

**Burma/Myanmar**  
**Joint Submission to the UN Universal Periodic Review**  
**37<sup>th</sup> Session of the Working Group**

**Refugees and Internally Displaced Persons**

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This submission is a joint submission by the below ethnic community-based organizations (CBOs) and civil society organizations (CSOs) that work closely with displaced ethnic communities, including refugee committees along the Thailand-Burma/Myanmar border, youth and women's organizations, as well as local development and humanitarian organizations.

1. Human Rights Foundation of Monland
2. Karen Student Network Group
3. Karen Human Rights Group
4. Karen Refugee Committee
5. Karen Women's Organization
6. Karenni Refugee Committee
7. Karenni Legal and Human Rights Center
8. Karenni Education Department
9. Karenni National Women's Organization
10. Karenni Social Welfare and Development Center
11. Kachin Women's Association Thailand
12. Koung Jor Shan Refugee Camp
13. Progressive Voice
14. Ta'ang Women's Organization

## **Overview**

1. In the five years since the 2<sup>nd</sup> Cycle of the Universal Periodic Review (UPR), displacement due to armed conflict has increased exponentially, and the issues pertaining to refugees and internally displaced persons (IDPs) remain unresolved.<sup>1</sup> This submission highlights some of the key human rights issues that pertain to refugees and IDPs, analyzes the progress on recommendations made by member states during the UPR 2<sup>nd</sup> cycle and makes recommendations for the 3<sup>rd</sup> cycle. It will cover issues related to physical security, land and livelihoods, persecution and denial of ethnic identity, health and education, return process and humanitarian aid.

2. Unfortunately, a stakeholder submission for the 2<sup>nd</sup> Cycle of the UPR, co-authored by some of the same organizations of this report included many of the issues described below, and in some instances have exasperated, reflecting a lack of progress for ethnic people displaced by armed conflict.<sup>2</sup>

## **Armed Conflict and Continuing Displacement**

3. Armed conflict remains the main driver of displacement in Myanmar and has shown no signs of abating and has in fact, worsened since the 2<sup>nd</sup> UPR Cycle. Successive military regimes' policies of majority domination over, and forced assimilation of, minorities (Burmanization) has led to internal armed conflict between the Myanmar military and dozens of Ethnic Armed Organizations (EAOs). This conflict and the accompanying Myanmar military abuses of civilians and Burmanization campaigns has caused the protracted displacement of over a million ethnic civilians throughout the course of the conflict. As of December 2019, there are an estimated 93,000 refugees in Thailand, the majority of whom are Karen and Karenni;<sup>3</sup> 106,000 primarily Kachin, Ta'ang and Shan IDPs in Kachin and northern Shan States;<sup>4</sup> and an estimated 280,000 IDPs in Southeastern Myanmar.<sup>5</sup> A serious outbreak of armed conflict between the ethnic Rakhine, Arakan Army (AA), and the Myanmar military in Rakhine State and southern Chin State has displaced tens of thousands of people since late 2017/early 2018. As of January 2020, there are over 160,000 displaced due to this conflict.<sup>6</sup>

4. The current peace process is based on the nationwide ceasefire agreement (NCA) and the accompanying peace process architecture such as the Joint Monitoring Committee, Joint Implementation Coordination Meeting, the Union Peace Dialogue Joint Committee, and the 21<sup>st</sup> Century Panglong Conferences. Yet while the NCA was signed in 2015 (same year as Myanmar's 2<sup>nd</sup> Cycle UPR), its shaky foundations and the continuing commitment to keeping the peace process within this flawed framework has been one of the obstacles to any substantive progress. Despite lengthy negotiations on the content of the NCA, in which a final peace agreement that addressed ethnic demands for federalism, self-determination and equality was envisioned, progress stalled when the Myanmar government would not allow certain EAOs, including the AA, the Myanmar National Democratic Alliance Army (MNDAA) and the Ta'ang National Liberation Army (TNLA), to join final negotiations, in the midst of increasing offensives against those EAOs.<sup>7</sup> Other EAOs, including the Kachin Independence Organization (KIO) and the New Mon State Party (NMSP), refused to sign in solidarity with the excluded EAOs. In the end, only eight EAOs signed the NCA in 2015. The signatories included the Karen National Union (KNU), and many other smaller EAOs who already had ceasefires with the government. In 2018, two more – the NMSP and the Lahu Democratic Union – signed the NCA, while non-signatories were organized in two factions, the United Wa State Army-led Federal Political Negotiation and Consultative Committee (FPNCC) and the United Nationalities Federal Council. In November 2018, the KNU and Restoration Council of Shan State (RCSS) temporarily suspended their

