



Report on the Human Rights Situation in Burma

January - December 2015

Acknowledgement

We are extremely grateful to the interviewees for their courage in speaking the truth. We are also thankful for the ND-Burma member organizations and their field workers who collected the information under great personal risk.

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Cover photo: TSYO, IDP camp in Shan State

Back cover photo: TSYO, IDPs given training about land mine

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Introduction

Throughout the period from January to December 2015, ND-Burma documented 84 human rights violations (HRVs) across Burma. The violations documented during these twelve months 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 HRVs documentation is based on information collected by field-workers from ND-Burma member organizations. Due to security restrictions field-workers are unable to collect and document HRVs covering the whole country. Therefore the cases documented in this report have been collected from nine different states and regions in Burma. Additional information on HRVs has been gathered from media sources and NGO reports.

ND-Burma's findings demonstrate that, despite progress in reaching ceasefire agreements with some Ethnic Armed Organizations (EAOs); 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.

Internal armed conflicts in northern Burma between EAOs and the Burma Army intensified in 2015 and caused around 100,000 people to become newly displaced. Instances of unlawful killings, disappearances, rape and other forms of sexual violence, forced labour, such as portering, the recruitment of child soldiers and restriction of humanitarian access have been perpetrated by both the Burma Army and the EAOs before and after the signing of the NCA.

In early February local human rights group, the Shan Human Rights Foundation reported that the Burma Army had shot and tortured at least 10 ethnic Kokang civilians during amidst fighting in Northern Shan State.¹ Similar attacks by the Burma Army have been reported by Free Burma Rangers in Kachin State including the murder of two civilians on March 21² and the murder of a Kachin family of three at Du Hku village, Kachin State on March 23³. In

1 2014, 'Burma Army Shot, Tortured Kokang Civilians during Conflict: Rights Group', *The Irrawaddy* 5 March. Available from: <http://www.irrawaddy.com/>

2 2014, 'FBR Allege Burma Army Rob and Kill 103 year-old Grandmother', *Karen News* 25 April. Available from: <http://karennews.org/>

3 2014, 'Government Forces Killing Civilians in Kachin State, says Aid Organisation', *Karen News* 3 April. Available from: <http://karennews.org/>

September, only one month before the signing of NCA, Burma Army soldiers indiscriminately fired shells in a village in Southern Shan State that rights organizations say was a clear civilian area. The attack resulted in the death of two villagers, and injured many others and was therefore tantamount to a war crime⁴.

The refusal of Kachin Independence Army (KIA) and the Shan State Army-North (SSA-North/Shan State Progressive Party (SSPP)) to sign the NCA on October 15 led to an aggressive offensive by the Burma Army from October. According to Free Burma Rangers, 92 new armed clashes were recorded in parts of Northern Shan and Western Kachin State between October and December 2015⁵. At least 15 people had been killed, including 3 civilians⁶.

In November, the Burma Army launched a large-scale offensive to seize Shan ceasefire territories in which they launched air and ground missile attacks on densely populated civilian areas. These attacks included shooting and rapes and caused over 10,000 people to be newly displaced⁷.

The systematic use of torture is widespread in both Shan and Kachin State. On November 19 two Shan men, Sai Yee Lin and Sai Maung Sam, travelling through Kachin State, were detained and tortured by the Burma Army who believed them to belong to the Kachin Independence Army (KIA)⁸. These abuses by the Burma Army are widely documented and persist with impunity for perpetrators and little to no recourse for victims.

The ongoing militarization and offensives by the Burma Army continue to threaten women's security in ethnic areas. From April- November 2015 The Shan Human Rights Foundation (SHRF) documented eight cases of sexual violence committed by Burmese government troops in Southern and Eastern Shan State⁹.

On January 19/20 Kachin teachers, Maran Lu Ra and Tangbau Hkawn Nan Tsin were brutally rape and murdered by the Burma Army in Northern Shan State. Kachin Women's Association Thailand (KWAT) and Legal Aid Network (LAN) released a report over a year after the attack exposing the systematic cover-up of Burma Army involvement in Kachin rape-murder case showing how the Army stifled the investigation into the crime¹⁰. To date no proper investigation has been taken into the case and no one has been held accountable evidencing the rampant impunity for perpetrators throughout Burma.

Another defining moment in 2015 was the National Elections on November 8. While the elections were widely revered as the freest and fairest elections in the country in the past 25 years minorities were excluded from voting and arrests of political and opponents to the ruling party ensued.

