



Network for Human Rights Documentation - Burma



# Human Rights Situation in Burma

# 2019

July to December

Cover photo: House burn by shelling because of fighting. (TWO)

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# Acknowledgements

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This report would not be possible without the work of ND-Burma members and their coordinated efforts to collect evidence of human rights abuses at the expense of their safety and security. We are reminded through the voices of civilians in this report that there is still a long way to go for peace in Burma, but are nonetheless motivated by their resilience to continue to speak truth to power against forces undermining prospects for change.

We would like to express our most sincere gratitude to our supporters and institutions who have offered their unwavering support to ensure that this report was made possible.

# Glossary

AA	Arakan Army
AASYC	All Arakan Students' & Youths' Congress
AAPP	Assistance Association for Political Prisoners
CEDAW	Convention on All Forms of Discrimination Against Women
EAOs	Ethnic Armed Organisations
IDPs	Internally Displaced Persons
ICJ	International Court of Justice
KIA	Kachin Independence Army
KWAT	Kachin Women's Association Thailand
MNDAA	Myanmar National Democratic Alliance Army
MNLA	Mon National Liberation Army
MNHRC	Myanmar National Human Rights Commission
NCA	Nationwide Ceasefire Agreement
NLD	National League for Democracy
TNLA	Ta'ang National Liberation Army
TWO	Ta'ang Women's Organization
TSYU	Ta'ang Students and Youth Union
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs

# About Us

ND-Burma is a network that consists of 13-member organisations who represent a range of ethnic nationalities, women and former political prisoners. ND-Burma member organisations have been documenting human rights abuses and fighting for justice for victims since 2004. The network consists of nine Full Members and four Affiliate Members as follows:

## **Full Members:**

1. Assistance Association for Political Prisoners – Burma
2. Human Rights Foundation of Monland
3. Kachin Women’s Association – Thailand
4. Ta’ang Women’s Organization
5. Ta’ang Students and Youth Union
6. Tavoyan Women’s Union
7. Association Human Rights Defenders and Promoters
8. All Arakan Students’ and Youths’ Congress
9. Future Light Center

## **Affiliate Members:**

1. Chin Human Rights Organization
2. East Bago – Former Political Prisoners Network
3. Pa-O Youth Organization
4. Progressive Voice

### **Fieldworker's Situation:**

Due to the current political context in Burma in which the military is ultimately in control and armed conflict and related human rights violations occur on a large scale, security concerns are high for fieldworkers, and human rights monitoring cannot take place openly. Fieldworkers from ND-Burma's member organisations put themselves at great risk to document human rights violations. Thus, it is not possible to document the true breadth and scope of all violations that take place in Burma. Fieldworkers and the people who communicate with victims to document the violations they suffer from face security risks even in ceasefire areas, as government security forces and ethnic armed organisations (EAOs) often intimidate and/or threaten victims to remain silent. Documenting human rights violations in ethnic areas, especially in conflict areas, can lead to arbitrary arrest under repressive laws, harassment or even violent retribution.

### **Documentation:**

ND-Burma provides documentation training (with assistance from international human rights non-governmental organisations (NGOs) to fieldworkers of member organisations who can then collect information). Information thus gathered by fieldworkers is then used in ND-Burma reports. Fieldworkers conduct interviews and collect other information from all over the country, and individual cases are documented depending on opportunity and circumstances. The cases presented herein constitute first-hand accounts of abuses perpetrated by government security forces and EAOs.

However, there are limitations to the data collected. Fieldworkers are unable to document all human rights violation cases due to the accessibility and security restrictions. The government often restricts access to areas where human rights violations have occurred, particularly in active conflict zones, and fieldworkers refrain

from entering these areas for security reasons. In addition, fear of harassment, arrest and retribution from perpetrators makes many victims of human rights abuses reluctant to report violations, even when given the opportunity. Our documentation efforts are, therefore, unable to capture every single aspect of human rights violations in our research areas. Despite these challenges and difficulties, the information fieldworkers are able to gather is utilised to the highest degree to highlight the ongoing human rights abuses in Burma.

### **Data Management:**

Fieldworkers send gathered documents, case studies and information from the field first to their individual organisations, whose staff then upload the information to ND-Burma's database. ND-Burma's data management team organises each document and then selects exemplary case studies between the reporting period for each report (in this case, July to December 2019). All other information collected during this time period regarding current or past human rights violations are catalogued in order to continue developing a robust record of Burma's history of human rights violations.

## Executive Summary

- 102 documented cases of human rights abuses by member organisations from July to December 2019 and a total of 425 documented human rights violations across 7 States and Regions in 2019 including Shan, Kachin, Rakhine, Chin, Mon, Mandalay and Tanintharyi region
- The majority of civilians were impacted by landmines, arbitrary arrest and indiscriminate shelling and gunfire in civilian areas. These abuses are all exacerbated by an unstable security situation.
- Human rights violations took place in 10 Townships in northern Shan State. The majority of abuses took place in Kutkai and Namhsan. .
- Warfare was particularly active in northern Rakhine Townships including Kyauktaw, Ponnagyun, Rathedaung, Buthidaung, Mrauk-U, Minbya and Myebon.
- Based on the ability of our members to document, the main perpetrators of human rights abuses according to our data were the Burma Army and EAOs. The Burma Army committed 49 violations and EAOs committed 16. Unknown perpetrators committed 32 abuses.
- Our members continued to experience serious threats to their security when reporting on violations, including restricted access to collect information and facilitate aid, as well as questioning by the authorities.
- The majority of human rights violations took place during skirmishes between the Burma Army and EAOs when civilians were forced to flee.



- A serious lack of trust in the judicial system has contributed to an overall climate of fear and hopelessness in Burma's ethnic areas, particularly where civilians are caught in the crossfire of conflicts escalating in northern Rakhine and Shan states.

Since the release of ND-Burma's last report, ongoing conflict between July and December 2019 has continued to devastate communities. Combined with Burma's weak rule of law and lack of judiciary independence, activists have lost faith in the systems intended to uphold human rights due to the significant influence the military has in Burma's pillars of justice.

The reporting period saw several high-profile cases make international and domestic headlines as Burma's moral and legal accountability was called into question over the handling of the Rohingya crisis, and others that drew criticism over inadequate proceedings. Pressure to hold perpetrators of human rights violations accountable continues to take precedent as activists, civil-society organizations and international governments lobby the Burma Army and government to act in good faith by cooperating with recommended transitional justice mechanisms. Burma's failure to comply sends the message that such behaviour is acceptable without consequence. Trust in Burma's justice systems from civilians has consequently eroded as an outcome.

During this period, human rights violations were committed against the backdrop of peace negotiations, particularly in northern Shan, Rakhine and Kachin states. ND-Burma has concluded that efforts for a successful transition to a democracy are compromised by the Burma Army's reluctance to give up power.

## Northern Ceasefire

In December 2018, the Burma Army announced a unilateral four-month ceasefire in order to progress peace talks. However, ongoing clashes between the Burma Army and Ethnic Armed Organizations (EAOs) in Kachin and northern Shan states, as well as the exclusion of the Arakan Army (AA) from the ceasefire despite heavy fighting in Rakhine and Chin states and the urging of their inclusion by its Northern Alliance allies, have marred the ceasefire's implementation and undermined meaningful dialogue.

The ceasefire, which extends to five military command regions, including conflict zones involving, among others, northern Alliance members the Kachin Independence Army (KIA), the Ta'ang National Liberation Army (TNLA) and the Myanmar National Democratic Alliance Army (MNDAA), was renewed for two months at the end of April 2019 after a period of intense uncertainty. The ceasefire concluded on 31 August 2019.

