care was also affected by displacement. PHR found increases in the number of households unable to afford to pay for medical care or transportation to clinics after they were displaced. The number of households reporting that someone was sick but unable to access treatment more than doubled (from 7 to 16) after displacement, as shown in Graph 8 (page 22).

Conclusion

The displacement in Thilawa took place amid a broader climate of state-sponsored abuse in Burma, where people have no recourse to challenge illegal government action. Specifically, the displacement process in Thilawa violated residents' human rights, negatively affected their ability to provide for themselves, and resulted in deteriorating food security and limited ability to access health care. The TSEZMC will relocate 846 more households when development begins on phase two of the project. If the TSEZMC, the Burmese government, and JICA continue to operate as they did in the first phase of the project, these households will suffer the same fate.

Burma requires economic development, but given the historical context of forced displacement, impunity for human rights violations, weak rule of law, and corruption, there is great risk that economic development projects will benefit a select few in power at the expense of deepened deprivation and poverty for many others. Although the results of this survey cannot be generalized for the country as a whole, the survey does highlight risks inherent to any major development project in Burma. Having recently emerged from more than 50 years of military dictatorship, it will take time and commitment to build a strong civil society that is capable of educating people in Burma about their rights. Residents generally fear their government, which for decades has controlled the population by force. The government has yet to implement sufficient mechanisms to protect people from human rights abuses and ensure justice for victims.

Given this context, any development project in the country carries great risk of human rights violations. JICA and other organizations implementing such projects should make every effort to proactively identify the potential negative outcomes and consult with the affected community about how best to minimize or eliminate these risks. The Thilawa case suggests that foreign organizations cannot rely on the Burmese government to protect the human rights of forcibly-displaced populations.

Recommendations

To the government of Burma:

- Immediately implement transparent procedures consistent with the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, which:
 - uphold the principles of necessity and proportionality for any evictions;
 - provide any individuals to be affected by the eviction with clear notice and effective opportunities to challenge the displacement; and
 - ensure that all those displaced receive appropriate compensation as well as real and tangible income-generating opportunities;
- Improve humanitarian conditions at relocation sites to uphold international standards, including ensuring that conditions meet or exceed Sphere standards on drinking water and sanitation, which represent the bare minimum required to prevent feces in latrines from contaminating drinking water sources;
- Guarantee that displaced populations have full access to health care and other essential services;
- Cease the practice of threatening or harassing individuals who challenge eviction orders;
- Ensure that those displaced receive formal registration of their new land and house;
- Provide public explanation of how particular compensation is calculated;
- Respond in writing to each request submitted by the Thilawa Social Development Group;
- Ensure that international standards will be followed in future relocations in Thilawa and elsewhere in Burma; and
- Follow recommendations from the Ethnic Community Development Forum and the Customary Land Protection Committee, in particular their call for redrafting the national land use policy, including the meaningful participation of representatives of small scale farmers, ethnic groups, women, youth, and other people and communities who will be most affected, as well as parliamentarians and independent experts.

To the Japan International Cooperation Agency (JICA) and the government of Japan:

- Ensure that JICA guidelines on displacement mirror internationally recognized standards on displacement, and that these guidelines are effectively implemented;
- Promote transparency regarding the agreements between the government of Burma and JICA, human rights impact assessment findings, environmental assessment findings, and other matters of interest to those who are or who may become displaced; and
- Make sure that any collaboration with the government of Burma is based on upholding internationally recognized standards of relocation.

To the government of the United States:

- Raise the issue of forced displacement in bilateral communications with Burma and Japan, and call on both governments to respect internationally recognized standards on eviction;
- Demonstrate that the United States will monitor phase two of development in Thilawa and stress that continued patterns of threats and harassment will jeopardize future cooperation between the United States and Burma;
- Establish improvements in land rights as a benchmark for any further benefits, economic or otherwise, from the U.S. government; and
- Strengthen the voluntary reporting requirements for U.S. corporations doing business in Burma. Require that all reporting be made public and specifically include independent assessments of the impacts of investment on livelihoods and health.

