

Report on the Human Rights Situation in Burma



Photo Credit: Min and Aung Facebook

January to June 2013

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Network for Human Right Documentation - Burma

INTRODUCTION

Over the six months from January to June 2013, ND-Burma documented 147 human rights violations across Burma. These violations occurred in areas of armed conflict but also in areas covered by ceasefires. Each violation is a specific incident, but it may involve any number of victims, from one victim of killing, to forced labor involving many victims, to the forced displacement of an entire village. ND-Burma's findings demonstrate that, despite progress in reaching ceasefire agreements with non-state armed groups, the government has made little progress protecting the human rights of its citizens. Furthermore, continued arrests of human rights defenders demonstrate that the government is not serious about working with civil society to protect human rights.

Since 2011, the government has attempted to negotiate ceasefire agreements with the 16 non-state armed groups in Burma. Although preliminary ceasefires have been signed with 14 of those groups, there is still fighting between government troops and the two without ceasefires, as well as clashes between parties to ceasefires. Those areas that are covered by ceasefires have seen increased investment and extractive projects that are accompanied by human rights abuses in the form of land confiscation, forced displacement, and forced labor, as well as repression of activists and local residents who oppose the projects. Ceasefire areas also still have a high Burmese military presence, accompanied by related violations. In areas that experience conflict, civilians suffer from human rights abuses related to conflict, including torture, arbitrary arrest, and sexual violence. For instance, Lahtaw Brang Shawng, an ethnic Kachin farmer, was arrested on June 17, 2012, and charged with violating the Unlawful Associations Act for alleged association with the KIO. During his trial, he and his lawyer told the court that he was brutally tortured by the authorities while they interrogated him. As a result of the torture, he was forced to confess to a connection with KIO. He was sentenced to two years in prison in July 2013, but released in an amnesty in a week later. When he was released, Lahtaw Brang Shawng repeated his allegations of torture to the media.

Documenting human rights violations is crucial at this time in Burma's transition. Since the data in this report was collected, Burmese activists, academics, politicians, and journalists have begun to discuss how to deal with past atrocities after decades of forced silence. For the first time in 25 years, thousands gathered at the Myanmar Convention Center in Rangoon to commemorate the anniversary of the 1988 Uprising. At the event, there were several panels to discuss important topics such as human rights, democracy, and national reconciliation. In these discussions and others, participants started to talk about how to deal with past atrocities, including through acknowledgment, apology, and forgiveness. Daw Aung San Suu Kyi, Chairperson of the National League for Democracy, commented on the importance of examining the past, saying "we must not forget the past; we must learn from history." In any attempt to deal with the past, it will be important to have documentation of relevant violations.

Despite increased discussion of the past and periodic releases of political prisoners, activists who speak out about current and past abuses face harassment and arrest. According to ND-Burma member Assistance Association for Political Prisoners (Burma) (AAPP), hundreds of activists arrested for peaceful demonstrations make up a growing number of political prisoners. During his August, 2013 visit, UN Special Rapporteur for Human Rights in Myanmar, Tomás Ojea Quintana, expressed concern about the limitations put on freedom of expression and arrest of activists. For instance, a Kachin woman activist and member of the National Democratic Force party, Bauk Ja, was arrested by police in Myitkyina, Kachin State, on negligent homicide charges in July as a result of medical care she provided over a year previous to residents in a village without access to healthcare. She and her supporters say that the charges are political and in response to her activism against land confiscation. In another instance, activist Naw Ohn Hla was sentenced to two years in prison for protesting the Letpadaung Copper Mine and faces other charges that could result in more prison time.

Even when political prisoners are released, they face restrictions in their work on top of restrictions faced by all activists. The government uses Section 401(1) of the Code of Criminal Procedure to impose conditions on former political prisoners. If they are convicted of any other crime, including peaceful protest without authorization or unlawful association, they may be required to serve not only the new prison sentence, but also the remaining years of their old, suspended sentence.

1. ND-Burma was not able to document the human rights situation in central Burma. However, media reports of abuses including violations of the freedom of assembly demonstrate that central Burma is not free from human rights violations.