## Conflict Continuing to Fuel Displacement Against Backdrop of Faltering Peace Process

In a coordinated attack on Myanmar's Military Defense Services Technological Academy by the Brotherhood Alliance of armed groups including the TNLA, AA and the MNDAA on 15 August, tensions between EAOs and the Burma Army were only aggravated further. Fifteen people died and three were injured.<sup>1</sup> The Burma government condemned the attacks as terrorism, while the Brotherhood Alliance maintained that they were acting in retaliation of the double-standards of the peace negotiations imposed by the Burma Army.<sup>2</sup> Just two days after the clashes,

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1. Moe Zaw, "More than a Dozen People Killed in Myanmar Rebel Attacks," VOA News, 15 August 2019. <https://www.voanews.com/east-asia-pacific/more-dozen-people-killed-myanmar-rebel-attacks>
  2. The Irrawaddy, "Myanmar Govt Condemns Joint Rebel Attacks as Terrorism." 16 August 2019. <https://www.irrawaddy.com/news/burma/myanmar-govt-condemns-joint-rebel-attacks-terrorism.html>

a rescue worker in Lashio was killed and four team members were wounded after being attacked by a rocket-propelled grenade and sniper attack in their attempts to rescue survivors trapped by the violence.<sup>3</sup> On 31 August 2019, ND-Burma member, the Kachin Women's Association Thailand (KWAT), reported more fighting between the Brotherhood Alliance and the Burma Army near the Aung Chan Tha restaurant on the main road to Lashio, south of Kutkai. There was no fighting inside Kutkai town, but at around 10.30 am, the Burma Army suddenly began shelling from the Infantry Battalion 45 base west of the town, directly into a residential section in the north of the town, called Mawhik, which has about 140 houses.<sup>4</sup>

Despite reports that the Burma Army and members of the Brotherhood Alliance had agreed 'in principle' on a draft ceasefire<sup>5</sup> at the beginning of September, by the end of the month renewed clashes in Shan and Rakhine states continued as the ceasefire with the Burma Army expired.<sup>6</sup>

The Burma Army's engagement in conflict with EAOs has led to an increase in military bases as well as indiscriminate gunfire, artillery attacks and aerial bombardments. While the Burma Army has long been heavily invested in fighting over resources and land, there is no evidence to suggest active warfare has improved prospects for peace and development in the region. The result of the intensified fighting has increased divisions between ethnic communities, while peace talks with government and military stakeholders have not slowed or stopped conflict.

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3. "Ambulance driver killed in Myanmar as army battles rebels," Al Jazeera, 18 August 2019. <https://www.aljazeera.com/news/2019/08/ambulance-driver-killed-myanmar-army-battles-rebels-190818103407132.html>
  4. "No Justice for Ongoing Burma Army Crimes in northern Shan State," Kachin Women's Association Thailand, 7 January 2020. [https://kachinwomen.com/no-justice-for-ongoing-burma-army-crimes-in-northern-shan-state-briefing-paper-by-the-kachin-womens-association-thailand/?fbclid=IwAR2ViWjHcexfqx\\_ofBfKNBmhjVmvGR107srZ5cdRJCJlivLv3DBlm4L1IU](https://kachinwomen.com/no-justice-for-ongoing-burma-army-crimes-in-northern-shan-state-briefing-paper-by-the-kachin-womens-association-thailand/?fbclid=IwAR2ViWjHcexfqx_ofBfKNBmhjVmvGR107srZ5cdRJCJlivLv3DBlm4L1IU)
  5. Kyaw Kha, "Myanmar Gov't, Armed Groups Agree 'In Principle' On Draft Ceasefire," The Irrawaddy, 18 September 2019. <https://www.irrawaddy.com/news/burma/myanmar-govt-armed-groups-agree-principle-draft-ceasefire.html>
  6. Lawi Weng, "Renewed Fighting in Shan and Rakhine as Myanmar Military Lets Ceasefire Expire," The Irrawaddy, 24 September 2019. <https://www.irrawaddy.com/news/burma/renewed-fighting-shan-rakhine-myanmar-military-lets-ceasefire-expire.html>

## Justice Delayed, Denied & Dismissed

Further examination of Burma's current mechanisms to uphold transparency and accountability for human rights violations are far from adequate. On Human Rights Day, 10 December, affiliate member, Progressive Voice, released a report with several ND-Burma members (including KWAT, FLC, HURFOM, TWO) on the performance of the Myanmar National Human Rights Commission (MNHRC). The report, among other recommendations, called for the MNHRC to revise its mandate to build the trust and leadership needed for it to be recognized as an independent National human rights institution.<sup>7</sup> One of the biggest critiques of the MNHRC has been its selection and appointment of commissioners. Currently, there is a lack of diversity, gender balance and civil society representation. The selection is important because the MNHRC is supposed to be independent from the Burma Army. However, most of the leadership is former military and government officials. The lack of impartiality has called into question the legitimacy of the MNHRC to fulfil its mandate, in particular, within the climate of significant unrest across the country.

## Burma Delegation Defends Allegations of Genocide at The Hague

In November 2019, The Gambia submitted a 46-page application to the International Court of Justice (ICJ), the United Nations highest court, on allegations that Burma had carried out crimes of mass murder, rape and destruction of communities in Rakhine State.<sup>8</sup> The case received different responses in Burma as well as abroad. Daw Aung San Suu Kyi, State Counsellor and de-facto Head of State, led the delegation to defend Burma at the ICJ where the hearing began on 10 December 2019.

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7. Myanmar: A Little Less Conversation, A Little More Action Please," Progressive Voice, 9 December 2019: <https://progressivevoicemyanmar.org/2019/12/09/myanmar-a-little-less-conversation-a-little-more-action-please/>

8. Owen Bowcott, "Gambia files Rohingya genocide case against Myanmar at UN court," 11 November 2019, The Guardian. <https://www.theguardian.com/world/2019/nov/11/gambia-rohingya-genocide-myanmar-un-court>

Throughout the historical proceedings, Daw Aung Suu Kyi stood firmly as she declared that genocide, as defined by international law, did not take place anywhere in Burma.<sup>9</sup> During her opening remarks, she refuted the allegations by The Gambia and accused them of placing an ‘incomplete and misleading factual picture of the situation in Rakhine State.’<sup>10</sup> She also explained that perpetrators of human rights abuses should be dealt with through domestic accountability mechanisms and in the case of war crimes committed by the military, that justice should take place through military courts. In reality, it is through these very systems designed by the military, that soldiers have long been able to avoid accountability through institutionalized impunity.

At the end of 2018, over 700,000 Rohingya fled Burma to Bangladesh in fear of government security forces and their clearance operations in northern Rakhine. This was a response to a series of attacks by the Arakan Rohingya Salvation Army. Despite overwhelming evidence conducted by the United Nations Fact-Finding Mission that documented rape and sexual violence, forced relocation and other harrowing human rights abuses deemed as ‘genocidal intent’ - the Burmese government and military continue to deny the accusations.

## Human Rights Violations in Rakhine, Shan, Kachin & Mon State

### Rakhine State

As of December 2019, the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) observed 24 IDP sites in Rakhine State.<sup>11</sup> According to the Rakhine

9. Kyaw Phyto Tha, “No Genocide Was Committed in Myanmar, State Counselor Tells World Court,” 11 December 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/no-genocide-committed-myanmar-state-counselor-tells-world-court.html>

10. Ibid

11. Map, United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Myanmar: IDP sites\* in Rakhine State February 2020 . <https://reliefweb.int/map/myanmar/myanmar-idp-sites-kachin-state-31-july-2019>

Ethnic Congress, over 60,000 people have been displaced by the clashes since January 2019.<sup>12</sup> With civilian displacement and casualties on the rise, the Rakhine State government was asked to investigate after a lawmaker submitted a proposal urging officials and civil society to look closer at the increase in casualties.<sup>13</sup> The proposal was accepted by all except those appointed by the military.<sup>14</sup>

The end of the year was a particularly devastating time period of abuses in Rakhine State as clashes took place almost daily. Burmese military troops were deployed in Mrauk-U Township in December 2019, where shelling injured a girl aged 13, two women aged 22 and 25, and two boys, aged 3 and 10.<sup>15</sup> In the same township, a month-old girl, a 4-year-old boy and a 30-year-old woman died and a man and three other women were injured by indiscriminate shelling. One of the women sustained severe injuries to her left leg and her right knee was dislocated.<sup>16</sup> Between 4,000 and 6,000 local residents have fled from their homes to urban areas of Paletwa and some villages along the Kaladan River due to increased military tensions between the Burma Army and the AA. Throughout the month, artillery shells killed and injured civilians forcing survivors to seek shelter.