Since the elections political activists continue to be arrested and sentenced for peacefully protesting and exercising their right to freedom of expression. Many of the student protesters arrested for protests against the National Education Bill in March remain detained, many suffering from medical conditions and continue to be denied adequate

4 2014, 'Burma Army Attack Leaves Two Shan Villagers Dead, Several Injured', *Karen News* 1 October. Available from: <http://karennews.org/>

5 2014, 'Tens of Thousands' of Civilians Displaced in new Burma Army Attacks', *Karen News* 16 December. Available from: <http://karennews.org/>

6 2014, 'Tens of Thousands' of Civilians Displaced in new Burma Army Attacks', *Karen News* 16 December. Available from: <http://karennews.org/>

7 2014, International community must break its silence on Naypyidaw's war crimes in central Shan State', *Shan Human Rights Foundation* 26 November. Available from: <http://www.shanhumanrights.org/>

8 2014, 'Shan men say Burmese soldiers tortured them', *DVB* 27 November. Available from: <http://www.dvb.no/>

9 2014, 'Sexual violence by Burmese government troops continues despite ceasefires in Shan State', *Shan Human Rights Foundation* 25 November. Available from: <http://www.shanhumanrights.org/>

10 2014, 'New report exposes systematic cover-up of Myanmar Army involvement in Kachin rape-murder case'<http://nd-burma.org/resources/other-press-statements/report-exposes-systematic-myanmar-army-kachin-rape-murder-case/>

treatment.

As of the end of December 2015, there were 129 political prisoners incarcerated in Burma and 408 activists awaiting trial for political actions¹¹.

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 cease fire 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 firsthand 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.

However, there are some limits to our data collection. Firstly, field-workers of ND-Burma member organizations are unable to collect and document all of the human right violations covering Burma in their entirety due to security restrictions. Therefore, these cases are only the cases that we were able to document in nine different states and regions in Burma. Secondly, on-going conflict and conflict-related displacement prevents access to certain areas and results in an underreporting in states where there is armed conflict, including Kachin and Shan states. Finally, a culture of impunity on the part of the military, and fear of retribution makes many victims of human rights abuses reluctant to report violations even when given the opportunity.

Names in the case studies have been changed for the protection of those involved.

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 December 2015. Any other information collected during this period regarding earlier periods will be saved for historical records and will be used as evidence to seek accountability during a democratic transition period.

¹¹ 2014, 'AAPP December chronology', AAPP January <http://aappb.org/2016/01/monthly-chronology-of-december-2015-and-remaining-political-prisoners-list-and-facing-trial-list/>

အစိုးရအဖွဲ့မှ အမတ်များ၏ အမည်များကို ဖော်ပြထားသော အစီအစဉ်

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၂	အိမ်အမှတ်	၆၆	၆၆	၆၆	၆၆	၆၆
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A notice board of a list of IDPs in Namkham township. Photo - TSYO

Distribution of Human Rights Violations by Category

Over the period of January-December 2015, ND-Burma documented 84 human rights violations, mostly at the hands of military. The human rights violations documentation of ND-Burma has been collected from around Burma in nine of the fourteen states and regions in Burma. This report highlights torture, one of the most common human rights violations that is taking place in Burma, with as many as 26 cases collected and documented by ND-Burma in this report.

In addition, there have been 17 cases of obstruction of freedom of expression/assembly related to the General Election in November and 11 cases of killings documented by ND-Burma that have taken place in the country.

Human Rights Violations Documented by ND-Burma: January – December 2015

No.	HRVs Category	Number of Bulletins
1.	Arbitrary/illegal arrest/detention	4
2.	Confiscation/destruction of property	5
3.	Disappearance	3
4.	Forced Labour	6
5.	Forced Relocation	1
7.	Human Trafficking	3
8.	Killing	11
9.	Obstruction of freedom of expression/assembly	17
10.	Obstruction of freedom of movement	2
11.	Rape	5
12.	Torture	26
13.	Arbitrary Taxation	1
TOTAL		84

Appendix 1: ND-B Documented Human Rights Violation Category vs. Months [January – December 2015]

Monthly vs. Categories	Arbitrary/ illegal arrest/ detention	Confiscation/ destruction of property	Disappearance	Forced labour	Forced relocation	Human Trafficking	Killings	Obstruction of freedom of express/ assembly	Obstruction of freedom of movement	Rape	Torture	Arbitrary Taxation	Total
January							1				1		2
February							2						2
March	1	1	2	1		1				1	2		9
April	1	1		3			2				3		10
May		1		2	1		2				1	1	8
June										1	5		6
July	2					2			1	2	13		20
Sept			1				4				1		6
Oct									1				1
Nov		2						2					4
Dec								15		1			16
Total	4	5	3	6	1	3	11	17	2	5	26	1	84

Appendix 2: Human Rights Violations by Categories Vs. State & Region: January – December 2015

