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“ALL THE CIVILIANS SUFFER”

CONFLICT, DISPLACEMENT, AND ABUSE IN NORTHERN MYANMAR

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Cover photo: Two soldiers from the Kachin Independence Army (KIA) look out at the hills near Laiza, in an area of Kachin State controlled by the KIA, June 2013.

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MAP OF MYANMAR



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GLOSSARY

AA	Arakan Army, a primarily ethnic Rakhine armed group founded in the late 2000s. Its forces were largely trained by the Kachin Independence Army and carry out joint operations with other members of the Northern Alliance.
IED	Improvised explosive device. In northern Myanmar, this typically denotes landmine-like weapons used primarily by the ethnic armed groups.
KDA	Kachin Democratic Army, which split from the KIA and in 2010 agreed to disarm and become a border guard force. Former members are now part of a Myanmar Army-affiliated militia in northern Shan State.
KIO/A	Kachin Independence Organization/Army, the political and military wings of an ethnic armed group that controls a thin area of territory in Kachin State, primarily along the China border. It also has operations in northern Shan State.
MNDAA	Myanmar National Democratic Alliance Army, also known as the Kokang Army, which has a stronghold in the Kokang area of northern Shan State. A 20-year ceasefire with the Myanmar Army ended in 2009.
NLD	National League for Democracy, a historically pro-democracy political party that won a majority in the 2015 general elections, ushering in a quasi-civilian government led by Aung San Suu Kyi.
NA-B	Northern Alliance-Burma, commonly referred to just as the Northern Alliance, comprised of four ethnic armed groups operating mostly in northern Shan State.
PSLF / TNLA	Palaung State Liberation Front and its armed wing, the Ta'ang National Liberation Army, which has a strong presence in certain townships of northern Shan State, where it is actively fighting the Myanmar Army and often the RCSS.
RCSS / SSA-S	Restoration Council of Shan State, also known as the Shan State Army-South, which signed the Nationwide Ceasefire Agreement (NCA) in October 2015. It currently operates in specific areas of northern Shan State where its historical presence is contested; since November 2015, it has skirmished with the TNLA.
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. Although there have been sporadic clashes since 2009, the ceasefire has mostly held.
Tatmadaw	The official name of the Myanmar Armed Forces. In this report, Amnesty International typically uses the term "Myanmar Army," though interviewees regularly used the word "Tatmadaw," which is maintained in quotations.
UXO	Unexploded ordnance, which are munitions that did not explode when originally fired or used but still pose a risk of detonation, even years or decades later.

EXECUTIVE SUMMARY

“I want to find my husband’s body, [but] the Tatmadaw is all around. We can’t go back home. I’m living, but I’m not free.”

A 40-year-old woman displaced from her village in northern Shan State since November 2016, and whose husband was a victim of enforced disappearance in December 2016¹

Six years after the 17-year ceasefire broke between the Myanmar Army and the Kachin Independence Organization/Army (KIO/A), one of the country’s largest ethnic armed groups, fighting continues to rage throughout northern Myanmar.² In the areas of Kachin and northern Shan States that border China, new surges in fighting are often coupled with crimes under international law and other serious violations and abuses of human rights—in particular against civilians from ethnic minorities. More than 98,000 civilians are displaced, a crisis that the Myanmar government has exacerbated by restricting humanitarian access to specific areas, particularly those controlled by ethnic armed groups.

This report examines international human rights and humanitarian law violations committed since mid-2016 by parties to the ongoing internal armed conflicts in Kachin and northern Shan States. In August 2016, the Myanmar Armed Forces launched an offensive against a string of KIA mountain posts, leading to renewed civilian displacement amidst some of the heaviest fighting in years in Kachin State. Several months later, the Northern Alliance, consisting of four ethnic armed groups, attacked Myanmar Army and police outposts in northern Shan State, spurring a heavy-handed response by the Army. As fighting escalated in advance of peace talks in late May 2017, civilians often suffered most.

Amnesty International undertook three research missions to Kachin and northern Shan States between March and May 2017, visiting towns and ten internally displaced person (IDP) camps spread across both government- and non-government controlled areas. In total, Amnesty International interviewed more than 140 people, including victims and direct witnesses to violations of the laws of war; local and international humanitarian officials; human rights defenders; and community leaders. The findings are also based on photographs and videos related to human rights violations; official documents, including orders and identification cards issued by the Myanmar Army; and an examination of GPS coordinates and satellite imagery pertaining to incidents in which the military conducted airstrikes or fired mortar shells.

The conflicts in Kachin and northern Shan States share much in common, including some of the ethnic armed groups involved; the recent escalation in fighting; the underlying issue of ethnic minority rights; and contests over natural resource control and land use. But there are also key differences. Whereas the conflict in Kachin State tends primarily to pit the Myanmar Army against the KIA, northern Shan State involves a myriad of ethnic armed groups with sometimes-allied, sometimes-opposed interests; and, on the side of the Myanmar Army, a collection of affiliated militias—with groups on both sides also involved in a lucrative trade of opium and methamphetamines.

¹ Amnesty International interview, Mai Ja Yang, 12 March 2017.

² The political and military wings of the groups across Myanmar are referred to officially as Ethnic Armed Organizations (EAOs), including in documents like the Nationwide Ceasefire Agreement. Since the focus of this report is on the violations and abuses committed during the course of the ongoing internal armed conflicts in Kachin and northern Shan States, Amnesty International will typically use the term “ethnic armed group,” to refer specifically to the military wings of the EAOs.

Amnesty International's research found that the Myanmar Army's most egregious violations since late 2016 have overwhelmingly occurred in northern Shan State. Soldiers there, particularly after skirmishes with an ethnic armed group, have subjected civilians from ethnic minorities to arbitrary arrest and torture and other ill-treatment. During intense fighting in the town of Monekoe³ in late November 2016, the Army arbitrarily detained dozens of civilians from ethnic minorities and used them as human shields along the inner perimeter of a hilltop base; several were killed and others seriously wounded by gun and grenade fire.

Amnesty International also documented four incidents of extrajudicial execution, involving 25 victims, and two cases of enforced disappearance. After fighting between the Myanmar National Democratic Alliance Army (MNDAA) and the Myanmar Army in late November 2016, two witnesses watched as Myanmar Army soldiers marched off 18 civilian men from their village of Nam Hkye Ho, located between Pang Hseng and Monekoe. They heard gunshots and, after being displaced to China for several weeks, returned to find two large holes with charred human remains and possessions that relatives identified as belonging to the men.

Continuing a practice that dates back decades, Myanmar Army soldiers often force civilians to act as porters or guides, which, in addition to being forced labour, is associated with torture and puts civilians at risk of being hit by crossfire. As four Kachin men forcibly guided Myanmar Army soldiers in November 2016, the Ta'ang National Liberation Army (TNLA) attacked the unit. The soldiers blamed the four men for signalling their position, beating them brutally and, for three of them, using a shaving blade to slice their faces.

When fighting ethnic armed groups, the Myanmar Army regularly fires mortar and artillery shells. Often, these land in civilian areas, killing or injuring civilians, damaging civilian houses, and provoking mass displacement. An 81-year-old woman was killed when a mortar exploded on 2 May 2017 near her house in a village in the Namhkan Township of northern Shan State. Two more civilians were killed, including an 8- or 9-year-old boy, and at least eight more injured when several shells landed on 12 January 2017 around Hol Chaung village, also in northern Shan State. In December 2016, mortar or artillery shells rained down near two IDP camps in Kachin State, displacing thousands of civilians yet again. Dashi Hkawn Nu, a 56-year-old woman with four children, recalled, "*The ground was shaking. The sound, it was like it was thundering.*"

The regularity with which such incidents harm civilians and damage civilian structures raises the concern that the Myanmar Army is failing to distinguish between civilian and military targets and is taking insufficient measures to minimize civilian harm. Ethnic armed groups, for their part, at times move through or base themselves near civilian areas during fighting, attracting mortar fire that puts civilians at risk.

Many of the violations that Amnesty International documented were committed by the Myanmar Army's 33rd and 99th Light Infantry Divisions; victims identified the units based on the distinct patches on their uniforms and their often long-term presence in certain areas. Soldiers in Myanmar have long benefitted from near-complete impunity, with credible investigations rare and prosecutions almost non-existent. As a result, victims and victims' families see little point in going to the authorities, compounded by a justified fear of reprisal. Several experts said that units and commanders based in fighting areas like Kachin and northern Shan States are often rewarded with promotion, even when they face repeated, credible allegations of abuse.

In Kachin State, the Myanmar Army and government have compounded the difficulties of tens of thousands of displaced persons by restricting humanitarian access, particularly to non-government controlled areas. While local humanitarian organizations have made incredible efforts to minimize the impact, including by bringing goods through China, humanitarian officials said they were undermined in their ability to respond quickly, to monitor protection concerns, and to address key issues like shelter, water access, and sanitation. At times, the Army's obstruction is particularly cruel, such as when, in February 2017, it blocked a shipment of dignity kits—sanitary pads, soap, underwear, and toothbrushes—destined for displaced women.

While many civilians see the ethnic armed groups as protectors from the Myanmar Army, they also violate international humanitarian law. Armed groups forcibly recruit civilian men, women, and children, and demand sacks of rice or money from villagers already struggling from the conflict's impact on livelihoods. Civilians from villages across northern Shan State described how people flee when rumours of conscription arise. These practices appear to have worsened in 2017, likely in response to the pressure many armed groups feel from the Army's offensive and from the poor prospects of the country's peace process.