To shareholders and management of companies investing in development projects in Thilawa and elsewhere in Burma:

- Ensure that corporate codes of conduct address the rights of relocated persons, and that these codes of conduct are followed in Burma; and
- For shareholders, propose and vote for shareholder resolutions that 1) require transparent, participatory processes for relocation that adhere to international standards; and 2) assess the potential risk to shareholder value due to adverse publicity surrounding substandard displacement processes that have thus far fallen short of international norms and threatened the health and livelihood of local populations.

Tables

Table 1. Changes in Livelihoods Due to Displacement

What was your primary job before displacement?	Frequency	Percentage
Rice farmer	10	34.5
Vegetable farmer	8	27.6
Wage laborer	4	13.8
Other	4	13.8
Factory worker	3	10.3

What was your primary job after displacement?	Frequency	Percentage
Not working	10	34.5
Rice farmer	1	3.5
Wage laborer	5	17.2
Other	9	31.0
Fisherman	2	6.9
Factory worker	2	6.9

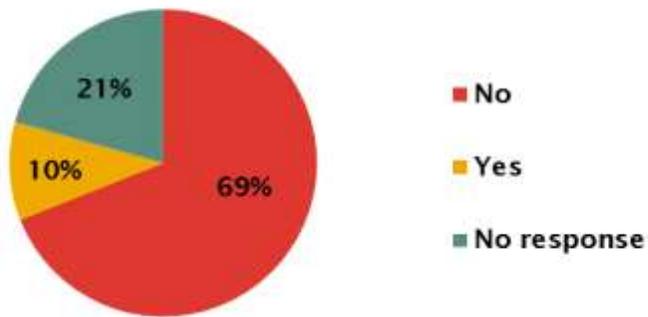
Table 2. Results of Water and Sanitation Assessment of Relocation Site

Water & Sanitation Area Assessed	Sphere Standards Key Indicators ⁶⁵	Acceptable?	PHR Findings
Latrines	<p>Pit latrines and soakaways (for most soils) are at least 30 meters (98 feet) from any groundwater source.</p> <p>The pit of any latrine is at least 1.5 meters (approximately 5 feet) above the water table. Drainage or spillage from defecation systems must not run towards any surface water source or shallow groundwater source.</p>	No	Most latrines are located in low-lying areas and susceptible to flooding and overflow; latrine pits likely extend to depths below the water table; all water sources were closer than 30 meters (98 feet) to latrines.
Well protection	There are no fecal coliforms per 100ml of water at the point of delivery and use. All affected people drink water from a protected or treated source in preference to other readily available water sources.	No	Collars were present on wells, but lids were not; all pumps and wells were closer than 98 feet to latrines; fecal coliforms were present in all wells.
Pump construction	There are no fecal coliforms per 100ml of water at the point of delivery and use. All affected people drink water from a protected or treated source in preference to other readily available water sources.	No	No collar on pumps; all pumps and wells were closer than 98 feet to latrines. The borehole for one pump had been drilled through a cement-lined drainage ditch. Fecal coliforms were present in all pumped water.
House (size)	The initial covered floor area per person is at least 3.5 square meters.	Yes	Government-built houses were 18.2 square meters (196 square feet) which is acceptable for families up to five people (no family surveyed had more than five people).

Graphs

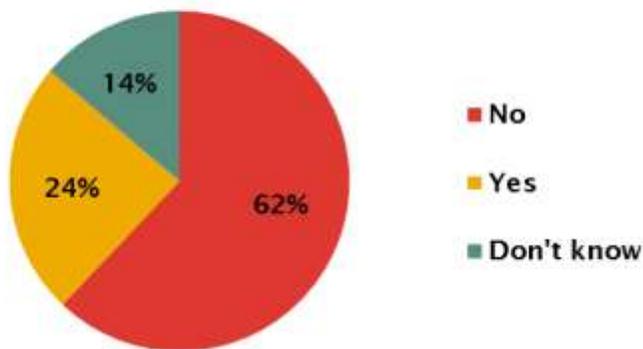
Graph 1

Did you know that you can see/read the results of the social economic survey at the special economic zone office?



