



# “CAUGHT IN THE MIDDLE”

ABUSES AGAINST CIVILIANS AMID CONFLICT IN MYANMAR’S  
NORTHERN SHAN STATE

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**Cover photo:** In this picture taken on 13 January 2019, women rest in a monastery-turned-temporary shelter for internally displaced people in Hsipaw, Shan State. Swathes of Shan State – like many of the country's restive borderlands – have been embroiled in conflict for decades. © YE AUNG THU/AFP/Getty Images

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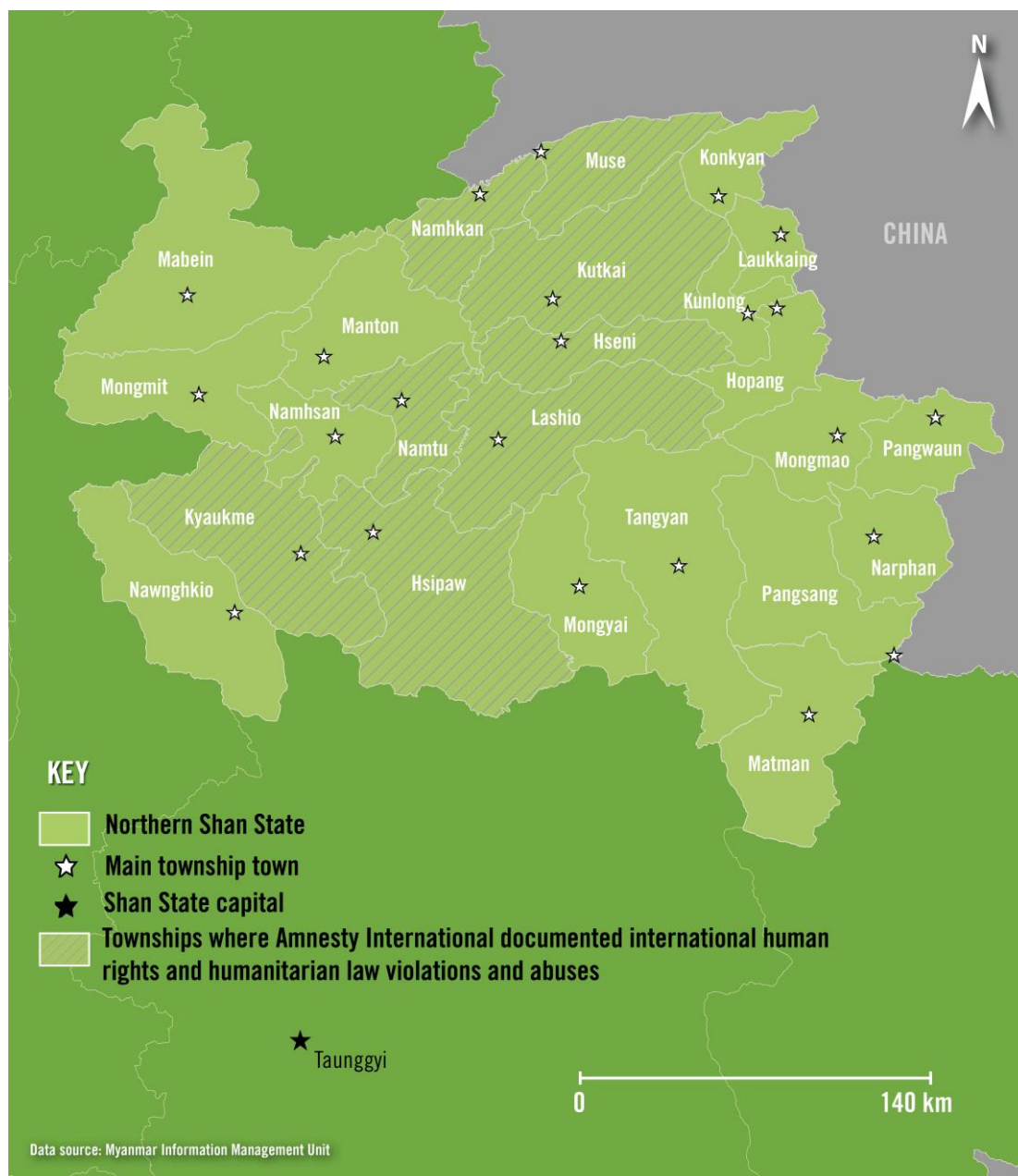
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# MAP OF MYANMAR



# MAP OF NORTHERN SHAN STATE



# TIMELINE OF KEY EVENTS

**February 1947:** Panglong Conference led by General Aung San, at the end of which representatives from several ethnic communities agreed to join what was then Burma as a Union state.

**1948:** Myanmar (then still known as Burma) gains independence from Britain. Only months later, armed groups launch uprisings across the country, some seeking complete independence, others fighting for greater rights and autonomy within a more federal system of government.

**1962:** Ne Win seizes power in a military coup. Ethnic minorities across the country face increasing discrimination and human rights abuses.

**1990:** General elections. The National League for Democracy (NLD) wins a landslide victory but the military government refuses to hand over power. Many NLD candidates are instead imprisoned.

**November 2010:** Myanmar holds its first general elections since 1990, although the NLD boycotts the vote. Aung San Suu Kyi is released from house arrest soon after.

**March/April 2011:** Official transfer of power to a quasi-civilian government led by President Thein Sein, a former military General. The new administration begins enacting wide-ranging social, political and economic reforms, and soon after initiates a nationwide peace process.

**June 2011:** The 17-year ceasefire between the Myanmar military and the KIA breaks down, leading to renewed conflict in the north of Myanmar. More than 98,000 are displaced by the fighting.

**April 2012:** Parliamentary by-elections in Myanmar. Aung San Suu Kyi is elected as an MP.

**October 2015:** The government and eight ethnic armed groups sign the Nationwide Ceasefire Agreement (NCA), however, the authorities' decision to exclude some armed ethnic groups meant that other groups – including all those in active conflict with the military – choose not to sign the accord.

**November 2015:** General elections. Aung San Suu Kyi's NLD wins a landslide victory.

**March/April 2016:** Transfer of power to the NLD-led administration. Aung San Suu Kyi is appointed State Counsellor. The new administration states that national reconciliation will be among its top priorities.

**August/September 2016:** The NLD-led government holds the first "21<sup>st</sup> Century Panglong" peace conference, bringing together political, military, and armed ethnic actors. Since then there have been two further meetings, one in May 2017 and one in July 2018.

**November 2016:** A group of ethnic armed groups calling themselves the "Northern Alliance" launch attacks on security posts close to the Chinese border in northern Shan State following increasing military offensives. The months that follow see a significant escalation in conflict, with civilians bearing the brunt.

**March 2017:** The UN Human Rights Council (HRC) establishes an independent, international Fact-Finding Mission (FFM) to establish the facts and circumstances about human rights violations in Myanmar. The move comes in the wake of a violent military response to attacks by the Arakan Rohingya Salvation Army (ARSA) in northern Rakhine State in October 2016.

**August 2017:** The military launches a devastating campaign of violence against the Rohingya in northern Rakhine State, ostensibly in response to coordinated ARSA attacks on 30 security posts. The violence forces more than 740,000 women, men, and children to flee to neighbouring Bangladesh.

**September 2018:** The FFM delivers a damning report to the HRC and calls for senior military officials to be investigated and prosecuted for crimes against humanity, war crimes, and genocide. That same month, the HRC establishes the Independent Investigative Mechanism for Myanmar (IIMM).

**December 2018:** The Myanmar military announces a four-month unilateral ceasefire in northern and eastern Myanmar, extended in April, June, and August 2019. The ceasefire lapsed on 21 September. Fighting between the military and Arakan Army escalated in Rakhine and Chin States.

**August 2019:** Three ethnic armed groups calling themselves the "Brotherhood Alliance" launch attacks on military installations and other locations, including in northern Shan State. The attacks come days after the groups threatened retaliation for ongoing military offensives in Rakhine and Shan States.

# GLOSSARY

WORD	DESCRIPTION
AA	Arakan Army, a primarily ethnic Rakhine armed group founded in 2009.
IDP	Internally displaced person.
IED	Improvised explosive device. In northern Myanmar, this typically denotes landmine-like weapons used primarily by the ethnic armed groups.
KIO / KIA	Kachin Independence Organization and its armed wing the Kachin Independence Army. The group controls a thin area of territory in Kachin State, primarily along the China border. It also carries out operations in northern Shan State.
LIB/IB	Light Infantry Battalion ( <i>Hka Ma Ya</i> , in Burmese) and Infantry Battalion ( <i>Hka La Ya</i> ), Myanmar Army units that are subordinated to a higher command, such as a Light Infantry Division or Regional Command.
LID	Light Infantry Division ( <i>Tat Ma</i> , in Burmese), one of two types of “combat divisions” in the Myanmar Army. There are 10 LIDs, which in turn have around 10 infantry battalions or light infantry battalions (IBs/LIBs). They are often used for rapid deployment around the country.
MNDAA	Myanmar National Democratic Alliance Army, also known as the Kokang Army, an armed group which has a stronghold in the Kokang area of northern Shan State. Its 20-year ceasefire with the Myanmar Army ended in 2009.
MOC / OCC	Military Operation Command or Operation Control Command (both translations of <i>Sa Ka Hka</i> , in Burmese), which is the second of two types of “combat divisions” in the Myanmar Army. This report uses the term MOC. There are 20 MOCs in the Myanmar Army; two are based in northern Shan State: MOC 1 and MOC 16.
PSLF / TNLA	Palaung State Liberation Front and its armed wing, the Ta’ang National Liberation Army. The TNLA has a strong presence in certain townships of northern Shan State, where it is actively fighting the Myanmar military and often the SSA-S.
RCSS / SSA-S	Restoration Council of Shan State and its armed wing, the Shan State Army-South, which signed the Nationwide Ceasefire Agreement (NCA) in October 2015. The SSA-S currently operates in specific areas of northern Shan State, where its historical presence is contested.
SSPP / SSA-N	Shan State Progress Party and its armed wing, the Shan State Army-North, which signed ceasefires with the Myanmar government in 1989 and 2012. The group is allied with the TNLA.
Tatmadaw	The official name of the Myanmar Armed Forces.

# 1. EXECUTIVE SUMMARY

**“All the civilians are living in fear. We are stuck... caught in the middle between the military and the armed groups.”**

An ethnic Kachin man from Kutkai Township, who was detained and beaten by soldiers from the 99<sup>th</sup> LID in March 2019, interviewed by Amnesty International on 24 March 2019.

The decades-long conflict in northern Shan State has escalated in recent months following attacks by three ethnic armed groups on military installations and other locations in the country on 15 August 2019. The government stated that the attacks were likely to have been carried out in retaliation for recent successful anti-drug trafficking operations in the region. According to the three ethnic armed groups – calling themselves the “Brotherhood Alliance” – the attacks were launched in response to a military offensive in Rakhine State in the west of the country as well as repeated military operations in northern Shan state, despite a military ceasefire in the area. Civilians in northern Shan State, who have borne the brunt of these previous operations, looks set to endure fresh abuses, conflict, and displacement.

This report examines international human rights abuses and violations of humanitarian law committed since mid-2018 by parties to the ongoing internal armed conflicts in northern Shan State. On 21 December 2018, the Myanmar military announced a unilateral ceasefire in northern and eastern Myanmar, however, as this report shows, while there may have been a reduction of the number of clashes involving the military, Myanmar soldiers have continued to commit serious violations against ethnic minority civilians. The declared ceasefire period has also seen a continuation, and in some areas an escalation, of fighting among ethnic armed groups, some backed by the Myanmar military.

Amnesty International undertook research missions to northern Shan State in March and August 2019. In total, Amnesty International interviewed 88 people, including victims and direct witnesses to violations of international human rights and humanitarian law. The organization also met with local and international humanitarian officials, human rights defenders, community leaders, journalists, and political analysts, and analysed satellite imagery and photographs related to specific documented incidents. Amnesty International wrote to the Myanmar civilian government and military, and to four ethnic armed groups, outlining the organization’s findings, requesting information, and expressing readiness to discuss the situation in northern Shan State. At the time of publication, none had replied.

Amnesty International’s research found that the Myanmar military subjects civilians to arbitrary detention, often arresting men and boys on the basis of their ethnic identity and a perceived link with a particular armed group. As is the case in other conflict-affected areas of Myanmar, arrests and detention were often accompanied by torture and other ill-treatment. Soldiers beat, kicked, and punched detainees in order to obtain information about ethnic armed groups, or else to force detainees to “confess” to being members of such groups. In one incident in March 2019, Myanmar soldiers forced a 35-year-old ethnic Kachin fisherman to squat semi-naked with a grenade in his mouth after accusing him of links to the Kachin Independence Army (KIA). He recalled one of the soldiers asking, “‘Are you KIA?’ I said ‘no’, then they



*started punching and kicking me. They forced me to take off my clothes [and] held a knife to my neck... They put a grenade in my mouth. I was afraid if I moved it would explode”.*

In some cases, detainees were taken to military bases where they were held for up to three months. Detainees were usually held in incommunicado detention, without access to lawyers or – for the most part – family members. In one case, a man and a 14-year-old boy were made to undertake forced labour while on a military base in Kutkai town, home to several units from the military’s Northeast Command.

Amnesty International’s research also found that the military has fired indiscriminately in civilian areas, killing and injuring civilians and damaging homes and other property. Myanmar soldiers also shot and killed a 17-year-old ethnic Ta’ang boy in Kutkai Township, suspecting him of being a member of an ethnic armed group in February 2019. In another incident, a 17-year-old ethnic Kachin boy was injured by a mortar shell which was likely fired by the Myanmar military during fighting with the TNLA in early August 2019. Reports of civilians being killed or injured in indiscriminate attacks by the Myanmar military since the 15 August attacks warrant further investigation.

Myanmar soldiers also regularly move through – and at times stay in – villages, exposing civilians to the risk of attack. Amnesty International also documented cases where the military used schools as bases or barracks, and in one instance, a detention and interrogation site where they held and tortured a group of ethnic Kachin villagers. Though less reported by civilians than during Amnesty International’s previous research, at times Myanmar soldiers also confiscated property, taking foodstuffs such as chicken and rice from civilians while using their homes and villages as temporary shelters and bases.

There is evidence that ethnic armed groups also commit abuses against civilians, in particular in areas where there has been intense fighting among armed groups during the military ceasefire. Fighters from ethnic armed groups have abducted civilians – usually men – or otherwise deprived them of their liberty, usually accusing them of supporting a rival group. Civilians were often beaten in order to obtain information about the other groups, as an ethnic Shan man, who was one of two villagers detained by the Ta’ang National Liberation Army (TNLA) and Shan State Army-North (SSA-N) in March 2019, explained: *“They accused me of being SSA-S [Shan State Army-South] and giving information and food to SSA-S soldiers... They tied our hands [and] beat my back and thighs with sticks... I kept saying, ‘I am just an ordinary citizen, I am not in favour of any armed group’.”*

Continuing a practice which has been well-documented by Amnesty International and others, ethnic armed groups have also subjected civilians to forced labour, including forcing them to act as guides. This was especially the case during times of increased fighting. Amnesty International documented several instances of forced labour in February and March 2019 as the TNLA/SSA-N and SSA-S engaged in heavy fighting around Hsipaw Township. While Amnesty International did not document specific individual cases of forced recruitment by ethnic armed groups, many interviewees said that in their villages, increasing numbers of young people, in particular young men, had left for towns, monasteries, or other countries in order to avoid being forcibly recruited.

Ethnic armed groups also remain engaged in widespread “taxation” and extortion, demanding money and food from villages and businesses. The regularity with which these are demanded leaves no doubt that the practice is sanctioned at the most senior levels. In an area with limited livelihood opportunities and where conflict has raged for more than eight years, such “taxes” have a deeply detrimental impact on people’s livelihoods. Ethnic armed groups also expose civilians to risk of attack, often by basing themselves within or moving through civilian populated areas.

The proliferation of conflicts in the area has come with an alarming increase in the number of civilians killed or injured by landmines, improvised explosive devices (IEDs), or other explosive remnants of war (ERW). Civilians were usually affected while travelling to or from areas they rely on for work. Amnesty International interviewed a 47-year-old ethnic Shan man who was injured by a likely IED while he was collecting firewood in Hsipaw Township in March 2019. There had been heavy fighting between the TNLA/SSA-N and SSA-S around that time. The presence of landmines and IEDs has a serious impact on livelihoods, with villagers at times reluctant to travel to areas where they work for fear they may be injured by a blast.

The ongoing conflicts have also led to repeated displacement of civilians. In other parts of Myanmar, civilians have often been displaced to camps for years, whereas in northern Shan State, they tend to be displaced to

makeshift sites for shorter periods – sometimes a few days, sometimes several weeks, sometimes longer – and then return to their homes and farmlands when the fighting has moved on to another area. The irregular but continual nature of this displacement poses challenges for humanitarian organizations working to provide aid and assistance. These challenges are exacerbated by bureaucratic restrictions on access for humanitarian workers, which are imposed by both the military and the civilian government. Short-term displacement also has an adverse impact on livelihoods, in particular when people are displaced from their homes at key points within the land cultivation cycle.

