

Seeking Justice in Burma

December 2019

Summary Report:

2019 was a year of stalled and broken ceasefires against the backdrop of a faltering peace process that has failed to deliver on its much-touted promises. In place of formal talks this year were informal meetings intended to keep the momentum of peace building efforts present and engaged. Meanwhile, fighting remains active in many of Burma's ethnic states where civilians are trapped in unsafe and unstable conditions at the expense of warfare between armed groups. Delays to the peace talks have been blamed on meetings being postponed and divisions between various ethnic armed organizations (EAOs). However, as the year came to a close, steps towards justice were made as a historical event took place in which a delegation traveled to The Hague to defend accusations of genocide.

Burma 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 committed genocide in Rakhine State. The case has [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 from 10 to 12 December. Some without question remain loyal to her leadership, while others have expressed disappointment in her moral authority.

Throughout the proceedings, Daw Aung Suu Kyi stood firmly as she [declared](#) that genocide, as defined by international law, did not take place anywhere in Burma. The situation she argued, is one of internal armed conflicts. Across 25-minutes in 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.' 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. Despite the rules and laws that the military has created- as noted by Prominent Myanmar lawyer U Thein Than Oo - these laws are rarely upheld and practised. In fact, it is through these very systems designed by the military, that soldiers have long been able to avoid accountability through impunity.

Domestically, several [Shan](#), [Karen](#), [Kachin](#) and [Karenni](#) human rights groups [shared](#) statements supporting The Gambia at the ICJ. Internationally, Canada and the Netherlands also [expressed](#) their support and commitment to the legal efforts. Several Ethnic Armed Organizations also adopted various stances - some in [support](#)

of ICJ, while others [refuted](#) international involvement in domestic affairs.

Supporters of Daw Aung San Suu Kyi [traveled](#) to The Hague in defense of the allegations of genocide where hundreds gathered to rally and offer moral support. Many religious groups also [embraced](#) her through various sentiments of appreciation and solidarity, attributing her defense to ‘seek justice and truth - and to pass on for posterity a civilized society with the values of humanity and a dignified state.’

Speaking to supporters directly at The Hague, Daw Aung San Suu Kyi [said](#), “I don’t know any of you individually, but I could feel your love for me.” Upon [returning](#) to Nay Pyi Taw , she was met by a crowd of thousands supporting her.

Unfortunately, the case has been a driving force of division, calling into question loyalties to truth and justice and where the people of Burma place their hope in leadership.

Context: 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 Burma government and military deny the accusations.

Additional Resources on the ICJ

This month’s hearings at the ICJ were historical, but to understand just how influential they were, several media outlets and justice organizations produced helpful resources:

[FACTBOX: The Genocide Case Against Myanmar at the UN’s Highest Court](#)

By: The Irrawaddy

[GAMBIA VERSUS MYANMAR: International Court of Justice Blues](#)

By: Shan Herald Agency for News

[New Fronts in The Fight for Justice](#)

By: Frontier Myanmar

Violence Across the Country Intensifies as Civilians Suffer Consequences

Rakhine

Civilians forced to flee unstable conditions. Those caught in the cross-fire have been killed,

injured or displaced.

After military troops were deployed in Mrauk-U townships, where clashes between the Arakan Army and Burma Army [injured](#) a girl aged 13, two women aged 22 and 25, and two boys, ages 3 and 10. 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.

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. 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."

In related incidents...

Two civilians including a toddler were killed and seven others were [injured](#) when an artillery shell hit a passenger vessel sailing in the Kaladan River. 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 Myanmar military and the AA.

An artillery shell landed in Kalama Taung Village in Minbya Township at about 9 a.m. on 11 December, 10 villagers were [injured](#) and two out of the 10 received serious injuries. About 2,000 people live in that village and most villagers fled to safe havens.

The bodies of two young Chin people were [found](#) in Ann township with bullet-injuries. The two young victims, age 21 and 22 had traveled from their village by motorcycle to get food when they were shot suddenly.

Two farmers who went missing while working in their paddy fields were [found](#) buried in a hole together, with many injuries. It is suspected that the Burma Army is responsible, as they had soldiers in this area when the two went missing. Clashes on the same day also resulted in the death of a 49-year old woman after suffering head injuries by a bullet.

Four civilians were [injured](#) after clashes between the Burma Army and the Arakan Army. Civilian protection in the midst of frequent clashes must take precedent.