Yet, even in the midst of trying to live simple lives, the security of civilians is compromised. ND-Burma member, the All Arakan Students' & Youths' Congress (AASYC) documented 12-deaths in September 2019, the majority of civilians being killed by artillery fire and indiscriminate shelling.<sup>17</sup> As a result of the frequent clashes villagers were regularly forcibly displaced to nearby monasteries. Women, children and the elderly remain the most vulnerable.

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12. Rakhine Ethnic Congress: <http://www.rakhineethnicscongress.org/>

13. Min Aung Khine, "Lawmaker Demands Probe Into Civilian Deaths in Myanmar's Rakhine State," The Irrawaddy, 19 September 2019. <https://www.irrawaddy.com/news/burma/lawmaker-demands-probe-civilian-deaths-myanmars-rakhine-state.html>

14. Nyan Lynn Aung, "Rakhine Assembly Oks Probe of Civilian Deaths in Clashes," 26 September 2019, The Myanmar Times. <https://www.mmtimes.com/news/rakhine-assembly-oks-probe-civilian-deaths-clashes.html>

15. Min Aung Khine, "5 Civilians Injured in Mrauk-U as Myanmar Military Shells Village," 2 December 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/5-civilians-injured-mrauk-u-myanmar-military-shells-village.html>

16. Min Aung Khine, "Three Dead, Seven Injured by Artillery Shells in Two Incidents in Myanmar's Mrauk-U," 2 December 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/three-dead-seven-injured-artillery-shells-two-incidents-myanmars-mrauk-u.html>

17. AASYC News Bulletin

On 28 December 2019, AASYC documented a case where four civilians were injured after clashes in Kyauktaw between the Burma Army and the Arakan Army.

*“We heard the armed clashes after an explosive sound. The clashes happened between each side for about a half hour. Due to the fighting, four civilians were injured”* said U Tun Win, a Member of Parliament.<sup>18</sup>

In a separate case, a nine-year-old boy walking home from school was killed by gunfire in Kyauktaw Township by Burma Army troops who were temporarily stationed at a monastery.<sup>19</sup> A family member commented on the devastating loss of life saying, *“There were three soldiers shooting on the road. My nephew was hit when he was about to enter our home. He died in my hands. I am angry that the students were shot.”* AASYC reported that the Burma Army intentionally shot at the young boy. The bullet hit his abdomen and lower part of the elbow. At the time, there was no clashes taking place between the AA and Burma Army. Civilian protection in the midst of frequent clashes must take precedent.

Humanitarian aid workers are also at an exceptionally high risk of being targeted. In a case documented by AASYC, Ko Ray Linn Aung, a 25-year old staff member at Plan International was severely injured when he was shot by the Burma Army while driving home on 28 July 2019. The incident took place in Kyauk Raik Kay quater around 8PM in Mrauk-U when he passed a unit of Burma Army troops on his motorcycle. According to AASYC, the soldiers told him to stop, but he did not hear them. They then shot him in the chest where he was immediately taken to the hospital. Despite this violation of rights, the Burma Army filed a case against the victim under the Myanmar Anti-Terrorism Act.<sup>20</sup>

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18. Ibid

19. “Primary school boy shot and killed in Kyauktaw Township,” 10 December 2019, Development Media Group. <https://www.bnionline.net/en/news/primary-school-boy-shot-and-killed-kyauktaw-Township>

20. AASYC News Bulletin

During intensified clashes in August 2019, AASYC also reported the death of three children and three others were injured following artillery shelling in Pan Mraung, Minbya township.<sup>21</sup>

## **Chin State**

Civilians living in Chin State have been subject to suppression and fear mongering tactics by the Burma Army and the AA. Christians have also experienced attacks undermining their religion. Documentation from June 2019 by ND-Burma affiliate member, the Chin Human Rights Organization (CHRO), included cases of intimidation and attempts at forced conversions, as village tract level bans on communicating with Christian residents were enforced with fines. These instances, taking place in Ann Township in Rakhine State were prompted by local authorities and in close collaboration with local monasteries.<sup>22</sup>

CHRO also documented an increase in forced disappearances, which have become commonplace and systematic. In Paletwa Township, southern Chin State, local villagers are missing and feared dead because of arrests by unknown armed organizations. Since September 2019, there have been 13 cases of missing persons in Paletwa Township.<sup>23</sup> The Burma Army and the AA have both refused to take responsibility for these cases.

In an incident from 16 July 2019, Ko Aike Kyaw Lin Naing (23), Aike Kyaw Sein (31), Aike Kyaw Kyaw Than (28) and Aike Kyaw Lin (25) who were all motorcycle carriers were arrested by an unknown armed group when they were driving back from work, around 7 pm. According to CHRO, they are still missing.<sup>24</sup>

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21. AASYC News Bulletin

22. "Annual Report on the Situation of Human Rights in Chin State and Western Myanmar," 10 December 2019, Chin Human Rights Organization

23. CHRO News Bulletin

24. CHRO News Bulletin



Documentation by CHRO during the reporting period concluded that civilians are living in fear of leaving their homes to work or purchase basic goods. Villagers who use the Lay Myo River to go between Chin and Rakhine State are frequently arrested, extorted and have goods such as rice, cooking oil and salt by the AA confiscated. CHRO has called for the Burma Army and the AA to cease fighting and in particular for the AA to end systematic forced disappearance, kidnapping and the abduction of civilians in Paletwa Township.

## Shan State

The instability in Shan State, particularly in northern Townships, has continued to escalate as calls from civilians for an end to conflict are amplified in the media. The testimony of a young father who lost his wife and children from artillery shells shows the extent to which the fighting has on innocent lives. The 37-year-old man recalled, ‘my life is meaningless - I feel unbearably sad.’<sup>25</sup>

Similar sentiments were echoed by civilians who spoke out against lavish peace talk meetings in Shan State while government stakeholders fail to uphold and maintain the security of the people. The situation remains far from safe with outbreaks of clashes frequently taking place in civilian areas -not military bases. In a desperate plea, one civilian in an interview with the Irrawaddy remarked: “I am always obsessed about the possibility of artillery shells falling on our village. In the middle of the night, I wake up with anxiety and I hear the sounds of shelling. We are humans— please spare us.”<sup>26</sup>

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25. Kyaw Kha, “Shelling Fractures Families in Myanmar’s Conflict-Torn Shan State,” 10 December, The Irrawaddy. <https://www.irrawaddy.com/news/burma/shelling-fractures-families-in-myanmars-conflict-torn-shan-state.html>

26. Nan Lwin Hnin Pwint, “‘We Are Humans’: Shan State IDPs Endure as Myanmar Military, TNLA Continue Clashes,” 6 December 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/humans-shan-state-idps-endure-myanmar-military-tnla-continue-clashes.html>

