



**NETWORK FOR HUMAN RIGHTS
DOCUMENTATION - BURMA**



2019

January - June

HUMAN RIGHTS SITUATION IN BURMA

Seeking truth and justice for a peaceful democratic transition in Burma

office@nd-burma.org

www.nd-burma.org

*Cover : 15-year-old Maung Man Htoo was struck and injured by
Burma Army Shelling in Phar Won Chaung village, Kyauk Taw
Township, Rakhine State. (AASYC)*

GPO 315, Chiang Mai 50000, Thailand
+66 (0) 53 304 404
office@nd-burma.org
www.nd-burma.org

ACKNOWLEDGEMENTS

ND-Burma is extremely grateful to all interviewees for their courage in speaking the truth. ND-Burma is also grateful to its member organisations and their fieldworkers who continue to gather invaluable testimonies at their own great personal risk.

In addition, we would like to express our gratitude to the numerous people and institutions that provided critical support and input for the production of this report. We would also like to thank our donors for their generous financial support, without which this report would not be possible.

ABOUT US

ND-Burma is a network that consists of 13 member organisations which 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 six Full Members and seven 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

Affiliate Members:

1. All Arakan Students’ and Youths’ Congress
2. Association Human Rights Defenders and Promoters
3. Chin Human Rights Organization
4. East Bago – Former Political Prisoners Network
5. Pa-O Youth Organization
6. Progressive Voice
7. Future Light Center

METHODOLOGY

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 trainings (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,

HUMAN RIGHTS SITUATION IN BURMA

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. However, 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, January to June 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

- ND-Burma documented 239 cases of human rights violations across 7 states and regions during January–June 2019 (see Appendix 3), all of which occurred during 2019. In comparison, for the entire reporting period of 2018, ND-Burma documented a total of 52 cases—meaning the first 6 months of 2019 saw a 360% increase in the number of documented human rights violations over the entire 2018 reporting period.
- Deviating from the January to December 2018 report, the conflict in Rakhine State was responsible for the majority of human rights violations documented by ND-Burma member organisations, where 70% of violations (169 cases) occurred, and the skirmishes in Kachin and northern Shan states were responsible for 10 cases and 42 cases, respectively.
- The majority of the cases involved indiscriminate gunfire, shelling and aerial bombardments, often leading to deaths and injuries; extrajudicial killings; injuries and deaths due to landmines; inhumane and degrading treatment; and arbitrary arrest, detention and forced disappearance.
- The majority of human rights violations were committed by government security forces (150 cases) including torture and inhumane and degrading treatment; extrajudicial killings; arbitrary arrest, detention and forced disappearance; and indiscriminate shelling and bombardments from air strikes. ND-Burma member organisations also documented human rights violations committed by EAOs (22 cases), including arbitrary arrest, detention and forced disappearance, inhumane and degrading treatment, forced recruitment, and deaths as a result of fighting among armed groups in civilian areas. In 32 cases, unknown perpetrators were responsible for deaths and injuries of individuals due to landmines.
- ND-Burma’s documentation shows that there was a substantial increase in human rights violations during the first 6 months of 2019, largely due to the Burma Army’s use of indiscriminate gunfire, shelling, and airstrikes near civilian settlements, and particularly in Rakhine and Shan states. As always, civilians in conflict zones in Burma continued to bear the brunt of the conflict

HUMAN RIGHTS SITUATION IN BURMA

and were subject to numerous human rights violations by both government security forces and EAOs. Now, more than ever, an urgent end to armed conflict and a government-sponsored reparations programme are essential to address both the impact of human rights violations and to end impunity for such abuses.

OVERVIEW

CONFLICT AND DISPLACEMENT:

From January to June 2019, there were 156 documented armed clashes—a 64% increase in the number of incidents recorded over the previous six-month reporting period.¹ The majority of these clashes occurred in Rakhine (and Chin) State between the Arakan Army (AA) and the Burma Army, totalling 98 documented clashes and averaging 16 clashes per month. In the north and northeast of the country, despite the Burma Army’s declaration of a unilateral ceasefire, 37 clashes were documented between the Burma Army and Ethnic Armed Organisations (EAOs) in Kachin and northern Shan states. In addition, 11 clashes were documented amongst EAOs in the region, including between the Restoration Council of Shan State/Shan State Army-South (RCSS) and the Shan State Progress Party/Shan State Army (SSPP) and the RCSS and Ta’ang National Liberation Army (TNLA).

The ongoing armed conflict in the country resulted in the estimated displacement of more than 27,000 civilians during the first six months of 2019.² According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), over 10,500 individuals were displaced in northern Shan State alone between January and the beginning of April.³ As of the end of June, there is an estimated 106,647 internally displaced persons (IDPs) in 169 IDP sites in Kachin and northern Shan states.⁴ In addition, there are an estimated 5,600 persons in Karen State and 129,000 persons in Rakhine State who remain internally displaced due to the armed conflict.⁵

In March, Bangladesh announced its controversial plan to start relocating thousands of Rohingya

-
1. Data collated from Myanmar Peace Monitor Dashboards, January to June 2019, and from Karen Human Rights Group. Note that the total number of clashes taken from the Myanmar Peace Monitor was the sum of the clashes documented in each individual monthly dashboard and not the total number of clashes provided for each month.
 2. Data collated from Myanmar Peace Monitor Dashboards.
 3. See, Myanmar: New Displacement in Shan State (1 Jan to 9 Apr 2019), OCHA, 22 April 2019.
 4. OCHA, Myanmar: IDP Sites in Kachin and Northern Shan States (as of 30 June 2019), 18 July 2019.
 5. OCHA, About OCHA Myanmar, accessed 8 August 2019.

refugees to a remote island in the Bay of Bengal beginning in April.⁶ The island is considered prone to flooding during extreme weather events, and some have warned this could create a “new crisis” for the Rohingya.

NORTHERN CEASEFIRE

In late December 2018, the Burmese military announced a unilateral four-month ceasefire in order to progress peace talks.⁷ However, ongoing clashes between the Burma Army and 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 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 current ceasefire, which, again, excludes the AA, is set to conclude on 31 August.