participation in the formal peace process, citing violations and lack of implementation of the NCA and the Myanmar military and government insisting on new conditions, including acceptance of non-secession and a single army.<sup>8</sup>

5. Meanwhile, the Myanmar military continues offensives against various EAOs – including clashes with the KNU, sparked by an aggressive move by the Burma/Myanmar military to build what is believed to be a strategic military road through KNU area, which is an apparent serious violation of the NCA. These clashes have caused the new displacement of thousands of civilians and seriously eroded what little trust has been built in the peace process thus far.<sup>9</sup> Fighting in Kachin and northern Shan States worsened in 2018, as the military increased attacks on the KIO and other EAOs. Tensions have also arisen between various EAOs, and between civilians of different ethnicities in northern Shan State. Thousands of IDPs were trapped in conflict areas in Kachin State in March and April 2018 when the Myanmar military refused to allow them to leave their villages, which had been occupied by the military, and seek shelter outside the conflict area.<sup>10</sup> Furthermore, since early 2018, armed conflict between the AA and the Myanmar military has massively escalated. Nearly 700 clashes were reported in 2019, with major urban areas of Arakan State, such as Mrauk Oo, also experiencing heavy fighting. Extrajudicial killings, massacres, arbitrary detentions, and a several months-long Government policy of an internet shutdown have had an adverse effect on local communities.<sup>11</sup>

6. Ultimately, despite many years of negotiations, neither the Myanmar government, nor the army, are willing to make any genuine and substantive efforts to address the legitimate grievances of ethnic peoples. Decision-making remains in the center, the Myanmar military holds on to key levers of power, the military commits the most grievous human rights violations against civilians, particularly ethnic and religious minorities, with almost total impunity, and ethnic people's rights to equality and self-determination remain as far in the future as they ever have done. All this is enshrined in the deeply undemocratic 2008 Constitution, which the military refuses to amend.

7. Added to this situation of protracted displacement due to armed conflict is the Rohingya crisis. An Independent International Fact-Finding Mission on Myanmar (IIFMM), established by the UN Human Rights Council, investigated allegations of human rights violations and international crimes in Rakhine, Kachin and northern Shan State from 2011. The Mission found that the Myanmar military had committed crimes against humanity and war crimes against ethnic nationality civilians in Kachin and northern Shan States, as well as genocide, crimes against humanity and war crimes against Rohingya in Rakhine State.<sup>12</sup> Meanwhile, the Prosecutor of the International Criminal Court (ICC) announced the opening of a preliminary investigation into the alleged forcible deportation of Rohingya from Myanmar to Bangladesh, after the Pre-Trial Chamber found that the Court would have jurisdiction over that crime since Bangladesh is a State Party to the ICC. Many ethnic nationality organizations have called for international accountability, including for the UN Security Council to refer Myanmar to the ICC so that its jurisdiction may also cover abuses committed in armed conflict in other areas of the country.<sup>13</sup> Lastly, in December 2019, the State of Myanmar participated in oral hearings regarding the charges of genocide brought to the international court of justice (ICJ) by the State of Gambia on behalf of the Office for Islamic Cooperation (OIC).<sup>14</sup> The case is based on Myanmar's breach of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide in relation to the two waves of mass violence committed by the Myanmar military in 'clearance operations' in 2016 and 2017 that forced nearly one million Rohingyas out of their homeland to seek refuge in Bangladesh. In January 2020 the ICJ ruled to impose emergency "provisional measures" on Myanmar to prevent further genocidal acts and preserve evidence.<sup>15</sup>