As the TNLA and another armed group, the Restoration Council of Shan State (RCSS), have fought in northern Shan State since November 2015, they have abducted civilians perceived to support the other

³ Monekoe, also known as Mong Ko, Mung Gu, and Man Kan, is, like many towns and villages in Kachin and northern Shan States, spelled in several different ways, often associated with different ethnic groups and languages. Throughout this report, Amnesty International has typically used spellings consistent with those of the Myanmar Information Management Unit (MIMU), managed by the United Nations Resident and Humanitarian Coordinator. See MIMU, About the MIMU, <http://themimu.info/about-us>. However, for many of the smaller villages named in this report, not often included on MIMU maps, the spelling is what was provided by the interviewee and translator.

group. Months later, relatives of several dozen people who have been abducted told Amnesty International they still do not know if their loved ones are alive or dead.

Across Kachin and northern Shan States, the Myanmar Army and many ethnic armed groups continue to lay antipersonnel landmines or landmine-like weapons such as improvised explosive devices (IEDs), all of which are inherently indiscriminate and greatly affect the civilian population. In January 2017, a 41-year-old man was walking back to a dirt road after working on his tea leaf farm in Namhsan Township, northern Shan State, when he stepped on a landmine that blew off his leg; he was one of several landmine-related victims Amnesty International interviewed with the same injury. Children are often injured, when helping their families on the farm or when mistaking a piece of unexploded ordnance (UXO) for something they can play with. Many displaced people are afraid to return home or to go to their farms because of landmines.

The Myanmar government has yet to ratify most international human rights and humanitarian law treaties, but the vast majority of violations documented by Amnesty International contravene customary international law norms. Many amount to war crimes. Myanmar authorities must ensure the soldiers involved, as well as any commander who orders or fails to take action to prevent, stop, or punish such violations, are held to account. They should also immediately end restrictions on humanitarian access throughout the country, including to non-government controlled areas. And they should guarantee unfettered access to the UN Human Rights Council's independent, international fact-finding mission, mandated to investigate human rights violations and abuses across the country.

The government of Aung Sang Suu Kyi has staked its legacy on ending the ethnic armed conflicts that have persisted for decades, with occasional reprieves during ceasefires. But the Myanmar Army's treatment of civilians from ethnic minorities during the ongoing conflicts in Kachin and northern Shan States undermines such efforts, breeding resentment against the government and its armed forces. Many civilians in northern Myanmar, as well as experts who have monitored the situation for years, fear the conflict is intensifying—and that violations of human rights and humanitarian law could worsen. To avoid such a situation, accountability and respect for human rights need to be at the centre of the Myanmar government's agenda.

METHODOLOGY

This report is based primarily on field research carried out in Myanmar between March and May 2017. In early March, two delegates from Amnesty International visited areas of Kachin State controlled by the Kachin Independence Organization/Army (KIO/A), including the towns of Laiza and Mai Ja Yang as well as seven internally displaced persons (IDP) camps. In late March, an Amnesty International delegate undertook research in Yangon, the country's commercial capital; in Myitkyina, the capital of Kachin State; and in Lashio, the main city in northern Shan State. Finally, in May, a delegate carried out interviews in Yangon and in northern Shan State; victims were brought to secure interview locations from villages, towns, and IDP camps across the state, and the delegate also travelled to IDP camps around Namtu. In addition to field missions, Amnesty International delegates conducted phone and Skype interviews with people in Myanmar, as well as in-person interviews in London, Washington, DC, and Bangkok.

Amnesty International interviewed more than 140 people, including victims and direct witnesses to human rights and international humanitarian law violations and abuses in Kachin and northern Shan States; relatives of civilians who had been killed, abducted, or seriously injured; local human rights defenders; representatives of local and international humanitarian organizations; community leaders; military officers from two ethnic armed organizations operating in the region; and journalists. In addition, Amnesty International examined photographs and videos related to human rights violations; official documents, including orders and special identification cards issued by the Myanmar Army; satellite imagery and GPS coordinates pertaining to incidents in which the Army fired mortar shells or conducted airstrikes that landed in the vicinity of civilian-populated areas; and relevant media and NGO reports.

The research focused on the conflict period since mid-2016, when fighting escalated in Kachin and then, several months later, in northern Shan State. However, Amnesty International delegates also interviewed victims of international human rights and humanitarian law violations and abuses dating back to June 2011, as part of understanding the context that led to the current situation.

During its field missions in Myanmar, Amnesty International undertook all but three of the interviews in person. The three exceptions were conducted by telephone with people who were in areas inaccessible to Amnesty International delegates and were unable to travel to towns where the delegates were carrying out interviews. The vast majority of interviews with victims, witnesses, and relatives were conducted with English translation from Burmese, Kachin, Palaung, or Shan languages. Interviews were carried out in private to the extent possible, within an IDP camp or at a secure location. Transport costs were reimbursed when interviewees had to travel to meet with Amnesty International delegates, but no incentive was offered for speaking and individuals were able to end an interview at any time.

Amnesty International has included the names of certain individuals who were interviewed, based on their informed consent. Other people spoke on condition of anonymity, generally due to concerns that they might face reprisals by the Myanmar Army or by an ethnic armed group should it become known they spoke with Amnesty International delegates. Their names and other identifying information have been withheld.

On 24 May, Amnesty International wrote to Myanmar's Office of the State Counsellor with specific questions related to our findings and conclusions. At time of publication, the State Counsellor's Office had not replied.

Amnesty International also wrote to relevant officials in the KIO and in the Palaung State Liberation Front (PSLF), the ethnic armed organization whose military wing is the TNLA, with specific questions related to our findings and conclusion. The PSLF responded on 4 June, and the KIO responded on 6 June; those answers have been incorporated into the relevant parts of this report.

1. BACKGROUND

Armed conflict in Kachin and northern Shan States has entered its seventh year, after the breakdown in June 2011 of a 17-year ceasefire between the Myanmar Army and the Kachin Independence Organization/Army (KIO/A), the country's second largest ethnic armed group.⁴ More than 98,000 civilians are displaced by the fighting,⁵ which continues to deteriorate amidst a peace process that, while advancing intermittently in other parts of the country, is seen as deeply flawed by most ethnic minorities in Kachin and Shan States.

Kachin and northern Shan States comprise the north-eastern corner of Myanmar, along the long border with China. Political and ethnic tensions there date back prior to independence, when the British governed separately the central plains, known as "Ministerial Burma," largely populated by ethnic Burman; and the surrounding mountainous regions, referred to as "Frontier Areas."⁶ In 1947, independence leader General Aung San organized the Panglong Conference, at the end of which representatives from several ethnic minorities, including the Kachin and Shan, agreed to form a Union in exchange for "promises of full autonomy in internal administration and an equal share in the country's wealth."⁷

The promise of Panglong quickly unravelled, beginning with disagreements over key aspects of the country's 1947 Constitution and then the July 1947 assassination of General Aung San, father of current State Counsellor Aung San Suu Kyi. Only months after independence from Britain in January 1948, armed groups launched uprisings across the country, at the time known as Burma; some sought complete independence, while others fought for greater rights and autonomy within a more federal system of government.⁸

Believing the government was no longer looking after their interests, Kachin nationalists formed the KIA and took up arms in 1961. The next year, the Myanmar Armed Forces, known officially as the Tatmadaw, carried out a military coup, after which it consolidated power within a military-controlled central government, banned opposition political parties, and cracked down on civil liberties.⁹ Insurgencies proliferated, including in northern Shan State, where the Communist Party of Burma, consisting of troops from several ethnic groups, including the Kokang and Wa, enjoyed financial and military backing from its counterparts in China.¹⁰

After several more decades of fighting, the Myanmar Army signed ceasefire agreements in 1989 with some of the most powerful ethnic armed groups, including the United Wa State Army (UWSA) and the Myanmar National Democratic Alliance Army (MNDAA), after their split from the Communist Party of Burma.¹¹ Over the next five years, additional ceasefires ensued with other groups in northern Shan and Kachin States, including the Shan State Progress Party (SSPP) and, in February 1994, the KIA.¹²

Twenty-three years later, northern Myanmar is again engulfed in fighting. The Myanmar Army's ceasefires with the KIA and MNDAA have been broken, and several additional armed groups have emerged, including the Ta'ang National Liberation Army (TNLA), a primarily Palaung nationalist group with antecedents going back to the 1960s; and the Arakan Army (AA), a Rakhine group that was founded in the late 2000s, trained under the KIA, and, during the ongoing fighting, often operates in close alliance with the TNLA and

⁴ See Human Rights Watch, *"Untold Miseries": Wartime Abuses and Forced Displacement in Burma's Kachin State*, 2012, pp. 22-24.

⁵ OCHA, Crisis Overview, <http://www.unocha.org/country/myanmar/about-ocha-myanmar/crisis-overview-0> (IDP figure as of 26 May 2017).

⁶ International Crisis Group, *Myanmar: A New Peace Initiative*, Crisis Group Asia Report No. 214, 20 November 2011, p. 1.

⁷ International Crisis Group, *Myanmar: A New Peace Initiative*, p. 1.

⁸ International Crisis Group, *Myanmar: A New Peace Initiative*, p. 2. See also Human Rights Watch, *"Untold Miseries"*, pp. 22-23.

⁹ International Crisis Group, *Myanmar: A New Peace Initiative*, p. 2.

¹⁰ International Crisis Group, *Myanmar: A New Peace Initiative*, p. 2.

¹¹ International Crisis Group, *Myanmar: A New Peace Initiative*, p. 2.

¹² For a full list of ethnic armed organizations in Myanmar and when various ceasefires have been signed or broken, see Myanmar Peace Monitor, *Armed Ethnic Groups*, <http://www.mmpeacemonitor.org/stakeholders/armed-ethnic-groups>.