These new and ongoing violations take place against the backdrop of a floundering national peace process. Despite promising to make peace and national reconciliation a priority, the NLD-led government has failed to make progress in negotiating an end to the country's decades-long conflicts. Government failures to make meaningful political concessions coupled with ongoing offensives by the military, which under the 2008 Constitution does not operate under civilian oversight, have fostered deep mistrust among ethnic armed groups. As the 2020 elections draw near, the military is unlikely to allow the government any "successes" to present to voters. Indeed, as the peace process has stalled, the military has become increasingly assertive, announcing a unilateral ceasefire, now lapsed, and engaging in discussions to broker bilateral ceasefires with some of the ethnic armed groups. While efforts to secure a cessation of hostilities are welcome, for civilians, such agreements have rarely brought with them an end to violations and abuse.

Myanmar's military has been repeatedly implicated in serious crimes in recent years, in particular in Kachin, Rakhine, and Shan States. A UN-established independent investigation has called for senior military officials to be investigated and prosecuted for crimes against humanity and war crimes in Kachin, Rakhine, and Shan States, and genocide in Rakhine State. Despite this, members of the Myanmar military continue to enjoy impunity and the freedom and power to commit further crimes. The civilian-led government remains unable or unwilling to independently investigate serious violations, let alone push for prosecution or even suspension of suspects, and has repeatedly refused to cooperate with international bodies in uncovering the truth and delivering justice.

Many of the violations by the military documented in this report were committed by the Myanmar Army's 99<sup>th</sup> Light Infantry Division (LID), whose members were identified by victims based on the distinct patches on their uniforms or sometimes the markings on their guns. Other violations were committed by soldiers from units under Northeast Command, the regional military command based in northern Shan State.

Units from the 99<sup>th</sup> LID have been operational in northern Shan State for several years and have been previously implicated in serious violations against civilians by Amnesty International and others. These units – known as combat divisions – are usually based in other parts of the country, and decisions to deploy them could only have come from the Office of the Commander-in-Chief, Senior General Min Aung Hlaing. From August 2017, units from the 99<sup>th</sup> LID were deployed in northern Rakhine State, where Amnesty International, the UN Fact-Finding Mission, and others have implicated them in atrocities constituting crimes under international law, including mass deportation, murder, rape, and the burning of Rohingya homes.

The fact that less than 18 months after these crimes, soldiers from the same division were committing new violations – including crimes under international law – highlights once again the need for the international community to take action and ensure that those responsible do not continue to enjoy immunity for their crimes. Specifically, the UN Security Council must fulfil its responsibility and refer the situation in Myanmar to the International Criminal Court. Given the renewed military operations in northern Shan State, and reports of further violations against civilians, the Security Council should act not only to ensure accountability for past crimes, but to try to prevent further abuse as consistent with its mandate.

# METHODOLOGY

This report is based on 88 interviews with people living in northern Shan State, undertaken primarily during field research in March and August 2019. Three Amnesty International representatives travelled to Lashio town and to Hsipaw Township in March 2019, interviewing 59 people from nine townships. Three Amnesty International representatives, two of who were part of the March 2019 mission, travelled to Lashio town in August 2019, interviewing 25 people from four townships. For security reasons and as a result of restrictions on access, an additional four interviews were conducted by telephone with people living in two townships. Interviews were conducted with people who identified themselves as being of Kachin, Lisu, Maru (Laovo), Shan, and Ta'ang (or Palaung) ethnicity, and as being of Buddhist and Christian faiths.

The research focused primarily on the period since September 2018, when the UN Fact-Finding Mission presented its first report on human rights violations and other crimes under international law to the Human Rights Council. The report covers human rights violations and abuses committed after the Myanmar military announced a unilateral ceasefire on 21 December 2018. However, it does not document in detail abuses committed in the context of the escalation of conflict since the “Brotherhood Alliance” attacks of 15 August 2019. Access restrictions meant that Amnesty International was unable to investigate allegations of violations in the Kokang Self-Administered Zone, which is where the Myanmar National Democratic Alliance Army (MNDAA) – a member an alliance of ethnic armed groups in northern Shan State – primarily operates. Similarly, the report does not look into the situation in the Wa special region.

The majority of interviews with victims, witnesses, and relatives were conducted with English interpretation from the Kachin, Shan, Ta'ang, and Burmese languages. All interviewees were informed about the nature and purpose of the research as well as how the information they provided would be used. Oral consent was obtained from each interviewee prior to the start of the interview and confirmed again at the end. Transport and other costs were reimbursed when interviewees had to travel to meet with Amnesty International representatives, however no incentives were provided to interviewees in exchange for their accounts.

The situation in northern Shan State – and the proliferation of armed actors operating in the area – meant that many interviewees spoke on condition of anonymity. Most people expressed concern that they would be subjected to reprisals – from the Myanmar military, ethnic armed groups, or the civilian government – if they were identified as having spoken to Amnesty International. In these cases, names and other information that could identify people have been withheld for their security. Amnesty International has included the names of certain individuals who were interviewed, based on their informed consent.

In addition to interviews with victims and witnesses, Amnesty International examined photographs related to human rights violations; satellite imagery; and relevant media and other reports. Amnesty International representatives also travelled to Yangon, where they met with UN and humanitarian officials, activists working in and on northern Shan State, independent analysts, journalists, and diplomats.

Villages in northern Shan State often have several names and can include a name in the ethnic language(s) of the area as well as an official one. The official names are often spelled in different ways in English. Throughout this report, Amnesty International identifies villages and village tracts based on the spelling by the UN Myanmar Information Management Unit (MIMU).

On 30 August 2019, Amnesty International wrote to the Office of the State Counsellor and to the Commander-in-Chief of the Myanmar Defence Services with specific questions related to our findings and conclusions and expressing readiness to meet officials to discuss the organization's findings. At the time of publication, neither office had replied, even to confirm receipt of the communications. Amnesty International also sent specific questions related to our findings and conclusions to four ethnic armed groups and/or their political wings: the Palaung State Liberation Front (PSLF) and its armed wing the TNLA; the Restoration Council for Shan State (RCSS) and its armed wing the SSA-S; the Shan State Progressive Party (SSPP) and its armed wing the SSA-N; and the Kachin Independence Organization and its armed wing the KIA. At the time of publication, no responses had been received, nor had any group replied, even to confirm receipt of the communications.

Amnesty International extends its thanks to the individuals and organizations who consented to meet with its representatives and provided information for this report. The organization is particularly grateful to activists, journalists, and others working in and on northern Shan State who helped to facilitate this research and without whom this report would not be possible. Amnesty International is also deeply grateful to the victims, survivors and their families who shared their stories, often at great personal risk, and entrusted Amnesty International with raising their experiences and concerns.

# 2. BACKGROUND

Shan State, in the north of Myanmar, is the largest of all states and regions in the country. Bordering China, Thailand, and Laos, it is home to around 5.8 million people, which includes a diverse range of ethnic and religious groups.<sup>1</sup> Most of the population live in rural areas, where they engage in agriculture for their livelihoods, although high levels of unemployment have led many – in particular young people – to migrate to other parts of the country or overseas in search of economic opportunities.<sup>2</sup>

Shan State's size means it is often referred to in terms of three separate regions – northern Shan State, eastern Shan State, and southern Shan State. While northern Shan State is the focus of this report, all areas have experienced decades of armed conflict, central to which has been armed ethnic struggle for greater political and economic autonomy against a heavily centralised state.<sup>3</sup> The conflicts are also rooted in issues related to the exploitation of natural resources; land use and major infrastructure projects; and the narcotics trade.<sup>4</sup> Amnesty International and others have for decades documented serious violations committed against civilians in all parts of the state.<sup>5</sup>

The armed conflicts in northern Shan State are complex, involving the Myanmar military – also known as the Tatmadaw – and a large number of ethnic armed groups. Among these are the Arakan Army (AA), the Kachin Independence Army (KIA), the Myanmar National Democratic Alliance Army (MNDAA), and the Ta'ang National Liberation Army (TNLA), which together operate as a loose grouping known as the “Northern Alliance”.<sup>6</sup> Two ethnic Shan armed groups – the Shan State Army-North (SSA-N) and the Shan State Army-South (SSA-S) also operate in northern Shan State,<sup>7</sup> though the latter's presence in the area is heavily contested. In recent years SSA-N and TNLA fighters have fought alongside each other, while the SSA-S is loosely aligned with the Myanmar military. In May, the SSA-N and SSA-S announced a mutual ceasefire,

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<sup>1</sup> Republic of the Union of Myanmar, *The 2014 Myanmar population and housing census: Shan State, Census report volume 3-M*, May 2015, [https://myanmar.unfpa.org/sites/default/files/pub-pdf/Shan%20State%20Census%20Report%20-%20ENGLISH-3\\_0.pdf](https://myanmar.unfpa.org/sites/default/files/pub-pdf/Shan%20State%20Census%20Report%20-%20ENGLISH-3_0.pdf)

<sup>2</sup> Republic of the Union of Myanmar, *The 2014 Myanmar population and housing census: Shan State, Census report volume 3-M*, May 2015. See also Centre for Diversity and National Harmony (CDNH), *Shan State Needs Assessment*, May 2019, pp. 12-13, and pp. 19-24.

<sup>3</sup> See, for example, Martin Smith, *Burma: Insurgency and the politics of ethnicity* (Zed Books, 1999), 2<sup>nd</sup> edition.

<sup>4</sup> Today Shan State is the epicenter of the illegal drugs trade in Myanmar, with revenues from heroin and crystal methamphetamine (or “ice”) believed to dwarf those of the formal economy. For more see International Crisis Group, *Fire and ice: Conflict and drugs in Myanmar's Shan State*, Asia Report No. 299, 8 January 2019.

<sup>5</sup> Amnesty International, *Myanmar: Atrocities in the Shan State* (Index: ASA 16/005/1998), 14 April 2014; *Myanmar: Update on the Shan State* (Index: ASA 16/013/1999), 31 May 1999; *Myanmar: Exodus from the Shan State* (Index: ASA 16/011/2000), 9 July 2000; “All the civilians suffer”: *Conflict, displacement and abuse in northern Myanmar* (Index: ASA 16/6429/2017), 14 June 2019; Human Rights Watch, *No Safety in Burma, so sanctuary in Thailand*, 25 July 1997; Human Rights Watch “*My gun was as tall as me*”: *Child soldiers in Burma*, 16 October 2002; Shan Women's Action Network & Shan Human Rights Foundation, *License to Rape: The Burma military regime's use of sexual violence in the ongoing war in Shan State*, July 2002; Ta'ang Women's Organization (TWO), *Trained to torture: Systematic war crimes by the Burma Army in Ta'ang areas of northern Shan State* (March 2011-March 2016), June 2016.

<sup>6</sup> The formation of the Northern Alliance was announced in November 2016, shortly before the group staged a major attack on military and police posts close to the Chinese border in northern Shan State. It includes the northern Shan State brigades of the KIA. The group should not be confused with the Brotherhood Alliance, which does not include the KIA and which attacked military installations and other locations on 15 August 2019. Precise figures for the number of fighters in each group are difficult to obtain. The BNI Myanmar Peace Monitor estimates the Arakan Army to have 3,000 fighters, the KIA to have around 10,000-12,000, the MNDAA to have over 2,000, and the TNLA to have between 1,500 and 3,500, see <https://www.mmpeacemonitor.org>. Analysts estimate these numbers – particularly for the AA, MNDAA, and TNLA – to be higher.

<sup>7</sup> Precise figures for the number of fighters in each group are difficult to obtain. The BNI Myanmar Peace Monitor estimates each group to have around 8,000 fighters, although according to analysts the figures for SSA-N are likely to be lower than this. See <https://www.mmpeacemonitor.org>

however this did not include the TNLA, which sporadically clashes with the SSA-S.<sup>8</sup> A number of military-backed militias and paramilitaries also operate in the region.<sup>9</sup>

In 2011, as Myanmar was transitioning from outright military rule to a quasi-civilian government, the administration, then headed by President Thein Sein, initiated a new peace process. This led to the signing of bilateral ceasefires with 14 different armed groups by 2013.<sup>10</sup> The process was to culminate in the signing of a Nationwide Ceasefire Agreement (NCA), aimed at putting an end to the country's multiple armed conflicts. In the end, however, only eight ethnic armed groups signed the accord in October 2015. A 17-year ceasefire with the KIA had broken down in 2011, leading to renewed fighting, while the Myanmar authorities excluded the AA, MNDAA, and TNLA from the signing NCA.<sup>11</sup> Among the groups currently operating in northern Shan State, only the Restoration Council of Shan State (RCSS) signed the agreement.<sup>12</sup>

When it assumed power at the end of March 2016, the civilian-led government, headed by *de facto* leader Aung San Suu Kyi, made clear that peace and national reconciliation were among its top priorities. It announced a "21<sup>st</sup> Century Panglong Conference", a nod to the 1947 Panglong Conference led by General Aung San, Aung San Suu Kyi's father, at the end of which representatives from several ethnic communities, including the Kachin and Shan, agreed to join what was then Burma as a Union state, in exchange for "promises of full autonomy in internal administration and an equal share in the country's wealth".<sup>13</sup>

Since March 2016, there have been three peace conferences, however there has been little progress in ending the conflicts and fighting has at times intensified, rather than declined, in particular in northern Myanmar.<sup>14</sup> From August 2016, the military launched offensives in Kachin and Shan States leading to attacks on security posts by the Northern Alliance in late November 2016. The military responded with a violent counter-insurgency campaign which included indiscriminate attacks killing or injuring civilians, arbitrary arrests, torture and other ill-treatment, extrajudicial executions, and enforced disappearances.<sup>15</sup> Fighting also escalated in early 2018, in particular around Tanai Township in Kachin State, where the military deployed heavy weapons and airstrikes, trapping fleeing civilians.<sup>16</sup>

On 12 December 2018, the political wings of the AA, MNDAA, and TNLA announced that they would halt military operations and engage in political dialogue.<sup>17</sup> Then on 21 December 2018, the military announced a unilateral ceasefire, which Commander-in-Chief Senior General Min Aung Hlaing said was aimed at securing "eternal peace".<sup>18</sup> Initially limited to six months, the ceasefire applied in five regional military commands in northern and eastern Myanmar, however did not include Rakhine State in the west of the country, where the military deployed thousands of troops in December 2018 and in January 2019. Since then they have engaged in heavy fighting against the Arakan Army (AA) as part of a major – and continuing – escalation of violence.<sup>19</sup> The military has thrice extended the ceasefire – for two months from 30 April and again from 30 June, and most recently for 21 days on 31 August. On 23 September, the military confirmed the ceasefire had ended, accusing the ethnic armed groups' lack of interest in signing the NCA.<sup>20</sup>

The situation escalated once again after the AA, MNDAA, and TNLA launched a series of attacks on 15 August on military installations and other locations, killing and injuring soldiers, police officers, and

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<sup>8</sup> Lawi Weng, "Warring Shan Armed Groups Agree to Ceasefire", *The Irrawaddy*, 13 May 2019, <https://www.irrawaddy.com/news/burma/warring-shan-armed-groups-agree-ceasefire.html>

<sup>9</sup> For more on militias, including those affiliated with the Myanmar military, see John Buchanan, *Militias in Myanmar*, The Asia Foundation, July 2016.

<sup>10</sup> International Crisis Group, *Myanmar's peace process: Getting to a political dialogue*, Asia Briefing No. 149, 19 October 2016, pp. 2, 16.

<sup>11</sup> International Crisis Group, *Myanmar's peace process*, pp. 2, 7, 10. The AA, MNDAA, and TNLA do not have bilateral ceasefires with the Myanmar military, one of several reasons the military says they cannot sign the NCA. The military has said they should disarm or otherwise give up territory, which is a non-starter for the groups.

<sup>12</sup> Lawi Weng, "Warring Shan Armed Groups Agree to Ceasefire", *The Irrawaddy*, 13 May 2019, <https://www.irrawaddy.com/news/burma/warring-shan-armed-groups-agree-ceasefire.html>

<sup>13</sup> International Crisis Group, *Myanmar: A New Peace Initiative*, Crisis Group Asia Report No. 214, 20 November 2011, p. 1.

<sup>14</sup> International Crisis Group, *Myanmar's Stalled Transition*, Briefing N°151, 28 August 2018, p. 5.

<sup>15</sup> See Amnesty International, "All the civilians suffer": *Conflict, displacement and abuse* (Index: ASA 16/6429/2017), 14 June 2019.

<sup>16</sup> *Radio Free Asia (RFA)*, "Myanmar Air Strikes in Kachin State Trap Thousands in Mining Region", 29 January 2018,

<https://www.rfa.org/english/news/myanmar/myanmar-air-strikes-in-kachin-state-trap-thousands-in-mining-region-01292018160156.html>

<sup>17</sup> Nyein Nyein, "Three armed groups offer to stop fighting, enter peace talks", *The Irrawaddy*, 13 December 2018,

<https://www.irrawaddy.com/news/burma/three-armed-groups-offer-stop-fighting-enter-peace-talks.html>

<sup>18</sup> *The Global New Light of Myanmar*, "Announcement on ceasefire and eternal peace", 22 December 2018,

<https://www.globalnewlightofmyanmar.com/announcement-on-ceasefire-and-eternal-peace/>. Political analysts and other experts on Myanmar have noted that the military's announcement of the ceasefire coincided with Chinese efforts to survey locations for planned Belt and Road infrastructure initiatives in northern Myanmar, including in northern Shan State. Amnesty International interviews, Yangon, March and August 2019.

