

'I STILL REMEMBER':
Desires for acknowledgment and justice for past and ongoing
human rights violations in Mon areas of southern Burma

"The victims of the past, those who can't shatter the shackles of the past, have caused a lot of hindrances in the democratic transition."

Aung San Suu Kyi, August 2017

Since Burma's transition from a military government to a nominally civilian-led one beginning in 2010, 'national reconciliation' has become a ubiquitous concept amongst politicians and those advocating for peace in Burma after more than 60 years of civil war. With the National League for Democracy's (NLD) historic electoral win in 2015, hope was further renewed for rebuilding

Burma into a genuine democracy and uniting its fragmented society.

Yet, for all its usage by those in power, the rhetoric of 'national reconciliation' increasingly rings hollow. As press freedoms are curtailed and armed conflict and human rights violations continue unabated in northern Rakhine, Kachin, and Shan states, too little has changed in the intervening years since Burma embarked on its democratic transition. Rather than acknowledging Burma's history of vast human rights violations, the current administration in Burma seems unwilling or unable



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to address its violent past, instead resorting to victim blaming when individuals are unable to forget the violence inflicted upon them.

The testimony gathered for this report shows that the majority of villagers interviewed in Mon State and Mon areas of southeast Burma not only are unable to forget the past, but do desire some form of justice for abuses endured over the past decades. In addition to providing evidence of the widespread and systematic violation of human rights by the Burma Army and Ethnic Armed Organizations (EAOs) since 1995, this report aims to present the voices of villagers and their desires for justice. In doing so, it counters the Burma government's narrative that national reconciliation is possible without confronting its violent past and shows that the implementation of transitional justice mechanisms, particularly reparations, are necessary for the country to heal.

This report is divided into seven main sections. After the Introduction (Chapter 1) and Methodology (Chapter 2), a brief overview of transitional justice is provided (Chapter 3). Next, Patterns of Abuse (Chapter 4) are explored, presenting evidence of the widespread and systematic violation of human rights by the Burma Army and EAOs through the analysis of 22 years of documentation by the Human Rights Foundation of Monland (HURFOM). These abuses are divided into four main categories: 1) arbitrary arrest, detention, and torture; 2) extrajudicial killings and forced disappearances; 3) rape and other forms of sexual violence; and 4) land, property, and housing (LPH) rights violations. Villager Demands for Justice (Chapter 5) provides the analysis of oral testimony by villagers in Mon State and Mon areas of southeast Burma, attesting to their inability to forget their painful past and their desires for justice. Finally, after the Conclusion (Chapter 6), Recommendations (Chapter 7) for the Burma

government, Burma parliament, EAOs, and the International Community are presented.

"I want to hear that one day the perpetrators will apologize for what they did. We have ordinary heroes who defended people against the oppressive regime around Ye Township. Some died, some have mental and physical problems due to torture, some Mon women were raped, had their land grabbed, family members were separated in order to survive. For those who are suffering, government initiatives should encourage the perpetrators to apologize and acknowledge the responsibility perpetrators hold."

U A---, male, Ye Township, Mon State, (Interviewed December 2016)