MNDAA.¹³ Adding to the web of armed groups in Kachin and northern Shan States, the Myanmar Army has supported militias, often referred to as the People's Militia Forces, which play roles ranging from community self-defence groups to drug traffickers to active participants in hostilities alongside the Army.¹⁴

The current situation in northern Myanmar exists within the context of many ethnic minorities' decades-long struggle for greater autonomy and against what they perceive to be a central government that has often politically and economically favoured ethnic Burman, who comprise more than 65 percent of the country's population.¹⁵ These grievances have been aggravated by abusive counterinsurgency tactics that the Myanmar Army has historically deployed in ethnic areas. In the "Four Cuts" strategy articulated in the 1960s and used over decades, the Army sought to cut off insurgent groups from the support they received—food, money, intelligence, and potential soldiers—from the local civilian population. Villages were cleared, crops and farmland were burned, and civilians often found themselves targeted for arrest, torture, and even killing.¹⁶ These tactics were common in Kachin and northern Shan States, as well as against ethnic armed groups and civilians in other ethnic areas of the country, including Kayah, Kayin and Chin States.¹⁷

The conflicts in Kachin and northern Shan States are also rooted in issues related to the exploitation of natural resources; land use and major infrastructure projects; and the narcotics trade. Kachin State is home to some of the world's most lucrative jade mines, an industry Global Witness has estimated brings in as much as \$31 billion a year, much of which is siphoned off through Army-linked corruption and cronyism.¹⁸ Other natural resources, including gold and timber, have likewise enriched both the Army and different ethnic armed groups. In both states, there has also historically been fighting linked to the construction and maintenance of major infrastructure projects, including hydropower dams and oil and gas pipelines.¹⁹

Shan State is the epicentre of the opium trade in Myanmar, the world's second largest producer after Afghanistan.²⁰ The UN Office on Drugs and Crime (UNODC) found, based on a survey of 591 villages in Shan State, that roughly one in ten households were "directly involved in opium poppy cultivation," largely as a result of a lack of comparable livelihood options as well as poor infrastructure, governance, and security.²¹ While certain armed groups, like the KIA and TNLA, have taken steps to destroy opium production in their areas,²² other armed groups and many Myanmar Army-affiliated militias continue to oversee or at least profit from drug production and trafficking, whether opium or, more recently, methamphetamines.²³

As conflict resumed in Kachin State in 2011, the government of former President Thein Sein simultaneously initiated a new peace process, leading to the signing by 2013 of bilateral ceasefires with 15 different armed groups.²⁴ Then, in 2015, the government led an initiative that was to culminate in the widespread signing of what is called the Nationwide Ceasefire Agreement (NCA), which is, among other things, to "[e]stablish a union based on the principles of democracy and federalism ... [g]uarantee equal rights to all citizens," protect civilians from a detailed list of human rights and humanitarian law violations, organize troop deployments so as to avoid confrontations, and allow the provision of humanitarian assistance and the safe and voluntary return of displaced persons.²⁵ It is also to usher in an "inclusive political dialogue" that would lead to more comprehensive peace negotiations.²⁶

¹³ Amnesty International interview and email correspondence with expert on the ethnic armed organizations in Northern Myanmar, May 2017. See also Myanmar Peace Monitor, *Armed Ethnic Groups*; Melissa Crouch, "Ethnic Rights and Constitutional Change: The Recognition of Ethnic Nationalities in Myanmar/Burma," in *Central-Local Relations in Asian Constitutional Systems* (2015, eds. Andrew Harding and Mark Sidel), p. 120; Paul Keenan, "The Palaung State Liberation Front/ Ta'ang National Liberation Army," Burma Centre for Ethnic Studies, Briefing Paper No.25/2015.

¹⁴ For a thorough accounting of the historical and current web of militias in Myanmar, including those affiliated with the Army and those affiliated with ethnic armed groups, see John Buchanan, *Militias in Myanmar*, The Asia Foundation: July 2016.

¹⁵ For more information on the ethnic composition of Myanmar, see Reuters, "Factbox: Key facts about Myanmar," 18 November 2011; Lex Rieffel, "Peace in Myanmar depends on settling centuries-old ethnic conflicts," Brookings Institute, 20 March 2017.

¹⁶ International Crisis Group, *Myanmar: A New Peace Initiative*, p. 2.

¹⁷ See, for example, Human Rights Watch, "Untold Miseries", pp. 25-26; Human Rights Watch, "We Are Like Forgotten People": *The Chin People of Burma: Unsafe in Burma, Unprotected in India*, January 2009; Harvard Law School International Human Rights Clinic, *Policy Memorandum: Preventing Indiscriminate Attacks and Wilful Killings of Civilians by the Myanmar Military*, March 2014, pp. 12-25.

¹⁸ Global Witness, *Jade: Myanmar's "Big State Secret"*, October 2015.

¹⁹ Human Rights Watch, "Untold Miseries", pp. 29-33.

²⁰ UNODC, "Opium production in Myanmar and the Lao People's Democratic Republic stabilizes at high levels, says UNODC report," 15 December 2015. See also UNODC, *Southeast Asia Opium Survey 2015: Lao PDR, Myanmar*, December 2015.

²¹ UNODC, *Evidence for enhancing resilience to opium poppy cultivation in Shan State, Myanmar*, March 2017, pp. 6-30.

²² See David Shaw, "Drugs and bullets in Myanmar," *Al Jazeera*, 8 February 2017; Niels Larsen, "On patrol with Myanmar rebels fighting both the army and drug addiction," *Vice News*, 23 April 2015.

²³ See Reuters, "Factbox - the MNDAA: Myanmar's Crowdfunding Ethnic Insurgent Group," 21 March 2017; Anshuman Behera, "Insurgency, Drugs and Small Arms in Myanmar," *Strategic Analysis*, Vol. 41(1), 2017, pp. 34-48; Charlie Campbell, "Obstacles ahead in Burma's opium war," *Time*, 19 March 2013.

²⁴ International Crisis Group, *Myanmar's Peace Process: Getting to a Political Dialogue*, Crisis Group Asia Briefing No. 149, 19 October 2016, pp. 2, 16.

²⁵ The Nationwide Ceasefire Agreement between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations, 15 October 2015.

²⁶ *Ibid.*, Chap. 5. See also International Crisis Group, *Myanmar's Peace Process*, p. 3.

However, key groups from Kachin and northern Shan States, including the AA, MNDAA, and TNLA, were not allowed to sign the NCA.²⁷ The lack of inclusivity and ongoing fighting undermined the willingness and ability of other armed groups to join; on 15 October 2015, only eight ethnic armed groups signed the NCA.²⁸ Among the groups currently operating in Kachin and northern Shan States, only the Restoration Council of Shan State (RCSS) signed the NCA. A month later, skirmishes erupted in northern Shan State between the RCSS and TNLA—an additional fracture in the conflict that persists, with each group contesting the other's historical claim to the area as the Myanmar Army appears to manipulate the situation.²⁹

After a historic general election in November 2015, the National League for Democracy (NLD), headed by long-time democracy activist Aung San Suu Kyi, took office at the end of March 2016. Constitutionally barred from the Presidency, Aung San Suu Kyi was appointed State Counsellor—a tailor-made role which made her the de facto leader of the quasi-civilian government. The government has cited the peace process and national reconciliation among its top priorities, and, in August 2016 and May 2017, organized successive 21st Century Panglong Peace Conferences.³⁰

So far, it is unclear what progress the peace conferences have produced. In the nine months between the two conferences, fighting surged, rather than declined. Indeed, in August 2016, the same month as the first Panglong conference, the Myanmar Army launched a major offensive against strategic KIA mountain posts.³¹ Several months later, on 20 November 2016, the Northern Alliance, comprised of the TNLA, MNDAA, AA, and at least two KIA brigades,³² launched coordinated attacks on Myanmar Army and police outposts in northern Shan State.³³ The situation has continued to deteriorate, as the Myanmar Army has carried out continuous offensives—often focusing on a particular area and armed group, before moving to another.

Amidst ongoing fighting, most of the major ethnic armed groups in Kachin and northern Shan States attended the opening ceremony of the Second Panglong Peace Conference in May 2017 and met with Aung San Suu Kyi on the conference's margins.³⁴ At least some of the groups' attendance was the result of concerted diplomatic pressure by China on them and on the Myanmar government and military.³⁵

International focus in recent years has centred on the human rights crisis in Rakhine State, where the Rohingya population has suffered human rights violations at the hand of the Myanmar state security forces as well as state-sponsored discrimination.³⁶ Ongoing international human rights and humanitarian law violations in Kachin and northern Shan States fit a similar pattern in terms of the Army's tactics and targeting of ethnic and religious minorities—continuing a longstanding legacy of abuse and impunity.

²⁷ International Crisis Group, *Myanmar's Peace Process*, pp. 2, 7, 10. The three groups 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 simply disarm, which is a non-starter for the groups. Ibid. See also Htet Naing Zaw, "Military Chief of Staff: Army Not Open to Talks With AA, MNDAA or TNLA," *The Irrawaddy*, 1 March 2017; Nan Lwin Hnin Pwint "Army Demands Three Ethnic Allies Disarm Before Joining Peace Process," *The Irrawaddy*, 16 June 2016.

²⁸ International Crisis Group, *Myanmar's Peace Process*, pp. 2-4.

²⁹ Amnesty International interviews, Lashio and Yangon, May 2017. See also DVB, "Another bout of hostilities reported between RCSS and TNLA," 15 May 2017.

³⁰ Joe Freeman, "Aung San Suu Kyi Opens Second Round of Myanmar Peace Talks," Voice of America, 24 May 2017.