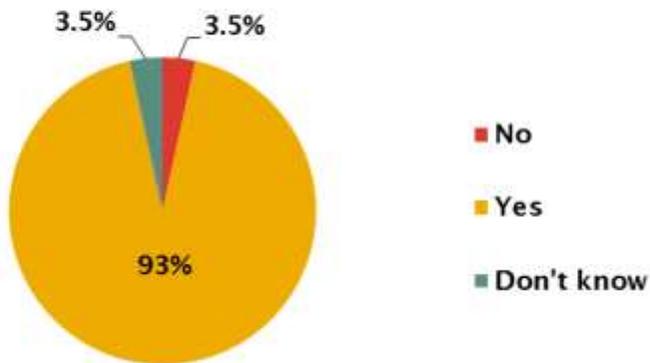
Graph 2

Did you know that you can see the resettlement work plan at the SEZ office?



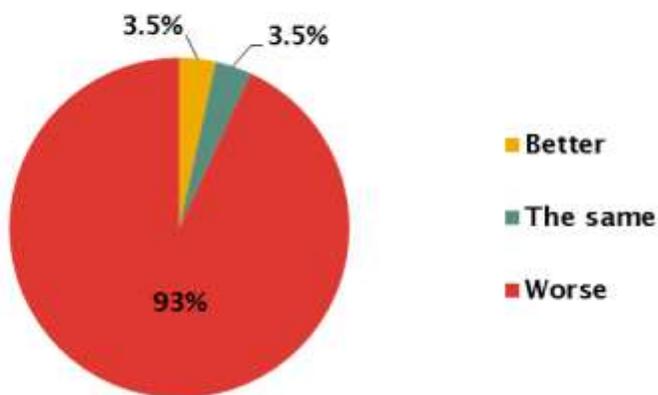
Graph 3

Did you ever feel threatened or afraid of what would happen if you refused to move?