<sup>19</sup> Amnesty International has documented serious violations, including war crimes, by the military and abuses by the AA. See Amnesty International, "No one can protect us": *War crimes and abuses in Myanmar's Rakhine State* (Index: ASA 16/0417/2019), 29 May 2019.


<sup>20</sup> Htet Naing Zaw, "Myanmar Military Abandons Truce, Citing EAOs' Lack of Interest in Peace", *The Irrawaddy*, 23 September 2019, <https://www.irrawaddy.com/news/burma/myanmar-military-abandons-truce-citing-eaos-lack-interest-peace.html>

civilians.<sup>21</sup> The attacks, one of which targeted an elite military training academy in Pyin Oo Lwin, Mandalay Region, were not unexpected – just days before, the three groups had announced the formation of the new grouping known as the “Brotherhood Alliance” and threatened attacks if the military did not stop offensives in Rakhine and northern Shan States.<sup>22</sup>

While the immediate objective was likely to relieve pressure on the AA in Rakhine State, analysts also see the attacks as an attempt to force the military and government to recognise the three groups and grant them a seat at the table in peace negotiations and any future political dialogue.<sup>23</sup> The attacks may also be an attempt to force China – which has long had significant influence in Myanmar’s internal security affairs in Shan State – to take a more proactive role in the peace process.<sup>24</sup> The attacks also come at a time when China is moving forward with the implementation of its “Belt and Road” initiative which seeks to increase the country’s access to global trade and economic markets across Europe, Asia, and Africa. Myanmar plays a key part in this plan, offering landlocked parts of China access to the Indian Ocean and its vital shipping routes.<sup>25</sup>

While the long-term implications of the 15 August attacks remain unclear, civilians are likely to suffer the consequences of continued conflict, including through further abuse and displacement.



 Myanmar soldiers at Gote Twin bridge, northern Shan State in the aftermath attacks by three ethnic armed groups calling themselves the “Brotherhood Alliance”, 20 August 2019. © Steve Tickner

<sup>21</sup> Htet Naing Zaw and Zarni Mann, “15 Myanmar Soldiers, Police and Civilians Dead in Coordinated Attacks”, 15 August 2019, <https://www.irrawaddy.com/news/burma/15-myanmar-soldiers-police-civilians-dead-coordinated-attacks.html>

<sup>22</sup> David Mathieson, “Why war will never end in Myanmar”, *Asia Times*, 20 August 2019, <https://www.asiatimes.com/2019/08/article/why-war-will-never-end-in-myanmar/>

<sup>23</sup> International Crisis Group, *Myanmar: A violent push to shake up ceasefire negotiations*, Asia Briefing No. 158, 24 September 2019, p. 2.

<sup>24</sup> International Crisis Group, *Myanmar: A violent push to shake Up Ceasefire Negotiations*, 24 September 2019, pp. 5-6. For more on China’s role, see United States Institute of Peace, *China’s Role in Myanmar’s Internal Conflicts*, 14 September 2018.

<sup>25</sup> International Crisis Group, *Fire and Ice: Conflict and Drugs in Myanmar’s Shan State*, Asia Report No. 299, 8 January 2019.

# MILITARY IMPUNITY

Ongoing violations by the military in northern Shan State take place against a longstanding backdrop of serious violations by the Myanmar military across the country. In recent years, Amnesty International and others have documented serious violations – including war crimes – by Myanmar soldiers in both Kachin and Shan States.<sup>26</sup> The military has also committed serious crimes against the Rohingya population in Rakhine State – in particular in October and November 2016, and again from August 2017 when the military launched a massive attack forcing more than 740,000 women, men, and children to flee their homes and country.<sup>27</sup> A UN Fact-Finding Mission has called for senior military officials to be investigated and tried for crimes against humanity, war crimes, and genocide.<sup>28</sup>

Prospects for justice and accountability and reparations for survivors and victims' families in Myanmar are virtually non-existent. While both the civilian-led government and military announced some initiatives to investigate abuses in Rakhine State, these have been deeply flawed. A government-established Independent Commission of Enquiry (ICOE) lacks credibility and fails to meet basic standards of independence, impartiality, and competence. Military-announced initiatives are clearly not independent or impartial and are incapable of delivering justice to victims and their families. Importantly, none of these initiatives covers military violations in other parts of the country, including in northern Shan State. In these areas, investigations into allegations of military violations are rare and perpetrators are seldom held to account.

There have been some international efforts to hold members of the Myanmar military to account. In September 2018, the Prosecutor of the International Criminal Court (ICC) announced that her Office had opened a preliminary examination into the “*alleged deportation of the Rohingya people from Myanmar to Bangladesh*”,<sup>29</sup> and in July 2019 confirmed that it had submitted a request to the Pre-Trial Chamber to open a full investigation.<sup>30</sup> However, as it stands, any ICC investigation would only have authority to probe international crimes where at least one element of the crime was committed in Bangladesh.<sup>31</sup> As a result, military violations – and violations by ethnic armed groups – in northern Shan State do not fall under the jurisdiction of the Court at this time, although that could change should the UN Security Council vote to refer the situation in Myanmar to the ICC. At present, that remains extremely unlikely.

Today – and with the ongoing failure of the UN Security Council to refer the situation to the ICC – the main international body mandated to investigate international crimes across the country is the newly operational Independent Investigative Mechanism for Myanmar (IIMM), which was established by the Human Rights Council in September 2018.<sup>32</sup> The IIMM is mandated to “*collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011,*” and “*prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards*”.<sup>33</sup> The IIMM submitted its first report to the UN Human Rights Council in August 2019.<sup>34</sup> Given that violations in Myanmar are ongoing, it will be important for the IIMM to engage early with civil society activists and victims' representatives from affected areas across the country.

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<sup>26</sup> Human Rights Watch, “*Untold Miseries: Wartime Abuses and Forced Displacement in Burma’s Kachin State*”, March 2012.

<sup>27</sup> See Amnesty International, “*We will destroy everything: Military responsibility for crimes against humanity in Rakhine State, Myanmar*” (Index: ASA 16/8630/2018), 27 June 2018; “*My world is finished: Rohingya targeted by crimes against humanity in Myanmar*” (Index: ASA 16/7288/2017), 18 October 2017; “*We are at breaking point: Rohingya persecuted in Myanmar, neglected in Bangladesh*” (Index: ASA 16/5362/2016), 19 December 2016; Independent International Fact-Finding Mission on Myanmar (UN FFM), *Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*, UN Doc: A/HRC/39/CRP.2, 17 September 2018.

<sup>28</sup> UN FFM, Report of the Independent International Fact-finding Mission on Myanmar, UN Doc: A/HRC/39/64, 12 September 2018.

<sup>29</sup> Statement of ICC Prosecutor, Fatou Bensouda, on opening a Preliminary Examination concerning the alleged deportation of the Rohingya people from Myanmar to Bangladesh, 18 September 2018, <https://www.icc-cpi.int/Pages/item.aspx?name=180918-otp-stat-Rohingya>.

<sup>30</sup> ICC Prosecutor, Fatou Bensouda, requests judicial authorisation to commence an investigation into the situation in Bangladesh/Myanmar, 4 July 2019, <https://www.icc-cpi.int/Pages/item.aspx?name=pr1465>

<sup>31</sup> Statement of ICC Prosecutor, Fatou Bensouda, on opening a Preliminary Examination concerning the alleged deportation of the Rohingya people from Myanmar to Bangladesh, 18 September 2018.

<sup>32</sup> Resolution adopted by the Human Rights Council on 27 September 2018, Situation of human rights of Rohingya Muslims and other minorities in Myanmar, UN Doc: A/HRC/RES/39/2, 3 October 2018.

<sup>33</sup> Resolution adopted by the Human Rights Council on 27 September 2018, Situation of human rights of Rohingya Muslims and other minorities in Myanmar, UN Doc: A/HRC/RES/39/2, 3 October 2018, para. 22.

<sup>34</sup> Report of the Independent Investigative Mechanism for Myanmar, UN Doc: A/HRC/42/66, 7 August 2019.

# 3. VIOLATIONS BY THE MYANMAR MILITARY

Myanmar soldiers have committed serious violations of human rights and humanitarian law since September 2018. These violations have continued even after the military's announcement on 21 December 2018 of a unilateral ceasefire, in effect across northern and eastern Myanmar, including northern Shan State.

Amnesty International documented arbitrary arrests and detention, in particular of ethnic minority men and boys who were targeted on the basis of their ethnicity and perceived links to specific armed groups. Arrests and detention were often accompanied by torture and other ill-treatment. In some cases, detainees were taken to military bases where they were held for up to three months, before being transferred to police stations and charged with violating Myanmar's Unlawful Associations Act. Myanmar soldiers have also opened fire on civilians, killing or otherwise injuring them after suspecting them of belonging to an ethnic armed group.

Myanmar soldiers have regularly moved through – and at times stayed in – villages, exposing civilians to the risk of attack. Some interviewees told Amnesty International that they leave their villages when soldiers come to stay; women who are alone sometimes leave and stay with relatives. In some areas, the military has used schools as bases or barracks, and at times confiscated property.

Violations were committed both by soldiers from the Northeast Command – the Myanmar military Regional Command which oversees northern Shan State – and by soldiers from the military's Light Infantry Divisions (LIDs), in particular the 99<sup>th</sup> LID, which has previously been implicated in serious violations in northern Myanmar as well as against the Rohingya in northern Rakhine State. For these and other crimes, the soldiers continue to operate with impunity.

## 3.1 ARBITRARY ARREST, DETENTION, TORTURE AND OTHER ILL-TREATMENT

**“[A soldier asked] ‘Are you KIA?’ I said ‘no’, then they started punching and kicking me. There were many soldiers. They forced me to take off my clothes [and] held a knife to my neck... They put a grenade in my mouth. I was afraid if I moved it would explode.”**

A 35-year-old ethnic Kachin man describes being tortured by soldiers from the 99<sup>th</sup> LID in Kutkai Township in March 2019.<sup>35</sup>

Amnesty International documented arbitrary arrests accompanied by ill-treatment that often amounted to torture. Continuing a pattern previously documented by Amnesty International in northern Shan State, as

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<sup>35</sup> Amnesty International interview, northern Shan State, 24 March 2019.



well as in Kachin and Rakhine States, those arrested were overwhelmingly men and boys, often travelling to or from their farms or between villages.<sup>36</sup> Soldiers detained them individually or in small groups and questioned them about their connections to a specific ethnic armed group. In doing so, they almost always targeted the men and boys for arrest on the basis of their ethnicity alone or in combination with a clash or other incident having occurred nearby in prior days. Such arbitrary arrests highlight the collective suspicion and punishment that ethnic minority communities face at the hands of the Myanmar military.

All the cases of arrest and detention documented by Amnesty International took place in the northernmost townships of Shan State, where the Myanmar military have an active presence and continue to engage in ground operations. Most involved torture or other cruel, inhuman, or degrading treatment or punishment (other ill-treatment). Wherever soldiers intentionally inflict severe physical or mental pain or suffering on a person under their control as a means of punishment or to obtain information or a confession, this amounts to torture and is a serious human rights violation and a war crime under customary international law.<sup>37</sup>

An activist working in the area explained that displaced people were particularly at risk of arbitrary detention and torture or other ill-treatment: *“When they try to go to their farms during the day, even though they’ve been told they can during the ceasefire, if there’s fighting [while they’re at their farm], the military will take them and beat them.”*<sup>38</sup> This was the case when Myanmar soldiers detained a 68-year-old ethnic Kachin farmer from Muse Township on 20 January 2019. He had planned to go fishing that day and was carrying a stick and small amount of explosives, a common means of catching fish in the region. He recalled:

*“When [the soldiers] saw it, they tied me up and kept asking me where I planted these things. I told them that I got it for fishing. They slapped me a few times before putting [a] basket on my head... then they kicked me and hit me.*

*They kept asking where I had planted the bombs. I said I wasn’t planting bombs... They kept hitting me and questioning me. I was bleeding from my nose. I could barely breathe from all the beating to my chest. At some point I lost consciousness.”*<sup>39</sup>

The man was taken to a nearby spring, where he was tied to a bamboo tree and held for a night. *“By then, they stopped beating me and stopped asking questions. They just told me not to cause trouble,”* he recalled. He was released several days later. He told Amnesty International that the soldiers were from the 11<sup>th</sup> LID, which he identified by the patches on the upper arms of their uniforms. Before releasing him, he said the soldiers confiscated his knife, the gun he uses for hunting, and 60,000 kyats (US\$40).<sup>40</sup> Two months after his ordeal, he continued to feel the effects of the torture. *“I have trouble breathing... even now when I am sitting, I can feel the pain,”* he said.<sup>41</sup>

In a similar incident, soldiers from the 99<sup>th</sup> LID detained and tortured two ethnic Kachin villagers in Kutkai Township, on 11 March 2019. The men had left their village several days earlier to go fishing. While they were away, fighting had broken out between the military and the KIA. One of the men, 35, recalled what happened when they encountered the group of soldiers:

*“They asked where we were going and what we were doing. Then they asked our ethnicity. [When we said Kachin] they asked where the other combatants were... Someone asked me ‘are you KIA?’ – I said ‘no’ then I was punched. [They asked] ‘where are your KIA commanders?’ I said, ‘I don’t know, I’m not KIA’, then I was punched again... I was bleeding from my mouth.*

*They took me to a corner of the village. [A soldier asked again] ‘Are you KIA?’ I said ‘no’, then they started punching and kicking me. They forced me to take off my clothes [and] held a knife to my neck... Then they forced me to squat with my fingers on my knees... They told me if I moved they would cut off my fingers... They put a grenade in my mouth... I was afraid if I moved it would explode.”*<sup>42</sup>

While he was being beaten, his friend, a 24-year-old ethnic Kachin man, was taken to a different part of the village and asked if he had seen members of the KIA. *“I said no... They told me I was lying. One of them showed me a sword and said, ‘Do you see this? I will use it to kill you, and before I do, I will make you dig*

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<sup>36</sup> See Amnesty International, *“No one can protect us”*, pp. 23-27; *“We will destroy everything”*, pp 25-37; *“All the civilians suffer”*, pp 15-20; and *“We are at breaking point”*, pp. 21-24.

<sup>37</sup> See Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90, entered into force 1 July 2002, arts. 7(2)(e) and 8(2)(c)(i). See also International Criminal Court, *Elements of Crimes: Article 8(2)(c)(i)-4, War crime of torture*, 2011, <https://www.icccpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf>; International Committee of the Red Cross, Customary IHL: Rule 90. Torture and Cruel, Inhuman or Degrading Treatment.

<sup>38</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>39</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>40</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>41</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>42</sup> Amnesty International interview, northern Shan State, 24 March 2019.

*your own grave.*"<sup>43</sup> He recalled how he was ordered to go to a neighbouring village to find out if the KIA were there. When he returned and said there were no KIA, soldiers accused him of lying and again threatened to kill him.<sup>44</sup>

The two men were held until around 5pm, when fighters from a local militia arrived in the area and recognized one of them; the men were released soon afterwards. Both victims said the soldiers who detained and tortured them had the patch of the 99<sup>th</sup> LID on their arms.<sup>45</sup> Neither man has brought a complaint about what happened. *"I don't want to make things complicated,"* said the 35-year-old man. *"The police and the military are the same. If I complain, nothing will happen."*<sup>46</sup>

Soldiers from the 99<sup>th</sup> LID also detained and tortured or otherwise ill-treated two ethnic Kachin men and a 14-year-old ethnic Kachin boy on 11 October 2018. The three were in the paddy fields on the outskirts of Man Lway village, Kutkai Township, when soldiers arrived in the area at around 7am. Amnesty International interviewed four people present who independently identified the soldiers as being from the 99<sup>th</sup> LID, based on the patches on their upper arms.<sup>47</sup>

Dau Hkawng, an 18-year-old corn and rice farmer was one of those detained. He told Amnesty International that there had been fighting between the Myanmar military and KIA the night before – he had fled after soldiers tried to force him to guide them to his village. He recalled that when soldiers arrived in the field that morning, they recognized him and accused him of working for the KIA. *"They kicked me in the head and hit me [around the temple],"* he said.<sup>48</sup> The 14-year-old boy similarly recalled that *"they forced us to kneel on the ground and beat us... They kicked me five times in the head... [then] they tied my hands. The soldiers used a knife. They asked me 'are you KIA?'"*<sup>49</sup>

The three detainees were then taken to a nearby elementary school, where the two men – Dau Hkawng and Hkawng Lum, 45 – were interrogated and tortured. *"They asked if I was a [KIA] soldier,"* recalled Dau Hkawng. *"I kept saying no, then they put a plastic bag over my head [and] tied it tight by holding it in the back. They were asking me if I knew any soldiers from the village. They did it six or seven times, each time for two or three minutes. I couldn't breathe."*<sup>50</sup> Soldiers tied the two men and boy to a post and later forced them to sleep at the school, which the soldiers were using as a temporary barracks. They left the next day with a different group of soldiers – some belonging to 99<sup>th</sup> LID, others from an artillery unit. When the group arrived at Kar Lai village, the three detainees were restrained by their feet in wooden stocks for around an hour, before being taken to the Myanmar military base in Kutkai town (see pages 21-22 for more information on abuses during detention in military bases, including the experience of these two men and boy).