³¹ Paul Vrieze and Lawa Yang, "'We Cannot Believe Aung San Suu Kyi': Why Many in Burma Are Losing Hope of Peace," *Time*, 22 November 2016; Thu Thu Aung, "Tatmadaw overruns KIA's Gidon mountaintop post," *Myanmar Times*, 19 December 2016.

³² There is some dispute as to whether the entire KIA is part of the Northern Alliance. Public statements by the Northern Alliance include the KIA's seal, and local and international media commonly consider the KIA to be a formal part of the alliance. See, for example, The released statement of Northern Alliance (Burma) on peace dialogue, 17 January 2017, <http://northernalliance.today/nab-statement-1-17/>; Northern Alliance (Burma), About Us, <http://northernalliance.today/about-us/>; Khin Zaw Win, "Is fighting with the NA-B the beginning of a full-fledged crisis?," *Myanmar Times*, 9 December 2016. But General Gun Maw, vice chairman of the KIO, has said the "Northern Alliance Army" comprises only the MNDAA, TNLA, and AA, and that "[t]he whole KIA has not joined them; only KIA Brigade 4 and Brigade 6 are in the alliance." *The Irrawaddy*, "KIA General Gun Maw: 'To Talk and Live as Equals, That is Genuine Peace'," 17 January 2017.

³³ "Tatmadaw, Northern Alliance continue to clash in 2017," *Myanmar Times*, 5 January 2017; Thu Thu Aung, "Mong Koe back in Tatmadaw control after air strikes," *Myanmar Times*, 6 December 2016.

³⁴ Xinhua, "Myanmar's Aung San Suu Kyi meets 7 non-ceasefire signatory armed groups," 26 May 2017; Kyaw Kha, "The Wa's Zhao Guo An: Daw Aung San Suu Kyi wants to achieve peace in her lifetime," *The Irrawaddy*, 29 May 2017.

³⁵ See Bertil Lintner, "China captures Myanmar's peace process," *Asia Times*, 3 June 2017.

³⁶ Amnesty International, *"We Are at Breaking Point": Rohingya: Persecuted in Myanmar, Neglected in Bangladesh* (Index: ASA 16/5362/2016), 19 December 2016.

2. VIOLATIONS BY THE MYANMAR ARMY

“The Tatmadaw come in our village and do whatever they want. It’s hard for us to respect them. It’s hard for us to see them as our government [forces].”

30-year-old farmer, who was tortured by Myanmar Army soldiers in Manton Township, northern Shan State, in November 2016³⁷

Since mid-2016, the Myanmar Army has carried out intense military operations across Kachin and northern Shan States. Given the large territory and the different armed groups in the area, these operations tend to focus on different theatres at different times. Civilians from ethnic minorities live in a constant state of fear and harassment, but the most egregious violations tend to occur either as the Myanmar Army starts a specific operation or after it loses soldiers or territory, even briefly, to an ethnic armed group. Several experts on northern Myanmar said the Army’s embarrassment is the greatest predictor of crimes against civilians.³⁸

In general, northern Shan State has seen a larger concentration of major human rights violations against civilians than Kachin State, particularly since the end of 2016. This appears to be primarily because civilians in Kachin State are better able to avoid fighting areas; and because the conflict features a more traditional military-on-military engagement between the Myanmar Army and KIA, whereas northern Shan State, with its numerous armed groups, many of which operate in proximity to the civilian population, has seen the Army fail to distinguish civilian from military targets and, in some instances, appear to inflict collective punishment.

Men from ethnic minorities, and in particular young men and boys of fighting age, tend disproportionately to be victims of violations like arbitrary arrest, torture, extrajudicial execution, enforced disappearance, and forced labour, as Myanmar Army soldiers appear to assume their involvement with an ethnic armed group. For other violations, however, like indiscriminate shelling, the denial of free movement, and restrictions on humanitarian access, women, children, and the elderly are often predominantly impacted.

Civilians in northern Shan State repeatedly implicated the Army’s 33rd and 99th Light Infantry Divisions in many of the violations. Yet, soldiers credibly alleged to have committed or overseen crimes almost never face investigation, much less prosecution. Indeed, a position in these and other fighting units is often a stepping stone to promotion and profiteering. This longstanding impunity fuels further abuse.

³⁷ Amnesty International interview, Lashio, 8 May 2017.

³⁸ Amnesty International interviews, Lashio and Yangon, May 2017; and Skype interviews, March and May 2017.

ARBITRARY ARREST AND TORTURE

“They would ask me a question and then hit me, ask and then hit.”

A 35-year-old man from a village in Kutkai Township, northern Shan State, arrested and beaten in December 2016³⁹

Amnesty International documented nine incidents since November 2016 of arbitrary arrest accompanied by ill-treatment that often amounted to torture. At times people were taken individually, whereas in a few cases large groups were detained and mistreated, including an incident in which civilians were used as human shields during intense fighting. These overwhelmingly occurred when the Myanmar Army was actively fighting or had recently been attacked by an ethnic armed group, suggesting that such ill-treatment is often about collective suspicion or punishment of ethnic minorities in specific moments.

All of the documented cases occurred in northern Shan State, though there is a long history of arbitrary arrest and torture and other ill-treatment by the Myanmar Army in Kachin State.⁴⁰ Several humanitarian officials and community leaders suggested any decline in Kachin State was due to people in KIO-controlled territory choosing not to go back to areas where they might encounter Myanmar Army soldiers.⁴¹

A 35-year-old father of two from a village in Kutkai Township was returning home from his farm in December 2016 when he was arrested outside a monastery that the Myanmar Army was using as a base. He said there had been gunfire recently in the area, and the soldiers accused him of being a KIA spy. He recalled:

“They took me [in the base], and the soldiers tied me with rope behind my back and beat me. They started asking me, ‘Are you a KIA soldier?’ [and] ‘Who was shooting the guns before?’ They would ask me a question and then hit me, ask and then hit. I would say, ‘I’m not a KIA [soldier], I just work on my farm [and] stay in a house here.’

At first, they used their fists, beating me in the face and chest. Then one of them used a tree branch, hitting me in the chest and leg. ... I’m still suffering from the injuries.”⁴²

News of his capture reached his village leader, who intervened for his release. The victim said the soldiers who arbitrarily arrested and beat him all had the patch of the 99th Light Infantry Division on their arms. Upon his release, they told him that if they heard gunshots again, they would come and find him.⁴³

Similarly, in March 2017, a 49-year-old man went to his rubber farm in a village in Namhkan Township. As he started to clear some of the tall grass by burning it, Myanmar Army soldiers from the 33rd Light Infantry Division appeared and accused him of working with the ethnic armed groups. He was shot at close range and beaten until he was unconscious. His wife, interviewed by Amnesty International, found him after the soldiers left him by a tree near the road. *“When my husband saw me, he told me, ‘They shot me! They shot me!’”* she recalled. *“I saw the situation was very bad. Blood was coming out. The bone was broken. They shot him in the hip and it came out by his knee.”⁴⁴* Several months later, he remains in the hospital.

Such incidents, in which soldiers intentionally inflict severe physical or mental pain or suffering against a person under their control as a means of punishment or to obtain information or a confession, amount to torture and are war crimes under customary international law.⁴⁵ Amnesty International also documented several cases of torture linked to the Myanmar Army’s practice of forced portering and guiding (see page 20).

In a particularly egregious case, Myanmar Army soldiers arrested more than 150 civilians, including women, children, and the elderly, during the morning of 20 November 2016, as people were set to celebrate a

³⁹ Amnesty International interview, Lashio, 6 May 2017.

⁴⁰ Amnesty International interviews, Laiza and Myitkyina, March 2017. See also Fortify Rights, *“I Thought They Would Kill Me”: Ending Wartime Torture in Northern Myanmar*, June 2014; Human Rights Watch, *“Untold Miseries”*, pp. 34-37, 40-43.

⁴¹ Amnesty International interviews, Laiza, March 2017.

⁴² Amnesty International interview, Lashio, 6 May 2017.

⁴³ Amnesty International interview, Lashio, 6 May 2017.

⁴⁴ Amnesty International interview, Lashio, 7 May 2017.

⁴⁵ 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.icc-cpi.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, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul.

wedding in a neighbourhood of Monekoe town known as block 6. Amnesty International interviewed two of those arrested, as well as a community leader from the area and a human rights defender who investigated the incident. Around 100 soldiers from the 99th Light Infantry Division, recognized by the patch on their uniforms after being based in Monekoe for several years, rounded up those present and brought them to their hilltop base near block 6.⁴⁶

Beginning on 20 November and continuing for several weeks, there was intense fighting in Monekoe between the Myanmar Army and the Northern Alliance. The Northern Alliance captured most of the city, but the Army held the hilltop base where the civilians were detained.⁴⁷ According to those arrested, the fighting was intense as the Northern Alliance sought to capture the base, with often only a road separating the forces. *"We were [held] between the Northern Alliance [outside] and the Tatmadaw ... fighting from inside the base,"* recalled a 51-year-old man who was among those arrested. *"They used us as a shield."*⁴⁸

The military base had a triple perimeter, and the civilians were placed between the inner and second perimeter. *"The soldiers made us lay down, facing the ground,"* recalled the 51-year-old man. *"They shouted, 'Don't move! Don't say anything, or we'll shoot you!'"*⁴⁹ Within a day, the Myanmar Army soldiers released the women and young children. Several days later, they released at least most of the ethnic Chinese civilians who had been detained; those who remained were primarily men from ethnic minorities in Myanmar—including Kachin, Palaung, and Lisu—perceived to support ethnic armed groups in the area.⁵⁰

The two witnesses said the Myanmar Army killed two people and shot several more deliberately for not informing them of the Northern Alliance attacks and for allegedly supporting the ethnic armed groups. They said others were seriously injured by gunfire or hand grenade fire as a result of being placed between the fighting forces.⁵¹ One of those interviewed by Amnesty International was shot by a Myanmar Army soldier and suffered serious injuries; the specific details are withheld to avoid identifying him. Ultimately, the remaining detainees escaped on 3 or 4 December, during renewed fighting that distracted the Army.⁵²

The use of human shields is a war crime under customary international humanitarian law, including in non-international armed conflicts like the current situation in northern Myanmar.⁵³

EXTRAJUDICIAL EXECUTIONS AND ENFORCED DISAPPEARANCES

Amnesty International documented four incidents since mid-2016 in which there is strong evidence that Myanmar Army soldiers carried out extrajudicial executions. The four incidents involve a total of at least 25 victims, including a massacre of at least 18 people. Amnesty International received credible information about three more incidents of potential extrajudicial execution, including one in which two ethnic Chinese men with mental illness were killed and another in which three Kachin men were killed in May 2017, but was unable to corroborate sufficiently the specific circumstances of their deaths.