One of the most devastating casualties was a five-month-old infant who died from cold temperatures when villagers were forced to flee their village of Lahu Loi Tawk in northern Shan.<sup>27</sup> The shortage of blankets at monasteries where people seek safety is another challenge civilians face after fleeing their villages. Having to leave at a moment's notice means that families also do not have time to grab necessary possessions. According to figures from the United Nations High Commissioner for Refugees (UNHCR) and the UNDP (United Nations Development Programme), as of September 2019, there were 107,000 IDPs in Kachin and Shan states.<sup>28</sup>



*Mai Aike Htoo, 25 years old injury by Landmine.  
Photo by : TWO*

Landmines continue to pose a daily threat to civilians. Fears are only made worse by threats from EAOs who reportedly are expected to give the TNLA compensation for any exploded mine at the cost of approximately \$330 USD - even if they are killed, or if their livestock is responsible for the mine detonation.<sup>29</sup> However, a villager in Namhsan attended a meeting where the TNLA refuted these claims. Civilians impacted by landmines in northern Shan revealed that their fears were intensified

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27. Infant Dies of Exposure after Villagers Flee Fighting,” 22 December 2019, Network Media Group. <https://www.bnionline.net/en/news/infant-dies-exposure-after-villagers-flee-fighting>
28. “Fact Sheet: Reporting Myanmar 2019.” <http://reporting.unhcr.org/sites/default/files/UNHCR%20Myanmar%20Fact%20Sheet%20-%20September%202019.pdf>
29. Nan Lwin Hnin Pwint, “Treading Lightly in Shan State: The Civilian Casualties of Myanmar’s Landmines,” 16 December 2019, The Irrawaddy. <https://www.irrawaddy.com/features/treading-lightly-in-shan-state-the-civilian-casualties-of-myanmars-landmines.html>

by the possibility of EAOs or the Burma Army finding them after being struck for two reasons – being murdered or forced to pay compensation for any exploded mine.<sup>30</sup>

Burma has not acceded to the Mine Ban Treaty, despite an initiative launched by the International Campaign to Ban Landmines in 2003. Last year, as an observer at the Mine Ban Treaty’s Sixteenth Meeting of State Parties, Ambassador U San Lwin claimed that ‘the Myanmar Armed Forces is no longer using the landmines while safeguarding the life and property of its people in internal conflicts.’<sup>31</sup> The contradictory statement fails to take accountability for lives lost from planted landmines and is an insult to the dignity of families who have lost loved ones because of their actions.

ND-Burma members in northern Shan State, the Ta’ang Women’s Organization (TWO) and the Ta’ang Students and Youth Union (TSYU) documented 19 cases of landmines where civilians were killed or injured.<sup>32</sup> TSYU also released a statement on the impacts of landmines on civilians in Ta’ang regions. TSYU denounces any use of landmines by armed organisations or the Burma Army. The statement documented several cases of civilians injured or killed while doing activities to sustain their livelihoods.<sup>33</sup> Further, TSYU has made calls for accountability from the media to report those responsible for landmine casualties with accuracy.<sup>34</sup>

Further documentation from TWO shares testimony from six villagers from Taung Palo village, Totsan group, Kyauk Mae district, northern Shan State on 8 October 2019 when they were struck by an artillery shell that exploded on their tea farm. One civilian was killed on the spot and another was injured.<sup>35</sup>

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30. Ibid

31. “Pyithu Hluttaw hears answers to questions by relevant ministries,” Global New Light of Myanmar, 13 September 2016. The deputy minister stated that the Tatmadaw used landmines to protect state-owned factories, bridges and power towers, and its outposts in military operations. The deputy minister also stated that landmines were removed when the military abandoned outposts, or warning signs were placed where landmines were planted and soldiers were not present.

32. TWO, Human Rights Bulletin, December 2019.

33. TSYU, Statement, January 2020. <https://www.facebook.com/175246293133923/posts/490179294973953/>

34. TSYU Statement, February 2020 <https://www.facebook.com/451214215694715/posts/631236447692490/>

35. TWO News Bulletin, December 2019.



*Mai Kyar Aon, 26 years old dead by Landmine. Photo by : TWO*

One of the Taung Palo villagers said, “they went to the tea farm around 9 in the morning when we heard the explosion. One was killed immediately on the spot and another one was brought to Kyauk Mae hospital.” The civilian who died was Ko Sar Aye, aged 40 and the civilian injured is Ko Pan San, in his 30s who experienced injuries in his mouth, chest, two legs and belly. He was brought to Kyauk Mae hospital by Ziwita humanitarian team’s car. The other four are safe.<sup>36</sup>

Additionally, on 20 August 2019, the Burma Army fired indiscriminate shelling from Taung Palo village into Kone Thar village. Two villagers

sustained injuries and two homes were damaged. In this area, the Burma Army, the Ta’ang National Liberation Army (TNLA) and Shan State Restoration Council (RCSS/SSA-S) are actively engaging in regular clashes.<sup>37</sup>

The laying of landmines, notably in northern Shan State, has devastated the lives of civilians and compromised their livelihoods. Accountability for landmines is disputed by EAOs and the Burmese Army with neither side ever taking responsibility.

Humanitarian aid access has also been increasingly restricted and blocked by the Burma Army. According to TWO, when the Oamtamaung humanitarian aid group from Kyauk Mae Township, northern Shan State, went to provide the food for IDPs on 25 November, they were blocked by the Burma Army in Mai Ngo village:

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36. Ibid

37. Ibid

*“Troops in Mai Ngo did not allow us to go, because they were waiting for an order from the high officer. From 9 AM to 2 PM, we did not hear anything. Even if they allow us to go back, it will be dark so it’s not convenient. For this reason, we went back to Kyauk Mae,”* said an official from the Oamtamaung humanitarian aid group.<sup>38</sup>

They were informed by phone that IDPs needed food, so they bought rice, cooking oil, salt, potatoes and dried fish, then informed the General Administration Department. Nonetheless, they were blocked by the military in Mai Ngo. Without many options, they left the food for Pan Nin and Man Kho village in Mai Ngo and informed the villagers to come and take it. They brought back the food to Kyauk Mae for Khe Kwe and Kyauk Taw villagers.<sup>39</sup>

## **Kachin State**

Despite attempts to agree on a bilateral ceasefire agreement by the Kachin Independence Army (KIA) and the Burma Army’s northern Command, there continues to be concerns about the safety and security of Kachin IDPs who lack access to humanitarian aid.<sup>40</sup> These fears have been compromised further by government plans to close IDP camps where, according to UNOCHA as of 31 July 2019, there were 138 IDP sites in Kachin State, with a total of 97,806 IDPs.<sup>41</sup> This is no small figure and speaks to the alarming rate of forced displacement in Kachin State. It also explains why many were unsettled by an announcement in December 2019 by the Ministry of Social Welfare, Relief and Resettlement Minister, Win Myat Aye, who briefed representatives of UN agencies in Burma about the government’s strategy to resettle tens of thousands of IDPs across the country.<sup>42</sup> Win Myat Aye maintains that the strategy was written

38. TWO Human Rights Bulletin, December 2019.

39. Ibid

40. Nyein Nyein, “Once Bitten, Twice Shy: Myanmar’s Kachin IDPs Demand Ceasefire Before Returning Home,” 13 November 2019, The Irrawaddy. <https://www.irrawaddy.com/specials/bitten-twice-shy-myanmars-kachin-idps-demand-ceasefire-returning-home.html>

41. Map: Myanmar: IDP sites in Kachin State United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), 29 August 2019. <https://reliefweb.int/map/myanmar/myanmar-idp-sites-kachin-state-31-july-2019>

42. John Grafilo, “Govt briefs UN on strategy to close IDPs,” 2 December 2019, The Myanmar Times. <https://www.mmmtimes.com/news/govt-briefs-un-strategy-close-idps.html>

focusing on all IDPs and IDP camps.<sup>43</sup> However, the escalation of fighting, particularly in northern Shan and Kachin States, suggests that this decision is ill-informed and not consistent with the needs of IDPs. Villagers have been fleeing for years and have developed serious trust issues with negotiating stakeholders that continue to make decisions on their behalf with little to no consultation.