## Key Issues for Displaced People

8. Myanmar supported the recommendation from Turkey to “Ensure the safe and voluntary return of all internally displaced persons to their place of origin.”<sup>16</sup> Yet in order to ensure this safe and voluntary return of IDPs, as well as refugees who are living in camps along Myanmar’s borders, there are several issues that Myanmar must address so this return is sustainable and dignified. This will be discussed in the below sections.

### *Physical Security*

9. Given the ongoing armed conflict and military offensives outlined above, one of the most pressing issues for displaced people is their physical security and whether the situation in their places of origin or in other return sites is currently safe enough for them to return. Given the objective reduction in active conflict in *some* areas of Myanmar, this logic has been challenged by a variety of actors seeking to encourage refugees and IDPs to return. However, displaced people have clear and well-founded reasons for their fear of returning. These reasons include a mix of assessments of the particular direct security risks they may face in the short-term, and the lack of trust that they will remain safe in the long-term and that those charged with providing security will actually protect, and not abuse them. These security concerns must be taken seriously to avoid violating the principle of *non-refoulement* by forcing or pressuring displaced people to return to a situation in which their lives and freedom are at risk.<sup>17</sup>

10. The security concerns that caused people to flee stem not only from risks associated directly with active conflict, but from human rights violations and other oppression by mainly the Myanmar military and in part by other armed groups, and from militarization and development-related displacement. While the absence or reduction of conflict changes the degrees and forms of security risks, and may drastically reduce the occurrence of the worst forms of violence and abuse, it does not necessarily remove them.

11. Active armed conflict, which can include frequent or infrequent clashes between two or more armed groups, leads to risks to civilians’ security. Reports of the Myanmar military indiscriminately firing heavy artillery and hitting civilian structures such as churches, schools and IDP camps are common.<sup>18</sup> In the northeast, the Myanmar military has used air power, including fighter jets to fire on targets, often hitting civilians and civilian buildings.<sup>19</sup>

12. In areas where clashes are frequent or tensions are high, civilians also face increased risks of being detained, tortured and/or killed by the Myanmar military on allegations of association with EAOs. These abuses continued through 2018, particularly in Kachin and northern Shan States, and in 2019 in Rakhine State, a fact of which displaced people from all areas are aware and cements the perception that nothing has changed and that living near military instalments, regardless of the frequency of clashes, is dangerous.

13. In all cases where the Myanmar military and/or other armed groups are present, even where a ceasefire generally holds, there are risks due to the presence of armed actors near villages. These risks, which have been documented by human rights organizations in ceasefire and non-ceasefire areas, include arbitrary arrest, extrajudicial killings, the presence of landmines laid by all parties, confiscation of property, arbitrary taxation, extortion, forced conscription and forced labor, and rape and other sexual violence.<sup>20</sup> Some types of human rights violations, such as forced labor and torture, have apparently declined in ceasefire areas but have not ceased altogether. In addition, those who have committed such crimes are

rarely brought to account, and is not reflective of the recommendation given by Lithuania and supported by the Myanmar government to “ensure that police and military officers alleged to have committed acts of torture and ill-treatment are held accountable through the criminal justice system.”<sup>21</sup>

14. Civilians in the southeast have also reported increased presence of the Myanmar military, including new or expanded bases, road expansion, new checkpoints and more soldiers at existing facilities.<sup>22</sup> More soldiers means more risks of abuses, particularly in the eyes of people who have been systematically abused by Myanmar soldiers in the past. Feared that increased militarization in their areas means that Myanmar military is preparing to fight again raises concerns about the risk of renewed conflict, such as the building of the military road in KNU territory, outlined earlier. The NCA has also opened up opportunities for business in southeast Myanmar, which has led to increased land grabbing and violence against civilians who contest the confiscation of their land.