Yet, despite this declaration of a ceasefire by the Burma Army in all conflict areas in the north and northeast of the country, armed clashes with EAOs continued to occur and new Tatmadaw military camps were established in the region. Indiscriminate gunfire, artillery attacks and aerial bombardments by Burma Army soldiers against EAO positions over the initial four-month ceasefire led to villager deaths, injuries, displacement and increasing militarisation by Burma Army forces.

6. Frontier Myanmar, 13 March 2019, “Bangladesh to Move Rohingya to Island Next Month: Minister.”

7. The Irrawaddy, 21 December 2018, “Tatmadaw Announces Four-Month Ceasefire in North, Northeast.”

KACHIN AND NORTHERN SHAN STATES

The reporting period from January to June 2019 saw continued conflict in Kachin and northern Shan states. Multiple instances of fighting between the Burma Army and the KIA, TNLA and the SSPP, among others, in Kachin and northern Shan states were documented throughout the reporting period, with clashes intensifying in March and April. In addition, February and March saw several armed skirmishes between the RCSS and Northern Alliance members in Shan State.

The ongoing conflict led to the displacement of thousands of civilians, particularly in Shan State. In February, over 700 civilians from three villages in Shan State were displaced after hostilities erupted between the SSPP/SSA and the RCSS/SSA; ongoing operations by these armed groups have left villagers unsure when it will be safe to return and in need of basic supplies (Case 1).⁸ In March, five hundred villagers were displaced after the Burma Army conducted airstrikes using helicopter gunships on an SSPP/SSA camp near Hsipaw Township, Shan State⁹ and another 200 were displaced after government forces clashed with SSPP/SSA and TNLA soldiers in Namtu Township, Shan State.¹⁰

Civilians in these areas continued to bear the brunt of the conflict, with clashes often situated nearby or in villager settlements, and ND-Burma member organisations documented numerous human rights violations against civilians. In April, fighting between the Burma Army and the TNLA in Namsaye village, Namkham Township, Shan State, led to the destruction of housing and the arbitrary arrest of nine villagers by Tatmadaw forces, who then beat the detainees on suspicion of supporting TNLA soldiers (Case 2). In May, while working on a tea farm, a 27-year-old woman was raped at gunpoint by soldiers from Burma Army Light Infantry Battalions (LIBs) #258, #255, and #252—battalions operating and stationed nearby Hu Khin village in Namhsan Township, northern Shan State (Case 3).¹¹ The case was reported to the local police, and an investigation is being conducted.

Landmines continued to be a hazard for civilians, causing death and injury for those collecting resources in forest areas (Case 4) or tending to their fields (Case 5). In one instance, three villagers were killed

8. TWO, Human Rights Bulletin, 22 February 2019.

9. Network Media Group, 13 March 2019, "Hundreds of Civilians Displaced in Tatmadaw Air Strike on SSPP"

10. Radio Free Asia, 28 March 2019, "More Than 200 Villagers Displaced by Fighting in Myanmar's Northern Shan State."

11. TWO, Human Rights Bulletin, 11 May 2019. See also, The Irrawaddy, 17 May 2019, "Ta'ang Rape Victim Claims Attackers Army Soldiers."

HUMAN RIGHTS SITUATION IN BURMA

and four injured by a landmine blast in late March while working on farmland outside Man Li village, Namtu Township, northern Shan State (Case 5). According to a local leader, “I warned everyone not to go to the jungle. However, we have had to escape from fighting for a long time, and if they do not work, they can’t get food for next year, so they went to work.” In another incident, two children were killed and eight injured when an explosive device detonated while they were playing in Man Pan village, Namkham Township, northern Shan State (Case 16).

In addition to human rights violations against civilians during the ceasefire, ND-Burma organisations have also documented the Burma Army’s increasing presence in the region.¹² Since the beginning of January, 12 new Burma Army camps were established; however, only 11 of those currently remain.¹³ The majority of these newly established military bases are located alongside main roads or gas pipelines and nearby villages, leaving local villagers feeling vulnerable to potential abuses committed by Burma Army soldiers or being caught in the crossfire of skirmishes between the Burma Army and EAOs.

RAKHINE STATE

During the reporting period, the conflict in Rakhine State between the Burma Army and the AA continued following the escalation of conflict in the last quarter of 2018. In January, AA attacks on four police outposts in Buthidaung Township, Rakhine State, left 13 dead and 9 others injured, further exacerbating hostilities. Between January and June, there were 98 documented clashes between the Burma Army and the AA in Rakhine and Chin states.¹⁴

Indiscriminate gunfire, aerial bombardments and artillery attacks by Burma Army forces have led to numerous villager deaths and injuries. In February 2019, Burma Army soldiers indiscriminately fired into Min Phu village, Rathedaung Township, killing a 19-year-old woman and injuring several others,

12. See, Shan Herald News Agency, 7 February 2019, “EAOs: Burma Army Establishes New Military Camps During Unilateral Ceasefire.”

13. The list of camps established according to current information include: Shan State—4 camps in the Mone Se and Ta Moe Nye sub-townships and Kutkai Township (eventually removed), 1 camp in Mine Lone sub-township, 1 camp in Namkham Township, 3 camps in Mantong Township, 1 camp in Mong Mit Township; Mandalay Region—2 camps in Mogok Township.

14. Data collated from Myanmar Peace Monitor Dashboards, January to June 2019.

including a 4-year-old child (Case 6).¹⁵ Four members of the same family were killed in March after Burma Army forces directed a barrage of indiscriminate gunfire and shelling toward Sitaung village, Buthidaung Township, Rakhine State (Case 7). In April, indiscriminate shelling near War Gyi Taung village, Ann Township, Rakhine State, killed a 78-year-old Chin woman, injuring her daughter and leaving local residents reluctant to work on their farms (Case 8).¹⁶

Villagers in Rakhine State have also been subject to arbitrary arrest, detention and torture and extrajudicial killings at the hands of state forces. For example, in February a 17-year-old Arakanese youth was arbitrarily arrested, detained and beaten by Burma Army LIB #539 in Kyauktaw Township (Case 9). Furthermore, in early May, eight civilians were shot dead and six others wounded by Burma Army forces after 275 male villagers were arbitrarily arrested and detained for three days in Kyauktan village, Rathedaung Township (Case 10).