The failure of the government to include Kachin civil society or the KIO in return plans has serious consequences. In August 2019, attempts by the Burma Army to facilitate the return of conflict-displaced families back to their Kachin village only deepened mistrust and may have contributed to more lives at risk. Kachin Baptist Church chairman, Reverend Hkalam Samson, was quoted saying that those who had returned were now struggling to get by because they were no longer receiving humanitarian support from aid groups, but had received little help from the government either.<sup>44</sup> As tensions between the KIO and Burma Army escalate, it is civilians who pay the ultimate price. Failed negotiations are taking place as systematic abuses target and punish civilians under extreme circumstances. Coupled with a lack of accessible accountability measures, the situation in Kachin State remains unstable.

KWAT has also documented cases of aerial bombing and shelling of civilian areas. On 18 August 2019, between 9 am and 10 am two helicopters flew over Hunawng village, eight miles north of Kutkai along the road to Muse, and dropped three bombs over the village, damaging a house belonging to Slg. Labya Ladi and a paddy field. The villagers were terrified, as the helicopters were flying very low. They said that if the fighting was on the ground, they could run into the forest and hide from bullets, but when the helicopters were bombing from the air, they didn't know where to hide. Hunawng village has about 50 houses, with a population of over 170.<sup>45</sup>

43. "Ministry unveils national strategy on resettlement of IDPs, camp closures," 27 December 2019, The Global New Light of Myanmar, <https://www.globalnewlightofmyanmar.com/ministry-unveils-national-strategy-on-resettlement-of-idps-camp-closures/>

44. Ibid

45. "No Justice for Ongoing Burma Army Crimes in northern Shan State," 7 January 2020, Kachin Women's Association Thailand [https://kachinwomen.com/no-justice-for-ongoing-burma-army-crimes-in-northern-shan-state-briefing-paper-by-the-kachin-womens-association-thailand/?fbclid=IwAR2ViWjHcexfqx\\_ofBfKNBmhjVmvGR107srZ5cdRJCiivLv3DBIm4L1IU](https://kachinwomen.com/no-justice-for-ongoing-burma-army-crimes-in-northern-shan-state-briefing-paper-by-the-kachin-womens-association-thailand/?fbclid=IwAR2ViWjHcexfqx_ofBfKNBmhjVmvGR107srZ5cdRJCiivLv3DBIm4L1IU)

## Mon State

At the end of November 2019, the Burma Army seized a base from the Mon National Liberation Army (MNLA) and subsequent fighting broke out among the groups, as well as with the Karen Border Guard Force.<sup>46</sup> Fighting took place once Burma Army soldiers claimed that two homes near Bo Yeepun stronghold infringed into government territory. The fighting stopped temporarily as the two sides negotiated.<sup>47</sup> Civilians expressed fears and hesitation to come back as they took temporary shelter provided by Thai authorities. The Burma Army has since withdrawn troops from the MNLA base, but are still occupying one of the group outposts. The fighting forced nearly 1,000 ethnic Mon to Thailand where civilians sought safety and refuge.

## Freedom of Expression & Right to Peaceful Assembly Declining Under the NLD

The space for free speech and expression continues to shrink under the NLD-led government. Organizations, activists and civilians – including former military, are targeted for their dissent.<sup>48</sup>

Youth activists faced numerous charges over the last six months for raising their voices to speak out against the military regime. In a high-profile case, six Karenni protesters in Kayah State were charged with six months in prison and hard labour under Article 8(d) of the Law Protecting the Privacy and Security of Citizens for calling the state's chief minister and minister of planning and finance traitors in a statement.<sup>49</sup> The statement was in response to the ministers for ignoring the requests

46. "300 Mon cross border to flee fighting in Myanmar," 27 November 2019, Bangkok Post. <https://www.bangkokpost.com/thailand/general/1803379/300-mon-cross-border-to-flee-fighting-in-myanmar>

47. Piyarat Chongcharoen, "Mon civilians continue to flee fighting in Myanmar," 28 November 2019, Bangkok Post. <https://www.bangkokpost.com/thailand/general/1804114/mon-civilians-continue-to-flee-fighting-in-myanmar>

48. AAPP's Monthly Chronology of January 2020 and Current Political Prisoners List," <https://aappb.org/2020/02/aapps-monthly-chronology-of-january-2020-and-current-political-prisoners-list/>

49. Zaw Zaw Htwe, "Karenni Youth Jailed for Calling Govt Officials Criminals, Enemies of Ethnic Unity," 7 November 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/karenni-youth-jailed-calling-govt-officials-criminals-enemies-ethnic-unity.html>

of local people and implementing a statue of General Aung San. Many rejected the statue on the grounds that people in Kayah State have their own history, language, culture and war heroes to celebrate and as such – should also have their own heroes represented. The reluctance to accept the statue was met with backlash and violent arrests with the police going so far as to fire rubber bullets and tear gas at many of the young protesters.<sup>50</sup> Just three weeks after the protesters were charged, the state government appealed for a harsher punishment but was rejected by the Loikaw District Court at the end of December.<sup>51</sup> In a related case, people from Chin State have responded to yet another effort by the state government to build a statue of General Aung San by condemning the plan, saying it does not make sense to erect the statue given the instability and conflict in ethnic areas.<sup>52</sup>



*(L to R) Khu Reedu, Dee De and Khu Kyu Hpe Kay leave the court after hearing the verdict. (Photo: Sai Zaw/Myanmar)*

Attempts to preserve and uphold ethnic traditions was also met with condemnation and legal action by the Burmese authorities in the case of several notable Karen activists for their efforts in organizing events for Karen Martyrs Day. The Burma

50. Zaw Zaw Htwe, "Karenni Youth Jailed for Calling Govt Officials Criminals," *Enemies of Ethnic Unity*, November 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/karenni-youth-jailed-calling-govt-officials-criminals-enemies-ethnic-unity.html>

51. Zaw Zaw Htwe, "State Govt Seeks Harsher Sentence for Karenni Youth on Gen. Aung San Statue Issue," 29 November 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/state-govt-seeks-harsher-sentence-karenni-youth-gen-aung-san-statue-issue.html>

52. "Plan to Build Statue of Myanmar Independence Leader Angers Chin Ethnic Group," 17 October 2019, Radio Free Asia. <https://www.rfa.org/english/news/myanmar/plan-to-build-statue-10172019174239.html>



government informed organizers of Karen Martyr’s Day to not use the term ‘Martyr’ in reference to Saw Ba U Gyi, a Karen revolutionary leader.<sup>53</sup> When the term was used, three Karen activists were arrested for not complying with the government’s request. This was then met with immediate backlash from the Karen community who felt that their history was not being respected by the NLD government. It also suggested a regression in the relationship between the Karen National Union and the NLD leadership.

During the reporting period, a Kachin activist who gained the nickname ‘Scale Paul’ was released from prison for giving broken scales to judge in Myitkyina Township Court as a symbol of the fragility and corruptness of the courts in Burma. He was initially sentenced to 16 days for his organising efforts marking the 8th anniversary of conflict in Kachin, but upon giving the broken scales - his sentence was extended.<sup>54</sup>



*Zayar Lwin (R), leader of Myanmar’s Peacock Generation performance group, appears for sentencing in Botahtaung Township Court in Yangon, Nov. 18, 2019.*

Another group of youth who are members of the Peacock Generation were sentenced under the controversial 66(d) of the Telecommunications Act for ‘online defamation’ and under Section 505(a) of the Penal Code for a satirical performance criticizing the authorities.