### ***Sexual and Gender-based Violence***

15. Myanmar supported the recommendation from the UK to “Implement the National Action Plan for the Advancement of Women by: amending legislation to include sexual violence in conflict within the Preventing Sexual Violence Law, removing military impunity for human rights violations — including sexual violence, and appointing a Gender Advisor within the President’s Office.”<sup>23</sup> In addition, Finland also recommended Myanmar to “Ensure impartial and effective investigation of violence perpetrated against women and violence perpetrated against children, and ensure reparations for victims and the right to a fair trial, including legal aid, for both the victim and the accused.”<sup>24</sup> Both recommendations were supported by Myanmar.

16. Myanmar is also a party to the Convention for the Elimination of all forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). Myanmar is also bound by UN Security Council Resolution 1325 and subsequent resolutions on women, peace and security to increase the participation of women in all stages of peace negotiations, peacebuilding and post-conflict reconstruction, to incorporate a gender perspective in such processes, and to take special measures to protect women and girls from rape and other forms of sexual- and gender-based violence. Furthermore, in December 2018 Myanmar signed a joint communique with the UN Special Representative of the Secretary-General on Sexual Violence in Armed Conflict, which stated that “all credible reports (*of sexual violence*) will be rigorously investigated and perpetrators held to account.”<sup>25</sup>

17. Yet despite this, sexual and gender-based violence has continued unabated and has been well documented by human rights organizations, both local and international,<sup>26</sup> while the National Prevention and Protection of Violence Against Women law remains stuck in Parliament after seven years since it was initially mooted.<sup>27</sup> Violence against women continues to be unaddressed and often the victim’s silence is bought through minimal compensation fees. The IFFMM, in its 2018 report, found that:

*18. Rape and sexual violence have been a particularly egregious and recurrent feature of the targeting of the civilian population in Rakhine, Kachin and Shan States since 2011. Similar patterns of rape and sexual violence have been reported for at least three decades. Rape, gang rape, sexual slavery, forced nudity, sexual humiliation, mutilation and sexual assault are frequently followed by the killing of victims. The scale, brutality and systematic nature of these violations indicate that rape and sexual violence are part of a deliberate strategy to intimidate, terrorize or punish a civilian population, and are used as a tactic of war. This degree of normalization is only possible in a climate of long-standing impunity.*<sup>28</sup>

19. It is clear that Myanmar has been particularly deficient in the implementation of these recommendations. The use of sexual violence by the Myanmar military in Rakhine State builds on the decades of impunity it has enjoyed in regard to violations committed against ethnic women, and is part of a catalogue of systematic human rights abuses that contributes towards forced displacement. Crimes committed by the Myanmar military should not be processed through a military court. Accountability should be established through civilian courts, or an alternative referral system such as the establishment of special courts and special proceedings to address the specific needs of survivors including safety and security.

20. In addition, during conflict and displacement, many women had to take on roles outside their traditional roles. In some conflict-affected areas, women became village administrators or took other leadership roles when men were not available. Despite advances in women's empowerment, governance still replicates traditional power structures and women are left out of the decision-making process. Thus, in line with the recommendation from Finland during the 2<sup>nd</sup> Cycle of the UPR, Myanmar must "Support the active and meaningful participation of women, 'ethnic groups', internally displaced persons and refugees in the implementation of the Nationwide Ceasefire Agreement, including the national dialogue."<sup>29</sup> In addition to women's participation in policy discussions and community decisions about return, the concept of 'voluntary return' needs to be understood from a gender lens to ensure that women are included, and at the centre of making voluntary decisions for a safe and dignified return.

### ***Demining***

21. No recommendations by States have been made in relation to demining in the last two cycles of the UPR. Myanmar is one of the most affected countries worldwide by landmines and between 2018 and 2019, the Myanmar military was the only state in the world to have laid new landmines.<sup>30</sup> Furthermore, there have been no systematic mapping of the locations where landmines have been laid, thus, IDPs and refugees run the risk of being injured or killed by landmines when they try to return to farm their existing fields or begin their new lives after return. Humanitarian demining organizations are present in the country, but they have not been able to begin systematic mine clearance operations due to a lack of impetus from the Myanmar military and some EAOs.<sup>31</sup> They have been limited to providing landmine risk education and very limited landmine assessment.