In late May, Amnesty International released a report documenting the Burma Army's (and the AA's) human rights abuses and violations of international humanitarian law in Rakhine State since the escalation of conflict in January 2019.¹⁷ The report draws attention to the Burma Army's use of indiscriminate and unlawful attacks in which civilians were killed and injured, as well as the impunity and lack of accountability for these war crimes, calling on an urgent response from the UN Security Council.

EAO VIOLATIONS

ND-Burma member organisations also documented multiple violations committed by EAOs and militias in addition to those committed by the Burma Army. In mid-February, Pan Say militia soldiers were documented severely beating two elderly villagers in northern Shan State (Case 11);¹⁸ and in April, three villagers from Naung Ann village, Shan State were arbitrarily arrested and tortured by members of the Pan Say militia, one so severely they required hospitalization in Namkham hospital.¹⁹

15. AASYC, Human Rights Bulletin, 20 February 2019 (1/2).

16. CHRO, Human Rights Bulletin, 14 April 2019.

17. Amnesty International, 29 May 2019, "No One Can Protect Us': War Crimes and Abuses in Myanmar's Rakhine State."

18. TWO, Human Rights Bulletin, 24 February 2019.

Another two villagers looking for daily work were also arrested and beaten by this militia; however, they did not receive serious injuries and did not need to be treated at the hospital.

Beginning in March, civilians from several villages in northern Shan State reported the ongoing arbitrary arrest and detention of villagers by the KIA in Kutkai Township (Case 12).²⁰ On 5 March, over 200 villagers from Man Pyein village were arbitrarily arrested and detained by KIA soldiers, and one woman reported being threatened at gunpoint for not complying. In addition to the dozens of Ta'ang villagers arbitrarily detained by KIA forces in Shan State, the RCSS was also documented arbitrarily arresting and forcibly recruiting villagers in Shan State.²¹ One local villager said, "Shan soldiers [RCSS/SSA] are requesting villages to provide two villagers each from the villages. Today is the deadline and the chairman [and secretary] couldn't provide the villagers for them. They [RCSS/SSA] arrested them from their homes and we don't know where they were brought".²²

In late March, 10 TNLA soldiers were documented arbitrarily beating a villager in Loi Sarang village, Kutkai Township (Case 13). The villager was seriously injured and required hospitalization after the incident. In another incident, the body of a villager arrested by TNLA soldiers on drug offences in Man Aung village, Namkham Township, Shan State, was found with rope tied around his neck and visible boot marks and injuries (Case 14).²³ A villager was also shot and killed by a TNLA soldier after he hit a soldier to evade arrest on drug offences in Zel Tone Hom village, Namhsan Township, Shan State.²⁴

ND-Burma member organisations also documented abuses committed against civilians by the AA. In February, AA soldiers arbitrarily arrested 52 Chin villagers in Paletwa Township, Chin State, detaining them in a camp near the border with Bangladesh (Case 15).²⁵ One local villager said, "My wife and six daughters were included when the AA arrested them. I was travelling; I feel very sorry and can't control my mind. They have been arrested for more than four months and I can't contact them, so I'm very worried about my family." As of June 2019, they were still being held by AA troops. In late March, eight employees from Su Htoo San Company were arrested and detained by AA soldiers on suspicion

19. TWO, Human Rights Bulletin, 22 April 2019.

20. TWO, Human Rights Bulletin, 10 March 2019.

21. TSYU, Human Rights Bulletin, 1 March 2019; TWO, Human Rights Bulletin, 28 June 2019; TWO, Human Rights Bulletin, 3 June 2019.

22. TWO, Human Rights Bulletin, 28 June 2019; TWO, Human Rights Bulletin, 3 June 2019.

23. TWO, Human Rights Bulletin, 14 March 2019.

24. TWO, Human Rights Bulletin, 24 March 2019.

25. CHRO, Human Rights Bulletin, 27 May 2019.

of covertly spying for the Burmese military while constructing a section of road in Paletwa Township, Chin State.²⁶

PEACE AND DEMOCRACY:

In February, the Union Parliament voted in favour of forming a committee to draft amendments to the military-drafted 2008 Constitution, which guarantees the military 25% of the seats in parliament.²⁷ The 2008 Constitution is often cited as an impediment to the true transition to democracy in Burma, and the announcement was welcomed by the UN Special Rapporteur on Human Rights in Myanmar, Yanghee Lee,²⁸ as well as a number of local and international organisations that see this as an opportunity to ensure that the right to freedom of expression, media freedom, and access to information are included in the constitution.²⁹ However, other political figures in Burma such as former president U Thein Sein and Senior General Min Aung Hlaing offered their commentary against such reforms, warning of potential political instability.³⁰

The NLD's efforts to draft amendments to the military-drafted 2008 Constitution drew both support and opposition. For example, in April, more than 2,000 civilians in Kachin State's Hpakant Town rallied in support of making changes to the document,³¹ while in Sagaing Region, the Kalay Township National Forces (KTNF)—backed by the Union Solidarity and Development Party (USDP), the National Unity Party, Ma Ba Tha and the Kalay Farmers Association—led a protest of approximately 1,000 people defending the current constitution.³²

In February, the Burma Army held its first talks with the SSPP, asking them to participate in future peace conferences and to adhere to processes conforming to the nation peace accord. However, SSPP representatives requested that, first, all EAOs must be allowed to participate in peace negotiations, as