In several cases Amnesty International documented, Myanmar soldiers searched people's mobile phones, apparently looking for evidence of a connection with an ethnic armed group. On 26 November 2018, soldiers stopped two ethnic Kachin men at a checkpoint close to Man Ping village, in Kutkai Township, as the men were travelling to a recreational sports match. One of the men, Lahpai Zaw Wawm, said soldiers found a KIA-related music video on his friend's phone. *"They forced him to sit down and started beating him, they didn't even give him a chance to explain,"* Lahpai Zaw Wawm said.<sup>51</sup>

The men were separated, and three soldiers took Lahpai Zaw Wawm to a nearby house and began interrogating him. He recalled, *"They didn't get the answers they were looking for. So they put a blindfold on me and tied me to an old machine in front of the house. They said, 'We have evidence that you're a [KIA] soldier or from the KIO, and you have to confess.'"*<sup>52</sup> When he still denied being a member of the KIA, they took him into the house and beat him. Fortunately, a villager from Man Ping had seen the soldiers questioning the men and alerted someone involved in organizing the sporting event; the men were released after the person confirmed their identities and where they had been going.<sup>53</sup>

Similarly, Hpau Gun Tang Mai, a bricklayer and local church leader from Maw Hik village, Kutkai Township, was detained and beaten by Myanmar soldiers – whom he identified as being from the 99<sup>th</sup> LID – on 13 March 2019 while driving his car close to the mortuary in Kutkai town. *"I was on the phone to my wife. A*

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<sup>43</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>44</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>45</sup> Amnesty International interviews, northern Shan State, 24 March 2019.

<sup>46</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>47</sup> Amnesty International interviews, northern Shan State, 24 March 2019.

<sup>48</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>49</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>50</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>51</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>52</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>53</sup> Amnesty International interview, northern Shan State, 24 March 2019. See also Lawi Weng, "Kachin Group Accuses Myanmar Army of Beating Two Men Suspected of Rebel Ties", *The Irrawaddy*, 27 November 2018, <https://www.irrawaddy.com/news/burma/kachin-group-accuses-myanmar-army-beating-two-men-suspected-rebel-ties.html>

man in plain clothes came over and accused me of spying and taking photographs,” he recalled. “He took my phone and dragged me out of the car.”<sup>54</sup> The man and six uniformed soldiers proceeded to beat Hpau Gun Tang Mai, slapping his face until his lip was bleeding. They then blindfolded Hpau Gun Tang Mai, tied his hands behind his back, and took him to the Strategic Operations Command, part of a large military base in Kutkai town.

More recently, the Myanmar military detained 10 ethnic Ta'ang men and boys in Kutkai Township at around 9pm on 19 June 2019. According to a source with knowledge of the incident, the 10 had been going to a wedding in Loi Kan village when they were stopped and searched at a military checkpoint close to the Galeng IDP camp.<sup>55</sup> The 10 were detained after soldiers searched their mobile phones and apparently found what they allege to be evidence linking one of the boys to the TNLA. Six have since been released, however four – two of them boys – remain in detention.<sup>56</sup>

While Amnesty International's research indicates that men and boys are primarily at risk of arbitrary arrest and detention by the Myanmar military, the organization also documented one instance when two female villagers were temporarily detained by soldiers and forced to walk through the forest with other detained villagers before being released in Kutkai Township. One of the women, an ethnic Kachin woman from Kutkai Township, described how she was sexually assaulted by a soldier from the 99<sup>th</sup> LID in March 2019: “I told them I had to go back to feed my child. A soldier asked me, ‘Do you need to breastfeed?’ When I said ‘yes’, he grabbed my breast [and squeezed it]... then he let me go.”<sup>57</sup>

While it is often ordinary civilians who are arrested and detained by Myanmar soldiers, Village Administrators<sup>58</sup> and other local officials are also at risk of arrest or detention for alleged connections with armed groups. Sai Tint Cho, 56, the Village Administrator for Nam Hu Tawng village tract in Kyaukme Township, was arrested on 26 April 2019, accused of collecting “taxes” and providing food supplies for both the SSA-S and SSA-N. His fate and whereabouts were unknown until 1 May, when his family was informed that he was being detained on the 502<sup>nd</sup> LIB base in Kyaukme town. Sai Tint Cho was held there until 9 May 2019, when he was transferred to the Kyaukme Township police station.<sup>59</sup> According to a family member who visited him in detention, he was pressured to “confess” and made to add his fingerprint to a document which he was not allowed to read.<sup>60</sup> At the time of publication, he had been charged with violating Section 17/1 of the Unlawful Association Act, which carries up to three years' imprisonment for anyone who “is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association or in any way assists the operations of any such association”. He is currently detained at the Kyaukme Township police station.<sup>61</sup>

Sai Tint Cho's relative told Amnesty International that he had previously tried to resign from his post as a Village Administrator, in part because of the risk of being charged under the Unlawful Associations Act.<sup>62</sup> The case against him has had a chilling effect on other local village officials, who similarly fear arrest as a result of their alleged or actual engagement with ethnic armed groups, which at times is imposed or otherwise unavoidable without some form of reprisal. At least 22 local government officials have tendered their resignation in protest against the arrest.<sup>63</sup> The situation bears striking similarities to Rakhine State,

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<sup>54</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>55</sup> Amnesty International interview, northern Shan State, 15 August 2019.

<sup>56</sup> Amnesty International interview, northern Shan State, 15 August 2019. See also Lawi Weng, “Four Palaung in Military Detention Two Weeks and Counting”, *The Irrawaddy*, 8 July 2019, <https://www.irrawaddy.com/news/burma/four-palaung-military-detention-two-weeks-counting.html>

<sup>57</sup> Amnesty International interview, northern Shan State, 25 March 2019.

<sup>58</sup> In Myanmar, each village tract, ward and quarter is overseen by an administrator (Village Administrator, Ward Administrator or Quarter Administrator), who is an official government employee working under the General Administration Department (GAD). As their title suggests, Village, Ward and Quarters Administrators are responsible for the administration of their respective village tract, ward or quarter, including registering births and deaths. Individual villages and hamlets are usually informally administered by local leaders. In January 2019, the General Administration Department moved under the control of the civilian government. For further information about how the General Administration Department (GAD) administers Myanmar from the national level down to the village level, see Kyi Pyar Chit Saw and Matthew Arnold, *Administering the State in Myanmar*, The Asia Foundation, October 2014.

<sup>59</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>60</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>61</sup> Amnesty International correspondence, 5 September 2019.

<sup>62</sup> In 2016, he was among 15 Village Administrators to submit a resignation letter to the Township Administration Office, citing concerns that their work unavoidably brought them in to contravention of the Unlawful Associations Act. The resignations were rejected. Amnesty International understands he had been planning to resign in April 2019 but was arrested before he could tender his resignation. Copies of his 2016 resignation letter and the draft letter from April 2019 are on file with Amnesty International.

<sup>63</sup> Lawi Weng, “More than 20 Village Administrators in N. Shan Quit to Protest Leader's Arrest”, *The Irrawaddy*, 30 July 2019, <https://www.irrawaddy.com/news/burma/20-village-administrators-n-shan-quit-protest-leaders-arrest.html>; and *The Irrawaddy*, “No One Wants to Be a Village Administrator in Shan State”, 13 August 2019, <https://www.irrawaddy.com/in-person/interview/no-one-wants-village-administrator-shan-state.html>

where local government officials attempted to resign *en masse* after the arrest of four Village Administrators in March 2019.<sup>64</sup>

### THE UNLAWFUL ASSOCIATIONS ACT

The 1908 Unlawful Associations Act is a vaguely-worded law which has long been used by the Myanmar authorities to arrest and detain ethnic minority civilians in conflict-affected areas. The Act grants the authorities broad discretionary powers to determine what constitutes an unlawful association and is unclear about which organizations have been declared unlawful. Indeed, under the Act it is not necessary that an organization be declared unlawful for action to be taken under its provisions.<sup>65</sup> Under the Act, a member or leader of an organization declared unlawful or denied permission to register, as well as someone simply deemed to be associated with the organization, can be sentenced to between two and five years' imprisonment.

The fact that anyone in any way associated with an unlawful organization is at risk of imprisonment allows the authorities to use the Unlawful Associations Act for political ends. As long as it remains on the books, humanitarian workers, journalists, civil society activists, and ordinary civilians remain at risk of arrest, prosecution, and imprisonment.<sup>66</sup>

Under international human rights law and standards, restrictions on the rights to freedom of expression and association must be defined in law, be imposed to serve a legitimate aim explicitly specified in international human rights law, and be both necessary and proportionate to achieve the specific legitimate aim.<sup>67</sup> Amnesty International, the UN, and others have long expressed concern about the Act and called on successive administrations to repeal it.

Amnesty International documented other instances where Village Administrators and other local government officials were arrested for alleged connections with ethnic armed groups. Khin Maung Win, around 40 years old, a local government official in Win Ga Bar village, Kutkai Township, was arrested on 30 January 2019 along with three TNLA soldiers who had reportedly arrived in the village that morning to conduct drug awareness raising activities.<sup>68</sup> According to a local political activist assisting with the case, Khin Maung Win was charged with violating Section 17/1 of the Unlawful Associations Act.<sup>69</sup> He was subsequently sentenced to two and a half years' imprisonment and is currently detained in Oboe prison, Mandalay Region.<sup>70</sup>

Under international law, states are required to provide information about the fate and whereabouts of any person detained.<sup>71</sup> Failure to do so may constitute enforced disappearance, a crime under international law.<sup>72</sup> However, family members can find it extremely difficult to get official information about relatives detained by the Myanmar military. Often, they rely on local leaders – or members of local militias with links to the military – to try to obtain this information.<sup>73</sup> For example, Nawng Ring (aka La Dawn), an ethnic Kachin man in his 30s from Hseni Township, went missing on 4 March 2019. According to a family member, Nawng Ring had been asked to collect a receipt book from a nearby KIA base and take it to a KIA member who was collecting “taxes” on a sugar plantation. “[He] was going to Kawng Kaw village to deliver the receipt,” recalled the relative, whom Nawng Ring had informed where he was going. “Villagers get asked to do things [for the armed groups] ... It's the reality of where we live.”<sup>74</sup>

<sup>64</sup> See Amnesty International, “No one can protect us”, p. 40.

<sup>65</sup> Article 15.

<sup>66</sup> In an illustrative case, in June 2017 three reporters were charged under the Act after attending a drug burning ceremony in areas controlled by the TNLA. The journalists were released and the charges against them dropped in September 2017. Amnesty International, *Myanmar: Release journalists immediately*, 27 June 2019, <https://www.amnesty.org/en/latest/news/2017/06/myanmar-release-journalists-immediately/>

<sup>67</sup> See for instance International Covenant on Civil and Political Rights, Article 19(3); Human Rights Committee, *General comment No. 34, Article 19: Freedoms of opinion and expression*, UN Doc: CCPR/C/GC/34, 12 September 2011, paras. 21-36.

<sup>68</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>69</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>70</sup> Amnesty International correspondence, 5 September 2019.

<sup>71</sup> See for instance, Human Rights Committee, *General comment No. 35, Article 9: Liberty and security of person*, UN Doc. CCPR/C/GC/R.35/Rev.3, 10 April 2014, paras. 58-9.

<sup>72</sup> Enforced disappearance is defined in Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance as: “...the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”, International Convention for the Protection of All Persons from Enforced Disappearance, adopted by UN General Assembly Res. 61/177, 20 December 2006, Art. 2.

<sup>73</sup> Amnesty International interviews, March and August 2019.

<sup>74</sup> Amnesty International interview, northern Shan State, 24 March 2019.

When Nawng Ring did not return, the relative contacted a local militia to ask for help finding him. “[They] told me that [Nawng Ring] was detained at the regional investigation centre in Lashio,” the relative explained in March 2019. “I am very concerned. I haven’t heard about him for a long time. I am afraid of asking [the military].”<sup>75</sup> Since then, the family has learned that Nawng Ring is being held at the Hseni Township police station.<sup>76</sup>

## ARBITRARY DETENTION AND FORCED LABOUR AT THE MILITARY BASE IN KUTKAI TOWN

**“People tend to disappear for months when detained by the military. There’s no information... Then they get dumped at the police station after a few months.”**

A human rights activist working in northern Shan State.<sup>77</sup>

In several of the cases documented above, detainees were taken to the Myanmar military base in Kutkai town. Some were detained there for a few hours; others were detained for several months. Human rights lawyers and activists working on detention cases told Amnesty International it was common for detainees to be taken to military bases and questioned, before being sent to the police station where they would usually be charged with violating the Unlawful Associations Act.<sup>78</sup>



 ↑ The Strategic Operations Command military base on the outskirts of Kutkai town.

The base, which is situated to the southeast of Kutkai town, was well known by interviewees. Amnesty International’s research indicates it serves as a Strategic Operations Command under the Northeast Regional Command. The base also houses the 241<sup>st</sup> and 242<sup>nd</sup> Infantry Battalions (IBs), both of which fall under MOC 16, as well as the 45<sup>th</sup> IB, which is a garrison unit not part of a combat division; all three battalions are part of the Northeast Regional Command.

The two ethnic Kachin men and one ethnic Kachin boy who were detained by soldiers from the 99<sup>th</sup> LID in October 2018 (see page 18) were all taken to the military base in Kutkai. The two younger detainees, one of who was a 14-year-old boy, told Amnesty International that they were questioned and photographed on arrival. Both independently told Amnesty International that they were made to perform forced labour while detained on the 242<sup>nd</sup> IB base, including digging trenches.<sup>79</sup> They also each said that family members were able to visit them twice while they were in detention, however at no point did they have access to lawyers. They were released on 9 January 2019 – almost three months after their initial arrest – after being taken to an office in the military base. “I had to put my thumbprint on a form,” explained

<sup>75</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>76</sup> Amnesty International correspondence, 5 September 2019.

<sup>77</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>78</sup> Amnesty International interviews, northern Shan State, March and August 2019.

<sup>79</sup> Amnesty International interview, northern Shan State, 24 March 2019.

Dau Hkawng, 18. “*They said it’s some type of release form. They didn’t read it out, and I wasn’t given the opportunity to read it either.*”<sup>80</sup>

The third man, Hkawng Lum, 45 years old, was taken to the 45<sup>th</sup> IB base where he was held until 30 December 2018, after which he was transferred to a police station in Kutkai Town. For family members, it was the first time they had definitive information about his whereabouts.<sup>81</sup> Amnesty International received credible information that Hkawng Lum was tortured or otherwise ill-treated while in detention on the base.<sup>82</sup> After being transferred to the police station, he was charged under Article 17/1 of the Unlawful Associations Act, and sentenced to two years in prison on 19 March 2019.<sup>83</sup> He remains in Lashio prison.

As described above, 10 ethnic Ta’ang men and boys detained by the Myanmar military in June 2019 were taken to the military base in Kutkai. On 23 June, local activists and lawyers went to the base to ask for their release. Six were released later that day. A source who had spoken to the released boys told Amnesty International, “*They were hit, but not to the point of being badly injured. They were also threatened with guns and told they would be released if the confessed to being TNLA.*”<sup>84</sup> Four were kept in detention; a senior officer told those seeking their release that they had confessed to links with the TNLA.<sup>85</sup> At the time of publication, the four people remain in detention, without access to their families or lawyers.<sup>86</sup>

Among the cases documented by Amnesty International, none of those detained had access to family members or a lawyer while at the Kutkai military base. A lawyer working in northern Shan State said this was not unusual:

*“Lawyers can’t go to military detention sites. It’s actually illegal under Myanmar law – the Tatmadaw doesn’t have the authority to keep people in detention, they are supposed to transfer them to the police within 24 hours, but they tend to keep people for two to three months, until any injuries or other signs of torture have gone.”*<sup>87</sup>

International law prohibits the arbitrary deprivation of liberty.<sup>88</sup> International law and standards contain safeguards ensuring detainees’ rights to due process and to freedom from torture and other ill-treatment. Among them are the right to notify family or another third person;<sup>89</sup> the right to legal counsel;<sup>90</sup> the right to medical assistance;<sup>91</sup> the right to be brought promptly before a judge and to challenge the lawfulness of detention;<sup>92</sup> and the right to silence and not to incriminate oneself.<sup>93</sup> Denial of the right to communicate with the outside world – that is, holding a person in incommunicado detention – clearly breaches these standards. The UN General Assembly has repeatedly stated that “*prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.*”<sup>94</sup>

## 3.2 UNLAWFUL ATTACKS AFFECTING CIVILIANS

The Myanmar military has at times fired guns as well as mortar and artillery shells in or around civilian areas, often when they suspect ethnic armed groups to be in the area. Such attacks, which generally appear to be indiscriminate at best – and reflect a longstanding pattern that Amnesty International has documented in northern Myanmar and in Rakhine State<sup>95</sup> – have killed and injured civilians in northern Shan State, damaged civilian houses and other buildings, and caused displacement. Civil society activists and humanitarian workers told Amnesty International that although they often receive reports of civilians killed or

<sup>80</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>81</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>82</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>83</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>84</sup> Amnesty International interview, northern Shan State, 15 August 2019.

<sup>85</sup> Amnesty International interview, northern Shan State, 15 August 2019.

<sup>86</sup> Amnesty International interview, northern Shan State, 15 August 2019.