In addition, Amnesty International documented two cases of enforced disappearance by the Myanmar Army. The vast majority of these killings and enforced disappearances occurred in northern Shan State in areas where the Myanmar Army was undertaking military operations; many occurred, for example, in the area around Monekoe as fighting raged in late November and early December 2016. The victims were from ethnic minorities, including Kachin, Palaung, Lisu, and ethnic Chinese, perceived to support one or more of the ethnic armed groups. They fit a pattern similar to extrajudicial executions and enforced disappearances carried out by the Myanmar Army during previous fighting in northern Myanmar.⁵⁴

⁴⁶ Amnesty International interviews, Lashio, 7 May 2017; and Mai Ja Yang, 12 March 2017.

⁴⁷ Media reporting and blog accounts indicate that the Myanmar Army did hold a specific hilltop outpost in Monekoe during this period. See Sai Wansai, "Conflict in Shan State: Aftermath of Northern Alliance offensives," Shan Herald Agency for News, 30 November 2016, <http://english.panglong.org/2016/11/30/conflict-in-shan-state-aftermath-of-northern-alliance-offensives/>; "Burmese Army Drove Insurgents Out of Mone-Koe," 7 December 2016, <http://hlao1980.blogspot.com/2016/12/burmese-army-drove-insurgents-out-of.html>.

⁴⁸ Amnesty International interview, Lashio, 7 May 2017.

⁴⁹ Amnesty International interview, Lashio, 7 May 2017.

⁵⁰ Amnesty International interviews, Lashio, 7 May 2017.

⁵¹ Amnesty International interviews, Lashio, 7 May 2017.

⁵² Amnesty International interviews, Lashio, 7 May 2017; and with human rights defender, Mai Ja Yang, 12 March 2017.

⁵³ International Committee of the Red Cross, *Customary IHL: Rule 97. Human Shields*; and *Rule 156. Definition of War Crimes*. See also Rome Statute of the International Criminal Court, art. 8(b)(xxiii).

⁵⁴ Human Rights Watch, *"Untold Miseries"*, pp. 40-51; Kachin Women's Association Thailand (KWAT), *A Far Cry from Peace: Ongoing Burma Army offensives and abuses in northern Burma under the NLD government*, pp. 8-9.

EXTRAJUDICIAL EXECUTIONS

On either 26 or 27 November 2016, the Myanmar Army fought with the MNDAA on the road and in the jungle near the village of Nam Hkye Ho, between Pang Hseng and Monekoe. Amnesty International interviewed two men from the village. Hpu Da Shin, 74, said that more than a hundred Myanmar Army soldiers arrived on foot and in uniform around 3 p.m. *“When we heard the gunshots [of their arrival], people tried to run,”* he recalled. *“Some weren’t able to get away. They arrested those who were left. Then the old people, they left them. The strong men, the young men, they arrested them and took them away.”*⁵⁵

Hpu Da Shin and another witness, Huang Shin Shi, 63, said almost all of the women and children had already fled the village to China. Both witnesses were able to hide in the jungle, as they lived on the opposite side of the village from where the Myanmar Army entered. Huang Shin Shi described, *“We were close. It was like the distance you could throw a stone. We could see everything very clearly. ... It was very noisy, with the guns, so we couldn’t hear very clearly what they were saying. ... The direction [they took the arrested men] is to the east. When they reached outside the village, we heard gunshots.”*⁵⁶ Hpu Da Shin said the Myanmar Army soldiers were pointing their guns at the young men as they marched them away.⁵⁷

Both Hpu Da Shin and Huang Shin Shi fled to China for several weeks, before returning to check on their village. One day, in mid- to late December, Huang Shin Shi recalled:

*“We were sitting, and one of the men went to piss. He came back and said he saw a strange thing [on the ground]. We all went to look, and we said, ‘Why don’t we dig?’ We dug deep into one hole. A woman recognized her husband’s keychain, with a car key. Another family member recognized a watch. Another recognized a shoe. It looked like the bodies had been burned.”*⁵⁸

Hpu Da Shin took part in digging one of the two holes. He told Amnesty International, *“We saw charred remains of what looked like a body. [There were] bones, but it was mostly ashes. We saw some of the [belongings]. ... We already knew the 18 people were missing.”*⁵⁹

Amnesty International corroborated many of the details in interviews with community leaders from neighbouring villages and a local human rights defender who had investigated the incident; delegates also received photographs of the alleged mass grave sites, with GPS coordinates.⁶⁰ A human rights defender sent a list of those from Nam Hkye Ho who remained missing and were presumed to have been killed in the massacre. Most names were ethnic Chinese. The MNDAA, with whom the Myanmar Army fought nearby, is comprised overwhelmingly of ethnic Chinese fighters, suggesting that the massacre may have been retribution or collective punishment for the villagers’ perceived support of the group.

Huang Shin Shi insisted that none of the 18 people killed had been part of the MNDAA. *“They were villagers, not connected to [a fighting group],”* he said. *“They were married men with children, farmers.”*⁶¹ Even if some had been affiliated with the MNDAA, either as fighters or porters, their killing while *hors de combat* after capture would constitute a war crime under customary international humanitarian law.⁶²

Among the cases of extrajudicial execution, Amnesty International documented two deaths that occurred when people were shot when Myanmar Army soldiers appear to have perceived them as fleeing. Five civilians were seriously injured under similar circumstances, in two additional documented incidents.

In March 2017, a 24-year-old man left his village of Pan Law in Kutkai Township to visit his younger brother. He stopped in another village to have lunch with a friend. An eyewitness said he ran as Myanmar Army soldiers approached and was shot.⁶³ The victim’s mother told Amnesty International she received a call about what happened and rushed to the village, but the Army had already taken away his body. She ultimately found the body in a hospital in Lashio, describing:

“When I saw my son, he was already dead. His stomach was coming out. There was a [bullet] hole there ... He had bruises all over, but I couldn’t look closely, I was so sad. My friend looked for me; I couldn’t look at my son’s face.”

⁵⁵ Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁵⁶ Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁵⁷ Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁵⁸ Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁵⁹ Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁶⁰ Amnesty International interviews, Lashio, May 2017.

⁶¹ Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁶² See Common Article 3 of the four Geneva Conventions of 1949; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, entered into force 7 December 1987, art. 4; International Committee of the Red Cross, *Customary IHL: Rule 47. Attacks against Persons Hors de Combat*, and *Rule 156. Definition of War Crimes*.

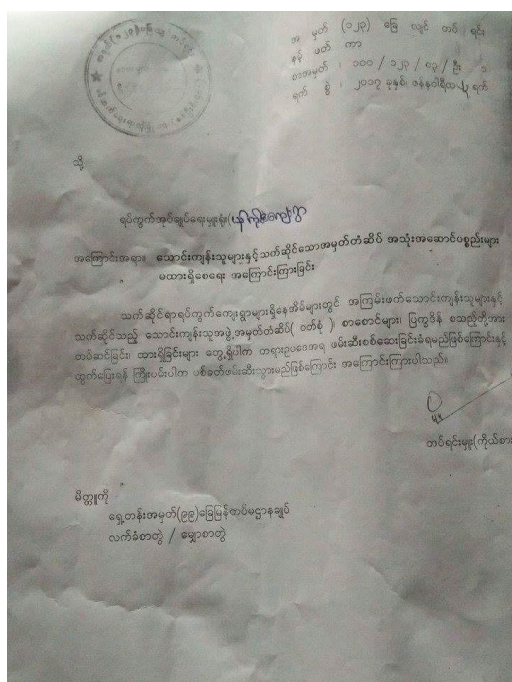
⁶³ Amnesty International interview, Lashio, 7 May 2017.