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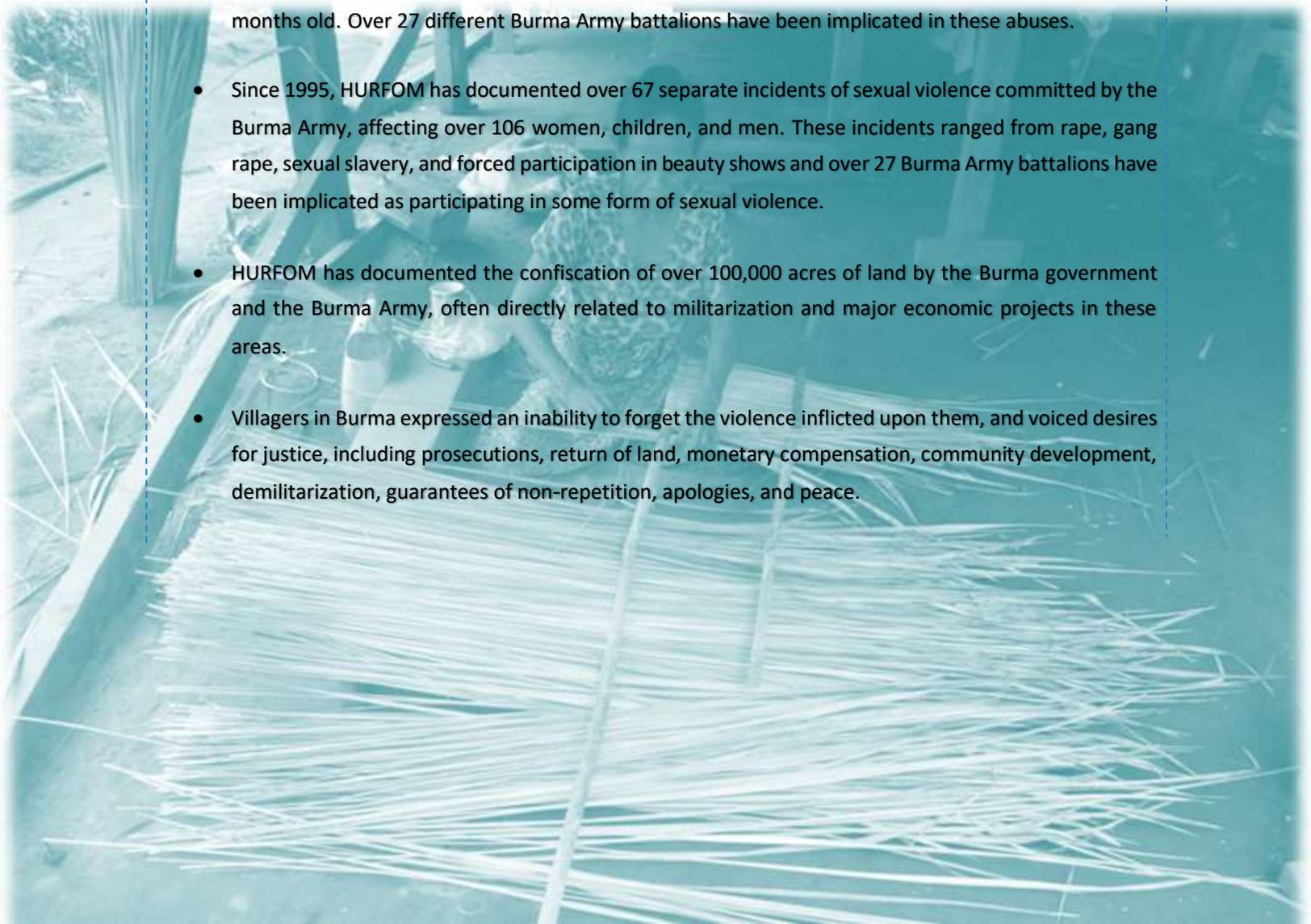
Saw A---, male, Yebyu Township, Tenasserim Division, (Interviewed September 2017)

"The main thing is that we respect and treat each other as humans, not destroy other lives like this. Now we should ensure guarantees of non-reoccurrence and then we'll get peace."

U S---, male, Yebyu Township, Tenasserim Division, (Interviewed December 2016)