On 27 July 2013, draft Association Law prepared by Public Affair Management Committee (PAMC) of the People Assembly was published with a notice for the public to study and comment before it is submitted to the parliament for discussion. In optimal conditions an association law would protect the rights of civil society organizations and allow citizens to document and advocate about human rights abuses without interference. However, many civil society organizations have vocally opposed the current draft law. These organizations argue that the law does not meet international standards of freedom of association, and allows the government to interfere in the affairs of civil society organizations. The law requires all associations to register or face criminal penalties and a prohibition from operating, as opposed to international standards in favor of voluntary registration. This law would create even more obstacles for groups seeking to document human rights violations.

ND-BURMA MEMBER REPORTS

ND-Burma member organizations often publish reports and statements on human rights violations and related developments in Burma, including reports with thematic focuses and periodic updates for a specific geographic area. ND-Burma member reports also often describe in detail the impacts that the violations have on individuals and communities. Some of the publications from the period covered in this report are listed below. These publications support ND-Burma's findings on continuing human rights violations in conflict and ceasefire areas, as well as violations related to infrastructure projects and recent arrests of activists for political activities.

Assistance Association for Political Prisoners (Burma)

The Assistance Association for Political Prisoners (Burma) (AAPP) released a statement welcoming the July 23 release of 73 political prisoners, but expressed concern about increasing numbers of recent political arrests and detentions. AAPP also released a statement in June welcoming Thein Sein's public call to release all political prisoners, but called on him to put those words into action by revoking the conditions imposed on released political prisoners, and by broadening the mandate of the Committee to Scrutinize Remaining Political Prisoners to include those recently arrested and on trial.

Available at <http://bit.ly/18aeHqS> and <http://bit.ly/1eJOWBQ>.

Kachin Women's Association - Thailand

The Kachin Women's Association - Thailand (KWAT) published a report, called *State Terror in the Kachin Hills*, on the Burma Army's attacks against civilians from September 2012 through February 2013. The report exposes the human rights violations suffered by civilians in the areas of armed conflict between the Burma Army and the Kachin Independence Organization, including detailed information on individual cases of killing, destruction of property, and sexual violence. KWAT also published another report, *Pushed to the Brink*, detailing how conflict and related human rights violations have become push factors for an increase in human trafficking.

Available at <http://bit.ly/Y1PG6i>.

Chin Human Rights Organization

The Chin Human Rights Organization released an update on the human rights situation in Chin State covering January and February 2013. The report documented instances of arbitrary taxation and extortion, and forced labor, among other incidents.

Available at <http://bit.ly/15vIBVD>.

Human Rights Foundation of Monland

The Human Rights Foundation of Monland published a report on human rights impacts of proposed infrastructure projects along the Thai-Burma border in Mon State. Local residents reported that land had been confiscated for the project without compensation and discussed the impact that the confiscation would have on their livelihoods.

Available at <http://bit.ly/18YSGLI>.

Palaung Women's Organization and Ta'ang Student and Youth Organization

The Palaung Women's Organization (PWO) and the Ta'ang Student and Youth Organization (TSYO) issued a statement in May 2013 in response to military offensives by the Burmese military in Palaung areas, and resulting human rights violations including sexual violence. PWO and TSYO called on the government to allow the Myanmar National Human Rights Commission to investigate human rights violations by the military and to ensure those responsible are brought to justice.

Available at <http://bit.ly/16BAX6m>.

METHODOLOGY

Fieldworker Situation: ND-Burma members' fieldworkers put themselves at great risk to document human rights violations. Due to security concerns human rights monitoring cannot take place openly; thus, a representative sampling of all violations that take place in Burma is not possible. Fieldworkers and the people who communicate with them face security risks even in ceasefire areas, as the military and police often intimidate victims into keeping quiet. If a member of the military or police discovers that a fieldworker is gathering information on human rights violations, that person could be at the risk of arrest under repressive laws, harassment or even violent retribution. Fieldworkers rely largely on networks of individual contacts for information. Many of these contacts within the fieldworkers' networks were responsible for gaining additional contacts and conducting interviews with individuals, village leaders, and government staff members.

Documentation: ND-Burma has provided training, with assistance from several international human rights NGOs, to fieldworkers of member organizations who collect the information presented in these reports. Fieldworkers collect interviews and other information from nine of Burma's fourteen states and regions. Individual cases are documented depending on opportunity and external circumstances. The cases presented here constitute first-hand accounts of abuse perpetrated by the government and military during this period. The information supplied by eyewitness observers confirms concerns of widespread government violence perpetrated primarily by Burma Army soldiers.