*I wanted to file a complaint. I asked the [community] leader in Kutkai. He said, 'The Tatmadaw already sent a letter and said he was a TNLA soldier.' He is not a soldier. He was on the committee in the village. He was a monk before. He stayed in Lashio. Then he came back to the village and got married two years ago. His wife is six months pregnant [with their first child]."*⁶⁴

At around 10 p.m. on 19 April 2017, a husband and wife in their 30s, both tea leaf farmers, approached a Myanmar Army checkpoint on motorbike in a village about an hour from Namhkan town, in northern Shan State. They said the soldiers appeared drunk as they questioned them. They thought they were free to leave, but as they drove away, one of the soldiers fired and hit both of them: the man around the top of his right leg, exiting near his knee; and the woman above her knee. An Amnesty International delegate saw the bullet wounds when interviewing them several weeks later, following an extended hospital stay for both victims.⁶⁵

Likewise, on 2 May 2017, three women, including 17-year-old and 13-year-old girls, were shot and injured while returning from their tea farm near Kaung Kay village in Namhkan Township. Two people from the community with direct knowledge told Amnesty International that there was fighting nearby between the Myanmar Army and TNLA, and Myanmar Army soldiers held a group of civilians, including the women, and told them not to run away. When gunfire erupted, the women ran, and the soldiers fired at them.⁶⁶

Shooting people who attempt to run away appears to be a deliberate policy of the Myanmar Army in at least some areas of northern Shan State. Amnesty International received a copy of two notifications, dated 23 January 2017, apparently issued by Infantry Battalion No. 123 in Namphatka village, copied to the 99th Light Infantry Division. The order states that anyone found with paraphernalia bearing the insignia of an ethnic armed group will be arrested and interrogated, and that *"in case of attempts to flee, [those concerned] will be shot at and apprehended."*⁶⁷ Three independent sources sent Amnesty International a copy of the Army notification, which had been addressed to at least two villages; several humanitarian officials confirmed they had seen or heard of the notification.⁶⁸ The killing or injuring of civilians simply for fleeing potential arrest would likely amount to a war crime under customary international humanitarian law,⁶⁹ and also violates international human rights norms on the use of force.⁷⁰



← (C)

Notification to a village in northern Shan State from the Myanmar Army's Infantry Battalion No. 123, outlawing civilians from having anything with the insignia of an ethnic armed organization and threatening to shoot anyone who tries to flee arrest.
© Provided by three sources in Myanmar, whose identities are withheld

⁶⁴ Amnesty International interview, Lashio, 7 May 2017.

⁶⁵ Amnesty International interviews, Lashio, 6 May 2017.

⁶⁶ Amnesty International phone interviews, 10 May 2017. See also Lawi Weng, "One Civilian Killed, Several injured in Shan State's Namkham Township," *The Irrawaddy*, 3 May 2017.

⁶⁷ Letter notifications on file with Amnesty International.

⁶⁸ Amnesty International interviews, Lashio and Yangon, May 2017.

⁶⁹ International Committee of the Red Cross, *Customary IHL: Rule 89. Violence to Life and Rule 156. Definition of War Crimes*.

⁷⁰ See UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN Basic Principles), adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990. These Principles are widely accepted as reflecting customary international law.

ENFORCED DISAPPEARANCES

Amnesty International documented two cases of enforced disappearance, which occurred in a similar area of Muse Township on 4 December 2016. That morning, Lahpai Gam, 29, left Hka Len village, where his wife and he had recently been displaced by the fighting. He carried containers to fill with water from the nearby village of Pawng Ra, because the well in Hka Len had not produced water that day. He never returned.⁷¹

His wife, Hkawn Htoi, told Amnesty International they did not know at the time that the Myanmar Army had a presence in Pawng Ra and in neighbouring Hpai Kawng village. She actively searched for him for several weeks, speaking with Myanmar Army forces both directly and through intermediaries. One soldier said her husband had indeed been arrested but would be released. She waited, but never saw him again.⁷² Two other people who had been displaced to Hka Len with Lahpai Gam and Hkawn Htoi corroborated the details of the story, including the Myanmar Army's control of the area at that time.⁷³ On the same day in the same area, Myanmar Army soldiers subjected another Kachin man, Le Mai Tah, to enforced disappearance.

ENFORCED DISAPPEARANCE OF LE MAI TAH, DECEMBER 2016



A family photograph of Le Mai Tah in his late 20s, around 10 years before he was a victim of enforced disappearance. © Amnesty International

When fighting erupted in and around Monekoe on 20 November 2016, Ngau Masar, 40, fled to China from her village in Muse Township along with her three non-adult children. Her husband, Le Mai Tah, better known to his friends as Si Tai, stayed behind, to look after their land and animals.

In early December, she returned to Myanmar. On 4 December, she saw they were out of animal feed, so she asked her husband to go and crush grain at a machine in Man Je, a village a short motorbike drive away. *"It was around 11:30 a.m. that he left our house,"* she told Amnesty International. *"In the evening, he didn't come home."*⁷⁴ Rumours swirled within the community that he and another man had separately been detained, or worse. A friend from Hpai Kawng village, which would have been on Le Mai Tah's path to Man Je, said she had heard two gunshots around the time someone drove through on a motorbike.⁷⁵

On 9 December, five days after her husband went missing, Ngau Masar went with a community leader and Hkawn Htoi, the wife of Lahpai Gam, who was also missing, to speak with the Myanmar Army forces based in Hka Lum village. The officer's questions, including one about whether her husband had been on a motorbike, led her to believe that he knew what happened, though would not tell her.⁷⁶

⁷¹ Amnesty International interviews, Mai Ja Yang, 12 March 2017; and Lashio, 6 May 2017.

⁷² Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁷³ Amnesty International interviews, Lashio, 6 May 2017.

⁷⁴ Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁷⁵ Amnesty International interviews, Mai Ja Yang, 12 March 2017; and Lashio, 6 May 2017.

⁷⁶ Amnesty International interview, Mai Ja Yang, 12 March 2017.

At time of writing, Le Mai Tah's whereabouts remain unknown. Ngau Masar, and several other people from the same group of villages, told Amnesty International that Myanmar Army soldiers were present in that area on 4 December and operated a checkpoint around Hpai Kawng village.

Ngau Masar holds out faint hope her husband is alive, but assumes the Myanmar Army killed him. *"I want to find my husband's body, but there aren't many civilians left in that area,"* she told Amnesty International. *"The Tatmadaw is all around. I dare not go to find the body. ... He was very simple, a kind man. He was farming for our family, taking care of our family. We've been married for 24 years."*⁷⁷

As of March 2017, Ngau Masar remained displaced along with hundreds of other civilians from her and neighbouring villages, unable to return home because of the continued presence of Myanmar Army forces.⁷⁸ She described the continuing trauma from what happened, as well as what she wanted:

*At night time, even when a dog is barking, I'm afraid. I'm living, but I'm not free, [wondering] when the soldiers will come again. ... I want justice for my husband. I can't express how I feel about my husband and [other] civilians suffering like this by the Tatmadaw. I get really angry. The [Myanmar] Army soldiers need to go back home. [Until then], all the civilians have to suffer."*⁷⁹

FORCED LABOUR AND RELATED ABUSES

"The commander was there. He allowed them to do this."

A 44-year-old farmer, forced to act as a guide for the Myanmar Army and then subjected to torture in late November 2016⁸⁰

The Myanmar Army has a long history of subjecting people in ethnic minority areas to forced labour, including by using them to carry military belongings and by demanding they act as guides.⁸¹ Amnesty International interviewed four victims of forced labour by the Myanmar Army since November 2016. Community leaders and humanitarian officials said it is a wider problem, with dozens of documented incidents last year in Shan State alone.⁸² Forced labour is often linked to other violations, including torture and other ill-treatment, and puts civilians at risk of being harmed during fighting.

On the morning of 25 November 2016, a 44-year-old farmer from Pang Wa village, northern Shan State, was out with three friends looking for their cows when they came across a unit of Myanmar Army soldiers. The soldiers said they wanted to go to Nam Hai village, and demanded the four men take them on the path to another village that would lead them there.

As the four Kachin men were forcibly guiding the soldiers, the TNLA attacked the Myanmar Army. After the skirmish, the Army soldiers blamed the four men for indicating their position to the TNLA, which they denied. *"We were tied with rope and forced to lie down,"* the 44-year-old farmer recalled. *"The soldiers said, 'All Kachin and Palaung, you're just rebels!' They beat us continuously—punching us, kicking us. Even on the road [once we started walking again], the soldiers would come up and kick us."*⁸³

A second round of fighting with the TNLA happened several hours later. This time, as the soldiers beat the men again, one of the soldiers took out a shaving blade and sliced three of them: two of the men on the cheek, and one near the ear. *"We were tied and on the ground,"* recalled a 30-year-old farmer, who was also among the group taken. *"The soldiers stepped down on me and the one with the blade cut me. It was just one who used the blade. But many others came and kicked us."*⁸⁴ Six months later, an Amnesty International delegate saw deep scars on the two victims interviewed. They said the fourth man was beaten

⁷⁷ Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁷⁸ Amnesty International interviews, Mai Ja Yang, 12 March 2017; and Lashio, 6 May 2017.

⁷⁹ Amnesty International interview, Mai Ja Yang, 12 March 2017.

⁸⁰ Amnesty International interview, Lashio, 8 May 2017.

⁸¹ See, for example, Amnesty International, *Myanmar: Exodus from the Shan State* (Index: ASA 16/011/2000), 10 July 2000; Amnesty International, *Myanmar: Leaving Home* (Index: ASA 16/023/2005), 7 September 2005. Human Rights Watch, *"Untold Miseries"*, pp. 25, 46-50; "Forced labour in Myanmar still widespread, says ILO," 25 May 1999.

⁸² Amnesty International interviews, Lashio and Yangon, May 2017.

⁸³ Amnesty International interview, Lashio, 8 May 2017.