### ***Land and Livelihood***

22. For refugees and IDPs, one of the major obstacles to a safe, dignified and sustainable return is that of land, not just for its inextricable links to culture and identity, but also livelihoods. Many refugees and IDPs previously owned land that has been confiscated by the military or government, or occupied by secondary occupants since they were displaced.

23. While land confiscation of ethnic people's land by the Myanmar military has been ongoing for decades, the economic liberalization of the country is having deeply profound impacts on traditional land use practices, while facilitating an enormous land grab. In conflict-affected areas, many follow customary land governance systems that are not recognized by the Myanmar government, which often leaves them unable to defend their land rights including to reclaim confiscated land. This is facilitated by a legal framework, including some laws which have been recently enacted, that offers inadequate protection to rural farmers in the face of corporate and/or military-led land confiscations. For example, 41 farmers from Demoso and Loikaw townships in Karenni State are facing charges from the military for criminal trespass

under Article 447 of the Penal Code and Article 6/1 of the Public Property Protection Act. Yet the land they were allegedly trespassing on was land that they had been tilling for generations, and which the military had occupied since it forcibly displaced the residents of the original villages several years ago.<sup>32</sup> This example is illustrative of a wider pattern that is seen across Myanmar.

24. While this is a major challenge to rural populations' livelihoods in Myanmar in general, displaced people and other victims of land confiscation face an uphill battle in obtaining restitution of or compensation for their land, particularly when it was taken by the military or private business. In addition to the challenges that face victims of land confiscation elsewhere in Myanmar, displaced people face additional challenges. First, displacement has taken place over decades. Many displaced people are now living on land belonging to people who were displaced before them, which creates complex layers of claims to land. Second, many displaced people have lost any documentation they once had, including tax receipts, which can be used in the absence of a formal title. However, even if they can prove ownership, they may not be able to recover land, as many across Myanmar have discovered over the past years. Furthermore, Myanmar's land registration process does not provide secure tenure, as registration only acknowledges the right to use the land for agriculture, not ultimate ownership according to the 2008 Constitution.

25. During the 2<sup>nd</sup> Cycle of the UPR, Myanmar supported a recommendation from the Czech Republic to "Effectively address the issue of land grabbing, including through providing redress to farmers and others whose land was illegally or arbitrarily seized."<sup>33</sup> Yet since the previous UPR cycle, legislative amendments have accelerated land confiscation, particularly in ethnic areas. The 2012 Vacant, Fallow and Virgin (VFV) Land Management Law contributed to land and livelihood insecurity in rural communities, including by allowing the government to take control of "vacant" or "fallow" land that had previously been used by communities as grazing land or to sustainably harvest and sell forest products. For current IDPs, many have come to rely on harvesting forest products and working on vacant land for their livelihoods which the 2012 Land Law and VFV Land Management Law made illegal in government-controlled areas. In a particularly worrying development, amendments to the VFV Land Management Law passed in September 2018, stipulated that unauthorized use of land that the government declares vacant will lead to fines of up to 500,000 kyat (US\$315) and/or up to two years of imprisonment.<sup>34</sup> Furthermore, a six month timeframe was given for people to register their land. This is problematic in many ways. First, refugees and IDPs are living in displacement conditions and it is very difficult for them to return to register their land due to security concerns, costs, and viability of travelling, and are thus particularly vulnerable to having their land declared vacant or fallow. Second, much of the land in ethnic rural areas uses customary or traditional land practice in which land is not owned in individual plots, but collectively. Third, as survey research among farmers in ethnic areas regarding their knowledge of this legal amendment showed, only 3% considered themselves knowledgeable about the law while 99% and most did not know of the timeframe.<sup>35</sup>