KEY FINDINGS

- Between 1995 and 2017, the Human Rights Foundation of Monland (HURFOM) has documented the widespread and systematic violation of human rights by the Burma Army and Ethnic Armed Organizations (EAOs) in Mon State and Mon areas of southeast Burma. The majority of the perpetrators of these abuses have been able to act with impunity and have not been held accountable for their actions.
- During the reporting period, HURFOM has documented a minimum of 108 incidents of arbitrary arrest, detention, or torture by Burma Army soldiers and EAOs, affecting well over 3,300 individuals. Over 30 Burma Army battalions have been implicated in these abuses, the majority of which occurred in Ye Township, Mon State and Yebyu Township, Tenasserim Division.
- From 1995 until 2017, HURFOM has documented over 57 incidents of extrajudicial killings by the Burma Army and EAOs, for a minimum of 190 deaths of villagers. While the majority of victims were male, HURFOM also documented the killing of women as well as children, some as young as ten months old. Over 27 different Burma Army battalions have been implicated in these abuses.
- Since 1995, HURFOM has documented over 67 separate incidents of sexual violence committed by the Burma Army, affecting over 106 women, children, and men. These incidents ranged from rape, gang rape, sexual slavery, and forced participation in beauty shows and over 27 Burma Army battalions have been implicated as participating in some form of sexual violence.
- HURFOM has documented the confiscation of over 100,000 acres of land by the Burma government and the Burma Army, often directly related to militarization and major economic projects in these areas.
- Villagers in Burma expressed an inability to forget the violence inflicted upon them, and voiced desires for justice, including prosecutions, return of land, monetary compensation, community development, demilitarization, guarantees of non-repetition, apologies, and peace.



Villager Demands for Justice

“We don’t want to be rich, we just want to be normal as before.”

U Au---, male, Yebyu Township, Tenasserim Division, (Interviewed March 2017)

In addition to providing evidence of the widespread and systematic violation of human rights by the Burma Army and EAOs in Mon State and Mon areas of southeast Burma over the last several decades, this report aims to present the voices of villagers and their desires for justice. In doing so, it counters the Burma government’s narrative that national reconciliation is possible without confronting its violent past and shows that transitional justice is a necessary step for the country to build trust and heal.

The testimony provided in this chapter shows that the majority of villagers interviewed cannot forget their past and do desire some form of justice for abuses endured over the past decades. Survivors of arbitrary arrest, detention and torture; families of victims of extrajudicial killings; survivors of sexual violence; and those who have experienced LPH violations clearly expressed a desire for justice, national reconciliation, and peace.

While only a handful called for prosecutions of perpetrators, villagers predominantly called for reparations in the form of community development, monetary compensation, guarantees of non-repetition, and in many cases apologies. In addition, villagers expressed a desire to live in peace and to see the demilitarization of their townships.

ARBITRARY ARREST, DETENTION, AND TORTURE

The majority of individuals interviewed expressed a desire that the Burma Army acknowledge the wrong done to them and provide compensation in response. While monetary compensation was mentioned, most individuals expressed a desire for compensation in the form of community development, such as roads, electricity, hospitals, and schools.

“It is good if the government provides for roads, bridges, health, and education in our area. The government could do that kind of development in our village instead of paying compensation, as they were the ones who committed wrongs against the local people.”

Saw A---, male, Yebyu Township, Tenasserim Division, (Interviewed September 2017)

The second most requested form of justice expressed by survivors of arbitrary arrest, detention, and torture was acknowledgement of wrongs committed by the Burma Army and apologies. Public apologies can serve as a symbolic form reparations and in tandem with compensation can be a powerful start in addressing past wrongs and a first step in the healing process for countries affected by widespread human rights violations.

“If we look back on my case, I was tortured by the military for doing nothing wrong...they tortured me without any connection with [Mon] splinter groups. That is their wrong and they should apologize for what they have done to us.”

Nai T---, male, Yebyu Township, Tenasserim Division, (Interviewed September 2017)

In addition to public apologies and reparations, survivors of arbitrary arrest, detention, and torture, expressed a desire to live in peace, including the demilitarization of their areas and guarantees of non-repetition by the Burma Army. Reparations should not be looked at in terms of only compensation, but should also contain trust-building processes, including guarantees of non-repetition.

“Our village has too many needs. We want roads, electricity, and telecommunications. We want to be away from the authoritarian regime. We want peace in the future. We don’t want anyone to experience what we had to face in the past.”

Naw S---, female, Yebyu Township, Tenasserim Division, (Interviewed September 2017)

EXTRAJUDICIAL KILLINGS AND FORCED DISAPPEARANCES

For families and friends of individuals killed by the Burma Army or EAOs, many called for justice in the form of prosecutions and an end to impunity for those who committed extrajudicial killings in Mon State and Mon areas of southeast Burma.

“I want to see the perpetrator punished for what he did to my late husband. Even though it’s his karma in a religious view, at the same time, it’s a crime in the legal sense. So the perpetrator must be punished for what he has done.”