<sup>87</sup> Amnesty International interview, northern Shan State, 15 August 2019.

<sup>88</sup> Universal Declaration of Human Rights (UDHR), Article 9; International Covenant on Civil and Political Rights (ICCPR), Article 9(1)

<sup>89</sup> See for instance Principle 16 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN Body of Principles), UN General Assembly Resolution 43/173 (1988).

<sup>90</sup> Article 9(3) of the ICCPR, Article 9(3); Principles 17 and 18 of the UN Body of Principles.

<sup>91</sup> Principles 24 and 25 of the UN Body of Principles

<sup>92</sup> Article 9(3), 9(4) of the ICCPR; and Principle 32 of the UN Body of Principles.

<sup>93</sup> Article 14(3)(g) of the ICCPR.

<sup>94</sup> See for instance UN General Assembly Resolutions, UN Doc. A/Res/67/161 (2012), para. 23; UN Doc. A/Res/68/156 (2013), para. 27; UN Doc. A/RES/72/163 (2017), para. 16.

<sup>95</sup> See Amnesty International, “*All the civilians suffer*”, pp. 22-31; and “*No one can protect us*”, pp. 14-23.

injured by military firing, access restrictions – whether imposed by the military or by ethnic armed groups – make it difficult to verify such reports, or determine which side was responsible.<sup>96</sup>

International humanitarian law prohibits indiscriminate attacks, that is, attacks not specifically and precisely targeting military objects placing civilians at risk. Indiscriminate attacks include disproportionate attacks, that is, attacks “*which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated*”.<sup>97</sup> For their part, ethnic armed groups often put civilians at risk by basing themselves in or near villages, or moving through civilian areas, attracting the Myanmar military’s fire.

On 11 August 2019, Hkawng Lum, a 17-year-old ethnic Kachin boy from Kutkai Township, was injured by a mortar shell which was likely fired by the Myanmar military during fighting with the TNLA. He told Amnesty International that he and others from the area had gathered to watch a football match being played on a hill on the outskirts of Maw Han village. Soon after arriving, he heard gunfire. He and other spectators fled; as he was running, a mortar shell exploded behind him, injuring his upper right back and left arm.<sup>98</sup> After returning to the village, he was summoned to the Maw Han school, where a military doctor treated and bandaged his wounds. “*The head of the military unit [at the school] asked me how far the mortar shell explosion was from me and if it hurt,*” Hkawng Lum recalled. He said there had been fighting between the military and the TNLA a week before the incident.<sup>99</sup>

Local human rights organizations have similarly documented indiscriminate fire by the Myanmar military, including one incident in March 2019 when a military helicopter reportedly fired on civilians in Mong Ton village tract, southern Hsipaw Township, injuring one and displacing around 700 people.<sup>100</sup> Amnesty International has received multiple other reports of civilians being killed or injured in indiscriminate attacks by the Myanmar military since 15 August 2019, all of which warrant further investigation.<sup>101</sup>

Myanmar soldiers fail to exercise caution when in or around civilian areas, at times shooting civilians when in villages. Amnesty International documented the killing of Aik Suk, a 17-year-old ethnic Ta’ang boy in Daung Naw village tract, Kutkai Township, on 18 February 2019. According to two people with direct knowledge of the incident, Myanmar soldiers came into the village at around 9pm.<sup>102</sup> Aik Suk and a relative had attended a cultural festival in the village that evening. The two were returning home when they saw soldiers. When they tried to run away, the soldiers opened fire. A witness who heard the gunfire told Amnesty International that when he looked out of his window, he saw soldiers carrying Aik Suk’s body.<sup>103</sup> A relative who saw Aik Suk’s body told Amnesty International that Aik Suk “*had bullet wounds on his thigh, chest, stomach, and arm.*”<sup>104</sup> The relative recalled seeing around 30 soldiers outside the house, identified from the insignia on their arms as being from Northeast Command.<sup>105</sup> A military medic provided some basic treatment, however Aik Suk died soon after. The next day, soldiers returned to the village and apologized, saying they had made a mistake and thought the two people running were MNDAA soldiers. Aik Suk’s family was later given around 2 million kyats (US\$1,300) by the military.<sup>106</sup>

### 3.3 USE AND CONFISCATION OF CIVILIAN PROPERTY

In the northern-most townships of Shan State, Myanmar soldiers appear to regularly use or confiscate civilian property, in particular when they are conducting operations. Interviewees told Amnesty International that Myanmar soldiers used churches and monasteries as temporary bases or barracks, and at times sleep in villagers’ houses. Amnesty International has similarly documented the use and confiscation of civilian property by Myanmar soldiers during operations in Rakhine State in 2019.<sup>107</sup>

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<sup>96</sup> Amnesty International interviews, March and August 2019.

<sup>97</sup> See International Committee of the Red Cross, Customary International Humanitarian Law, Vol 1: Rules (ICRC, Customary IHL), Rules 11, 12, 14, and 156.

<sup>98</sup> Amnesty International interview, northern Shan State, 26 August 2019.

<sup>99</sup> Amnesty International interview, northern Shan State, 26 August 2019.

<sup>100</sup> Shan Human Rights Foundation, *Burma Army ground and aerial attack to seize strategic mountain in N. Shan State kills one villager, injures two, and displaces 700*, 20 March 2019, <https://www.shanhumanrights.org/eng/index.php/368-burma-army-ground-and-aerial-attack-to-seize-strategic-mountain-in-n-shan-state-kills-one-villager-injures-two-and-displaces-700>

<sup>101</sup> See for example, Shan Human Rights Foundation, *Burma Army IB 68 fires shells from village temple, killing 52-year-old farmer in Lashio*, 28 August 2019, <https://www.shanhumanrights.org/eng/index.php/374-burma-army-ib-68-fires-shells-from-village-temple-killing-52-year-old-farmer-in-lashio>

<sup>102</sup> Amnesty International interviews, northern Shan State, 25 March 2019.

<sup>103</sup> Amnesty International interview, northern Shan State, 25 March 2019.

<sup>104</sup> Amnesty International interview, northern Shan State, 25 March 2019.

<sup>105</sup> Amnesty International interview, northern Shan State, 25 March 2019.

<sup>106</sup> Amnesty International interviews, northern Shan State, 25 March 2019.

<sup>107</sup> Amnesty International, “*No one can protect us*”, pp. 28.

Two ethnic Kachin men from Kyein Mun village tract, Kutkai Township, told Amnesty International that soldiers often come and stay in their village. One said that 99<sup>th</sup> LID soldiers had slept in his house two weeks before he was interviewed in March 2019: “*There were six [soldiers] at my house. They stayed one night and left the next day. All houses had to let the soldiers stay.*”<sup>108</sup> The other man, 20, said that he leaves the village when soldiers sleep at his house.<sup>109</sup>

The presence of Myanmar soldiers in villages is a source of great unease for civilians. A 36-year-old man living in Lashio Township told Amnesty International that soldiers from the 99<sup>th</sup> LID and 324<sup>th</sup> LIB had come several times in 2019 to stay in his village. “[*They*] don’t threaten us. But they are always drunk and intimidate and question villagers at night. We are afraid of them,” he said.<sup>110</sup>

For women, the presence of soldiers leads to additional security concerns. The Myanmar military has a long and well-documented history of sexual and gender-based violence against ethnic minority women and girls, in particular during operations in conflict-affected areas.<sup>111</sup> As noted by the UN Fact-Finding Mission on Myanmar, such instances “*are not widely condemned or punished by the Tatmadaw hierarchy, which are also contributing factors to their widespread nature*”.<sup>112</sup>

An ethnic Kachin woman living in a village in Kutkai Township described an incident in early 2019 when two soldiers from the 99<sup>th</sup> LID, then stationed in her village, arrived at her house late one night: “*One [of the soldiers] was drunk... He was looking at me asking if there was someone he could sleep with. He was making a [sexual] gesture with his hands... At one point he was behind me and started to touch my bottom.*”<sup>113</sup> The next day, she complained to the battalion commander; he told her the soldier would be transferred to another area. However, the woman told Amnesty International that she still feels unsafe due to the soldiers’ presence and wants to leave her village.<sup>114</sup> Similarly, an ethnic Kachin man, also from Kutkai Township, told Amnesty International that if his mother is home alone when the soldiers come to the village, she goes to stay with relatives.<sup>115</sup>

Interviewees also told Amnesty International that at times Myanmar soldiers sleep in the school in their village.<sup>116</sup> As described above, Amnesty International documented at least one instance in which Myanmar soldiers used a school in Kutkai Township as a detention and interrogation site, torturing detainees to extract confessions.

Under international humanitarian law, the protection of schools is recognized under general provisions on the protection of civilian objects and the specific provision on cultural property including buildings dedicated to education.<sup>117</sup> All parties to a conflict must take in to account the special protections accorded to children under international humanitarian law.<sup>118</sup> The use of schools for military purposes can have the effect of turning schools in to a military target, and put the life and physical safety of children and other civilians at risk. The use of schools for military purposes can also mean that children would not be able to enjoy their right to education, which would place Myanmar in violation if its obligations under the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights.<sup>119</sup> This too

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<sup>108</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>109</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>110</sup> Amnesty International interview, northern Shan State, 12 August 2019.

<sup>111</sup> See, for example, Shan Women’s Action Network & Shan Human Rights Foundation, *License to Rape: The Burma military regime’s use of sexual violence in the ongoing war in Shan State*, July 2002; Karen Women’s Organization (KWO), *Shattering silences: Karen women speak out about the Burmese military regime’s use of rape as a strategy of war in Karen State*, April 2004; Women’s League of Burma (WLB), *If they had hope, they would speak: The ongoing use of state-sponsored sexual violence in Burma’s ethnic communities*, November 2014; WLB, *Same Impunity, Same Patterns*, January 2014; and Ta’ang Women’s Organization (TWO), *Trained to Torture: Systematic war crimes by the Burma Army in Ta’ang areas of northern Shan State* (March 2011-March 2016), June 2016. Rape and sexual violence were also widely used against Rohingya women and girls in Rakhine State from October 2016 and again from August 2017, as documented by the UN Fact-Finding Mission, Amnesty International, Human Rights Watch, and others. Amnesty International and others have also documented sexual violence against men and boys, in particular during detention and interrogation.

<sup>112</sup> UN FFM, *Sexual and gender-based violence in Myanmar*, 22 August 2019, UN Doc: A/HRC/42/CRP.4, para. 123.

<sup>113</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>114</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>115</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>116</sup> Amnesty International interviews, March and August 2019.

<sup>117</sup> ICRC, Customary IHL, Rules 10 and 38.

<sup>118</sup> See Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), adopted August 12, 1949, 75 U.N.T.S. 287, entered into force October 21, 1950, arts. 14, 17, 23, 24, 38, 50, 82, 89, 94, 132; Additional Protocol I, arts. 70, 77, 78; Additional Protocol II, arts. 4 and 6; ICRC, Customary IHL, Rule 135.

<sup>119</sup> Convention on the Rights of the Child, U.N. Doc. A/44/49 (1989), entered into force 2 September 1990 (ratified by Myanmar on 15 July 1991), arts. 6 and 28; International Covenant on Economic, Social and Cultural Rights (ICESCR), U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force 3 January 1976, (ratified by Myanmar 6 October 2017), art 13. The Committee on the Rights of the Child has repeatedly recommended to states parties to stop the military use of schools. See Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Israel, CRC/C/ISR/CO/2-4 (2013), paras.63-64; Concluding observations on the second periodic report of the Central African Republic, CRC/C/CAF/CO/2, March 8, 2017, paras. 62-63.



appears part of a pattern – Amnesty International previously documented the use of schools by Myanmar soldiers during the ongoing conflict with the Arakan Army in Rakhine State.<sup>120</sup>

Amnesty International also documented instances where Myanmar soldiers confiscated civilian property, at times taking chickens, rice, and other foodstuffs from villagers while staying in their homes at night. A 41-year-old ethnic Kachin woman from Kutkai Township told Amnesty International that when Myanmar soldiers stay in her village, “*They usually bring their own food, but even when they do, they sometimes steal chickens and food from the houses.*”<sup>121</sup> Similarly, a 67-year-old ethnic Shan woman from Namhkan Township said that Myanmar soldiers sometimes took food from fellow villagers: “*The commander stays at my house, so they don’t take anything [from me]. But from other houses, they take chickens or request things... vegetables, oil, meat. If they commander isn’t around, they do what they like.*”<sup>122</sup>

In one incident, soldiers from the 99<sup>th</sup> LID confiscated wood from bamboo farmers living in northern Shan State shortly before the start of the rainy season. “*They didn’t ask, they just took it,*” said one of the farmers, a 57-year-old man. “*The head of the village and the commander of the soldiers came to my house. They said the soldiers would be taking the wood.*”<sup>123</sup> He said the soldiers, who had a patch with ‘99’ in Burmese numerals on their arm, used trucks to take away wood on three further occasions.<sup>124</sup>

The fourth time the soldiers came, the farmer told Amnesty International that he went with other villagers to ask them to stop. “*We tried to ask them not to take all the bamboo because they were taking too much,*” he explained. “*There were around 30 to 35 soldiers. They took the safety off their guns and threatened us, [then] they took photos of us.*”<sup>125</sup> In total, the man said that soldiers took ten trucks full of wood – nine of ordinary timber and one of bamboo. Although he was not sure of the value of ordinary timber, he said a truck of bamboo would usually sell for around 1 million kyats (US\$650). Neither he nor the other villagers brought a complaint to the authorities. “*They are the military,*” he said, “*I am afraid to speak out.*”<sup>126</sup>

Under international humanitarian law, private property of civilians must be respected and generally may not be confiscated.<sup>127</sup> Since foodstuffs are essential for human survival, international humanitarian law specifically prohibits their destruction or removal.<sup>128</sup>

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<sup>120</sup> Amnesty International, “*No one can protect us*”, p. 30.

<sup>121</sup> Amnesty International interview, northern Shan State, 24 March 2019.

<sup>122</sup> Amnesty International interview, northern Shan State, 25 March 2019.

<sup>123</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>124</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>125</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>126</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>127</sup> ICRC, Customary IHL, Rule 51. While strictly applicable to military occupation, this Rule reflects a more general principle.

<sup>128</sup> ICRC, Customary IHL, Rule 54.

## MILITARY UNITS IMPLICATED

Operationally, the Myanmar Army is comprised of two command structures: the regional commands, which oversee the Army's actions in specific geographic areas; and the combat divisions, which are moved around the country to areas of high priority. Civilians in northern Shan State implicated soldiers from the Regional Command and from different combat divisions in violations.



*The insignia of the Myanmar Army's Northeast Command*

Northeast Command, the regional military command responsible for northern Shan State, includes two combat divisions known as Military Operation Commands (MOCs): MOC 1 and MOC 16. Amnesty International's interviews directly implicate soldiers from MOC 16 in arbitrary detention, incommunicado detention, ill-treatment, and forced labour. Witnesses also implicated soldiers from the 45<sup>th</sup> IB, which falls under the Regional Command, in human rights violations and war crimes, including arbitrary detention, incommunicado detention, and torture and other ill-treatment.

As described in previous Amnesty International reports, LIDs are typically based centrally in urban areas, from where they are deployed rapidly. Each LID wears its own distinct patch, which is the LID number in Burmese numerals. Under Myanmar military doctrine, combat divisions are under the direct authority of the Commander-in-Chief (Army), and the decision to deploy LIDs for combat is made by the Office of the Commander-in-Chief, known also as the War Office.<sup>129</sup>



*The insignia of the 99<sup>th</sup> Light Infantry Division (LID)*

Civilians in northern Shan State repeatedly implicated the Army's 99<sup>th</sup> Light Infantry Division (LID) in many of the violations documented in this report. This division – headquartered in Meiktila, in Mandalay Region, central Myanmar – has been active in northern Shan State for several years. Amnesty International previously implicated soldiers from the 99<sup>th</sup> LID in war crimes and other human rights violations in northern Shan State in late 2016 and early 2017, including arbitrary detention and torture and other ill-treatment.<sup>130</sup>

Amnesty International's interviews for this report specifically implicated soldiers from the 99<sup>th</sup> LID in arbitrary arrests and detentions; torture and other ill-treatment, including sexual harassment; and confiscation of civilian property. Soldiers from the 99<sup>th</sup> LID also often use civilian property, sleeping in civilians' homes and using monasteries, churches, and schools as bases, barracks, or – in one instance – a detention and interrogation site. Interviewees also implicated soldiers from other LIDs in violations against civilians. This includes soldiers from the 11<sup>th</sup> LID, who were responsible for arbitrary detention and torture and other ill-treatment, as well as soldiers from the 77<sup>th</sup> and 88<sup>th</sup> LIDs, who have on occasion stayed in civilian villages, exposing them to the risk of attack.

Amnesty International, the UN Fact-Finding Mission on Myanmar, and others have also implicated the 99<sup>th</sup> LID in atrocities constituting crimes under international law against the Rohingya in northern Rakhine State from August 2017, including murder, mass deportation, rape and sexual violence, and the burning of homes and villages.<sup>131</sup>

To date, the Myanmar authorities have failed to take action to independently investigate and bring to justice those responsible for any of the violations listed above. The fact that soldiers from this division continue to commit serious violations against ethnic minorities in other parts of Myanmar underscores – yet again – the systematic nature of the military's crimes under international law and other human rights violations, as well as the consequences of ongoing impunity.