26. If rural people currently living in ethnic areas are having their land confiscated, it is difficult to envisage a restitution program for hundreds of thousands of returning refugees and IDPs that stands in isolation of broader land tenure policy. This is why it is important that the Pinheiro Principles are just one part of a broader land reform policy in Myanmar that recognizes customary land rights, recognizes local, non-state ethnic administration and land titling, and prioritizes smallholder, rural communities over big business.<sup>36</sup>

### ***Identity and Language and Cultural Oppression***

27. The Myanmar government supported the recommendation from Ecuador to "Consider the possibility of adopting adequate measures to promote social cohesion, with a view to the elimination of all forms of

discrimination, including against minority, ethnic and cultural groups.”<sup>37</sup> As well as the recommendation from Slovenia to “Adopt legislation ensuring protection of human rights of ethnic communities, including their participation in government decisions.”<sup>38</sup>

28. Yet the issues of identity and cultural and linguistic discrimination is manifest in the Myanmar Government’s continued policies that do not allow ethnic people to express their identity in the way they want to. Examples over the past five years include the charges against Karen activist, Naw Ohn Hla, and two Karen youths for organizing a ceremony in Yangon on Karen Martyrs Day, 12 August, 2019.<sup>39</sup> In Karenni State, dozens of youth have been arrested for opposing the erection of the General Aung San statute – Daw Aung San Suu Kyi’s father – in the state capital, Loikaw.<sup>40</sup> Local civil society also oppose the plan to build a statue of General Aung San in Hakha, the capital of Chin State.<sup>41</sup> The naming of a bridge in Mon State after General Aung San despite local preferences for an ethnic Mon name deepens resentment.<sup>42</sup> Such opposition is not simply against General Aung San – an ethnic Burman who founded what is now the Myanmar military and led the negotiations with the British for independence – but it is about ethnic people being long deprived of their rights for equality and self-determination as promised by General Aung San, leading to their ancestors agreeing to join the union.

29. The concerns of the suppression of ethnic identity directly impact refugees and IDPs. They were displaced *because* of their ethnic identity and to then deny them the right to express this identity, whether through language, symbols, political commemorations or cultural expressions is a continuation of the violent Burmanization process which has underpinned decades of armed conflict and displacement.

### ***Legal and Administrative Obstacles to Fundamental Freedoms of Movement, Expression and Association***

30. There are a number of potential obstacles or risks to return that relate to legal and/or administrative documentation, as well as the legal status of refugees and IDPs. The current legal climate in Myanmar, includes archaic laws, often dating from colonial times, which are still on the books and used selectively. This creates an environment of uncertainty, and it is difficult for displaced people to make decisions about return if they are uncertain about their legal status.

31. People who had to flee urgently, whether due to active conflict or to burning of villages, or escaping forced labor, often left all of their legal documents, if they possessed any in the first place. Because there was no way to go back to retrieve them, and the documents were often destroyed, they have lost important tools to regain or prove citizenship, land ownership, and other entitlements that would make any return sustainable. Many others never had the documentation, including ID cards and birth certificates, in the first place due to the marginalization and remote nature of rural ethnic nationality areas. Furthermore, children born during displacement do not have official birth certificates, and many birth certificates issued in displacement sites are not recognized by the Myanmar government.

32. The act of fleeing across the border may also have triggered legal consequences. During military rule, persons who left Myanmar illegally and attempted to return could be arrested under the Immigration Act and various other legal provisions, particularly but not only if they were thought to have engaged in political activity outside Myanmar.<sup>43</sup>