26. CHRO, Human Rights Bulletin, 9 April 2019.

27. The Irrawaddy, 06 February 2019, "Parliament Approves Committee to Draft Amendments to Constitution."

28. The Myanmar Times, 08 February 2019, "Yanghee Lee Welcomes Move to Amend Charter."

29. Human Rights Watch, 11 April 2019, "Myanmar: Guarantee the Right to Free Expression in the Constitution."

30. The Irrawaddy, 22 February 2019, "In Their Own Words: Warnings against Constitutional Reform."

31. Kachin News Group, 04 April 2019, "Demonstrators in Hpakant Call for Changes to Burma's Constitution."

32. Khonumthung News, 09 April 2019, "Kalay Group Defends Military-Drafted 2008 Constitution."

some have been excluded from such talks due to the fact of ongoing conflict with the Burma Army. Later that month, Northern Alliance members and the government's National Reconciliation and Peace Center met in China to discuss the reinvigoration of the Northern Alliance's participation in the peace process. In May, the SSPP and the RCSS signed a bilateral ceasefire to end the ongoing clashes among the two, particularly in February and March of this year. In March, the Karen National Union (KNU) announced its withdrawal from the Peace Process Steering Team, citing the lack of implementation of needed reforms. However, after negotiations, the KNU agreed to participate until the summit's completion.

FREEDOM OF EXPRESSION AND ASSEMBLY:

During the reporting period, civic space for freedom of expression continued to shrink, as the government continued to stifle freedom of expression through legal harassment toward media organisations, journalists, and civilians.

In particular, independent media and news organisations were targets of threats and defamation and unlawful association lawsuits, particularly for their coverage of the conflict in Rakhine State. In April, a slew of local independent and Burmese-language service international outlets received anonymous death threats from both sides of the conflict online or via phone in relation to their coverage of the ongoing conflict in Rakhine State, including the BBC, RFA, The Irrawaddy and Mizzima.³³ That same month, The Irrawaddy was sued for defamation under Article 66(d) by the Burma Army for its coverage of the conflict in Rakhine State,³⁴ with the case being charged against U Ye Ni, the Burmese-language edition editor. U Aung Min Oo, chief editor of Development Media Group (DMG), a Sittwe-based news organisation, was also sued under Article 17(2) of the Unlawful Associations Act by the Ministry of Home Affairs, reportedly for DMG's coverage of the violence in Rakhine State.³⁵

In addition to media and news organisations, defamation laws have been used to target activists and individuals critical of the government or military, which has substantially increased under the NLD

33. The Irrawaddy, 08 April 2019, "Once Again, Myanmar's Media in the Cross Hairs."

34. The Irrawaddy, 22 April 2019, "Military Sues the Irrawaddy for 'Unfair' Coverage of Rakhine Conflict."

35. The Irrawaddy, 06 May 2019, "Special Branch Sues Editor of Sittwe-Based Publication DMG."



Min Htin Ko Ko Gyi appears in court on charges of defamation | Photo (Thuya Zaw | Frontier)

government.³⁶ In March, the founder of the Human Dignity Film Institute, Min Htin Ko Ko Gyi, was sued under Article 66(d) by the Burma Army after posting content critical of the military on social media, prompting an outpouring of support from filmmakers around the world and widespread concerns for his health.³⁷ In April, five members of a dance troupe were arrested and charged under Article 66(d) and Article 505(a) of the Penal Code for a satirical performance that criticized the military and which was live-streamed over Facebook.³⁸

The reporting period also saw violent police crackdowns on the right to peaceful assembly. In February, after a series of protests against a statue of General Aung San in Loikaw, Karenni State, police forces fired rubber bullets and tear gas after demonstrators tore down barricades, injuring 20 and arresting 54 protesters, charging them under the Peaceful Assembly and Peaceful Procession Law.³⁹ In May, 17 people were wounded when police fired rubber bullets on local residents demonstrating against the construction of a coal-powered cement factory in Pantheingyi Township, Mandalay Division.⁴⁰ A

36. For more information see, <https://www.saynoto66d.info/>.

37. Myanmar Now, 2 April 2019, “Founder of Human Dignity Film Institute Hit with Military Defamation Lawsuit”; Myanmar Now, 26 April 2019, “We Fear for His Life²— Sick Filmmaker Denied Bail Despite Fainting in Courtroom.”

38. Frontier Myanmar, 11 May 2019, “Young Satirists Behind Bars.”

reporter from Channel Mandalay TV news station, among others, was arrested while providing live coverage of the protest and was still being detained as of the end of the reporting period.⁴¹

JUSTICE:

In March, the UN Human Rights Council adopted a resolution on the situation of human rights in Burma at its 40th regular session.⁴² The Council expressed serious and grave concerns over ongoing reports of gender-based and sexual violence against women and children in Rakhine, Kachin and northern Shan states, as well as the ongoing violence and displacement in conflict zones. The Special Rapporteur on the Situation of Human Rights in Myanmar's mandate was extended for another year, and the Burma Government was called upon to resume without delay its cooperation.

The resolution also called for the rapid implementation of the ongoing independent mechanism to collect and preserve evidence of the most serious crimes and violations of international law committed in Burma since 2011, in order to hold perpetrators accountable for their crimes at national, regional or international courts or tribunals, that have or may have jurisdiction in the future, in accordance with international law. In April, Nicholas Koumjian was appointed as the Head of the Independent Investigative Mechanism for Myanmar.⁴³ Established in September 2018 by the UN Human Rights Council, the Mechanism's mandate is to collect and analyse evidence of international crimes committed against Burma's Rohingya population in Rakhine State and other minorities.

In May, the UN Independent International Fact-Finding Mission (IFFM) urged the international community to end all financial and other support for the Burma Army, citing a lack of credible progress in the peace process and support for human rights. The statement came after a 10-day visit to the region,

39. Mon News Agency, 19 February 2019, "Long Identity Dispute in Kayah (Karenni State)"; Reuters, 08 February 2019, "Myanmar Activists Charged After Protesting Independence Hero Statue."

40. The Irrawaddy, 15 May 2019, "17 Injured as Police Break Up Protest Against Cement Factory Project in Mandalay."

41. The Myanmar Times, 18 June 2019, "Five Charges Brought Against Reporter."

42. UN General Assembly, Human Rights Council, Fortieth Session, 25 February to 22 March 2019, A/HRC/40/L.19, "Human Rights Situations that Require the Council's Attention."