Several detained by AA as military tensions rise

Following the death of a National League for Democracy (NLD) official in detention, military tensions continue to increase. The NLD member was detained for his attempts to organize a rally supporting Aung San Suu Kyi's appearance at the Hague for the ICJ hearing. He was [killed](#) mid-December by explosions, which sparked criticism that AA has failed to protect those in custody. In response, an AA spokesperson [said](#) that community is also at risk of attacks by the Burma Army. No one has taken responsibility for the death of the MP with the AA and Burma Army both [accusing](#) the other of the military strike.

The most recent [abduction](#) by the AA is the director of military-backed telecom operator Mytel along with his driver.

Ongoing violence in Rakhine State has experts estimating that as many as 100 000 people have been forcibly [displaced](#) by the clashes between the Burma Army and Arakan Army over the last year.

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Shan State

Livelihoods threatened, security undermined by various armed actors

The instability in Shan State 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 exacerbates the toll the fighting is taking on innocent lives. The 37-year old man recalled, 'my life is meaningless - I feel unbearably sad.'

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. In fact, 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."

The risk of the conflict taking more lives is a threat that [saw](#) over 40 civilians come to Kyaukme township from their village from fear of fighting between the Burma Army and the Ta'ang National Liberation Army (TNLA). One of the most recent casualties was a five-month old infant who [died](#) from cold temperatures when villagers were forced to flee in northern Shan. The shortage of blankets at the monastery where people sought safety resulted in not all families getting one. Having to flee often at a moment's notice means that families also do not have time to grab necessary possessions. IDPs need food and warm clothes as the cold season begins. Since last month, clashes between the Burma Army and the TNLA have seen nearly 1000 innocent people displaced.

Landmines also 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. A powerful short [documentary](#) by the Relief Action Network for IDPs and Refugees highlights the challenges that innocent civilians have been forced to endure from landmine injuries.

Profit Over People Development Model Undermines Security Safety

Thousands of civilians displaced by conflict [appealed](#) to the Burma government to stop planning investment projects on land which threatens to displace them further. In a group statement, the values that land brings to ethnic culture and preservation must be upheld and protected. Development projects in the area include mining, agriculture and logging concessions. These projects take place around civilian homes with no guarantee of compensation or integrated plan for their return.

Almost 17,000 IDPs have been [forced](#) to flee their homes in northern Shan State since fighting broke out in 2011 between the Burma Army and various EAOs including the TNLA and KIA.

Development projects in Shan State have long-sought to undermine people's access to land. An interview this month [highlighted](#) the gaps in the 'public consultation' for the China-backed Belt and Road initiative (BRI) that has formed a civil-society led watchdog group to monitor the activities of the BRI.

Mon State

At the end of November, the Burma Army seized a base from the Mon National Liberation Army (MNLA) and subsequent fighting broke out between the groups, as well as the Karen Border Guard Force. Since then, the Burma Army has [withdrawn](#) troops from the MNLA base, but is still occupying one of the group outposts.

The fighting forced nearly 1000 ethnic Mon to Thailand where civilians sought safety and refuge.

Freedom of Expression Continues to be Undermined

Karenni Activists Released Following 'Traitor' Comments to State Minister

The five-young Karenni activists who were arrested for calling the State Minister a traitor were [released](#) following six-months in prison. The brave young individuals were imprisoned for issuing a statement against the Kayah government for their support of a status of General Aung San in Loikaw. They were charged under the Law Protecting the Privacy and Security of Citizens.

In November, the state government [appealed](#) for a harsher punishment but was [rejected](#) by the Loikaw District Court at the end of December.

Kachin Activist, 'Scale Paul,' Released from Prison

A Kachin activist who jailed for giving broken scales to judge in Myitkyina Township Court as a symbol for the brokenness of the courts in Burma was [released](#) in December. 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.

Speaking after he was released, he remarked, 'Since our country is on its way towards democratization, we need to use freedom of expression as a human right. I will push more to amend the laws which bar freedom of expression.'

Lawyer Defending Peacock Generation Quits - claims no chance of achieving 'real justice.'

In an act of protest, the lead lawyer representing the thangyat group, who have been sentenced several times for satirical performances at the expense of the military, has [withdrawn](#) from the case in an act of protest. According to Assistance Association for Political Prisoners (Burma), the group decided to refuse to participate in Burma's judicial system, as they do not deem it a legitimate judicial exercise.

Rape & Sexual Violence: High Profile Child-Rape 'Victoria' Case Continues

Compromised Evidence in 'Victoria' Case to be Inspected

Following corrupted CCTV footage submitted by lawyers in the high-profile child rape case of 'Victoria' dubbed by social-media users, the court has [announced](#) that it will inspect the hard-disk to try to determine how video evidence was compromised. The case has been met with skepticism from the general public who have criticized the legal response.