33. One of the most common legal provisions which displaced people feared in the context of return is Article 17 of the Unlawful Associations Act. According to the archaic law, civilians and combatants can be arrested for associating with an ‘unlawful association,’ a criteria which is applied by the government in an

opaque process but that is known to include at least EAOs who are not signatories to the NCA, and other political or human rights organizations which work against military abuses.<sup>44</sup> However, it is not only current or former combatants who face this risk, but civilians have been routinely accused of association with EAOs by the Myanmar military. Recent arrests under this law include journalists who cover EAO activities<sup>45</sup> and civilians including IDPs, particularly in Kachin and northern Shan States, who deny association with EAOs.<sup>46</sup> Within this context, a United Nations High Commissioner for Refugees (UNHCR) proposed plan for pre-nationality verification, conducted with the Myanmar government, of each refugee in the camps in Thailand is particularly worrying. Refugees who have returned from these camps have been monitored by state authorities, who view them with suspicion. Thus, providing the Myanmar government with access to, and data of *all* refugees along the border severely compromises their security, especially in the context of the use of the laws described above.

### ***Drugs***

34. Armed conflict in Myanmar is intertwined with the production, distribution and consumption of drugs. Myanmar is the second highest producer of opium in the world and is a major player in the *yaba* (methamphetamine) trade, which is widespread in the region.<sup>47</sup> Much of the production of both opiates and methamphetamines is by government-aligned armed groups. A *quid pro quo* exists whereby such groups are left alone by the Myanmar military to administer a pocket of territory which is used for drug production, in exchange for participation as a proxy force in armed conflict against EAOs with more political aims. Some of these militias were established by the Myanmar military.<sup>48</sup> However, it is ordinary people, often ethnic rural people as well as refugees and IDPs, who face the consequences. In Karen State, since the bilateral ceasefire in 2012, more cases of methamphetamine distribution by the Myanmar military proxy, the Border Guard Force have been documented.<sup>49</sup> In Kachin State, the rates of heroin addiction among young males is shockingly high, especially in jade-mining areas.<sup>50</sup> Similarly in Shan State, many villages are being ravaged by the drug trade, whether the violence associated with it or the addiction among the male population. Moreover, government anti-drug enforcement laws and policies tend to be targeted at low-level dealers and users, punishing addicts as oppose to the major players in the industry.<sup>51</sup>

### ***Health and Education***

35. Some of the best educational opportunities during displacement were more organized and standardized non-government schools, including primary, secondary and post-10 schools along the Thailand-Myanmar border that developed organized curriculum and trained teachers, and some EAO-run schools that also developed standard curriculum and hired trained teachers.<sup>52</sup> One specific challenge to return is the need for recognition of education certificates and health worker qualifications that were issued by these schools, as well as certificates from EAO-organized and community-organized schools in other displacement sites. The Myanmar government does not recognize certificates issued by informal schools. This impacts the students' ability to enter the appropriate grade at government schools and/or to apply for university and undermines the years of effort by displaced people themselves to develop quality educational opportunities for future generations.<sup>53</sup> Teachers from these schools also cannot get jobs in government schools because their qualifications are not recognized.

### **Humanitarian Aid**

36. In the current context of a lack of land and livelihood opportunities for returning refugees and IDPs it is hugely important that donors continue to provide essential assistance to refugee and IDP camps.

However, despite continuing clashes and a faltering peace process, as well as little prospects for a safe and dignified return, humanitarian assistance for the refugee camps in Thailand and IDP camps within the country, as well as for cross-border civil society organizations and ethnic service providers, has significantly declined in recent years.<sup>54</sup> Those in camps are suffering as essential services are inadequate and women, girls, children and those with disabilities face the highest risk. International donors have decreased humanitarian funding for these displaced populations while increasing funding for programs aimed at developing conditions to encourage return, supporting the peace process and its formal architecture, and health, education and development projects inside Myanmar. While rations have been eliminated entirely in some camps, including Ei Tu Hta IDP camp in Karen State, IDP camps in Shan State and Koug Jor Shan refugee camp, in most other cases, rations have been reduced.<sup>55</sup>

### **Closing of IDP Camps**

37. The Myanmar Ministry of Relief, Rehabilitation and Social Welfare has developed a plan leading to close down IDP camps in Rakhine, Kachin, Shan and Karen States which, according to Minister Win Myat Aye, is already underway.<sup>56</sup> This process, however, has not been consultative, and civil society organizations have not been able to get any information or give any input.<sup>57</sup> In Kachin and Shan State, the military has also pressured churches and other entities hosting IDP camps to close the camps, and aid workers have been arrested by the military under the Unlawful Associations Act for delivering aid to IDPs in KIA-controlled areas.<sup>58</sup> Since 2017, approximately 1,000 people have returned to Myanmar with the support of UNHCR. However, those who returned still face security and livelihood challenges. Any return process should not be pushed until there has been a political agreement on the ground.