⁸⁴ Amnesty International interview, Lashio, 8 May 2017.

on his head with rifle butts. Such treatment, intentionally inflicted by the soldiers as punishment for the civilians' alleged collusion with an ethnic armed group, amounts to torture and is a war crime.⁸⁵

The two victims told Amnesty International that one of the units that forced them to serve as guides and then tortured them was from the 33rd Light Infantry Division, a division identified as the perpetrator of recent human rights or humanitarian law violations by at least five other victims interviewed in northern Shan State. They said a commander was present, identifiable by the stripes on his arm and the way the soldiers spoke with him.⁸⁶ The four men were forced to work as guides for two days, until arriving back in their village, where the soldiers demanded that villagers confirm the men were from there, before releasing them.⁸⁷

Amnesty International documented two similar incidents in northern Shan State that involved forced portering. In one, also from November 2016, a 57-year-old man working on his farm was captured by a contingent of around 20 Myanmar Army soldiers. They forced him to carry some of their supplies, including bullets and food, in a bamboo container. He recalled walking with them for several hours, before using a moment in which they were not paying attention to flee. He has been afraid to return to his village since.⁸⁸

Several activists and humanitarian officials in Kachin State said that forced portering and guiding by the Myanmar Army continues there as well. Two activists said it was perhaps less pervasive now than in 2011 and 2012, in part because villages in conflict areas are largely emptied and in part because improved roads in Kachin State means the Myanmar Army can transport soldiers and materials by truck more than in the past.⁸⁹ In northern Shan State, however, the practice remains ubiquitous, particularly in more remote conflict areas. Forced portering and guiding violates international human rights law, including provisions of the Forced Labour Convention, which Myanmar has ratified.⁹⁰ Forced labour that compels people to take part in military operations, which would include forced portering and forced guiding, is also a violation of customary international humanitarian law, including for non-international armed conflicts.⁹¹



↑ A home in an internally displaced persons (IDP) camp just outside Namtu town in northern Shan State. Heavy fighting in the area through May 2017 has forced many people to flee surrounding villages. © Amnesty International

⁸⁵ See Rome Statute of the International Criminal Court, art. 8(2)(c)(i).

⁸⁶ Amnesty International interview, Lashio, 8 May 2017.

⁸⁷ Amnesty International interviews, Lashio, 8 May 2017.

⁸⁸ Amnesty International interview, Lashio, 9 May 2017.

⁸⁹ Amnesty International interviews, Laiza, 6 and 7 March 2017.

⁹⁰ 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). See also International Covenant on Civil and Political Rights (ICCPR), U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* 23 March 1976, art. 8(3). Myanmar is not a state party to the ICCPR.

⁹¹ See International Committee of the Red Cross, *Customary IHL Rule 95: Forced Labour* ("state practice establishes" the rule that "uncompensated or abusive forced labour is prohibited" as a "norm of customary international law").

IMPUNITY AND FEAR OF REPRISALS YIELDS FEW PROSECUTIONS

Members of the Myanmar Army are rarely prosecuted for serious crimes against civilians, including killings, torture, rape, and other crimes of sexual violence. Under Myanmar law, the military has control over its own judicial processes, which effectively shields perpetrators from accountability.⁹²

In recent years, convictions have occurred in very few cases: in August 2016, seven soldiers confessed to killing five people from Mong Yaw village in Shan State; and in November 2014, a soldier was convicted of kidnapping and raping a 14-year-old girl in northern Shan State, a rare case in which a soldier was tried before a civilian court.⁹³ In most cases, including high profile ones like the rape and murder in 2015 of two teachers working for the Kachin Baptist Convention (KBC) and the enforced disappearance in 2011 of a 28-year-old Kachin woman, there have been no meaningful investigations, much less prosecutions.⁹⁴

Following the publication on social media in late May 2017 of a video recording that seemed to show Myanmar Army soldiers torturing young men, who appeared to be from the Palaung ethnic group, the Myanmar government and military promised to investigate the incident, believed to have occurred in 2015 or 2016.⁹⁵ Around the same time, local and international media outlets reported that three Kachin men were found dead after the Army detained them as they were returning to their IDP camp in Kachin State, prompting Myanmar authorities to promise a separate investigation.⁹⁶

No victim or victim's relative interviewed by Amnesty International for this report went to the proper authorities to file a complaint. In a few instances, they had informed and sought help from a local member of parliament or from another leader from their ethnic community, but said they had heard nothing since.

Almost everyone cited a fear of reprisal and hopelessness to explain why they had not filed a complaint. A 33-year-old woman who was shot by Myanmar Army soldiers in Namtu Township in April 2017 said, *"We are afraid that if we tell the authorities they may come back and make us suffer again."*⁹⁷ A 41-year-old woman whose son was killed by soldiers several years ago said likewise, about filing a complaint: *"I was really afraid of the bad consequences,"* including that she or others in her family might be harmed.⁹⁸

Fear of reprisals is well warranted. Following the death of his 14-year-old daughter, Ja Seng Ing, in Kachin State in September 2012, Brang Shawng sent letters to the President and the Myanmar National Human Rights Commission, asking them to investigate. He did not receive a response. Instead, he was charged and found guilty of making "false allegations" against the Myanmar Army and ordered to pay a fine.⁹⁹

Several Myanmar experts said that the units and commanders in fighting areas like Kachin and northern Shan States are often rewarded with promotions, even when they face repeated credible allegations of violations. In May 2017, the commander in charge of the 99th Light Infantry Division, which is implicated in ongoing abuses in northern Shan State, was promoted to the head of the Northeastern Command.¹⁰⁰

INDISCRIMINATE SHELLING OF CIVILIAN AREAS

In its confrontations with ethnic armed groups in Kachin and northern Shan States over the last year, the Myanmar Army has frequently fired mortar and artillery shells. These often land in civilian areas, killing or injuring civilians, damaging civilian houses and other structures, and causing mass displacement.

The regularity with which such incidents harm civilians or civilian structures raises the concern that the Myanmar Army is failing to distinguish between civilian and military targets and is taking insufficient measures to minimize civilian harm—allegations that have been made against it during previous periods of

⁹² Constitution of the Republic of the Union of Myanmar (2008), art. 343. See also 1959 Defense Services Act.

⁹³ Reuters, "Myanmar soldiers admit at court martial to killing villagers: witnesses," 11 August 2016; Aileen Thompson, "Civilian justice trumps military impunity in Myanmar," *The Irrawaddy*, 13 December 2014. The case of the soldiers who confessed to killing the people from Mong Yaw village was before a military court.

⁹⁴ See Amnesty International, "Myanmar: Four years on, impunity is the Kachin conflict's hallmark" (Index: ASA 16/1832/2015), 9 June 2015; Ye Mon, "One year after Kachin teachers' death, justice still elusive," *The Myanmar Times*, 19 January 2016.

⁹⁵ See Reuters, "Myanmar to probe video that appears to show soldiers beating people," 31 May 2017.

⁹⁶ See Zarni Mann, "Burma Army accused of torturing, killing three Kachin civilians," *The Irrawaddy*, 29 May 2017; Associated Press, "Myanmar soldiers accused in deaths of minority men in north," 30 May 2017.

⁹⁷ Amnesty International interview, Lashio, 6 May 2017.

⁹⁸ Amnesty International interview, Lashio, 6 May 2017.

⁹⁹ Amnesty International, "Myanmar: Four years on, impunity is the Kachin conflict's hallmark."

¹⁰⁰ *The Irrawaddy*, "Burma Army Reshuffles Senior Positions," 11 May 2017.

conflict in northern Myanmar.¹⁰¹ Ethnic armed groups, for their part, at times base themselves near villages or move through civilian areas during fighting, attracting the Myanmar Army's fire that puts civilians at risk.

INDISCRIMINATE SHELLING OF VILLAGES

“When the [mortar] exploded, we all fell on the ground. I tried to stand up, but I couldn’t, because I was injured. It was like the wind blew and I fell down.”

A 32-year-old man from Hol Chaung village, Namhsan Township, northern Shan State¹⁰²

Amnesty International documented seven incidents since November 2016, all in northern Shan State, in which the Myanmar Army killed or injured civilians when firing mortars or artillery shells into villages, often, though not always, during periods of fighting with an ethnic armed group. These incidents resulted in at least four deaths and thirteen injuries, often serious. In several more documented incidents that also covered Kachin State, mortars or airstrikes destroyed or damaged civilian property and contributed to the emptying of villages of their civilian population, but did not cause injuries or death largely because, upon hearing fighting in the area, people fled prior to or at the start of the attacks. Local and international humanitarian officials, as well as community leaders in northern Shan State, described other incidents of the Myanmar Army firing mortars into civilian areas, which allegedly killed or injured more civilians.¹⁰³

In these incidents, the Myanmar Army appears to have fired with disregard for distinguishing civilian from military targets. It also appears to have taken no or insufficient precautions to minimize civilian harm, including by, for example, having spotters ensure that shells are falling only on intended, lawful military targets; or firing with lines of sight such that, should the shell go long or short of the intended target, civilians would not be at risk. A humanitarian official in northern Shan State told Amnesty International it was “very frequent” for mortar shells to explode in civilian areas during fighting, and that, although it was not clear whether the firing was indiscriminate or targeted, it seemed to be part of a broader pattern of “collective punishment” against villages populated primarily by ethnic minorities like the Kachin and Palaung.¹⁰⁴

On 2 May 2017, Yar Laing, an 81-year-old woman from Nang Hom village in Namhkan Township, was killed in her home when a mortar exploded outside. Two people from the village told Amnesty International the mortar was fired from the direction of a Myanmar Army base several miles away. They said the Army and TNLA had fought nearby about 30 minutes earlier; the TNLA then retreated along a path near the village to their base.¹⁰⁵ When the mortar exploded, shrapnel¹⁰⁶ tore a hole in Yar Laing’s house, killing her and forcing other people in the village to flee.¹⁰⁷ Amnesty International received photographs of the woman’s body, her house, and the tail of the mortar; the holes in her house were consistent with what would be created by shell fragments, and the tail was similar to others that delegates documented as having been fired by the Army.