In a letter the activists released from prison, they addressed their case and situation with determination: “We will

keep criticizing and pointing out the flawed system in different ways because it is important for us to amend the constitution and to get the military out of politics so

53. Nyein Nyein, “Myanmar Govt Again Bans Use of ‘Martyr’ to Mark Karen Revolutionary’s Death,” 9 September 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/myanmar-govt-bans-use-martyr-mark-karen-revolutionarys-death.html>

54. Elizabeth Jangma, Paul Eckert, Ye Kaung Mying Maung, “Myanmar Court Adds 3 Months to Kachin Youth’s Sentence Over Protest,” 6 September 2019, Radio Free Asia. <https://www.rfa.org/english/news/myanmar/judge-scale-09062019172833.html>

that we can pursue genuine democracy in Myanmar.”<sup>55</sup> The lead lawyer representing the thangyat group, withdrew from the case in an act of protest against Burma’s judicial system.<sup>56</sup> According to AAPP, the decision was made with the Peacock Generation who remain steadfast in their activism for space and accessible spaces for free speech.

Journalists were not spared from charges undermining press freedom. A senior reporter at The Irrawaddy was charged with online defamation for his coverage of a dispute involving hotel investment with Burma and foreign shareholders in Rakhine State.<sup>57</sup> Another journalist, Myanmar Now Editor, Ko Swe Win, was accused of defaming nationalist U Kyaw Myo Shwe in 2017 under Article 66(d) of the Burma Telecommunication Act for posting comments on Facebook that allegedly defamed ultra-nationalist Buddhist monk U Wirathu. An appeal to drop the lawsuit was heard at the end of August. As well, prominent filmmaker and founder of the Human Rights, Human Dignity International Film Festival, U Min Htin Ko Ko Gyi, was sentenced to one year in prison after a lawsuit was filed against him by a Lieutenant of Burma’s Yangon Region Command for defaming the military in posts on Facebook.<sup>58</sup>

Military members including U Nay Myo Zin, a former Burma Army captain, was not immune to charges targeting freedom of speech and was sentenced to one year in prison for violating Article 505(a) of the Penal Code for accusing military leadership of neglecting their responsibilities.<sup>59</sup> During his trial, U Nay Myo Zin remarked: “I want to be the last person to be arrested under [laws that restrict] freedom of expression. Fight to make sure no more are arrested.”<sup>60</sup>

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55. CIVICUS, “Letter from Jail: Members of poetry troupe in Myanmar,” 15 November 2019, Letter from Zeyar Lwin and Paing Ye Thu members of the Peacock Generation in Myanmar. <https://www.civicus.org/index.php/media-resources/news/interviews/4168-letter-from-jail-members-of-poetry-troupe-in-myanmar>

56. Tint Zaw Tun, “Lawyer for street performers Peacock Generation withdraws from cases,” 19 December 2019, The Myanmar Times. <https://www.mmtimes.com/news/lawyer-street-performers-peacock-generation-withdraws-cases.html>

57. “The Irrawaddy Senior Reporter Sued Under Myanmar Telecommunications Law,” 30 August 2019. <https://www.irrawaddy.com/news/burma/irrawaddy-senior-reported-sued-myanmar-telecommunications-law.html>

58. Khin Moh Moh Lwin, “Filmmaker Gets A Year in Prison For Anti-Military Facebook Posts,” 29 August 2019, Myanmar Now. <https://myanmar-now.org/en/news/filmmaker-gets-a-year-in-prison-for-anti-military-facebook-posts>

59. Htet Khaung Lin, “Yangon Court Jails Former Myanmar Army Officer for Criticizing Commanders,” 20 September 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/yangon-court-jails-former-myanmar-army-officer-criticizing-commanders.html>

60. Ibid

During the reporting period, AAPP noted through their monthly chronology that, ‘activists and civilians who have exercised their right to freedom of expression, continue to be oppressed.’ They also make clear that freedom of expression should be protected, as is the expectation of democracies. AAPP goes on to say: “As Burma does not respect and comply with Article 354(a) of the 2008 Constitution, compliance with international norms regarding freedom of expression is far from near.<sup>61</sup> Moreover, the government still needs to ratify the International Covenant on Civil and Political Rights (ICCPR).<sup>62</sup> AAPP urges the government to promote the freedom of expression and freedom of speech, and also uphold basic human rights by ‘respecting domestic and international legal standards.’<sup>63</sup>

The military takes serious issue with any attempts by any individual or group to discredit or undermine that activities it recognizes as serving the greater national interest. The reputation of the Burma Army rests on the assumption that legal action taken against those opposed to their agenda is justified. The NLD has been complicit in the military’s targeting by failing to protect activists from prosecution or working to uphold freedom of speech. Further, the lack of moral ground taken is indicative of the complacency that has come to be associated with the party’s politics.

### **Rape & Sexual Violence: High Profile Child Rape ‘Victoria’ Case Continues**

There continued to be lapses in the legal system as high-profile cases, such as that of the ‘Victoria’ child rape, were watched closely in the media. The case has witnessed growing calls for justice from the general public and harsher sentences against those who commit child rape.<sup>64</sup> There have also been numerous allegations that the

61. See Article 354(a) of the 2008 Constitution: Every citizen shall be at liberty in the exercise of the following rights, if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality: (a) to express and publish freely their convictions and opinions; [https://www.burmalibrary.org/docs5/Myanmar\\_Constitution-2008-en.pdf](https://www.burmalibrary.org/docs5/Myanmar_Constitution-2008-en.pdf)

62. See: International Covenant on Civil and Political Rights <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

63. AAPP, ‘December in Review 2019’, <https://aappb.org/2020/01/aapps-monthly-chronology-of-december-2019-and-current-political-prisoners-list/>

64. Al Jazeera, “Hundreds protest in Myanmar over two-year-old Victoria rape case,” 6 July 2019. <https://www.aljazeera.com/news/2019/07/hundreds-protest-myanmar-year-victoria-rape-case-190706153150601.html>

alleged perpetrator in question is a scapegoat to protect the real culprit believed to have committed the crime. Burma has signed the Convention on the Rights of the Child and is legally and morally obligated to protect children - rather than use the law strategically to protect those in power.

Victoria's case speaks volumes to the lack of gender sensitivity many authorities have when investigating and presiding over these cases. Rape and its associated forms of sexual violence are committed by state and non-state actors to shame women and young girls in an exercise of power that benefits from patriarchal views and attitudes. In many cases, survivors are forced to carry the burden of their experience by being rejected by their communities. The lack of available psycho-social services makes this increasingly more traumatizing. The use of sexual violence specifically against ethnic minorities in Burma has been met with little consequence. A weak rule of law makes it exceptionally difficult for survivors to see perpetrators arrested. In rural areas, justice is mediated through negotiations or settlements. This reduces the severity of the crime and makes it more likely for perpetrators to recommit.

Burma is a party to The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). However, despite these commitments and obligations sexual violence is rampant, predominantly in conflict areas. CEDAW makes clear that Burma should not engage in sexual/gender-based violence and should investigate all cases that take place through honest procedures. Further, a culture that is ingrained with patriarchal values also does little to support victims navigate what can be a belittling legal process. Victim-blaming is a constant against the backdrop of pervasive problems. Any kind of sexual- or gender-based violence can result in serious long-term mental illness or physical disabilities.

## Case Studies

### Case 1: Monk Killed by Unidentified Gunmen on 20 October 2019 (TWO)

The monk, Abbot Ashin Pyinar Zaw Ta, from Khay Nin village monastery, Lashio Township, Lashio District, northern Shan State was shot to death by two unidentified gunmen on 20 October 2019.