### **Conclusion**

38. Myanmar has a long way to go to comply with the recommendations that it supported during the first and second Cycle of the UPR. The fate and future of refugees and IDPs lies in a broader process of the peace process, constitutional reform, recognizing the need for ethnic equality and self-determination based on a federal democracy, ending impunity for gross human rights violations, including genocide, war crimes, and crimes against humanity, and building an inclusive nation in which the rights of minority peoples are protected.

39. Until progress can be made on these larger issues, the problems outlined in this submission remain pertinent, and displaced people must continue to be supported through humanitarian aid and not pressured to return to a context that is unsafe. Ultimately, displaced people must be part of an inclusive process of nation-building, the injustices they have faced acknowledged and remedied, and be supported in building new lives in a peaceful Myanmar, free of violence and discrimination.

### **Recommendations to the Myanmar Government:**

- Make sincere efforts to end all armed conflict, war crimes, crimes against humanity, genocide and all human rights violations against civilians, including the use of rape and sexual violence as a weapon of war;
- Repeal and/or amend the Immigration Act and Unlawful Associations Act, and provide guarantees through a publicly declared official policy that displaced persons returning will not face legal consequences under these legislations;
- Continue providing access to international and local actors, such as the UN Office for the Coordination of Humanitarian Affairs and local community-based humanitarian and human

rights organizations, to IDP camps in order to ensure the process of a voluntary, safe, dignified and durable return of displaced population;

- Ensure unrestricted humanitarian access to all sites of displacement, including allowing humanitarian actors to reach EAO-controlled areas without legal consequence or other types of harassment, intimidation or threat;
- Recognize ethnic health and education service provisions, including education in refugee camps;
- Enforce a comprehensive ban on the new use of landmines and to provide humanitarian support to survivors of landmine explosions;
- Undertake comprehensive reform of land policy, including by repealing the VFV Land Management Law, and introduce legislation that recognizes ancestral land ownership of ethnic nationalities and customary land use and ownership, ensures women's equal rights to land ownership and is based on the principles of federalism;
- Develop a policy and implement a system to provide restitution of housing, land and property for displaced persons with an appropriate timeline that complies with the Pinheiro Principles;
- Enact laws and legal amendments that enshrines protection of women, with inclusive and diverse input from grassroots organizations, including in passing the Prevention and Protection of Violence Against Women bill; and
- Decentralize Government service provisions to Region and State Governments and EAOs and to ethnic community-based service providers with the long-term aim of establishing a federal structure.

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<sup>1</sup> Human Rights Foundation of Monland, Kachin Women's Association Thailand, Karen Human Rights Group, Karen Refugee Committee, Karen Student Network Group, Karen Women's Organization, Karenni Education Department, Karenni Legal and Human Rights Center, Karenni National Women's Organizations, Karenni Refugee Committee, Karenni Social Welfare and Development Center, Koug Jor Shan Refugee Camp, Pa-Oh Health Working Committee, Progressive Voice, Ta'ang Women's Organization, 'There is No One Who Does Not Miss Home: A Report on Protracted Displacement Due to Armed Conflict in Burma/Myanmar.' June 2019. Available at [https://progressivevoicemyanmar.org/wp-content/uploads/2019/06/There-Is-No-One-Who-Does-Not-Miss-Home\\_English\\_Web.pdf](https://progressivevoicemyanmar.org/wp-content/uploads/2019/06/There-Is-No-One-Who-Does-Not-Miss-Home_English_Web.pdf).

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