Data Management: Fieldworkers from ND-Burma member organizations send documents to their mother organizations, whose staff upload the information to ND-Burma's network database. ND-Burma's data management team organizes each document and has selected reports from events that took place from January to June 2013. Any other information collected during this period regarding earlier periods will be saved for historical records and will be used as necessary to seek accountability during a democratic transition period.

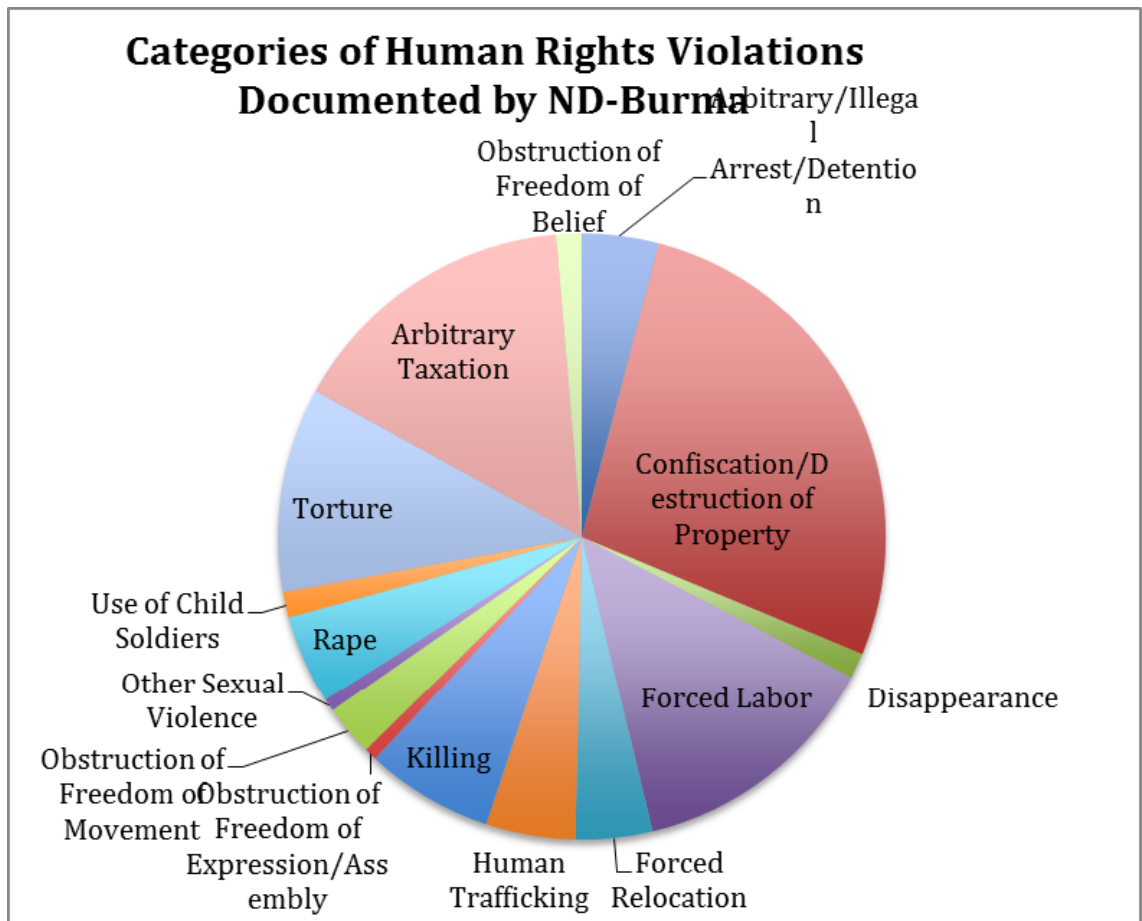
DISTRIBUTION OF HUMAN RIGHTS VIOLATIONS BY CATEGORY

Over the period of January-June 2013, ND-Burma documented 147 human rights violations, mostly at the hands of military. The human rights violations that ND-Burma documented over the six-month timeframe took place over nine states and regions in Burma. While 147 violations is a substantial number, it does not represent the entire picture of violations in Burma for several reasons. First, ND-Burma members' fieldworkers have faced severe security challenges in gathering data and are not able to undertake a representative study of all the human rights violations in a given area. Second, on-going conflict and conflict-related displacement prevents access to certain areas and results in underreporting in states where there is armed conflict, including Kachin and Shan states. Finally, a climate of impunity and fear of retribution makes many victims of human rights violations reluctant to report even when given the opportunity.