43. United Nations, 01 April 2019, SG/A/1869-BIO/5196-HR/5430, "Secretary-General Appoints Nicholas Koumjian of United States Head of Independent Investigative Mechanism for Myanmar."



where the FFM met with experts, refugees and representatives from different ethnic communities in Burma. The FFM's final report to the UN Human Rights Council on human rights violations in Burma by the military and security forces will be submitted in September 2019.

In March, the Burma Army announced the establishment of a military court to investigate its own conduct during its crackdown on the Rohingya population in Rakhine State, which displaced over 700,000 people in late 2017.⁴⁴ The court is composed of a major-general and two colonels who will conduct the investigation. However, in May it was revealed that seven soldiers convicted of killing 10 Rohingya villagers in Rakhine State in 2017 were released by the military from prison early in November 2018. In April 2018, they were sentenced to ten years in jail for the murder of the 10 men, who were subsequently found in a mass grave that two Reuters journalists had been investigating and subsequently sentenced to seven years in prison. All cases were heard in secret military courts. The soldiers served less than one year of their ten-year sentence before being pardoned, drawing sharp criticism from activists and observers.

44. Reuters, 18 March 2019, "Myanmar Military Court to Probe Rohingya Atrocity Allegations."

HUMAN RIGHTS SITUATION IN BURMA

The Myanmar National Human Rights Commission (MNHRC) investigated a number of human rights cases during the reporting period. In April, the MNHRC announced they were investigating the death of U Kyaw Aye, who died while in police custody in Wakema Township, Irrawaddy Region. According to U Kyaw Aye's sister, who filed the complaint with the MNHRC, he had been arrested after an altercation with the village administrator, and his body, which was returned six days later, showed signs of severe beating and torture.⁴⁵ In May, the MNHRC investigated the deaths of eight villagers who died while in custody of the Burma Army in Rathedaung Township, Rakhine State. The eight villagers were among 275 residents from Kyauktan village who had been detained and interrogated on suspicion of having ties to the Arakan Army. The MNHRC's conclusion supported the Burma Army's version of events, leaving local residents unhappy.⁴⁶

The reporting period saw a significant increase in the number of political prisoners. According to ND-Burma member organisation the Assistance Association for Political Prisoners (AAPP), the number of documented political prisoners jumped consecutively every month, except between March and April. Between January and June, there was a 35% increase in the number of political prisoners, from 345 to 466, respectively. As of the end of June, there were 466 total political prisoners, including 34 serving prison sentences, 161 awaiting trial in prison and 236 released on bail. Although April saw the annual presidential pardon release 16,483 prisoners; only five political prisoners were included in those first two rounds of amnesty.⁴⁷ However, a final round of releases were announced in early May, which included the release of high-profile prisoners Reuters journalists Wa Lone and Kyaw Soe Oo, as well as 27 members of EAOs.⁴⁸ Former political prisoners do not receive redress following incarceration and the government has no formal definition of the term 'political prisoner', meaning they are not formally recognised as such.

45. The Irrawaddy, 9 April 2019, "National Human Rights Commission to Probe Irrawaddy Man's Death in Custody"

46. AASYC, Human Rights Bulletin, 02 May 2019; Radio Free Asia, 13 June 2019, "Myanmar Human Rights Commission Backs Army's Story of Kyauktan Shootings."

47. AAPP, April Chronology 2019.

48. The Irrawaddy, 07 May 2019, "Latest Presidential Amnesty Includes Dozens of EAO Members, Accused Associates."

CASE STUDIES

Case 1: Over 730 Villagers Flee Fighting between SSPP/SSA and RCSS/SSA, Namtu Township, Shan State, 19 February 2019 (TWO)

On 19 February 2019, villagers from Man Mai, Lwel Ngin and Par Kam villages in Namtu Township fled to the Man Li monastery to escape fighting between the SSPP/SSA and RCSS/SSA.

More than 731 civilians from 132 households were displaced due to the fighting. As these two EAOs were still operating near these villages, the displaced villagers remained unsure if and when it would be safe to return.

U S—, said,

“Recently, donors have provided food, and this morning, other donors provided bed sheets and blankets. At present, we need personal hygiene items and cooking materials.”

Case 2: Nine Villagers Arrested and Beaten by Light Infantry Division (LID) #88, Namkham Township, Shan State, 22 April 2019 (TWO)

On 22 April 2019, after fighting between the TNLA and Burma Army Light Infantry Battalion (LIB) #10 under the command of LID #88, nine villagers from Namsaye village, Namkham Township were arbitrarily arrested and beaten by Burma Army soldiers.

One villager said,

“Three soldiers from the Tatmadaw were killed in the fighting, then they got angry and arrested the villagers for reporting them to TNLA soldiers who were in the village. The soldiers kicked, beat and threatened the villagers”.

During the fighting between the Burma Army and the TNLA, the Burma Army was deployed in the village and TNLA Soldiers were in the surrounding forest. Two houses were destroyed during the fighting and state military forces are still stationed in the village.

Case 3: 27-Year-Old Woman Raped by Burma Army Soldiers from LIBs #258, #255, and #252, Namhsan Township, Shan State, 10 May 2019 (TWO)

On 10 May 2019, a 27-year-old woman was raped at approximately 2 pm by plain clothed soldiers from LIBs #258, #255, and #252—which operate in this area under the command of LID #101—in Hu Khin village, Namhsan Township, Shan State.

However, only soldiers from LIB #258 were summoned by LID #101 and investigated for their participation; soldiers from LIBs #255 and #252 were not investigated. This repeated pattern of turning a blind eye to other battalions involved in human rights abuses can make it difficult to determine which battalions are responsible for which violation. But in this case, LIBs #258, #255 and #252 were all responsible.

After the incident, the woman returned to the village and informed the village head. In turn, the village head complained to the commanders of the Tatmadaw battalions stationed nearby. They responded that they would investigate their soldiers first; however, they claimed no responsibility for the case.