Daw A---, female, Ye Township, Mon State (Interviewed February 2017)

In contrast to survivors of arbitrary arrest, detention, and torture, family and friends of those who were summarily executed by the Burma Army and EAOs were more likely to state that compensation was an inadequate form of justice, as it could never return the situation to what it was before.

“Any compensation can’t bring back the original situation. So the government can’t satisfy people’s desire. The Burmese government have done as they like in the ethnic regions for a long time. The military has a mindset that they can do anything [in the ethnic areas]. Even though the government can lead rural development, they should apologize for what they have done to the villagers. They should officially tell where the missing persons are. They are the responsible ones.”

Saw L---, male, Ye Township, Mon State (Interviewed September 2017)

For families of victims of forced disappearance, truth about what happened to family members was a common theme emerging from the interviews. These expressions were often followed-up with calls for guarantees of non-repetition, demilitarization, and peace in their areas.

“I will be satisfied when villagers no longer face confiscation of their property, land grabbing, forced labor, and extrajudicial killings in these areas in the future. The government has to give its

guarantee. We are working and living honestly and peacefully and I am certain there are no rebels [EAOs] in this area. Only the military threatens the villagers with guns. If they do not commit these things again, the region will be peaceful. This totally depends on them [Burma Army]."

U Ng---, male, Yebyu Township, Tenasserim Division, (Interviewed December 2016)

RAPE AND OTHER FORMS OF SEXUAL VIOLENCE

In speaking with survivors of sexual violence and their communities, HURFOM has documented not only the various ways in which individuals in Mon State and Mon areas of southeast Burma have sought justice for sexual violence committed by the Burma Army, but also collective efforts to seek justice on behalf of a victim and communities. These actions are a direct challenge to the impunity with which perpetrators of sexual violence act and are a clear statement that the Burma government must address past violations.

While the majority of complaints to either the NMSP or Burma Army battalions by survivors of sexual violence documented by HURFOM were either ignored or settled discreetly through compensation, in several cases survivors have continued to demand justice despite repeated attempts by military officials to intimidate them.

For example, in December 2013, a 13-year-old girl was raped by a soldier from IB #31 in Ye Township, Mon State:

"If she were to refuse this settlement, the military personnel threatened that Mi R--- and her family would be expelled from living in the village. Mi R--- refused this settlement and personally requested that her parents not accept anything the military would offer to settle the case easily. The military threatened the victim and her family to leave the village if they still had tension with the battalion. However, the girl kept saying that Than Win did assault her. The military has also [pressured] village administrators to settle the case."

Incident Report submitted by HURFOM Field Reporter

In speaking with survivors of sexual violence and their families, they were much more likely to call for prosecutions of perpetrators and legal redress for their actions. For example, in August 2017, six fishermen were arbitrarily arrested and tortured, including being forced to watch pornography and perform degrading sex acts in front of Navy Unit #43 soldiers.

"The criminals must be punished in accordance with the laws. We don't have money and power so even though we have filed a lawsuit, [the authorities] haven't followed up with us for an investigation...I don't want to bear any grudge against them. I want to live peacefully. [But] if possible, I will have satisfaction when the perpetrators are punished."

U M---, male, Yebyu Township, Tenasserim Division, (Interviewed September 2017)

LAND, PROPERTY, AND HOUSING RIGHTS VIOLATIONS

Since the establishment of the nominally civilian government and enactment of reforms by President Thein Sein in 2011, HURFOM has documented a surge of civil action by farmers in Mon State and Mon areas of southeast Burma taking a stand against unjust land acquisition by demanding restitution for past confiscations, calling for fair treatment in on-going land disputes, and moving to secure rights over their land in the future.

In speaking with individuals and communities affected by LPH violations, the vast majority of interviewees expressed a desire for the return of their confiscated land.

"Today we still want to get back our lands. It doesn't mean we are greedy. Everybody wants to get their property back when they don't have any job to work on for their family. Although we can't get back all of it, we need to continue to [try] as long as we are alive. My family wants to get back the land we lost and this is our demand anytime we get the chance."