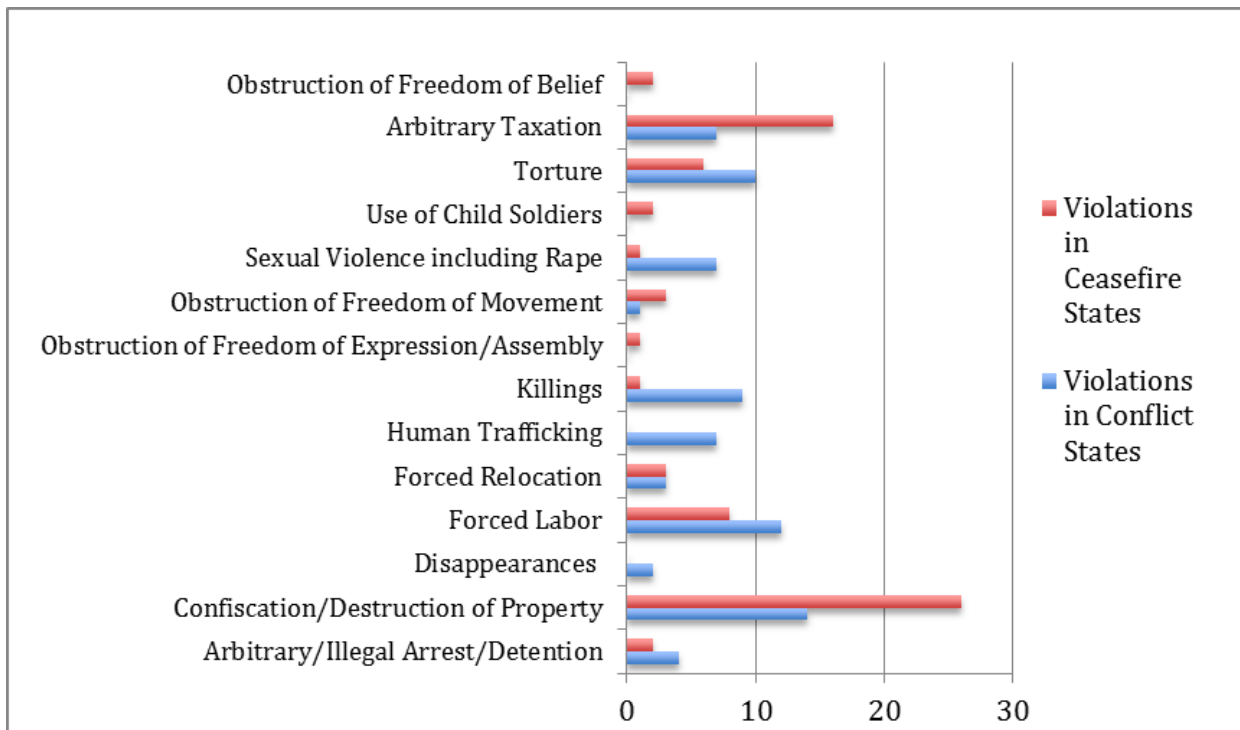
2. ND-Burma does not have a fieldworker presence in five states and regions: Kayah (Karenni) State and Magway, Mandalay, Sagaing and Tenasserim Regions. However, ND-Burma is expanding its reach, and was able to document some violations in two central Regions – Irrawaddy and Rangoon – over this reporting period.

Human Rights Violations Documented by ND-Burma: January – June 2013

No.	Category	Number of Bulletins
1.	Arbitrary/illegal arrest/detention	6
2.	Confiscation/destruction of property	40
3.	Disappearance	2
4.	Forced Labor	20
5.	Forced Relocation	6
7.	Human Trafficking	7
8.	Killing	10
9.	Obstruction of freedom of expression/Assembly	1
10.	Obstruction of freedom of movement	4
11.	Other Sexual Violence	1
12.	Rape	7
13.	Use of Child Soldiers	2
14.	Torture	16
14.	Arbitrary Taxation	23
15.	Freedom of Belief	2
TOTAL		147