A complaint letter was later submitted to the Namhsan police station on 14 May 2019, and a police investigation is underway.

Case 4: Civilian Injured by Landmine, Mogaung Township, Kachin State, 3 March 2019 (KWAT)

On 03 March 2019, a civilian was seriously injured after stepping on a landmine while searching for wild cane in the forest surrounding the IDP camp where she was residing.

“Around 3:00 pm, when we were carrying the cane back, I stepped on a mine under the bamboo trees in Jan Kha stream. My friends brought me home. The next day my left foot was amputated, then, according to the doctor, we were allowed to go home...Now I’m too scared to search for wild cane and don’t want to work anymore.”

Her husband added,

“[On the way to the hospital], soldiers from the Tatmadaw at Nyaung Taw questioned my wife and took photos. We went to the hospital in Namtee, however, the doctor wasn’t there, so we went to Myitkyina hospital by ambulance.”

Case 5: Three Villagers Killed and Four Injured in Landmine Blast, Man Li village, Namtu Township, Shan State, 30 March 2019 (TWO)

On 30 March 2019, around 5 am, three villagers were killed and four injured by a landmine blast while working on farmland outside Man Li village, Namtu Township, northern Shan State.

According to a Man Li villager,

“They went to the farm to work and stepped on a mine near the hut. I warned everyone not to go to the jungle. However, we have had to escape from fighting for a long time, and if they do not work, they can’t get food for next year, so they went to work.”

Two of the four injured villagers were in critical condition and all were sent to Hispaw hospital. Ko A— (34), Lway B— (14) and Mai C— (15) were killed. Lway D— (18), Dae E— (42), Dae F— (45) and Lway G— (15) were injured.

Case 6: One Killed and One Injured from Indiscriminate Gunfire by the Burma Army, Min Phu village, Rathedaung Township, Rakhine State, 20 February 2019 (AASYC)



On 20 February 2019, Burma Army forces indiscriminately fired their guns into Min Phu village, Rathedaung Township, Rakhine State. Ma Ye Ye Soe, 19 years old, was struck in the head by a bullet and killed. Ma April Soe, 4 years old, was grazed by a bullet and received a head wound.

On 20 February 2019, Ma Ye Ye Soe, 19 years old, was killed by indiscriminate gunfire into Min Phu village, Rathedaung Township, Rakhine State by the Burma army. (AASYC)

Case 7: Four Family Members Killed by Indiscriminate Shelling and Gunfire by Burma Army, Sitaung village, Buthidaung Township, Rakhine State, 21 March 2019 (AASYC)



On 21 March 2019, four members of the same family were killed due to the indiscriminate shelling and gunfire by Burma Army forces toward Sitaung village, Buthidaung Township, Rakhine State. Among those killed were U Maung Aye Htun (50) and his wife Daw Than Nyunt (49), Ko Myat Khyae Thein (21), Maung Aung Than Htay (16), and another woman nearby.

On 21 March 2019, indiscriminate gunfire and shelling by Burma Army forces in Sitaung village, Buthidaung Township, Rakhine State killed 4 members of the same family. (AASYC)

Case 8: 78-year-old Chin Woman Dies After Burma Army Indiscriminately Shelled Civilian Residences with Heavy Artillery, Ann Township, Rakhine State, 12 April 2019 (CHRO)

On 12 April 2019, the Burma Army indiscriminately shelled two houses situated close to War Gyi Taung village, Ann Township, Rakhine State, leaving one person dead and one injured. During the bombardment, 78-year-old Daw Pa Don died and her daughter, 40-year-old Daw Pa Mai, was injured. The artillery, under the command of the Western Regional Command, opened fire on the houses between 7 pm and 9 pm, and three mortars were fired.

According to one source:

“The incident took place at a farm, located three miles from the village. There were six people from two families that lived there; they had lived there for many years. The first two blasts missed the houses, and while the family was preparing to flee, a third shell exploded close to the two houses, killing the elderly lady instantly.”

Since the incident took place, the Tatmadaw claimed that 20 AA soldiers were seen close to the area where the houses were situated which is why the order was given to mortar the houses which were occupied by civilian families. The Tatmadaw paid 100,000 MMK (approx. 65 USD) in compensation to the family of Daw Pa Don and the Ann Township General Administrative Officer delivered 50,000 MMK (approx. 32 USD) to Daw Pa Mai at Ann General Hospital. After the incident, locals are reluctant to work on their farms, while some have already chosen to flee to Ann Town for safety.

Case 9: 17-Year-Old Tortured by LIB #539, Kyauktaw City, Kyauktaw Township, Rakhine State, 15 February 2019 (AASYC)



On 1 April 2019, 15-year-old Maung Man Htoo was struck and injured by the Burma army's indiscriminate shelling in Phar Won Chaung village, Kyauktaw Township, Rakhine State. (AASYC)

On 21 February 2019, an Arakanese youth named Maung Zaw Naing Naing Htay, 17 years old, was tortured by Burma Army soldiers. Upon returning home after fueling his motorcycle at a filling station located on the outskirts of Kyauktaw city, he was arbitrary detained by Burma Army LIB #539 in front of the LIB #375 camp sometime between 4 and 5 pm. He was taken to LIB #539's camp where he was beaten. The army released him later that night. Since he was released, he cannot speak properly and suffers from psychological trauma. He was taken to Yangon for treatment by a local social organisation.

Case 10: Eight Civilians Killed and Six Injured by Burma Army, Kyauktan village, Rathedaung Township, Rakhine State, 2 May 2019 (AASYC)

On 2 May, eight civilians were shot dead and six were injured by the Burma Army in Kyauktan village, Rathedaung Township, Rakhine State. Of the eight, six were killed instantly and two later died in hospital due to the severity of their wounds.

Three days previously, the Tatmadaw had summoned a total of 275 male villagers above the age of 15 to the village school for interrogation on suspicion of having links to the AA. During the interrogation, all the male villagers were detained at the village school for three days.