State & Region Vs. 16 Categories	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	Rape	Torture	Taxation	Total
Irrawaddy Region											2		2
Kachin State	1	3	1	1		1	4		1	3	5		20
Karen State				1				17					18
Mandalay Region											1		1
Pegu Region											4	1	5
Rakhine (Arakan) State											2		2
Rangoon (Yangon) Region											3		3
Shan State	3	2	2	4	1	2	7		1	2	8		32
Tenasserim Region											1		1
Total	4	5	3	6	1	3	11	17	2	5	26	1	84

Appendix 3: ND-B Documented State & Region vs Months January – December 2015

State & Region Vs. 16 Categories	Irrawaddy Region	Kachin State	Karen State	Mandalay Region	Pegu Region	Rakhine (Arakan) State	Rangoon (Yangon) Region	Shan State	Tenasserim Region	Total
January								2		2
February		1						1		2
March		2						7		9
April						1		9		10
May		4	1		1			2		8
June	1				2	1		2		6
July	1	6		1	2		3	6	1	20
Sept		3						3		6
Oct		1								1
Nov		2	2							4
Dec		1	15							16
TOTAL	2	20	18	1	5	2	3	32	1	84



IDPs in Shan State. Photo - TSYO

Case Studies

Case Study (1) Kachin State

Human Rights Violation Documented by *Kachin Women's Association Thailand (KWAT)*

On February 2, 2015 at 2:30 pm, Mr Kum was shot and killed by 66th Light Infantry Division (LID) soldiers who opened fire on him and his three friends, Mr. San, Mr. Tun, Mr. Ai, while they were mining for jade in Jang Gap village of Hpakan Township.

Mr. Lan: (Interviewee)

“Whilst we were doing this, we heard loud gunfire. We were shocked and tried to find a place to hide. We heard the gun’s fire again. Nearby, we found other people who were digging in the mines hiding in three other places. By this time, we had already heard three sets of gunfire. After the second set of gunfires I saw Mr. Kum lying on the ground and realized that he had been shot. I told Mr. Mun, who is one of Mr. Kum mining friends, to inform to his boss, Dr. Sha about the incident.

At the time 66th LID were based near Jang Gap village however the fighting between the Burma Army and the KIA is in Ja Ra Yang village, which is a fair distance from where the attack occurred. Therefore the Burma Army came with the intent of attacking civilians.

Mr. Kum died ten minutes after he was shot. Myself, San, Mr. Tun, and Mr. Ai looked after his dead body. The soldiers from 66th LID would not allow us to leave the site or go and inform people about this incident. In the evening, around 11:00 pm the soldiers ordered us to move, and from there they took us far away on foot. In the morning, at 5:30am, they took us to the Burma Army post at Seng Tawng town by a company car. On February 3, 2015, the soldiers interrogated us one by one. San, was stabbed with guns during the interrogation. The soldiers slapped our heads when we prayed to thank the Lord for the food we were given to eat. The soldiers interrogated us: “What is your religion? Are you Kachin Baptist Convention or Catholic? What your pastor say when you listen to religious sermon? And what kind of things do you pray when you pray?”.

The soldiers said that the KIA had started to fight them and therefore, they had had to fight back. So, the bullet that hit Mr. Kum came from the KIA. But I thought that everybody knew that there weren’t any KIA soldiers there at the mines.

On the same day, around 10:00 am the soldiers sent us from there to the Sik Mu military post and then sent us again to Hpakan military camp. On February 4, 2015 the head officer of Hpakan post released us due to a guarantee from some of the village leaders and Dr. Sha.”

Dr. Sha: (Interviewee)

A group of us conducted an autopsy on Mr. Kum’s dead body which revealed 8 bullet wounds including in his heart, abdomen, bladder, liver and spleen. Some of the bullets were too deep to retrieve without badly damaging his body, so we gave up. This incident made me feel very disappointed and sad. This incident was a direct attack on civilians by the government military. Furthermore there were no KIA soldiers there. Our Kachin people lack security. I want to take this incident to the court of law but every member of the government staff is biased to the government. Thus, it is impossible for this incident to succeed in court. Even though I feel disappointed about this, I can do nothing. On February 6, 2015 on Friday, we held a memorial and prayed for him.”

Case (2) Shan State

Arbitrary torture with a false accusation of possessing and hiding a firearm

Human Rights Violation Documented by *Kachin Women’s Association Thailand (KWAT)*

On February 2 2015, around 1pm, there was a sudden exchange of gunfire for about 20 minutes around the Maw Han village, the fighting stopped when the children got off school. After that, Burmese soldiers from Infantry Battalion 502 gathered all the villagers on the main road. Once the fighting had stopped, the Burmese soldiers detained 18 villagers that they suspected of being KIA soldiers or affiliates. On the same day, Mr. La was out in the woods collecting firewood. He had no knowledge of the incident taking place in his village, so he returned.