Daw T---, female, Yebyu Township, Tenasserim Division, (Interviewed August 2017)

Villagers in Mon State and Mon areas of southeast Burma have a strong connection to their land which has been handed down generation by generation. Villagers repeatedly spoke of their desire to regain access to their ancestral lands to pass it on to their children.

"I want to stay together with my relatives on the land that is my family's legacy. We

are oppressed. If we receive compensation to rebuild our situation as before we will be satisfied."

U Au---, male, Yebyu Township, Tenasserim Division, (Interviewed March 2017)

As with survivors of arbitrary arrest, detention, and torture, victims of sexual violence, and families and friends of victims of extrajudicial killings, individuals and communities subject to LPH violations repeatedly called for rule of law and guarantees of non-repetition.

"Other people should learn a lesson from our loss. Please discuss with and help each other. There was no one to share their experience with us, so we could do nothing for our loss. If you don't have a [land] certificate or receipt, please apply for it. Please create a network to avoid the loss. Please make an attempt to stop the loss in other places."

Mi C---, female, Ye Township, Mon State, (Interviewed July 2017)



RECOMMENDATIONS

HURFOM RECOMMENDS THE BURMA GOVERNMENT TO:

- Immediately cease all human rights violations by government and military bodies.
- Publicly acknowledge and apologize for their role in past and ongoing human rights violations, encouraging trust building between communities and perpetrators through guarantees of non-repetition.
- Implement independent and non-judicial truth-seeking commissions with the aim of documenting and verifying facts relating to widespread and systematic violations of human rights in Mon State and Mon areas of southeast Burma.
- Develop and implement an adequate reparations policy to restore, compensate, and rehabilitate victims of past and ongoing human rights violations.
- Eliminate impunity for the military and past regimes, ensuring all perpetrators of human rights violations, regardless of rank, are held retroactively accountable for their actions.
- Implement poverty reduction programs and community development programs in consultation with local communities.
- Facilitate the safe, voluntary return of Internally Displaced Persons (IDPs) and refugees.
- Ensure space for civil society and survivors of human rights abuses in the peace process.
- Ensure any and all peace accords with EAOs reject impunity for past violations and hold individuals accountable for their actions.
- Eliminate all forms of corruption in administrative and judicial systems and ensure adherence to rule of law.
- Reduce the number of military battalions and bases in southeast Burma to engender trust and adherence to rule of law.

HURFOM RECOMMENDS THE BURMA PARLIAMENT TO:

- Abolish provisions in the 2008 constitution which allow amnesty for past actions by members of the military and government.
- Abolish oppressive laws such as 66(d) of the Telecommunications Law and 17(1) of the Unlawful Associations Act used to condemn and persecute critics of the current administration and military.

HURFOM RECOMMENDS THE MYANMAR HUMAN RIGHTS COMMISSION TO:

- Operate in accordance with international standards as set out in the Paris Principles and relevant human rights treaties in order to effectively address past and ongoing human rights violations.

HURFOM RECOMMENDS EAOS TO:

- Publicly acknowledge responsibility and apologize for participation in past human rights violations.
- Eliminate impunity, ensuring all perpetrators of human rights violations, regardless of rank, are held accountable for their actions.
- Allow CSOs/CBOs to operate independently in their controlled areas.
- Facilitate the safe, voluntary return of IDPs and refugees.

HURFOM RECOMMENDS THE INTERNATIONAL COMMUNITY TO:

- Continue to pressure the Burma government to acknowledge and address past human rights violations and cease all ongoing human rights violations.
- Pressure the Burma government to enact truth-seeking processes and reparation policies.
- Continue to support IDP and refugee communities until they voluntarily repatriate.

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"Their families face many difficulties, as do the other villagers in other villages too...Nobody can rebuild their life as before if their suffering has been so great. That's why the victims who do not want to accept compensation from the perpetrators can't easily forget these incidents. As for me, the matter is finished. I accept that I'm one of the lucky ones who weren't killed as the others were."

Nai O---, male, Yebyu Township, Tenasserim Division, (Interviewed December 2016)

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