The deceased persons are: 1) U Than Khae Aung son of U Oo Shwe Thar; 2) U Zaw Lat son of U Nyo Bu; 3) U Maung Than Oo; 4) U Khamwi Chay son of U Tun Chay; 5) U Aung Lurn Kyaw (38); 6) U Twan Shwe Won; 7) U Maung Win; 8) Maung Zaw Linn (32).

Case 11: Pan Say Militia Beat Two Elderly Villagers, Naung Ann village, Kutkai Township, northern Shan State, 15 February 2019 (TWO)

During the afternoon of 15 February 2019, Pan Say militia members tortured two elderly villagers from Naung Ann village, Shan State. While looking for firewood for the full moon day Taboedwe according to Ta'ang tradition, two villagers were beaten by Pan Say members after being questioned.

“One elder, who is over 60 and deaf, went out of the village and met with the Pan Say militia. They asked him about Palaung soldiers, but he can't hear well, so he was beaten by the militia,” said a local leader. When another villager arrived at the scene via motorbike, he was also beaten before he could ask or answer any questions.

Case 12: KIA Arbitrarily Arrested Local Villagers, Kutkai Township, Shan State, March 2019 (TWO)

Beginning in early March 2019, the KIA arbitrarily arrested and detained hundreds of civilians from Pan Ku, Naung Khun, Man Tone and other villages in Kutkai Township, northern Shan State.

Eleven villagers from Naung Khun, Pan Khu and Man Tone were arrested on 1 March and over 200 villagers from Man Pyein village were arrested on 5 March.

One female villager who was released said,

“Kachin soldiers came to my house and told us to meet and talk with their commander, when I refused, they grabbed me.”

When one female villager protested her arrest by telling KIA soldiers that they did not have the authority to arrest villagers and that any issues they had to discuss should be done so through the village head, she was threatened at gunpoint.

On 5 March, over 200 villagers working on sugarcane farms near Man Pyein village were arbitrarily arrested; however, the elderly and female detainees were shortly released, while the majority of the men were still detained.

Some media outlets have reported that these incidents were part of a collaboration between the KIA and TNLA; although, it is still unclear if the TNLA were involved. However, it is assumed that the later release of the villagers was through the TNLA's involvement as an intermediary.

Case 13: Villager Arbitrarily Beaten and Seriously Injured by TNLA Soldiers, Kutkai Township, Shan State, 24 March 2019 (TWO)

On 24 March 2019, U M—, from Lway Sarang village, Kutkai Township, Muse District, was beaten without reason by Tar Nam Khaung and his soldiers from the TNLA. He was seriously injured and required hospitalization after the incident.

His sister said,

“Around 10 pm, TNLA soldiers came from Namkham to our village. They argued with the car drivers, so my brother watched them because they were being too noisy. Then, TNLA soldiers asked, ‘Why are you watching?’, and beat him. Many [soldiers] hit him in the stomach with their guns. A Myat [TNLA soldier] stepped on my brother’s stomach, beat him on his back and head. While they were beating my brother, he was unconscious, and stayed so from 10 pm until 2 am in the morning”.

Approximately 10 TNLA soldiers were involved in his beating. On 30 March 2019, TNLA soldiers operating in this area came to U M— and his family and offered to give 450,000 kyat (approx. 296 USD) for assistance with his medical costs; however, they

have only provided 200,000 kyat (approx. 131 USD) and said they would give the rest in the next four or five days. They have not paid yet.

Case 14: Villager Found Dead After Arrest by TNLA Soldiers, Man Aung village, Namkham Township, Shan State, 8 March 2019 (TWO)

On 8 March 2019, Mai N— from Man Aung village, Namkham Township was arrested by TNLA soldiers, led by Tar Nam Po, on suspected possession of drugs. Around noon on 10 March, a villager from Man Aung village found the body of Mai N— between Pha Dan and Man Aung village, after which he brought the body back to the village and informed the family.

According to a Man Aung villager,

“Mai N— was arrested on a drug [opium] charge and brought to Pha Dan administrative office by TNLA soldiers. When they [TNLA] heard that Burmese soldiers would be entering the village shortly, they said they left Mai N— near the office and they don’t know how he was killed.”

The body of Mai N— was found with rope tied around his neck and he had evidently been beaten, with visible boot marks on his body and injuries on his back.

Case 15: 52 Villagers Beat, Arbitrarily Arrested and Detained by AA, Kin Ta Lin village, Paletwa Township, Chin State, 2 February 2019 (CHRO)

On 2 February 2019, AA troops entered Kin Ta Lin village, Paletwa Township, Chin State, and arbitrarily arrested 54 Chin villagers, detaining 52 of them in a camp near the Bangladesh border.

When AA troops arrived in the village, they announced that Tatmadaw troops would

soon launch an air strike, so villagers must follow them. However, the villagers refused to go. The AA soldiers beat the village administrator and threatened the villagers that they would be beaten as well if they refused to follow. Then, they arrested 54 villagers and took them to the Bangladesh border; two villagers managed to escape along the way.

Family members of the missing 52 villagers are worried, as they have been missing now for more than four months. One villager said, *“My wife and six daughters were included when the AA arrested them. I was travelling; I feel very sorry and can’t control my mind. They have been arrested for more than four months and I can’t contact them, so I’m very worried about my family.”* According to information gathered, the 52 villagers are being detained at an AA camp near the Bangladesh border and they are not allowed to go outside; however, Rakhine villagers who are detained can go freely. Of the 52 villagers, 33 are women and 17 are children.

Case 16: Two Children Killed and 8 Injured by a Bomb Blast, Man Pan village, Namkham Township, Shan State, 26 April 2019 (TWO)

On 26 April 2019, 10 children from Man Pan village, Namkham Township, northern Shan State, were playing in the village near a car tire, when a bomb blast occurred around 6:30 pm. Two were killed and eight were hospitalized at Namkham hospital, some in critical condition.

One villager said,

“Adults were not there, while the children were playing there was a bomb blast. We don’t know whether the children brought the bomb from somewhere or if the bomb was already there.”