Despite the challenges to data collection, ND-Burma’s fieldworkers have documented many serious human rights violation events that serve as examples of on-going patterns of abuses. These violations occur not only in areas of continuing armed conflict, but also in states where ceasefires have been signed. ND-Burma’s finding that violations continue in ceasefire areas is supported by reports from civil society organizations and media in those areas. Local residents report that ceasefires have not led to better protection of human rights, only to different types of violations. For instance, in Karen State, where the various Karen armed groups have signed ceasefires with the government, ND-Burma still documented twenty-four violations, most of which were related to confiscation or destruction of property and forced labor. According to the Karen Human Rights Group, ceasefires have led to increased business and infrastructure projects, which have resulted in increased land confiscation and forced labor. In Shan and Kachin states, where there is still on-going conflict, ND-Burma documented higher incidences of arbitrary or illegal arrest or detention, human trafficking, killings, sexual violence (including rape), and torture than in other states – violations which are associated with armed conflict. The active conflict in those states means that the violations documented are likely even more under-representative than in other states.



Some types of violation, such as confiscation and destruction of property, forced relocation, and forced labor occur in both conflict and non-conflict areas but as a result of different factors. Forced labor in conflict areas is often in support of military operations and camps, while forced labor where there is less of a military presence is more likely used for infrastructure and other public works. Similarly, forced relocation in conflict areas is a result of conflict, while in ceasefire areas it is a result of development projects. In conflict areas, property is destroyed during conflict as part of military strategy or as collateral damage, while in non-conflict areas it is confiscated for business and infrastructure. Land confiscation was the most commonly-documented violation. ND-Burma documented a total of forty cases of land confiscation occurring in six out of nine states. These states include areas of active armed conflict – like Shan State, with thirteen reported cases – and ceasefire areas – like Karen and Mon States, with seven and eight cases respectively.

3. Not all areas of Kachin and Shan States are sites of armed conflict, and these violations may include violations in ceasefire areas. However, both states have high levels of militarization which is associated with these types of violations, even if there is not currently armed conflict. Furthermore, there have been isolated clashes in ceasefire states which may have contributed to reported violations, and many areas still have high levels of militarization and suffer related abuses.

CASE STUDIES

The following case studies are two of the 147 violations documented by ND-Burma over this period. They represent the various types of violations suffered by civilians at the hands of military and police officials across Burma, in places close to on-going armed conflict, as in the first case study, and in areas covered by a ceasefire, as in the second.

Confiscation and Destruction of Property

Documented in Shan State by the Lahu Women's Organization

A Major in the Burmese Army confiscated and sold a tea plantation owned by a local farmer.

In February 2013, a Major from the Burma Army and fourteen of his soldiers destroyed four acres of tea trees owned by a local family, without offering any compensation. Then the major sold the land to a Chinese businessman for three million kyats (about US\$3,000). When the landowner asked the major why he and his men were destroying his tea plantation, the major replied that all land in the village, including the tea plantation, belongs to the army. The major said they can do anything they want to the land at any time. The landowner asked the village head intervene and convince the major to return his farmland. When the village head went to the army camp and talked to the major, the major said all the land in the country belongs to the army. He replied that he had to sell the tea plantation, as he needs money to buy supplies for his military camp. The major did not offer any compensation. The landowner said his family depends on the income from selling tea leaves for his children's schooling costs as well as for their daily survival. He is worried that his family will face difficulties surviving and that he will not be able to send his children to school in the future.

Torture

Documented in Mon State by the Human Rights Foundation of Monland

Police tortured teenaged detainees and forced them to confess.

A fifteen-year-old boy was arrested in his home along with many other local youth, on suspicion of involvement in an altercation with police a few days previous. This boy explained: "I was arrested at my home on April 21. Around 40 to 50 police officers came to the village and arrested all young people suspected of involvement, including me. After they arrested us they sent us all to the police station. Soon after I arrived at the station, they pulled off my longyi [a skirt cloth commonly worn by men in Burma] and hit me many times. One of them pushed a needle into my face. They tied me down, opened my mouth and an officer spit betel-nut juice into my mouth."

The fifteen year old and his friends were put in detention. He added that while he was in detention the torture continued; police officers beat his face and body and came every day to pull his hair. They told him that his hair was too long and so they were going to shorten it. Finally, after two weeks of gradual torture, he lost almost all of his hair. Sometimes the young men were called separately to the interrogation room and tortured. The fifteen year old suspect alleges that police officers sat him on a stool and tortured him severely, as they tried to make him confess that he and his friends had initiated the violence. Another group of police officials used less violent methods, talking to him and trying to compel him to admit to being a criminal. After these interrogations, police officers formulated official records for the incident. The group of young men were said to have started the violence, attacking police officers unprovoked. This account of the clash has been circulated widely and reported in both state and national media.