Due to insufficient evidence and for the second time - the court [acquitted](#) Aung Gyi, the driver at the nursery where the rape took place. He has been long-alleged as the main perpetrator, despite the fact that his arrest has been controversial by those who suggest he is being used as a scape-goat. The police involved in the case were unhappy with the decision [calling](#) it 'premature.' Shortly after, the police revealed the name of the child and mother in the case during a public press conference. To make matters worse - the same day files and documents with evidence and witness names were uploaded to an official Facebook page. A half hour later, the post was removed. The lack of protocol is apparent as missteps to justice continue to undermine the seriousness of the case.

In a positive move forward, the Burma Government has announced it will [conduct](#) a survey of violence against women. The survey will provide additional data needed to advance and strengthen the delayed Protection and Prevention of Violence Against Women bill.

Unlawful Detainment

When the wife of the Arakan Army Commander went to renew her visa with her young children, she did not expect to be detained. In a case that has received backlash from civil society, Thai immigration authorities [held](#) the wife and children of Arakan Army Commander. Despite tensions between the Arakan Army and Burma Army increasing, rights groups have been calling on Thai authorities to not deport her and her children citing that there is no proof of any of their involvement in the insurgency.

Several Ethnic Nationality Organizations have spoken out [calling](#) for the mother and children to be protected and not be deported. Since the appeal, the authorities have delayed the deportation, though legal action is [expected](#) to take place.

Violations of Property Rights

Karenni Farmers Targeted in Land Grabs

In a sweeping series of land grabs, the Burma Army has [prosecuted](#) 10 more Karenni farmers on outlandish charges of trespassing. The farmers have been attempting to keep land unjustly seized by the Burma Army. The military has [filed](#) 60 lawsuits against 41 farmers since July 2019.

The farmers, with the support of rights groups, have said they have not done anything wrong and are looking to pursue legal action against the Burma Army.

Forced Recruitment

Mothers Speak Up, Demand Release of Sons

Forced recruitment remains an underreported issue due to security risks. Two brave mothers are [speaking up](#) to demand the release of their sons aged 16 and 17 who were taken to be child soldiers. The two young boys should be released immediately.

Member Update

Joint Report Calls for Reforms to MNHRC

A timely joint report [released](#) by affiliate ND-Burma member, Progressive Voice, alongside other members including KWAT, FLC, HURFOM, TWO, on much needed reforms to the Myanmar National Human Rights Commission (MNHRC) titled, 'Myanmar: A Little Less Conversation, A Little More Action Please.' The report provides critical feedback on the current MNHRC mandate and overall concludes that the rights body has failed to adequately respond to human rights violations.

An incident that reinforced the ineffectiveness of the MNHRC took place earlier this month when families [appealed](#) to the body for action following the death of two locals who were killed by the Burma Army in Arakan State.

"We cannot bring back the dead. But we made a complaint to get justice," said U Aung Ba Thein, younger brother of the village administrator who was killed.

Read the report [here](#).

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New Interactive Database Released to Access & Search Data on Current, Former & Fallen Political Prisoners

This database is a testament to the important work being done by our member, the Assistance Association for Political Prisoners (Burma). See the database [here](#).

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Pressure to hold perpetrators of human rights violations accountable continues to take precedent as activists, civil-society organizations and international governments continue to lobby the Burmese military and government to act in good faith by cooperating with recommended transitional justice mechanisms.

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ND-Burma member, the All Arakan Students' & Youths' Congress, has released a new report on the Mrauk-U Massacre. The press release is available [here](#) and the report can be [found](#) on their website. Both are in Burmese. The Mrauk-U Massacre took place following a police crackdown in northern Rakhine, where seven people died in January 2018.

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35th Annual Networking Meeting

Our network held its 35th annual Network meeting which saw members come together to discuss strategic planning for the coming year. We thank you all for your continued solidarity to our work!

Our latest report calls for agency & accountability against perpetrators of human-rights violations in Burma with mass abuses taking place predominantly in Kachin, Shan & Rakhine states from January to June 2019.

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Reparations Working Group Meeting

ND-Burma members of the Reparations Working Group met with ethnic representatives of parliament on 8 December including the Pyithu Hluttaw Citizens' Fundamental Rights Committee and MPs from Amyothar Hluttaw, the Citizen Rights, Democracy and Human Rights Committee.

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The report is now available online.

Burmese: <http://ow.ly/iOGw50wegfa> **English:** <http://ow.ly/OQXg50wegfw>

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](#)