Children in the village frequently play in this area and villagers have not previously found any explosive devices nearby. It is unclear where the bomb was originally located and which security force it had belonged to, although six months prior, there were armed clashes between the Tatmadaw and TNLA nearby.

CONCLUSION

During the reporting period, ND-Burma documented a substantial and significant increase in the number of human rights violations in the first six months of 2019 over the entire 2018 reporting period—a 360% increase. This was largely the consequence of the intensification of the conflict in Rakhine State, which saw a large number of skirmishes between the AA and Burma Army. In addition, despite the military's declaration of a unilateral ceasefire in the north and northeast of the country, fighting continued to take place between the Burma Army and a number of EAOs in Kachin and northern Shan states. Moreover, conflict among EAOs, particularly in northern Shan State, was also documented by ND-Burma member organisations.

Due to the intense fighting between the military and EAOs over the reporting period, the large majority of the clashes documented in Rakhine State, led to a significant number of conflict-related human rights violations perpetrated against civilians. The majority were perpetrated by government security forces and involved the use of indiscriminate gunfire, shelling and airstrikes which often led to injuries and deaths of civilians. Conflict and military operations near villager settlements has led to the displacement of thousands during the reporting period, and many IDPs are unsure when it will be safe to return.

Ethnic armed organisations also committed human rights violations against civilians during the reporting period. This included arbitrary arrest and detention, forced recruitment, inhumane and degrading treatment, extrajudicial killings as well as injuries and displacement due to conflict near civilian settlements. In particular, EAOs have been reported to arbitrarily detain villagers, or even entire villages, suspected of having ties with other EAOs, subjecting them to torture and even forcibly disappearing them.

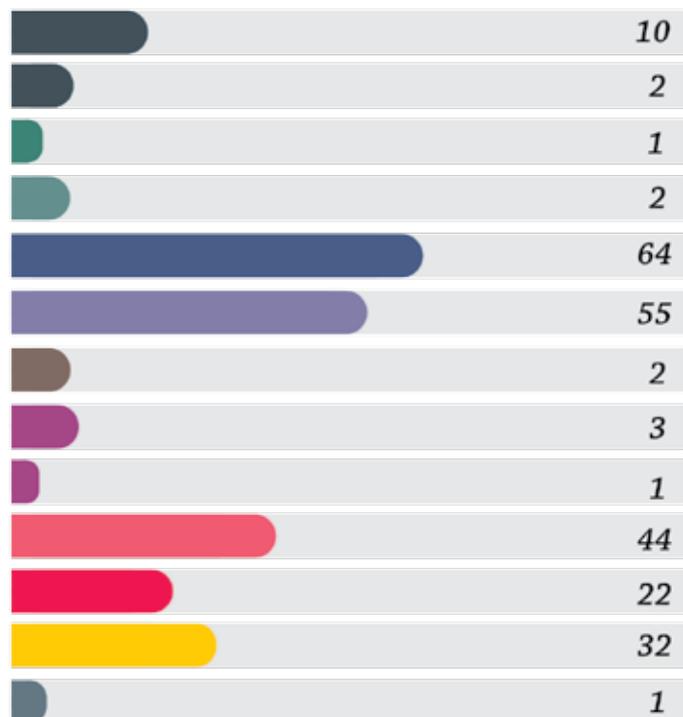
As always, civilians are the ones who bear the brunt of conflict. Communities, especially ethnic populations in conflict areas, have suffered significantly over Burma's 70 years of civil war. When Burma is restored to genuine peace, civilian populations living in conflict-affected areas will be relieved

HUMAN RIGHTS SITUATION IN BURMA

of the burden of war. Therefore, the government and military must explore ways to achieve genuine peace with EAOs, including announcing a nationwide ceasefire and implementing realistic and all-inclusive peace negotiations with EAOs and CSOs which are monitoring the conflict and human rights situation. In addition, humanitarian groups and the victim community must be allowed to participate in every stage of the peace process.

APPENDICES

Appendix 1: ND-Burma Documented Human Rights Violations from January–June 2019



Appendix 2: ND-Burma Documented Human Rights Violation Categories vs. Months (January–June 2019)

Monthly vs. Categories	January	February	March	April	May	June	Total
Arbitrary/illegal arrest/detention	2	2	3	1		2	10
Forced Recruitment				1		1	2
Forced Labour					1		1
Forced Relocation		1				1	2
Injuries (from indiscriminate and discriminate gunfire, shelling, airstrikes)	10		29	5	14	6	64
Killings (from indiscriminate and discriminate gunfire, shelling, airstrikes)		1	2	20	18	14	55
Rape/Sexual Violence			1		1		2
Obstruction Freedom of Expression	1					2	3
Obstruction Freedom of Movement/Assembly	1						1
Indiscriminate shelling and airstrikes	2	2	22	4	3	11	44
Torture	2	3	6	5	5	1	22
Landmines	4	1	12	5	5	5	32
Explicit Threats					1		1
Total	22	10	75	41	48	43	239

Appendix 3: ND-Burma Documented Human Rights Violations States and Regions vs HRVs January–June 2019

Monthly vs. Categories	Rakhine State	Chin State	Kachin State	Mandalay	Karen State	Shan State	Tanintharyi Region	Unknown	Total
Arbitrary/illegal arrest/detention		2				7		1	10
Forced Recruitment						2			2
Forced Labour		1							1
Forced Relocation						2			2
Injuries (from indiscriminate and discriminate gunfire, shelling, airstrikes)	63					1			64
Killings (from indiscriminate and discriminate gunfire, shelling, airstrikes)	43	1			7	4			55
Rape/Sexual Violence						2			2
Obstruction Freedom of Expression			2			1			3
Obstruction Freedom of Movement/Assembly				1					1
Indiscriminate shelling and airstrikes	38					6			44
Torture	9	1	1			11			22
Landmines	16	1	7			5	3		32
Explicit Threats						1			1
Total	169	6	10	1	7	42	3	1	239



GPO 315

Chiang Mai 50000

Thailand

+66 (0) 53 304 404

office@nd-burma.org

www.nd-burma.org