<sup>129</sup> The War Office is based in Naypyidaw and is commanded by the military's three most senior officials: The Commander-in-Chief of the Defence Services (CINCDSD), who has unified command over the Army, the Navy, and the Air Force; the Vice Commander-in-Chief of the Defence Services, who also holds the title of Commander-in-Chief (Army); and the Chief of General Staff (Army/Navy/Air Force), who commands the Bureau of Special Operations (BSOs). See Amnesty International, *"We will destroy everything"*, pp. 140-153.

<sup>130</sup> Amnesty International, *"All the civilians suffer"*.

<sup>131</sup> Amnesty International, *"We will destroy everything"*, Chapter 11: Key individuals meriting judicial proceedings or criminal investigation, pp. 154-165, and UN FFM, *Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*, 17 September 2018, pp. 177-314.

# 4. ABUSES BY ETHNIC ARMED GROUPS

Northern Shan State is home to a large number of ethnic armed groups, which have engaged in active fighting against the Myanmar military. While in some areas the military's announcement of a ceasefire has resulted in an overall reduction of clashes, for many in northern Shan State fighting between the military and ethnic groups has been replaced by intermittent – yet increasingly intense – fighting among ethnic armed groups. This has particularly been the case in the southern townships of northern Shan State, as the SSA-S – likely supported by the Myanmar military – has moved further into territory traditionally controlled or occupied by the SSA-N and TNLA.

Civilians have increasingly been caught between groups. Amnesty International's research found that ethnic armed groups abduct and detain civilians, often accusing them of supporting a different armed group. Civilians were often tortured or otherwise ill-treated in order to obtain information about other groups. Ethnic armed groups also subject civilians to forced labour and forced guiding, in particular during times of active fighting between groups. Many interviewees said that in their villages, increasing numbers of young people, in particular young men, had left for towns, monasteries, or other countries in order to avoid being forcibly recruited, which has had, and continues to have, a detrimental impact on livelihoods in the region.

All ethnic armed groups are engaged in widespread “taxation” and extortion, demanding money and food from villages and businesses. The regularity with which these are demanded leaves no doubt that it is sanctioned at the most senior levels. In an area with limited livelihood opportunities and where conflict has raged for most than eight years, such “taxes” have a negative impact on people's livelihoods.

Amnesty International's research implicated four ethnic armed groups in human rights abuses in northern Shan State – the KIA, SSA-N, SSA-S, and the TNLA. Access restrictions meant Amnesty International was unable to access areas where other ethnic armed groups are operational, making it more difficult to document abuses by those groups, such as the MNDAA.

## 4.1 ABDUCTION, DETENTION, TORTURE AND OTHER ILL-TREATMENT

**“They tied our hands with nylon rope... They beat my back and thighs with sticks... I kept saying, ‘I am just an ordinary citizen, I am not in favour of any armed group’.”**

A 66-year-old ethnic Shan man describes being beaten by TNLA and SSA-N fighters after being accused of providing information and food to SSA-S fighters in Namtu Township, northern Shan State.<sup>132</sup>

<sup>132</sup> Amnesty International interview, northern Shan State, 12 August 2019.

Amnesty International documented abductions and detention by four different ethnic armed groups in northern Shan State. The victims were all men. Abduction and detentions were often accompanied by physical violence, including beatings and other ill-treatment, at times amounting to torture. In most cases, the victims were accused of supporting another ethnic armed group and beaten to force a confession or to obtain information about the group.

TNLA and SSA-N fighters abducted and detained two ethnic Shan men in Namtu Township on 18 March 2019. One of the men, a 66-year-old farmer, explained that the fighters – five TNLA and one SSA-N – arrived at his home in the morning and began to search the property. “*They accused me of being SSA-S and giving information and food to SSA-S soldiers,*” he said.<sup>133</sup> He and the other villager, in his 40s, were detained and taken to a nearby mountain, where they were tied up, beaten and questioned about the SSA-S. “*They tied our hands with nylon rope,*” he recalled. “*They beat my back and thighs with sticks... [It] was so hard two of the sticks broke... I kept saying, ‘I am just an ordinary citizen, I am not in favour of any armed group.’*”<sup>134</sup>

When the farmer’s family found out where he was being held, they asked the fighters to release the two men, sending gifts of beer and juice. The men were released the following day, but not before being made to sign a document. “*It was written in Burmese, so I couldn’t read it,*” said the 66-year-old man, although he explained that he thinks it was an agreement not to provide support to other ethnic armed groups in the future.<sup>135</sup> Keeping that commitment will be difficult, he explained: “*If armed groups come [and ask for things] we have to donate – it doesn’t matter which group it is, we can’t refuse.*”<sup>136</sup>

The KIA abducted scores of sugar cane plantation workers close to Man Piing village in Kutkai Township on 4 March 2019. A 29-year-old man who witnessed the incident told Amnesty International that fighters wearing KIA uniforms arrived around 8am. “*They blocked the road and told the workers to get out of their cars and on to bigger vehicles... then they took them away,*” he said.<sup>137</sup> Villagers accused the KIA of trying to forcibly recruit the workers.<sup>138</sup> The following week the KIA announced that all workers had been released. A KIA spokesperson told local media: “*The KIA’s policy forbids involuntary recruiting by abduction... Some junior commanders on the front line were violating the policy in getting new recruits for their battalion... So now, we have released all the detainees.*”<sup>139</sup> It is unclear whether the KIA punished the commanders involved in the incident.

SSA-S fighters were also implicated in abductions, often of ethnic Ta’ang civilians.<sup>140</sup> In early March 2019, SSA-S fighters detained 12 people from Man Li village, Namtu Township, during fighting with the TNLA.<sup>141</sup> The group initially denied its fighters were responsible for the abductions, but when civil society organizations raised the case in the media, the group admitted to detaining eight people; they were released on 29 March 2019.<sup>142</sup> There are credible allegations that the men were beaten and forced to porter for the SSA-S.<sup>143</sup> At the time of publication, the fate and whereabouts of the four remaining villagers remain unknown.

At times, ethnic armed groups appear to detain people in order to extort them. In June 2019, four SSA-N fighters stopped and abducted two ethnic Shan men who were transporting wood in Namtu Township. “*They pointed their guns at us and told us we didn’t have [the SSA-N’s] permission to take the wood,*” said one of the men.<sup>144</sup> The pair were taken into SSA-N custody. Villagers who witnessed the abduction alerted local leaders and the men’s families. According to one of the two detained men, SSA-N soldiers initially demanded 10 million kyats (US\$6,500) in exchange for the men’s release.<sup>145</sup> Villagers scraped together two million

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<sup>133</sup> Amnesty Interview, northern Shan State, 12 August 2019.

<sup>134</sup> Amnesty Interview, northern Shan State, 12 August 2019.

<sup>135</sup> Amnesty Interview, northern Shan State, 12 August 2019.

<sup>136</sup> Amnesty Interview, northern Shan State, 12 August 2019.

<sup>137</sup> Amnesty International interview, northern Shan State, 25 March 2019.

<sup>138</sup> Amnesty International interview, northern Shan State, 25 March 2019, *RFA*, “Kachin Independence Army Releases 57 Captive Villagers in Myanmar’s Shan State”, 12 March 2019, <https://www.rfa.org/english/news/myanmar/kachin-independence-army-releases-57-captive-villagers-03122019172637.html>

<sup>139</sup> Amnesty International interviews, August 2019.

<sup>139</sup> *RFA*, “Kachin Independence Army Releases 57 Captive Villagers in Myanmar’s Shan State”, 12 March 2019, <https://www.rfa.org/english/news/myanmar/kachin-independence-army-releases-57-captive-villagers-03122019172637.html>

<sup>140</sup> Amnesty International interviews, August 2019.

<sup>141</sup> The case was initially reported as 10 people detained, however after subsequent investigations local activists confirmed 12 villagers were missing. Amnesty International interviews, March and August 2019.

<sup>142</sup> See Ta’ang Women’s Organization (TWO) and Ta’ang Social and Youth Union (TSYU), “Joint statement on receiving the photos of the arbitrary arrested of Man Lee village by RCSS”, 7 March 2019; *BNOnline*, “RCSS Releases Eight Detained Villagers”, 1 April 2019, <https://www.bnionline.net/en/news/rcss-releases-eight-detained-villagers>

<sup>143</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>144</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>145</sup> Amnesty International interview, northern Shan State, 13 August 2019.

kyats (US\$1,300), which the SSA-N rejected as insufficient; when relatives returned several days later with five million kyats (US\$3,300), the SSA-N accepted the money and released the men.<sup>146</sup>

A man who works as a “broker” for ethnic armed groups operating in his area told Amnesty International that the groups often detain people who use drugs in order to extort them for money. He described an incident from April 2019 in which the TNLA detained three men who use drugs and forced their families to pay to secure their release.<sup>147</sup> “I know because I collected the money from the families,” he explained.<sup>148</sup> Amnesty International interviews also indicate that people who use drugs, and in particular those with drug dependence, are vulnerable to forced recruitment by ethnic armed groups.<sup>149</sup>

Village administrators are also at risk of being arbitrarily deprived of their liberty by ethnic armed groups, especially if they support – or are perceived to support – a rival armed group. In March 2019, six TNLA soldiers went to the house of an ethnic Shan Village Administrator in Namtu Township; he told Amnesty International that the TNLA had received information that he was keeping food and weapons for the SSA-S.<sup>150</sup> He recalled:

*“My wife answered the door, and they came in and punched me in the head. They were trying to find anything linked to the SSA-S. They asked, ‘Where is the SSA-S?’ ... I told them the SSA-S had come in to the village, but I’m not SSA-S. They tied my hands behind my back with rope.*

*They took me to the mountains... they beat me all over. They kept asking for information: ‘Where do SSA-S keep their guns?’ ‘Where do SSA-S keep their food?’ I told them I didn’t know... They beat me for two days and two nights... They tied my hands and took turns hitting and kicking me... They kicked my chest, hit my back with a stick, and cut my knee with a knife.”<sup>151</sup>*

After two days and nights, local members of parliament from an ethnic Shan political party intervened, and the Village Administrator was transferred to the SSA-N, who held him for 12 days before releasing him. He told Amnesty International he had to sign a document before he was released, but was not given time to read it. He didn’t report the incident to the police, as “they can’t do anything... They can’t protect us.”<sup>152</sup>



↑ An ethnic Shan man shows the scars on his wrists and knee after he was tied, beaten, and cut with a knife by TNLA soldiers in March 2019.  
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<sup>146</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>147</sup> Amnesty International interview northern Shan State, 13 August 2019.

<sup>148</sup> Amnesty International interview northern Shan State, 13 August 2019.

<sup>149</sup> Amnesty International interviews, northern Shan State and Yangon, March and August 2019.

<sup>150</sup> Amnesty International interview, northern Shan State, 12 August 2019.

<sup>151</sup> Amnesty International interview, northern Shan State, 12 August 2019.

<sup>152</sup> Amnesty International interview, northern Shan State, 12 August 2019.

In addition to abductions and arbitrary deprivation of liberty, Amnesty International documented one incident in which a 33-year-old ethnic Shan villager died while being held by the TNLA and SSA-N. According to a relative who lived nearby, the man was taken by TNLA soldiers at around 8:30pm on 22 March 2019.<sup>153</sup> Over the following two days, the family asked for help from the Village Administrator and from local Ta'ang and Shan groups. *“The next day, they informed us that he had been transferred to the SSA-N, so we went to the SSA-N headquarters,”* explained the relative. *“They said they would ask for his release.”*<sup>154</sup>

The family received no further information until May 2019, despite enquiring at the SSA-N office several times. When they visited on 25 May, they were told that the man was dead – that he had been shot while trying to escape.<sup>155</sup> Despite requesting, the family were not able to retrieve the man's body, however the relative told Amnesty International that the SSA-N gave the family 1 million kyats (US\$650): *“They said it was for a funeral. At first, we refused the money, but then an SSA-N soldier said, ‘If you take the money, you lose him; if you refuse the money, you still lose him.’”*<sup>156</sup>

As parties to an internal armed conflict, ethnic armed groups in northern Myanmar are obligated to respect international humanitarian law, including prohibitions against murder of civilians or captured combatants; enforced disappearances; and arbitrary deprivation of liberty.<sup>157</sup> They are also required to respect the right to family life, which includes an obligation to inform family members about whether their relative is being detained or has been killed.<sup>158</sup>

## 4.2 FORCED LABOUR, INCLUDING PORTERING AND GUIDING

**“I told them I didn't know the way [through the mountains] ... They started beating and kicking me.”**

An ethnic Shan man in his 60s who was forced to guide TNLA fighters in September 2018.<sup>159</sup>

Ethnic armed groups subject civilians to forced labour and forced guiding, in particular during active fighting. Amnesty International documented several instances when civilians were forced to porter during an escalation of fighting between the TNLA/SSA-N and SSA-S in early 2019.

A 40-year-old ethnic Shan man from Hsipaw Township told Amnesty International that he had twice been made to porter for the SSA-N in February and March 2019. *“They came to get me in the morning,”* he said. *“There were five of us [from my village]. Porters from other villagers joined us... We were 15 in total. We had to carry water, cook their food.”*<sup>160</sup> He said the porters rotated – that the Village Administrator would inform villagers of the SSA-N's orders and dispatch five men for between three and five days. When the porters returned, the next batch took their place. The man said that each household in the village had to provide one person per month: *“It's not possible to refuse, but if you don't want to go, you can pay someone else to go. It costs 10,000-20,000 kyats [US\$6.50-13] per day, but I can't afford it, so I had to go.”*<sup>161</sup>

The mother of a 20-year-old ethnic Lisu man from Hsipaw Township similarly told Amnesty International that her son was forced to porter for the SSA-N in early March 2019, as clashes between armed groups escalated in the area. *“The head of the village took one person from each house and sent them by motorbike [to join the SSA-N]. My son... he couldn't refuse,”* she recalled. *“When he came back, he was crying all the time.”*

<sup>153</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>154</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>155</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>156</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>157</sup> ICRC, Customary IHL: Rule 89. Violence to Life, Rule 98. Enforced Disappearance, and Rule 99 Deprivation of Liberty.

<sup>158</sup> ICRC, Customary IHL: Rule 105. Respect for Family Life, Rule 98. Enforced Disappearance, and Rule 117. Accounting for Missing Persons.

<sup>159</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>160</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>161</sup> Amnesty International interview, northern Shan State, 26 March 2019.

*He told me they made him cook for them... He was with them when they were fighting.*<sup>162</sup> She said her son had since fled to a neighbouring town and was planning to travel to China, to avoid further forced labour.<sup>163</sup>

SSA-S fighters also force civilians to work as porters or guides. A 26-year-old man from Lashio Township told Amnesty International that SSA-S fighters had frequently come to his village to demand men work for them, and described how he and his 15-year-old nephew were taken by SSA-S fighters in uniform in November 2018: *"I was in my house. They came in, pointing their guns at us."*<sup>164</sup> The man and his nephew were taken to the forest, where they were made to sit. After around 20 minutes they heard gunfire and fighting began between the SSA-S and SSA-N, allowing the two men to flee.<sup>165</sup>

Fighters from ethnic armed groups often force villagers to guide them from village to village. In September 2018, two ethnic Shan men, both in their 60s, were forced to guide TNLA soldiers between villages in Namtu Township.<sup>166</sup> One of the men described how soldiers arrived in the village at 11pm and demanded to be taken to Nyaung Hsut village:

*"Some were carrying guns, others had long knives... They asked me to lead the way but they didn't want to go on the road, they wanted to go through the mountains without being seen. As we were walking, I told them I didn't know the way [through the mountains] ... They started beating and kicking me... on my side, my thigh, my hips and back. I was in pain for three days."*<sup>167</sup>

The two men walked with the fighters through the night, arriving at Nyaung Hsut village at 5am the next day, after which they were told to go home. Neither was paid.<sup>168</sup>

While Amnesty International did not document cases of forced recruitment during the research for this report, the organization received credible information that all ethnic armed groups operating in northern Shan State continue to engage in the practice.<sup>169</sup> A humanitarian worker in the region explained, *"When a superior says they need to recruit soldiers, the lower ranking soldiers have to follow orders. They want their promotions, and to get that, they have to follow orders."*<sup>170</sup>

Amnesty International heard frequently that younger people – in particular younger men – are leaving their homes and villages in order to escape being recruited by, or forced to porter for, one of the ethnic armed groups. Some younger adults go to major towns or to live with relatives in other parts of Myanmar; others go to neighbouring countries; others still are sent to a monastery, where they do not face recruitment.<sup>171</sup> As a result, people in northern Shan State said that some villages are mainly inhabited by children and older people, which has a significant impact on livelihoods in an area where people are often dependent on farming and agriculture.

Under international humanitarian law, uncompensated or abusive forced labour during conflict is prohibited.<sup>172</sup> Forced portering and guiding also violates international human rights law, including provisions of the Forced Labour Convention, which Myanmar has ratified.<sup>173</sup> The prevalence of forced or compulsory labour in conflict-affected areas shows the Myanmar authorities are failing to meet their obligation to suppress it in all its forms.<sup>174</sup>

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<sup>162</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>163</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>164</sup> Amnesty International interview, northern Shan State, 25 March 2019.

<sup>165</sup> Amnesty International interview, northern Shan State, 25 March 2019.