*One villager said,*

*“Before the monk was killed, his followers from Lashio offered and donated for Thidinkyut in the morning. He was killed by a gunman at 6:30 pm.”*

The monk was 45 years old and had been a monk for 25 years. His native home was Namhsan Township and had moved to Khay Nin village, Lashio Township in 2003.

### Case 2: Schools Raided & Damaged on 24 May 2019 (TWO)

At 4:30 in the evening of 24 May, the LID 99 came with a car to the Ta’ang Education Center (TEC) in Kutkai Township, northern Shan State to search, detain and interrogate the town teachers. When the teachers went back, the Burmese soldiers were searching the grounds. When soldiers saw them, they were arrested and interrogated.

After the guarantee of Chairman of Ta’ang Culture and Literacy Club and humanitarian group, they were both released.

*“I don’t know what we lost. We can’t check our properties, fighting continues everyday so we received shelter at one place in Kutkai Township,”*

said one of the teachers.

The Burma Army said that they received information that the TEC keeps weapons for the TNLA. This is why they were searching and investigating. When they did not find anything, they left.

### Case 3: Villager Property Seized in Namhsan Township on 14 December 2019 (TWO)

When Kyat Tay villagers from Kyauk Phyu Lay village tract, Namhsan Township, northern Shan State, temporarily escaped fighting, the Burma Army LID 88 seized the villagers' properties.

One villager said,

*“When villagers were forced to temporarily move to Kyauk Phyu Lay to escape fighting last month, only the monks and nuns were left in the village. Soldiers seized the rice, dried food and vegetables for their food. When they searched the households, they took materials and blankets.”*

Since fighting in the middle of November, the Burma Army soldiers were stationed at Kyat Tay village where they continued to search villagers' properties, used food without permission and moved from place to place to take horses and motorcycles owned by the villagers.

### Case 4: Villagers Arrested & Held as Hostages on 22 November 2019 (TWO)

At 9:30 in the morning, 62 villagers from Man Mai Mainn Kwam village, Hu Kin, Namhsan Township, Ta'ang/ Palaung self-administered region were arrested and held as hostages.

An anonymous villager from Man Mai Mainn Kwam village said,

*“At 8 in the morning that day, the Burmese soldiers started indiscriminately shooting at the village. The Commander wanted to bring the village administrator but he wasn’t there. The Commander then got angry and took the villagers from each home. Some of their children also had to follow.”*

Among the 62 villagers there were 20 males and 42 females who included the elderly, medics, toddlers, youth and villager administrator. There were 8 elder villagers who could not walk and were released when they reached Hu Khin village. One villager who was released said, *“Civilians were mixed with soldiers so that if they were targeted by the EAOs, the civilians would be used as human shields. We were forced to bring materials and we were beaten as village hostages. I told them that I was a teacher, then they said that they could kill me for being a teacher. We were shocked. We did not have much luck for our release.”*

Among the 62 villagers, Ko Htun Nyunt, the village administrator, was tied with rope around his hands and beaten. He sustained injuries to his head, eyes, forehead and belly.

*“The Burma Army asked us, ‘is anyone here satisfied? Your village head is useless, that is why we treat him like this. We ordered him to clear the road. He didn’t, so now we have to punish him.’ If the villagers refuse to follow the Burma Army, they threatened to burn down the village,”* said one woman who was released.

A teacher who was released said she is worried about the future of villagers who do not have a guarantee for their lives: *“Villagers should not be used in the fighting. We must have respect for one another among the different ethnicities,”* she said.

### Case 5: Disabled Civilian Detained & Tortured for Eight Days on 21 August 2019 (KWAT)

At about 7 am, a 58-year-old farmer who is hearing impaired was cooking breakfast in his sister's house in Nawng Swi, about two miles north of Kutkai, when a large group of Burma Army soldiers came into the village and began questioning villagers. He too was questioned, and when he couldn't answer, they beat him, tied him up and pushed him inside a tank. Some other villagers were also tied up and interrogated. The troops tore his shirt sleeves off and blindfolded him with the cloth. He was kept in the tank as it moved around and beaten by soldiers for not answering their questions. The soldiers were from ID 88. After two days in the tank, he was transferred to the IB 45 base near Kutkai and kept there for six days. He was forced to stay in a squatting position with his hands on his head. He was finally released on 28 August after his sister went to ask after him at the IB 45 base. She had been frantically searching for him for days. When he was handed over to his sister, he could barely walk. He was still wearing the clothes he had been arrested in, which were badly soiled, as he had been unable to tell his captors when he wanted to urinate or defecate. He had sores around his neck, wrists and ankles from being tied up and pulled around by rope.

### Case 6: Villager Arrested and Detained on 20 August 2019 (CHRO)

On 20 August 2019, Colonel Zarni Nyeing, Light Infantry Battalion (LIB) # 372 based in Ann township, under the command of Western Command and Deputy Police officer Nyi Nyi Htun, Ann police station arrested U Kyaw Htay from Padaekyaw village to a monastery. He is still being detained with his whereabouts unknown. When he was brought to the monastery, the Burma Army and police searched his house. They did not find any evidence but still brought U Kyaw Htay to Ann on 21 August 2019.

One week later his family members went to the Ann police station and LIB # 372 and were told they could not see U Kyaw Htay. On 3 September 2019, U Kyaw Htay



arrived in Padae Kyaw village with clearance forces, where he was then brought to Ma Ei stream. Five days later, U Kyaw Htay returned back to Padae Kyaw village with clearance forces on 12 September 2019 and was not allowed to see his family members. The next day, the family members went to see the Commander where they were told not to worry and that he would be released soon:

*“When we asked the commander on 13 September 2019, he said that we don’t need to worry because he will be released soon. When we asked the name of this colonel and the number of the battalion, he did not answer, but we saw # 536 in his uniform,”* said his brother.

He continued: *“U Kyaw Htay doesn’t affiliate with any organizations, I can guarantee it. It’s personal reasons because he is a Christian, that is why some of the villagers think he has gone missing. He is working in the village and trying to earn a basic daily wage to live a simple life. If he committed a crime, it should be solved through the legal system. We are all very worried since he has gone missing.”*

### Case 7: Villagers Kidnapped by Arakan Army on 10 December 2019 (CHRO)

On 10 December 2019, 13 villagers including a 53-year old were arrested in Phar Pyo village, upper Nhat Pop Chaung group, Min Bya township, Rakhine State by the Arakan Army for reasons which remain unclear.

The Phar Pyo villagers who are arrested by the AA include U Maung Than Htun (38), U Shwe Thar (60), U Tin Htun (40), U Kyaw Htun Aung (50), U Aung Aung (26), U Aung Win Soe (42), U Mae Kyaw (56), Maung Eingar U (15), U Aung Kyaw Lat (40), U Thein (45), U Maung Thein Htun (32), Maung Win Naing (18) and Daw Aung Mya Phyu (52).

### **Case 8: Villager Homes Set on Fire on 16 December 2019 (CHRO)**

Four homes including the home of an education department staff were set on fire around 11PM in None Bu village, Paletwa township, southern Chin State by the Arakan Army a villager told CHRO. The reasons why the homes were set on fire was unclear.

### **Case 9: Myanmar Police Arrest Arakanese Peaceful Protester on 20 September 2019 (AASYC)**

An Arakanese youth Ko Than Hla (aka) Min Bar Chay who organized a peaceful protest calling for justice for the victims during the armed conflict was arrested by Myanmar police in Sittwe. He was arrested in front of the U Ottama Park at around 3:30 pm and was taken to the police station where he was later released on bail. Ko Than Hla was also sued under Article 19 of the Peaceful Assembly and Procession Act by the local authorities for his activities.