On his way back, two soldiers from the Burma Army suddenly appeared and tied him up using the string. Three more soldiers showed up shortly after. They took him to the main road, at the center of the village, and he was questioned by the soldiers and tortured for about an hour. Around 5 soldiers punched and kicked him at his hands, face and legs, causing twisting of his legs; they also hit his face and mouth with the butt of a gun which caused massive amounts of bleeding and also the loss of four of his teeth. The interrogation and torture took about one hour. They repeatedly asked him “Are you a KIA soldier?”, and although he kept saying “I am not a KIA soldier, but just a villager”, they didn’t believe him. They took him to his home, to search for armed-related ammunition and weapons, as they didn’t believe him. When they reached to his home, they found a green hat which was bought from the market and was not a KIA hat, but seeing the hat increased their suspicion. The soldiers were now convinced that “he had hidden guns” in the woods when they first saw him, so they took him back to where they found him. But, when they got there, they only found the fire wood that he had collected.

They tortured him twice; when they first met him and at his home after they took him to the woods. The injuries from his torture caused his whole body to be swollen and he couldn’t even lift his head. He had a hard time naming the person in front of him; he couldn’t even recognize his family members. His body was also very heavy with the swollen injuries from the beating.

The soldiers made him lead them to the home of Mr. Zau and Mrs. Hon and they also started searching for firearms when they got there but didn’t find anything. Due to the village head recommendation to the soldiers that Mr. La was harmless, he was set free to return his home.

Later that day, the soldiers sent a message that they would release the 18 detainees on the condition that the soldiers got Mr. La, so Mr. La had to go back to the soldiers. The

soldiers still kept the 18 detainees after that, and they were made to walk the whole night on an empty stomach, without any food. They spent the night at Nawng Hkyu, and the next morning, they continued walking to Kutkai. The soldiers later released the 18 detainees when they reached a gas station, in Kutkai Township. The soldiers still kept Mr. La, and took him to a stone monument. After that they took him back to Kutkai and finally let him go when they reached the Roman Catholic Church compound in Kutkai.

General Secretary and members of Nawng Tsit church gave Mr. La some medical treatment before taking him back to his home in Maw Han village. After hearing about Mr. La, AZG (Medecins Sans Frontieres) staffs came to see him and took him to the Kutkai hospital and got him proper medical treatment. His family members only had to take care of his food during his stay in the hospital. For Mr. La, despite his injuries, he would continue to work on his farm to feed his family. Out of all the injuries, losing four of his teeth discouraged him the most. Because of her husband's terrible experience, his wife developed Hypertension (high blood pressure), in addition to the sympathies she felt for him. AZG from Kutkai takes care of his medical needs.

Conclusion

While there has been little improvement in the context of human rights from January to December 2015 the next term in government presents great opportunity for reform, national reconciliation and transitional justice and recourse for victims.

On October 15, 2015 the Burma Government and eight EAOs signed the NCA. While eight signed the agreement, some groups refused to sign until six more armed groups were included in the agreement.

Despite the agreement armed conflict continues to ensue, in ethnic areas, particularly in the areas controlled by group who did not sign the ceasefire including those controlled by Ta'ang National Liberation Army (TNLA), Arakan Army (AA) and Kachin Independence Army (KIA) and Shan State Army/Restoration Council of Shan State (SSA/RCSS). HRVs continue to occur as a direct result of the protracted conflict in these areas and civilians are still targeted by both the Burma Army and EAOs.

The continuation and escalation of the conflict demonstrates the necessity for further peace negotiations under the incoming government. To work toward national reconciliation and lasting peace there must be an official acknowledgement of past human rights abuses, a plan to put an end to current human rights violations being committed by both the Burma Army and EAOs, and a formalized means of recourse for the victims of the HRVs such as reparations. Moreover, the Burma Army and EAOs must respect international law including the Geneva Convention and immediately cease the targeting of civilians, respect their lives, livelihood and properties. Until these processes occur, lasting peace and reconciliation remains a distant hope for the future.

The challenge of the new regime will be its ability to address past abuses whilst continuing to engage in dialogue and negotiations with the Burma Army and EAOs. To this extent it is important that the MNHRC be reformed in accordance with the Paris Principles and that independent investigations are made in to HRVs. Furthermore it is important that the military respect the MNHRC's mandate to investigate HRVs and openly take on an implement the recommendations they make regarding human rights. Moreover the incoming government should work towards reform and repeal and amend laws and structures that work to oppress and imprison political opponents.



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