<sup>166</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>167</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>168</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>169</sup> The organization has previously documented forced recruitment, including of children. See Amnesty International, *"All the civilians suffer"*, pp. 40-41.

<sup>170</sup> Amnesty International interview, northern Shan State, 27 March 2019.

<sup>171</sup> Amnesty International interviews, March 2019. See also Margarite Clarey, "How Myanmar families resist armed groups recruiting children", *Al-Jazeera*, 17 July 2019, <https://www.aljazeera.com/indepth/features/myanmar-families-resist-armed-groups-recruiting-children-190717083549947.html>

<sup>172</sup> ICRC, Customary IHL: Rule 95, Forced labour.

<sup>173</sup> See Convention concerning Forced or Compulsory Labour (ILO No. 29), 39 U.N.T.S. 55, entered into force 1 May 1932 (ratified by Myanmar on 4 March 1955).

<sup>174</sup> Convention concerning Forced or Compulsory Labour (ILO No. 29), Article 1.

## 4.3 FORCED “TAXATION” AND EXTORTION

### “Every armed group asks for things... We can’t refuse.”

An ethnic Shan Village Administrator from Namtu Township.<sup>175</sup>

Ethnic armed groups are imposing “taxes” on civilians in northern Shan State, often demanding rice and money from villagers, and “taxing” vehicles and businesses. This continues an abusive practice Amnesty International has documented during previous research on northern Shan State.<sup>176</sup>

In some cases, villagers claimed that providing food and other supplies was “voluntary”, however the frequency with which ethnic armed groups request assistance makes it clear that such assistance is not optional. In most cases, “taxes” are collected either by the Village Administrator or a villager appointed to collect “taxes” for armed groups.<sup>177</sup>

The TNLA regularly demands food from villagers. While some villagers have used terms such as “ask”, refusal does not seem a realistic option. A 61-year-old ethnic Shan woman from Namtu Township told Amnesty International, in words echoed by several others: “[They] come one or two times a year. They ask for rice. They have a quota for each village. If they ask for one bag, we send one bag. If they ask for two bags, we send two.”<sup>178</sup> Other interviewees told Amnesty International that their village was required to provide an annual payment of three bags of rice to the SSA-N. Most interviewees agreed three bags of rice was the equivalent of around 16kg in total and was valued at around 30,000 kyats (US\$20). The frequency with which these payments were reported to Amnesty International and the consistency in the details – the amount of rice, its value, and the logistics – strongly suggest that senior SSA-N commanders are not only aware of the practice, but actively encourage, if not order, it.

Interviewees also confirmed that the SSA-S requires villagers to provide soldiers with food. In some areas, villagers said they provided only vegetables – not rice – to SSA-S soldiers and that doing so was their choice, though Amnesty International has concerns about whether it was indeed always voluntary. In other areas, interviewees said that the SSA-S demands food from villagers.<sup>179</sup>

In some areas, civilians are caught between abusive “taxation” practices by multiple armed groups. A 57-year-old ethnic Shan man from Hsipaw Township said that the SSA-N and SSA-S both asked for rice in his village: “We have no choice. Sometimes it’s very difficult for us... If everyone is in the village, it’s easier, you can share in having to provide for them, but when there are fewer villagers, it’s very hard.”<sup>180</sup>

Similarly, a 45-year-old ethnic Lisu woman, also from Hsipaw Township, told Amnesty International that before she was displaced by fighting in March 2019, fighters from both the SSA-N and SSA-S regularly came to her village demanding food and money. “Each group would come every month... they would ask for 6,000 kyats (US\$4) and we had to give them food and curry... Every house had to pay,” she said, explaining that villagers faced threats of physical violence if they refused.<sup>181</sup>

Businesses in northern Shan State are also “taxed” annually by different armed groups, although the scale and amounts are difficult to document. A broker who acts as an intermediary between the armed groups and villagers, told Amnesty International that in 2018 and 2019 he had informed local businesses that their annual payments to the TNLA, and later the KIA, were due. “I don’t collect the money, but [the ethnic armed groups] call me and tell me to inform the business owners,” he said, explaining that the “tax” last year for tea shops had been 100,000 kyats (US\$66) while this year it had been 50,000 kyats (US\$33).<sup>182</sup> “Taxes” for larger businesses are significantly higher.<sup>183</sup> “People can’t refuse. If [they] refuse, [the groups] will increase the cost. [People] can’t complain to the police either. If you complain to the police or military, it will just make the situation worse,” The broker explained.<sup>184</sup>

<sup>175</sup> Amnesty International interview, northern Shan State, 12 August 2019.

<sup>176</sup> See “All the civilians suffer”, pp. 41-42.

<sup>177</sup> Amnesty International interviews, northern Shan State, August 2019.

<sup>178</sup> Amnesty International interview, northern Shan State, 25 March 2019.

<sup>179</sup> Amnesty International interviews, March and August 2019.

<sup>180</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>181</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>182</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>183</sup> Amnesty International interviews, March and August 2019.

<sup>184</sup> Amnesty International interview, northern Shan State, 13 August 2019.



Villagers and humanitarian workers also told Amnesty International that members of the Northern Alliance impose an annual “tax” on vehicles, which is higher for larger vehicles like trucks.<sup>185</sup> A 31-year-old ethnic Shan woman from Namtu Township explained: “If you have a truck or a car, you have to pay more. If it’s a small tuk-tuk, you pay 20,000 kyats per year. For a bigger [vehicles], you pay 30,000, 40,000, [or] 50,000 kyats per year, [depending on the vehicle]”.<sup>186</sup> A 26-year-old truck owner confirmed that armed groups within the Northern Alliance “tax” vehicles each year, saying he expected to pay 75,000 kyats (US\$50) in 2019.<sup>187</sup>

In addition, TNLA soldiers sometimes extort vehicle owners while they are travelling. Amnesty International documented one such incident in early August 2019, when TNLA fighters engaged in mass extortion of civilians while holding them on the road between Maw Han village and Tarmoeyne town in Kutkai Township. According to a woman who was present, TNLA fighters stopped civilians on the road at around 8:30am, shortly after an eruption of fighting between the group and the Myanmar military. It was market day at Tarmoeyne, meaning that many people – around 200 women, men, and children – were on the road. “[The TNLA fighters] had guns, they pointed them at us,” the woman recalled. “They told us to turn off our phones and not contact anyone. We weren’t allowed to leave or go back.”<sup>188</sup> The civilians were held for around six hours, during which TNLA soldiers systematically extorted vehicle owners, demanding 10,000 kyats (US\$6.50) from people in cars and 1,000 kyats (US\$0.65) from those on motorbikes.<sup>189</sup>

## 4.4 ENDANGERING CIVILIANS

**“I heard bombs and gun fighting. It was like hearing popcorn ‘pop pop pop pop’.”**

A 72-year old ethnic Shan woman who was forced to flee her home in Hsipaw Township when fighting broke out between armed groups in March 2019.<sup>190</sup>

Amnesty International’s research indicates that ethnic armed groups frequently fail to take feasible precautions to protect civilians from the effects of attacks, either by fighting in or very close to villages and other civilian areas, or else by moving through or staying in villages. This is in direct contravention of international humanitarian law, which requires parties to an armed conflict to keep combatants, military bases, and other military objects away from the civilian population, to the extent feasible, and more generally to take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks.<sup>191</sup>

Amnesty International documented several instances where SSA-S and TNLA/SSA-N fighters clashed in or close to civilian areas, often firing indiscriminately in close proximity to civilian populations. At times, indiscriminate fire led to the death or injury of civilians. Amnesty International documented the killing of a 57-year-old woman in Lashio Township during fighting between SSA-S and SSA-N in mid-November 2018.<sup>192</sup> According to a source with direct information about the incident, the woman was among around 10 people who had been farming near the village when the fighting erupted. As the group fled, they came across SSA-S fighters who opened fire. The 57-year-old woman was shot and killed, while another villager was injured.<sup>193</sup>

Members of ethnic armed groups also fire weapons, such as mortars, that are indiscriminate when used near civilian populations. Two interviewees told Amnesty International that when fighting broke out between the SSA-S and SSA-N in Hsipaw Township in March 2019, both sides fired guns and mortars near the village. A 72-year-old ethnic Shan woman who was forced to flee told Amnesty International, “I heard bombs and gun fighting. It was like hearing popcorn ‘pop pop pop pop’. SSA-S were on one side [of the village] and

<sup>185</sup> Amnesty International interviews, northern Shan State, March 2019.

<sup>186</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>187</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>188</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>189</sup> Amnesty International interview, northern Shan State, 14 August 2019.

<sup>190</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>191</sup> ICRC, Customary IHL: Rule Rules 23-4, 22.

<sup>192</sup> Amnesty International interviews, March and August 2019.

<sup>193</sup> Amnesty International interviews, March and August 2019.

SSA-N were on the other.”<sup>194</sup> She said that her family ran and hid in a hole they had dug outside their house. A 57-year-old ethnic Shan man from the same village recalled: “Most of the time they fought outside [in the jungle, but] twice they fought in the village. The bombs landed in the village [although] no one was injured. No houses were damaged.”<sup>195</sup>

In some instances, it is clear that ethnic armed groups anticipate and even prepare for hostilities in civilian areas. The 57-year-old ethnic Shan man from Hsipaw Township said that when the fighting started in his village, residents fled to trenches they had dug weeks earlier under orders from both the SSA-N and SSA-S.<sup>196</sup> Villagers in other townships likewise told Amnesty International that fighters from different ethnic armed groups had come to their villages in early 2019 and dug trenches.<sup>197</sup>

Fighters from ethnic armed groups also regularly put civilians at risk by staying in villages – at times sleeping in people’s houses. Interviewees from Hsipaw, Namtu, Kyaukme, Lashio, and Namhkan Townships all told Amnesty International that soldiers from ethnic armed groups stayed in their villages, or else regularly moved through them while wearing uniforms and carrying guns. At least four ethnic armed groups operating in northern Shan State were implicated – the TNLA, SSA-N, SSA-S, and the KIA. Amnesty International did not have access to the principal areas where the MNDAA operates, or even to people living in the Kokang region, so could not determine whether it engages in similar behaviour.

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<sup>194</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>195</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>196</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>197</sup> Amnesty International interviews, northern Shan State, March 2019.

# 5. LANDMINES AND EXPLOSIVE REMNANTS OF WAR

**“There was a line across the path... I only saw [it] after... As soon as I hit the line, the bomb went off. I fell... Blood was gushing out [of my leg].”**

A 47-year-old ethnic Shan farmer describes the moment he triggered an improvised explosive device close to his home in Hsipaw Township in March 2019.<sup>198</sup>

Landmines, improvised explosive devices (IEDs), and explosive remnants of war (ERW) pose a serious threat to civilians in northern Shan State. According to local civil society organisations and humanitarian workers, there has been a significant increase in the number of people killed or injured by landmines, IEDs, or ERW in Myanmar since 2018.<sup>199</sup> In the two months since renewed fighting from 15 August 2019, local media have reported at least 10 deaths linked to landmines and ERW.<sup>200</sup> Amnesty International has previously documented the use of such indiscriminate weapons in northern Myanmar and other conflict-affected parts of the country.<sup>201</sup> While it is often difficult to determine responsibility when civilians are killed or injured, it is clear that the practice of using such weapons continues by all parties. The situation is compounded by decades of prior landmine contamination, and the presence of other ERW.

Landmine, IED, and ERW injuries were most common in areas with active or recent fighting. In these areas, most people were injured in forested areas while trying to undertake livelihood activities, or else during times of displacement, often while civilians were fleeing fighting between different groups.<sup>202</sup>

Two ethnic Shan civilians were injured by likely IED explosions in Nar Ma Hkaw village tract, Hsipaw Township, in March 2019. The SSA-S and SSA-N had been fighting on and off in the area for several months.<sup>203</sup> Sai Thant, a 47-year-old farmer, told Amnesty International he was among six men who were collecting firewood when he was injured by a roadside blast on 10 March 2019. He recalled, *“I jumped out of the car first and went ahead of others... There was a line across the path... It was tied near a small tree. I*

<sup>198</sup> Amnesty International interview, northern Shan State, 23 March 2019.

<sup>199</sup> Amnesty International interview, March 2019, and correspondence, August 2019. While it is possible that some increase is due to better information and reporting mechanisms, the increase is mostly likely the result of increased fighting between different armed groups. Humanitarian workers told Amnesty International that even with improvements in monitoring and reporting mechanisms, they believe many cases remain unreported.

<sup>200</sup> Lei Lei, “Landmines Strike 10 Civilians in a Single Town in Myanmar’s Shan State”, *The Irrawaddy*, 27 September 2019, <https://www.irrawaddy.com/news/burma/landmines-strike-10-civilians-single-town-myanmars-shan-state.html>

<sup>201</sup> Amnesty International, *“All the civilians suffer”*, pp. 43-46; *“We will destroy everything”*, pp. 97-100.

<sup>202</sup> Amnesty International interviews, northern Shan State, March 2019.

<sup>203</sup> Amnesty International interview, northern Shan State, 23 March 2019.

*didn't see it when I was walking. I only saw [it] after... As soon as I hit the line, the bomb went off. I fell... Blood was gushing out [of my leg].*<sup>204</sup>

The other men carried Sai Thant to the car and took him back to their village, from where he was taken to Hsipaw hospital and then on to Lashio hospital. When Amnesty International interviewed him, he was receiving treatment for a fractured right leg, into which doctors had inserted steel rods; a broken bone in his shoulder; and shrapnel-related injuries to other parts of his body.

Just one week later, on 16 March 2019, Lung Swe, a 45-year-old farmer, was injured by a roadside blast while travelling by motorbike on a regular route to his farmland in Nar Ma Hkaw village tract. According to his wife, Nan Lat Koi, Lung Swe recounted that his motorbike had hit a line attached to a small tree – likely a wire-operated IED – before the explosion.<sup>205</sup> When Amnesty International visited him at Lashio hospital in March 2019, he was unconscious and his lower left leg was heavily bandaged. Doctors had told his family that a major nerve had been damaged.<sup>206</sup>

King Jarn, a 63-year-old ethnic Shan man from Mung Mu village in Namtu Township was killed by what appears to have been explosive remnants of war on 20 May 2019. Ni Lurn, his wife, told Amnesty International that King Jarn left their home early that morning to forage for vegetables by a lake in the mountains.<sup>207</sup> At around 11am, neighbours came to her house to inform her that he had been hurt by a blast and taken to Man Sam hospital. When she arrived an hour later, she saw King Jarn was bleeding from his left arm and had two large wounds around his groin. The severity of his injuries meant he needed to be transferred to Lashio hospital for treatment. He died on the way.<sup>208</sup>

Amnesty International was unable to determine what kind of device was responsible for King Jarn's death. Two months earlier in March 2019, Myanmar soldiers and SSA-S fighters had clashed with TNLA fighters, forcing more than 200 people to flee Mung Mu village. A humanitarian worker explained that *"often, by the time people arrive on the scene, all that's left are bits of shrapnel, and the focus is on getting the person to a hospital quickly. There are very few details that might help us identify the device."*<sup>209</sup>

Injuries from landmines, IEDs, and ERW often have wider impact on the victim's family. This is especially true for women, who in Myanmar's patriarchal society are often reliant on male family members for income. In addition to the trauma of losing her husband, Ni Lurn said the resulting financial hardships forced her to sell the family's land to pay off their debts. *"I sold all our land to survive... but it wasn't enough... I don't have enough to live off,"* she said.<sup>210</sup> Similarly, Sai Thant expressed concerns about supporting his wife and two children even after being released from the hospital. *"I will need to go back to work. But I don't dare to hope that I will be able to function as before,"* he said.<sup>211</sup>

The presence of landmines, IEDs, and ERW has a significant impact on livelihoods in communities across northern Shan State. Several villagers told Amnesty International that they avoided going to certain areas for fear that they would be killed or injured by explosions.<sup>212</sup> An ethnic Lisu woman from Hsipaw Township told Amnesty International, *"It's not safe to go to go the forest or our farmland... I am scared of [landmines] planted by the different armed groups."*<sup>213</sup> Fear of landmines, IEDs, and ERW also often prevents displaced civilians from returning home, or resuming livelihood activities once they return to their village.

Civil society and humanitarian organizations undertake important work, both in supporting victims and in conducting mine risk education. However, these efforts are undermined by the government and military's restrictions on access (see Chapter 6 below). An activist from Kutkai Township explained that access restrictions mean that organizations experience delays in being allowed to pick up victims and transport them to hospitals.<sup>214</sup> Access restrictions can also prevent humanitarian and civil society organisations from raising awareness about the risks of mines. A humanitarian worker explained, *"Our work plans are subjected to scrutiny from the authorities. Mine risk education is perceived as sensitive – both by the military and the EAOs. Access restrictions and the sensitivity of the issue means we're often not allowed into the areas where it is most needed."*<sup>215</sup>

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<sup>204</sup> Amnesty International interview, northern Shan State, 23 March 2019.

<sup>205</sup> Amnesty International interview, northern Shan State, 23 March 2019.

<sup>206</sup> Amnesty International interview, northern Shan State, 23 March 2019.

<sup>207</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>208</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>209</sup> Amnesty International telephone interview, 30 August 2019.

<sup>210</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>211</sup> Amnesty International interview, northern Shan State, 23 March 2019.