CONCLUSION

Despite more than two years of ceasefire negotiations and agreements, the protection of human rights in ethnic areas has not significantly improved. Even in some areas under ceasefire agreements, there is sporadic fighting between the military and ethnic armed groups. In Shan State alone, about 100 clashes have been reported since early 2012. These clashes continue to affect civilians through conflict-related human rights violations. Violations in ceasefire areas have shifted from conflict-related to those associated with business, infrastructure projects, and natural resource extraction.

The government has made significant progress on the issue of political prisoners, releasing hundreds over the past two years and consulting with civil society to verify the cases of those who remain in prison. However, according to AAPP there are around 120 political prisoners who are imprisoned and another 100 still on trial. The government still uses oppressive laws, such as Section 401(1) of the Code of Criminal Procedure, as political weapons even after political prisoners are released. Furthermore, activists who speak up against past and current human rights abuses are often detained and arrested.

Despite harassment of human rights defenders, more people are starting to talk about the truth of what they have suffered. We can see this clearly from the Lahtaw Brang Shawng case, when a Kachin farmer spoke out about being tortured. Moreover, during the '88 Uprising commemorations, some participants spoke out with proposals of how to deal with past atrocities, including by calling for apologies, memorialization, truth-seeking, and forgiveness. That is the right track to start seeking truth and justice for the past and moving on to the future. By documenting and reporting on continuing violations, ND-Burma hopes to contribute to the efforts of addressing the past and promoting reconciliation.

ND-Burma Documented Human Rights Violations by Categories vs. State & Region: January – June 2013

	Arbitrary/ illegal arrest/ detention	Confiscation/ destruction of property	Disappearances	Forced labour	Forced relocation	Human trafficking	Killings	Obstruction of freedom of expression/ Assembly	Obstruction of freedom of movement	OTHER SEXUAL VIOLENCE	Rape	Use of Child soldiers	Torture	Taxation	Freedom of Belief	Total
Chin State		4		2			1	1	1		1			6	1	17
Irrawaddy Region												2				2
<u>Kachin State</u>	4	1				4	3				2	1				15
Karen State	1	7		6	3				1			2	4			24
Mon State	1	8										2	6			17
<u>Pegu Region</u>									1		2					3
<u>Rakhine (Arakan) State</u>		7														7
Rangoon (Yangon) Region															1	1
Shan State		13	2	12	3	3	6		1	1	4		9	7		61
Total	6	40	2	20	6	7	10	1	4	1	7	2	16	23	2	147

ND-Burma Documented Human Rights Violations by Category vs. Months [January - June 2013]

Monthly vs. Categories	Arbitrary/ illegal arrest/ detention	Confiscation/ destruction of property	Disappearance	Forced labour	Forced relocation	Human Trafficking	Killings	Obstruction of Freedom of Expression/Assembly	Obstruction of freedom of movement	Other Sexual Violence	Rape	Use of Child soldiers	Torture	Arbitrary Taxation	Freedom of Belief	Total
	January	1	9	0	3	0	3	1	1	1	0	3	0	2	3	2
February	3	1	0	0	0	0	2	0	0	0	0	0	0	1	0	7
March	1	3	0	2	0	1	1	0	0	0	0	0	1	5	0	14
April	0	6	1	2	1	2	1	0	2	1	0	0	3	3	0	22
May	1	17	0	12	5	1	1	0	0	0	3	2	7	8	0	57
June	0	4	1	1	0	0	4	0	1	0	1	0	3	3	0	18
Total	6	40	2	20	6	7	10	1	4	1	7	2	16	23	2	147

ND-Burma Documented State & Region vs. Months [January - June 2013]

State & Region Vs. 16 Categories	Chin State	Irrawaddy Region	Kachin State	Karen State	Mon State	Pegu Region	Rakhine (Arakan) State	Rangoon (Yangon) Region	Shan State	Total
January	9		4	8	1		1	1	5	29
February	2		5							7
March	6		3	5						14
April				1		1			20	22
May		2	3	10	14	2	6		20	57
June					2				16	18
TOTAL	17	2	15	24	17	3	7	1	61	147