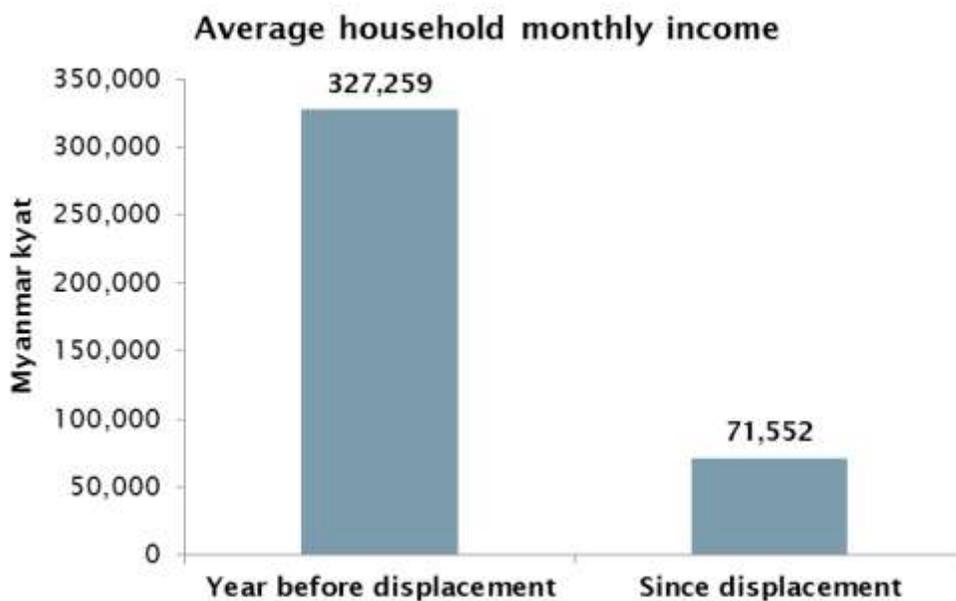


Graph 4

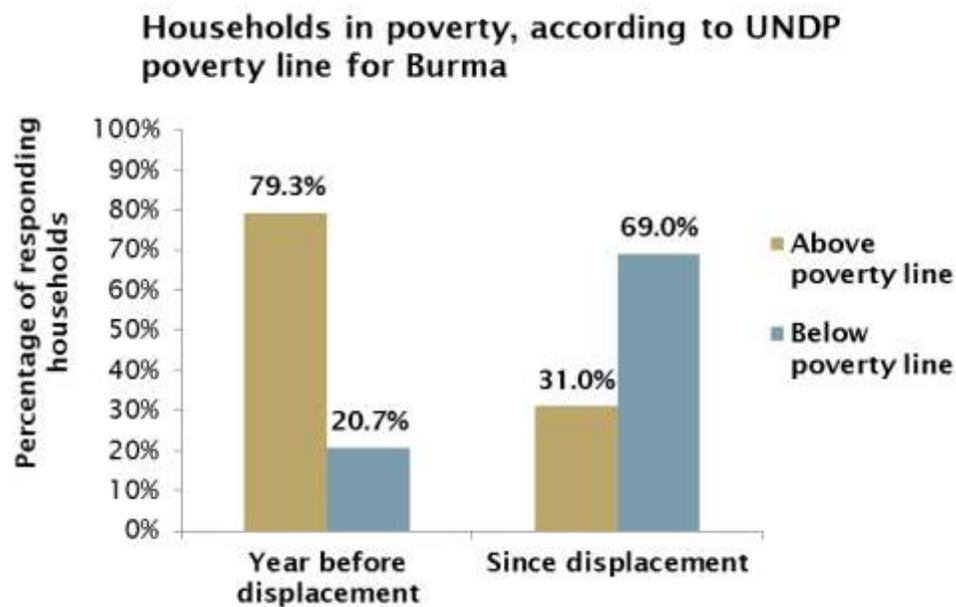
Since you were displaced, is your overall situation:



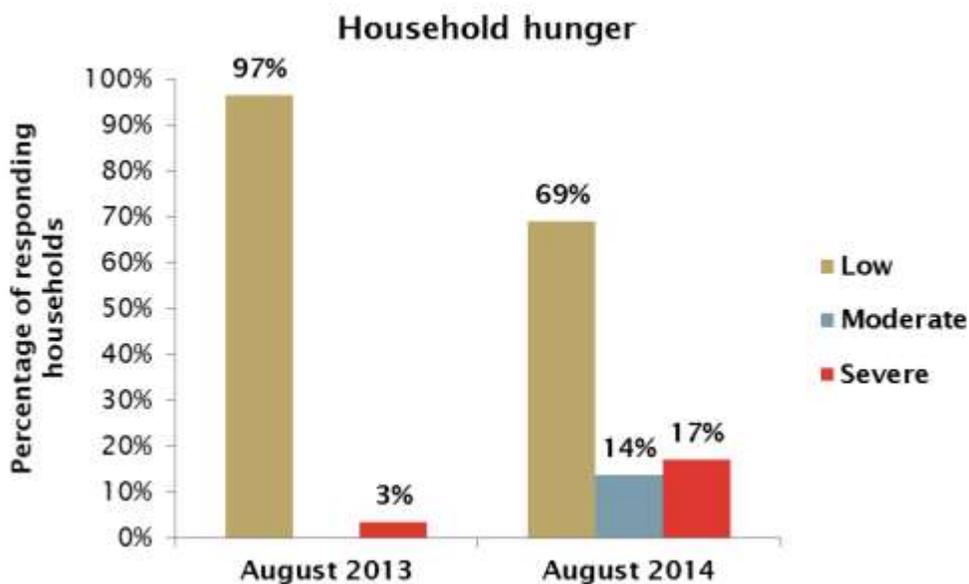
Graph 5



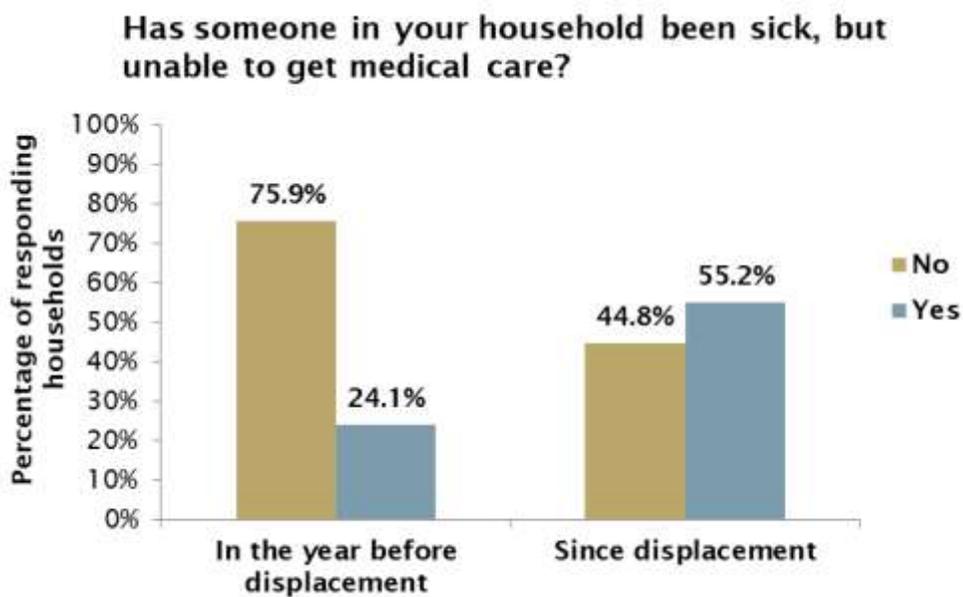
Graph 6



Graph 7



Graph 8



Endnotes

¹ In the wake of the violence of the 1988 student uprising in Burma, the military regime that seized power in a coup d'état changed the country's name to Myanmar and the name of the then-capital from Rangoon to Yangon. Pro-democracy groups, such as the National League for Democracy, and ethnic minority groups did not recognize the name changes. In support of these groups, Australia, Canada, the United States, the United Kingdom, and other governments continue to recognize the country as Burma. In this report, PHR uses the names Burma and Rangoon for the same reason.

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⁵⁶ “Basic principles and guidelines on development-based evictions and displacement,” Human Rights Council.

⁵⁷ The *Guiding Principles* apply during the time that people are in displacement, while the *Basic Principles and Guidelines* cover in detail the phases prior to, during, and after evictions, especially where evictions are irreversible due to development projects or disaster. See also UNHCR, “Guiding Principles on Internal Displacement”; “Basic principles and guidelines on development-based evictions and displacement,” Human Rights Council.

⁵⁸ PHR obtained a copy of the letter and had it translated. The letters were individually addressed to households living in Thilawa and hand-delivered.

⁵⁹ Eleven households reported in the survey that they moved because they were afraid of lawsuits from the government. Six key informants said they were at the meeting and witnessed the threat.

⁶⁰ Interview with key informants numbers 2 and 3, in Rangoon Division, Aug. 1, 2014.

⁶¹ Telephone interview with key informants numbers 23 and 24, Oct. 1, 2014.

⁶² The World Bank, World Development Indicators: Poverty, Myanmar.

⁶³ Ibid.

⁶⁴ The Rangoon lab found more than 16 total coliforms in MPN/100ml in each sample.

⁶⁵ See Sphere Project, *Humanitarian Charter and Minimum Standards in Humanitarian Response*.



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