<sup>212</sup> Amnesty International interviews, northern Shan State, March and August 2019.

<sup>213</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>214</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>215</sup> Amnesty International telephone interview, 30 August 2019.

# 6. DISPLACEMENT AND HUMANITARIAN RESTRICTIONS

**“There was fighting in the village so we had to escape... I didn’t have time to bring anything with me. I am afraid to go back... I’ve heard it’s not safe [but here] we can’t work... it’s difficult to live.”**

A 45-year-old ethnic Lisu woman displaced to a makeshift shelter from her home in Hsipaw Township in March 2019.<sup>216</sup>

It is difficult to assess the full scale and impact of displacement in northern Shan State as civilians are often displaced for short periods of time, sheltering in makeshift camps, often monasteries, or with relatives, until the fighting moves to another area and they are able to return to their villages. For example, between January and March 2019, around 11,000 civilians were displaced by fighting, predominantly in Hsipaw, Namtu, and Kyaukme Townships, most of whom had returned to their villages by April 2019.<sup>217</sup> Similarly, almost 8,000 people were displaced as a result of the fighting between the Myanmar military and ethnic armed groups in the two weeks following the 15 August 2019 attacks, most of whom have since returned to their homes.<sup>218</sup> Repeated short-term displacements have a serious impact on access to services and on civilian protection.

Humanitarian workers told Amnesty International that although they had observed an overall reduction in clashes between the military and armed groups or between armed groups in late 2018 and early 2019, the intensity of clashes – and their proximity to civilian areas – had led to significant short-term displacement.<sup>219</sup> Many people have been displaced multiple times, often over short periods. One woman told Amnesty International she had fled her home four times in March 2019 alone.<sup>220</sup> At times, civilians flee even before the fighting reaches their village, as a 61-year-old ethnic Ta’ang man from Namhsan Township explained: “*If villagers hear there are armed groups in the area – even if they aren’t actively fighting – people will often flee in advance.*”<sup>221</sup>

<sup>216</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>217</sup> OCHA, *Myanmar: New Displacement in Shan State (1 Jan to 9 Apr 2019)*, [https://reliefweb.int/sites/reliefweb.int/files/resources/20190321\\_Shan\\_Displacement\\_22Apr2019.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/20190321_Shan_Displacement_22Apr2019.pdf)

<sup>218</sup> OCHA, *Weekly Regional humanitarian snapshot 27 August – 2 September 2019*, <https://reliefweb.int/report/afghanistan/asia-and-pacific-weekly-regional-humanitarian-snapshot-27-august-2-september-2019>

<sup>219</sup> Amnesty International interviews with humanitarian workers, March and August 2019.


<sup>220</sup> Amnesty International interview, northern Shan State, 13 August 2019.

<sup>221</sup> Amnesty International interview, northern Shan State, 22 March 2019.

The situation is exacerbated by ongoing restrictions on humanitarian access. Amnesty International and others have previously documented how the authorities – both civilian and military – have restricted access to conflict-affected areas since May 2016, in particular by requiring humanitarian organizations to submit detailed activity plans and obtain authorization to travel weeks in advance.<sup>222</sup> While humanitarian workers noted that there have been improvements to access in some areas – in particular since the military’s announcement of a unilateral ceasefire in December 2018 – the process to obtain travel authorization remains extremely cumbersome and bureaucratic.<sup>223</sup> In northern Shan State where conflicts are mobile and displacement frequent, such requirements hinder timely humanitarian responses. Meanwhile, access to non-government-controlled areas and areas with active fighting remains off-limits.<sup>224</sup>

Displacement by its nature often affects people’s ability to access to key services, in particular healthcare. In cases of temporary displacement, it can be difficult for humanitarian workers to get to affected communities quickly, in part because it takes time to confirm the location of displaced communities and mobilize resources. Humanitarian workers told Amnesty International that because of the temporary nature of displacement, villagers may have already returned home before aid and assistance can reach them.<sup>225</sup>



 ↑ *Civilians from villages in Kutkai Township being evacuated to a monastery on 25 August 2019. © Nay Lin*

Women and girls are often disproportionately impacted during times of displacement, especially when they are unable to access healthcare. In March 2019, Amnesty International met a woman who was eight months pregnant and taking shelter in a monastery in Hsipaw Township. She explained that while some local organizations had provided food and other assistance such as blankets, no midwife or other medical professional had been to check on her and she was concerned about going in to labour at the makeshift shelter.<sup>226</sup> Amnesty International’s previous research also indicates short-term displacement has a specific impact on older people, in particular in disrupting their access to healthcare.<sup>227</sup> Two older women displaced

<sup>222</sup> Amnesty International, “All the civilians suffer”, pp 34-36. See also Fortify Rights, “They block everything”, *Avoidable deprivations in humanitarian aid to ethnic civilians displaced by war in Kachin State, Myanmar*, August 2018; and *Frontier Myanmar*, “Govt block on aid to thousands of IDPs enters fourth year”, 9 June 2019, <https://frontiermyanmar.net/en/govt-block-on-aid-to-thousands-of-idps-enters-fourth-year>

<sup>223</sup> Amnesty International interviews with humanitarian workers, March and August 2019.

<sup>224</sup> Amnesty International interviews with humanitarian workers, March and August 2019.

<sup>225</sup> Amnesty International interviews with humanitarian workers, March and August 2019.

<sup>226</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>227</sup> Amnesty International, “Fleeing my whole life”: *Older people’s experience of conflict and displacement in Myanmar* (Index: ASA 16/0446/2019), 18 June 2019.

by fighting in northern Shan State in March 2019 told the organization that they were running out of vital medication, and were unclear how they would be able to replenish their supplies.<sup>228</sup>

Several interviewees, including older people, told Amnesty International that ongoing fighting and repeated temporary displacement have a negative impact on their livelihoods, in particular by affecting their ability to access places they rely on for food and work, including fields and farmlands.<sup>229</sup> Interviewees also explained that fighting made it difficult to access local markets and led to fluctuations in the cost of basic commodities. “*The fighting makes the food and commodity prices unstable,*” explained the 61-year-old ethnic Ta’ang man from Namhsan Township. “*Customers don’t come to the village to buy things, so we have to go downtown to sell but that becomes expensive because we have to pay for transport.*”<sup>230</sup>

People who had recently been displaced when Amnesty International met them in March 2019 expressed fears about what would happen if they weren’t able to return to their villages and begin planting rice and other seeds for the upcoming harvest. “*Now is the time to prepare [the land] again, [so that in] the next two months we can start to grow again. If we can’t prepare, we may have to skip this [farming season],*” explained a 65-year-old ethnic Lisu corn farmer displaced from her home in Hsipaw Township.<sup>231</sup> A 55-year-old ethnic Shan man, also from Hsipaw Township, similarly explained the long-term impacts of missing the planting season or other key moments in the agricultural cycle: “*If we can’t start it right now, maybe we won’t be able to grow [this year]... If I can’t, I have to go work for other people, which makes it very hard [to make ends meet].*”<sup>232</sup>

Concerns about the long-term impact of conflict and displacement on food security are not limited to northern Shan State. Civilians displaced as a result of the fighting between the Myanmar military and Arakan Army in Rakhine State in late 2018 and throughout 2019 have likewise expressed fears that they will not be able to support themselves and their families if they cannot access or cultivate farms and fields.<sup>233</sup> In these contexts, it is essential that humanitarian workers have unfettered and sustained access.

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<sup>228</sup> Amnesty International interviews, northern Shan State, March 2019.

<sup>229</sup> Amnesty International interviews, northern Shan State, March and August 2019.

<sup>230</sup> Amnesty International interview, northern Shan State, 23 March 2019.

<sup>231</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>232</sup> Amnesty International interview, northern Shan State, 26 March 2019.

<sup>233</sup> Amnesty International, “*No one can protect us*”, p. 33.

# 7. CONCLUSION AND RECOMMENDATIONS

Civilians in northern Shan State continue to bear the brunt of armed conflict. Caught between the Myanmar military and different ethnic armed groups, they are at risk of a catalogue of abuses, including arbitrary detention, torture and other ill-treatment, and indiscriminate attacks. Violations by the military have continued even after the military's announcement of a unilateral ceasefire on 21 December 2018, which lapsed on 21 September 2019. The fracturing of the ethnic armed group landscape in the region has only added more misery and suffering for civilians, exposing them to new arrests, abductions, forced labour, forced taxation, and extortion. Even those who flee are not safe, risking death or injury by landmines or other explosive devices.

The situation raises urgent concerns, in particular in the context of the escalation of fighting between the Myanmar military and ethnic armed groups since August 2019. It is essential that all sides respect international humanitarian and human rights law and take effective measure to protect civilians, allow safe passage to those fleeing the fighting, and ensure humanitarian access for displaced populations and others trapped in conflict areas.

It is also essential that violations of international humanitarian and human rights law are thoroughly, independently, and impartially investigated and that those responsible are held to account – regardless of rank and on what side of the conflict they stand.

The fact that the Myanmar military, which stands accused of crimes against humanity, war crimes, and genocide, continues to commit serious violations across the country clearly underscores the systemic nature of military violations, the near total impunity enjoyed by perpetrators, and the unwillingness of the military to reform. In this context, the international community – specifically the UN Security Council – must finally step in and ensure that violations are investigated and perpetrators brought to justice. By failing to refer Myanmar to the ICC, the UN Security Council is not only abdicating its responsibility to ensure accountability for serious crimes, it is failing its duty to prevent such crimes from continuing to be committed.

## TO THE MYANMAR ARMED FORCES

- Immediately end all crimes under international law and other violations of human rights and humanitarian law, including those committed during operations in conflict and ceasefire areas. Adhere strictly to the provisions of international human rights and humanitarian law;
- Suspend immediately from frontline duties anyone suspected of responsibility for crimes under international law and other serious violations of international law;
- End the use of explosive weapons with wide area effects, such as mortars and artillery, against military objectives located in the vicinity or concentrations of civilians;
- Immediately provide to families and other concerned parties information concerning the fate and whereabouts of forcibly disappeared individuals and release them or else transfer them immediately to the police and bring them under the jurisdiction of civilian courts where they can challenge their continued detention;



- End the practice of forced labour of civilians. Hold accountable any commander, irrespective of rank, or soldier that forcibly conscripts civilians, even for short periods;
- Punish soldiers, regardless of rank, who engage in theft of civilian property and take effective action to prevent such breaches of international humanitarian law;
- Provide and facilitate immediate, unfettered humanitarian access to all areas of northern Shan State so that impartial relief can reach all civilians in need of assistance, including those who have been displaced;
- Allow human rights monitors, independent observers, and national and international media workers full and sustained access to all parts of northern Shan State; and
- Cooperate fully with the Independent Investigative Mechanism for Myanmar (IIMM), including by allowing unfettered access throughout the country, so that they may investigate allegations of crimes under international law and other human rights violations and abuses by all parties to the conflicts.

## **TO THE MYANMAR GOVERNMENT**

- Provide immediate, unfettered humanitarian access to all areas of northern Shan State, allowing UN agencies and international and national humanitarian organizations to assess and monitor the needs of affected people, including those who have been displaced, and to deliver assistance to them;
- Cooperate fully with international efforts to investigate and prosecute individuals suspected of involvement in crimes under international law and other human rights violations, including those with command or other superior responsibility;
- Immediately provide to families and other concerned parties information concerning the fate and whereabouts of forcibly disappeared individuals and ensure they are released or else transferred immediately to the police and brought under the jurisdiction of civilian courts where they can challenge their continued detention;
- Immediately and unconditionally release all those imprisoned or otherwise deprived of their liberty solely for peacefully exercising their rights to freedom of expression or association or other human rights, and drop charges against all those facing imprisonment for so exercising their rights;
- Review and repeal, or else amend all laws which arbitrarily restrict the rights to freedom of expression, association, and peaceful assembly – including the Unlawful Associations Act – to ensure Myanmar laws comply with international human rights law and standards;
- Allow human rights monitors, independent observers, and national and international media workers full and sustained access to all parts of northern Shan State;
- Accede to the Rome Statute of the ICC, issue a declaration accepting the ICC’s jurisdiction since 1 July 2002, and incorporate its provisions into domestic law;
- Accede without delay or reservation to key international human rights treaties and their additional protocols, including to the International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Implement their provisions in law, policy and practice; and
- Cooperate fully with the Independent Investigative Mechanism for Myanmar (IIMM), including by allowing unfettered access throughout the country, so that they may investigate all allegations of crimes under international law and other human rights violations and abuses.

## **TO THE KIA, SSA-N, SSA-S, TNLA, AND OTHER ARMED GROUPS**

- Immediately end all international humanitarian law violations and human rights abuses. Adhere strictly to the provisions of international humanitarian law;
- End abductions of civilians and immediately release all civilians being detained. Inform families of anyone, civilian or combatant, who continues to be detained by the armed group and allow detainees to correspond with their families;
- End threats of violence and acts of intimidation against civilians;

- Take all feasible measures to avoid basing or moving units through civilian-populated areas;
- Remove from the ranks individuals suspected of violations of international humanitarian law and human rights abuses; and
- Cooperate fully with the IIMM, including in areas the armed group controls or is operating in, so that they may investigate allegations of crimes under international law and other human rights violations and abuses by all parties to the conflicts.

## **TO THE UN SECURITY COUNCIL**

- Refer the situation in Myanmar to the International Criminal Court;
- Impose a comprehensive arms embargo on Myanmar that covers the direct and indirect supply, sale, and transfer, including transit and trans-shipment, of all weapons, munitions, and other military and security equipment, as well as the provision of training and other military and security assistance, and establish a mechanism to monitor and enforce the embargo;
- Impose targeted financial sanctions against senior officials responsible for serious violations and crimes;
- Take immediate action to assess progress on accountability and other human rights issues since the 31 May 2018 letter from the President of the Security Council to the Myanmar authorities, including by requesting a follow-up visit to Myanmar at the earliest opportunity;
- Hold regular, open meetings on the situation in Myanmar and adopt a resolution or resolutions, as necessary, that send an unambiguous message to the Myanmar authorities about the need to allow unrestricted humanitarian access; to allow unfettered access for independent investigators, including the IIMM; and to support international efforts to hold perpetrators criminally accountable.

## **TO THE INDEPENDENT INVESTIGATIVE MECHANISM FOR MYANMAR (IIMM)**

- Investigate and preserve evidence of serious international crimes and violations of international law committed by all parties to the armed conflicts in northern Shan State, including those documented in this report;
- Cooperate closely with the International Criminal Court (ICC), in particular with any investigations into crimes under international law in Myanmar.

## **TO THE INTERNATIONAL COMMUNITY AS A WHOLE AND MYANMAR'S PARTNERS IN PARTICULAR, INCLUDING THE UNITED STATES, THE EUROPEAN UNION AND ITS MEMBER STATES, ASEAN AND ITS MEMBER STATES, AUSTRALIA, CHINA, INDIA, JAPAN, AND KOREA:**

- Immediately suspend the direct and indirect supply, sale, and transfer, including transit and shipment, of all weapons, munitions, and other military and security equipment, as well as the provision of training and other military and security assistance;
- Use all bilateral, multilateral, and regional platforms at your disposal to urge the Myanmar authorities to immediately end crimes under international law and other human rights violations, and to allow humanitarian agencies and independent investigators access to northern Shan State;
- Support the IIMM, and ensure it has the necessary political backing and financial resources in order to fulfil its mandate; and
- Exercise universal and other forms of jurisdiction to investigate any person who may reasonably be suspected of committing crimes against humanity, war crimes, or other crimes under international law in Myanmar. Where there is sufficient admissible evidence, prosecute the suspect in proceedings that meet international standards of fairness and do not involve seeking or imposing the death penalty, or extradite the suspect to a jurisdiction that will similarly do so.

## **TO THE EUROPEAN UNION AND THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN)**

- Impose or otherwise expand targeted sanctions to include all senior Myanmar officials responsible for serious violations and crimes.

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# “CAUGHT IN THE MIDDLE”

## ABUSES AGAINST CIVILIANS AMID CONFLICT IN MYANMAR’S NORTHERN SHAN STATE

This report documents violations of international humanitarian and human rights law committed in northern Shan State, where civilians caught between the Myanmar military and different ethnic armed groups risk a catalogue of abuses by all sides.

Based on two field investigations, the report shows how the military continues to engage in an all-too familiar pattern of arbitrary arrests, detention, torture and other ill-treatment, and indiscriminate attacks which have killed or injured civilians. These violations – many of which amount to war crimes – have continued even after the military announced a unilateral ceasefire, now lapsed, on 21 December 2018.

Many of the violations by the military documented in this report were committed by the Myanmar Army’s 99<sup>th</sup> Light Infantry Division, which is implicated in some of the worst atrocities against the Rohingya in Rakhine State from August 2017, as well as in war crimes and other serious violations in northern Myanmar in 2016 and 2017.

The report also presents evidence that ethnic armed groups commit abuses against civilians, including abductions, torture and other ill-treatment, forced labour, and extortion. Ethnic armed groups also expose civilians to risk of attack, often by basing themselves within or moving through civilian populated areas.

The situation highlights yet again the need for international action to ensure that those responsible for serious crimes in Myanmar do not continue to enjoy impunity. The UN Security Council, which for too long has stood by as civilians were abandoned to a ceaseless cycle of violence, must fulfil its responsibility and refer the situation in Myanmar to the International Criminal Court.