### **Case 10: Arakanese Youth Killed by Gunfire (AASYC)**

A young man Bo Than Twan, aged 22, was killed when the Burma Army fired at his boat on July 2019. He was seriously injured and declared dead at the hospital.

## Conclusion

As far as military control goes, Burma is unique in the sense that the tri-armed services responsible for providing security and justice (the Army, Navy and Air-force) also have a mandate that includes politics and economic affairs. Despite the fact that the leadership is expected to be impartial, the truth of the matter is that the courts and related institutions associated with the military, including the Myanmar Police Force, are heavily influenced by decisions made at the higher levels. The lack of insight and inclusion from civilian leaders remains problematic and offers little opportunity for reforms to be taken seriously.

Legal pursuits for justice, which include the current systems of law enforcement, have demonstrated flaws in Burma's current legal framework. Additionally, attempts to vilify activists and human rights defenders who are working with the international community towards strengthening accountability mechanisms has resulted in a divide that threatens the credibility of organizations documenting rights abuses. A lack of cooperation from the government and military was also made evident during the release of a UN report in August 2019, which called for a boycott of military cronies.<sup>65</sup> This led to a response from the State Counsellor, Daw Aung San Suu Kyi, stating that the report was intended to harm Burma and that her government 'categorically rejects' the findings of the UN Fact Finding mission.<sup>66</sup> The report confirmed nearly 60 foreign firms were tied to military businesses.<sup>67</sup>

International protection mechanisms including invoking Right to Protect norms and humanitarian law will put pressure on power-holders who govern and rule with divisive tactics that fail survivors. While it is ultimately the decision of the

65. John Reed, "UN calls for boycott of Myanmar companies with military links," 5 August 2019, The Financial Times. <https://www.ft.com/content/c615f100-b735-11e9-8a88-aa6628ac896c>

66. "Suu Kyi-led Rakhine Development Agency Says UN Report 'Intended to Harm' Myanmar," 8 August 2019, The Irrawaddy. <https://www.irrawaddy.com/news/burma/suu-kyi-led-rakhine-development-agency-says-un-report-intended-harm-myanmar.html>

67. "UN study finds businesses funding Myanmar army abuses," 5 August 2019, Bangkok Post. <https://www.bangkokpost.com/world/1724899/un-study-finds-businesses-funding-myanmar-army-abuses>

country to accept or acknowledge the recommendations put forward, the integrity of victims depends on key political stakeholders in Burma taking their commitments seriously. Given the lack of surveillance and weak accountability mechanisms to hold perpetrators truly accountable, it is no surprise that the peace process continues to be delayed while clashes between the Burma Army and EAOs continue. Further, based on documentation from our members, ND-Burma has reasonable grounds to conclude that the Burma Army remains largely unaccountable for human rights abuses that soldiers from various battalions have committed in ethnic States.

ND-Burma members have advocated for leadership at the military and government to consider adopting transitional justice mechanisms such as through reparations or institutional reform. Transitional justice refers to the myriad of ways a country tries to deal with mass human rights violations that have been committed on its soil.<sup>68</sup> As a result of the human rights violations, victims suffer multiple consequences including economic hardship and health problems – and overwhelmingly said they wanted some form of action from the government or perpetrators to try and alleviate the impact of abuses suffered.<sup>69</sup> To date, there continues to be no significant policy that speaks towards taking these steps forward. ND-Burma’s Reparations Working Group (RWG) made a trip to Naypyidaw during the reporting period to meet with ethnic Members of Parliament (MPs) outside of the parliament where some RWG members summarized the findings and recommendations of the recent Reparation report “You Cannot Ignore Us”<sup>70</sup>, as well as an overview of basic concepts of transitional justice and a policy paper that we prepared.

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68. OHCHR: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. Adopted and proclaimed by the General Assembly resolution 60/147 of 16 December 2005, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>

69. Ibid

70. “You Cannot Ignore us: Victims of human rights violations in Burma from 1970-2017 outline their desires for justice.” ND-Burma, October 2018 <https://nd-burma.org/you-cannot-ignore-us-victims-of-human-rights-violations-in-burma-from-1970-2017-outline-their-desires-for-justice/>

There have been few cases of low-ranking soldiers being sentenced for committing human rights violations. Weak rule of law, the continued existence of repressive laws, a corrupt judiciary system and a culture of impunity has resulted in the vast majority of victims never seeing justice or receiving redress for what they have been forced to endure. This is despite the fact that victims of human rights violations have immediate needs, such as medical care, or livelihood assistance. Not only is an urgent end to the conflict in ceasefire areas in Burma long overdue, but so are reforms to the law.

# Recommendations

## To the Burma Government

- In areas where there have been allegations of human rights violations, unfettered access must be granted to humanitarian groups, human rights organizations and the media to document.
- Publicly recognize that mass human rights violations have been committed and provide victims with long-over and necessary reparations.
- Enact legislative reform to bring the legal system into line with international human rights obligations.

## To the Burma Army

- Adopt a military code of conduct in line with international human rights standards and prosecute soldiers accused of human rights violations in civilian, not military courts.
- Immediately withdraw all troops from ethnic areas, so that civilian lives can be protected and inclusive political negotiations can begin towards a new federal constitution that can grant equality and justice for all ethnic people of Burma.

### **To the International Community**

- Acknowledge that rule of law and democracy in Burma will not come until the military is placed under civilian control through constitutional changes and call on the government of Burma to establish effective judicial and non-judicial transitional justice mechanisms to investigate human rights abuses, including an independent international investigation, truth-commissions and impartial independent national courts, in compliance with international standards.

### Human Rights Violations According to Member Data

This chart details member data and the perpetrators of the violations that took place against civilians across several States and Townships<sup>1</sup>

Organization	Cases	Perpetrators	HRVs	Location
TWO	61	Burma Army: 30 Militias: 2 RCSS: 2 Unknown Perpetrator: 27	Landmines: 15 Forced to Porter: 6 Arbitrary Arrest: 10 Artillery Shelling: 13 Indiscriminate Shooting: 5 Destroyed Property: 4 Torture: 3 Killing: 2 Forcibly recruited: 1 Forcibly displaced: 1 Humanitarian Aid Block-ages: 1	Northern Shan: 61 Townships in Northern Shan: Kutkai: 18 Namkham: 4 Namsham: 19 Thein Ni: 2 Manton: 1 Maingot: 2 Hsipaw: 2 Lashio: 3 Kyaukme: 10
TYSU	23	Burma Army: 11 TNLA: 5 RCSS: 4 Myanmar Police: 2 Kaung Khar Militia: 1	Arbitrary Arrest: 4 Confiscation/Destruction of Property: 4 Death by Indiscriminate Shelling: 3 Arrest by Unlawful Association: 1 Torture: 4 Injury by weapon: 1 Villagers taken hostage: 1 Taxation: 1 Death by Landmine: 2 Injury by Landmine: 1	Northern Shan: 23
CHRO	9	Burma Army: 1 AA: 4 Unknown Perpetrator: 4	Property Damage: 1 Shelling & Indiscriminate Fire: 1 Arbitrary Arrest: 7	Chin State: 6 Rakhine State: 3
KWAT	3	Burma Army: 2 Unknown Perpetrator: 1	Shelling & Indiscriminate Fire: 2 Arbitrary Arrest: 1	Kachin State: 4
AASYC	6	Burma Army: 5 AA: 1	Gunfire: 3 Arbitrary Arrest: 1 Artillery fire and shelling: 2	Rakhine State: 6

1. As noted in the report as well, the Burma Army and various EAOSs were both responsible during clashes that killed, injured or forcibly displaced civilians. Across the wide-spread abuses, both sides regularly denied and dismissed accountability, creating yet another challenge for human rights organizations to document and pursue justice.





**Network for Human Rights Documentation - Burma**

# Human Rights Situation in Burma



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