In several cases documented by Amnesty International, civilians emerged from hiding when fighting appeared to have stopped near their town or village only to have a mortar shell land nearby and injure them. A 60-year-old woman with eight children from Namphatka village, Kutkai Township, described how she was preparing to go to the market to sell vegetables on 14 March 2017 when she heard gunshots. She took her 7-day-old grandchild and hid in a ditch. *“We stayed in the ditch for a couple hours. Then the sounds of the guns were less and less, so I thought the fighting stopped,”* she recalled, saying she then returned home and started to cook. *“While I was cooking, I needed to go to the toilet. As I went in, the [mortar shell] exploded. I*

¹⁰¹ Human Rights Watch, *“Untold Miseries”*, pp. 7, 37-39.

¹⁰² Amnesty International interview, Lashio, 7 May 2017.

¹⁰³ Amnesty International interviews, Lashio and Namtu, May 2017.

¹⁰⁴ Amnesty International interview, Lashio, 6 May 2017.

¹⁰⁵ Amnesty International telephone interviews, 10 May 2017.

¹⁰⁶ The term “shrapnel” is used throughout the report according to its now common meaning, to denote the shell or bomb fragments, as well as other objects, that an explosion throws out. In military language, the correct terminology would be “shell fragments” or “fragmentation,” as “shrapnel” is specific to a particular artillery weapon, used primarily in the 1800s. See U.S. Army Center of Military History, “What is the difference between artillery shrapnel and shell fragments?”, 3 October 2003, <http://www.history.army.mil/faq/shrapnel.htm>.

¹⁰⁷ Amnesty International telephone interviews, 10 May 2017. See also Lawi Weng, “One Civilian Killed, Several injured in Shan State’s Namkham Township,” *The Irrawaddy*, 3 May 2017.

can't explain the sound, I was very shocked. A piece of the 'bomb'¹⁰⁸ hit me in the ankle and another in my back.¹⁰⁹ She spent a night in the hospital, where they removed the shrapnel from her back.¹¹⁰

Similarly, on 25 November 2016, a 33-year-old woman and her 11-year-old daughter were at home in a village in Manton Township when fighting erupted nearby between the Myanmar Army and TNLA. *"The war happened in the morning. Then it stopped, so I went to cook in the kitchen,"* she told Amnesty International. *"That's when the 'bomb' exploded, around 12 or 1 p.m. I felt dizzy. I was shocked."*¹¹¹ The mortar landed between her house and another house; many pigs were killed, and shrapnel went into her side. *"It was winter, so I was wearing thick clothes. But I was still bleeding,"* she said.¹¹²

Her 11-year-old daughter was wounded far more seriously, as the explosion and shrapnel shattered the bone in her right leg. They hid as shooting continued and were able to take the girl to the hospital the next day; she underwent multiple operations, including one to put a steel plate in her leg. *"She can walk, but she can't use force on her leg, she needs help,"* the mother said, as the girl moved around on crutches.¹¹³ Several witnesses said that several other mortars landed in or near the village that same day, all fired from the direction where the Myanmar Army forces were located.¹¹⁴

In these and other similar incidents documented by Amnesty International, the Myanmar Army's acts could amount to war crimes under customary international humanitarian law, which prohibits indiscriminate attacks as well as attacks for which the concrete and direct military advantage is not proportional to the potential for killing or injuring civilians.¹¹⁵

Ethnic armed groups, for their part, appear at times to put civilians at risk by moving through or basing themselves near populated areas, which, when there is a feasible alternative, may likewise be a violation of customary international humanitarian law.¹¹⁶ A humanitarian official who has worked for several years in northern Shan State said that some ethnic armed groups appeared to be taking fewer precautions than before in terms of avoiding movements through civilian areas; she said it might be a consequence of the pressure under which they find themselves from the Myanmar Army's ongoing offensive, which has squeezed the areas under the control of some ethnic armed organizations.¹¹⁷

In certain instances, civilians believed, with some supporting evidence, that the Myanmar Army had fired on them deliberately, as in the shelling of Hol Chaung, below. Among the incidents Amnesty International documented, deliberate targeting appeared less common than indiscriminate or disproportionate fire.

SHELLING OF HOL CHAUNG VILLAGE IN NAMHSAN TOWNSHIP, NORTHERN SHAN STATE

On 12 January 2017, the Ta'ang village of Hol Chaung planned a festival to celebrate the full moon and the Ta'ang National Revolution Day. Dozens of people congregated around a house in the centre of the village, preparing drums and dancing, when a series of mortars exploded, killing two civilians, including a young boy, and injuring between 8 and 10 more.

A 32-year-old man from Hol Chaung told Amnesty International, *"When the [mortar] exploded, we all fell on the ground. I tried to stand up, but I couldn't, because I was injured. I didn't know what had happened. It was like the wind blew and I fell down. The [shrapnel] hit me in my lower back and also on my foot."*¹¹⁸ Eyewitnesses said Aung Zaw Latt, a boy around 8 or 9 years old, was killed from wounds to his stomach and leg; they said he died on the spot, but his family brought him to a hospital in hopes he was alive.¹¹⁹ Many of those wounded spent days, even weeks, in the hospital and underwent operations to remove shrapnel pieces from their bodies.¹²⁰

¹⁰⁸ People routinely referred to a variety of weapons as "bombs," including actual bombs fired from fighter jets, rockets from attack helicopters, mortar and artillery shells, and even hand grenades. Amnesty International asked specific questions to determine the nature of the weapon being referred to as a "bomb," including by showing photographs of different weapons for the victim or witness to identify.

¹⁰⁹ Amnesty International interview, Lashio, 7 May 2017.

¹¹⁰ Amnesty International interview, Lashio, 7 May 2017.

¹¹¹ Amnesty International interview, Lashio, 8 May 2017.

¹¹² Amnesty International interview, Lashio, 8 May 2017.

¹¹³ Amnesty International interview, Lashio, 8 May 2017.

¹¹⁴ Amnesty International interview, Lashio, 8 May 2017.

¹¹⁵ See International Committee of the Red Cross, *Customary IHL: Rule 11. Indiscriminate Attacks, Rule 12. Definition of Indiscriminate Attacks, Rule 14. Proportionality in Attack, and Rule 156. Definition of War Crimes*.

¹¹⁶ International Committee of the Red Cross, *Customary IHL: Rule 23. Location of Military Objectives outside Densely Populated Areas; and Rule 24. Removal of Civilians and Civilian Objects from the Vicinity of Military Objectives*.

¹¹⁷ Amnesty International interview, Lashio, 7 May 2017.

¹¹⁸ Amnesty International interview, Lashio, 7 May 2017.

¹¹⁹ Amnesty International interviews, Lashio, 7 May 2017.

¹²⁰ Amnesty International interviews, Lashio, 7 May 2017.

A 58-year-old man, who had several adult children wounded by one of the mortars, said part of his house “was destroyed. There were many holes, and the door was destroyed. A lot of people were injured [there]—some in the head, some in the leg.”¹²¹ He, along with the others interviewed by Amnesty International, blamed the Myanmar Army for targeting them deliberately, as the TNLA was not in or around their village that day.¹²² “I think the Tatmadaw got angry [from previous days fighting with the TNLA],” the 58-year-old father of several victims said. “And when they saw more than 10, more than 20 people organizing somewhere [for the festival], they decided to target us, even though they knew we aren’t soldiers.”¹²³

The Myanmar Army publicly denied that it had fired the mortars, accusing the TNLA,¹²⁴ but they were almost certainly the perpetrators. Witnesses said they saw and heard the direction from which the mortars came, which is where the Myanmar Army has a position on a hill.¹²⁵ Given the lines of communication between the TNLA and Ta’ang community leaders from villages like Hol Chaung, it is very unlikely that, on a day of ethnic celebration, the TNLA would fire mortars into a Ta’ang village over an extended period. Finally, one witness brought tail fragments of two mortars that landed in the village; they are consistent with the tails of mortars fired by the Myanmar Army that Amnesty International delegates photographed elsewhere in northern Myanmar.

A 26-year-old woman, whose arm and foot were seriously injured by shrapnel caused by the mortar exploding, told Amnesty International: “We don’t want this to happen again. It would be better if they find a way to negotiate for peace. We’re just villagers, but we suffer.”¹²⁶



The tail of a mortar that landed in Hol Chaung village, northern Shan State, on 12 January 2017 © Amnesty International

The Hol Chaung shelling was one of several incidents in which victims or community leaders showed Amnesty International delegates one or more fragments of the mortars that exploded in civilian areas. The tailfins documented by Amnesty International were a combination of 81, 82, and 120 millimetre mortars.

¹²¹ Amnesty International interview, Lashio, 7 May 2017.

¹²² Amnesty International interviews, Lashio, 7 May 2017.

¹²³ Amnesty International interview, Lashio, 7 May 2017.

¹²⁴ Amnesty International interviews, Lashio, 7 May 2017. See also Al Jazeera, “Burmese ‘stopped from seeking shelter’ in China: NGO,” 13 January 2017.

¹²⁵ Amnesty International interviews, Lashio, 7 May 2017.

¹²⁶ Amnesty International interview, Lashio, 7 May 2017.

In addition to causing death and injury, the Myanmar military's firing into civilian areas often destroys or damages civilian structures, including homes. During heavy fighting in Monekoe town in late November and early December 2016, the Myanmar military carried out airstrikes. The satellite imagery below, taken on 7 December 2016, shows possible craters in civilian areas and damage to surrounding civilian houses and other structures, including a church that was destroyed.¹²⁷ Human rights defenders and internally displaced persons credibly alleged that civilians were killed during these attacks,¹²⁸ but Amnesty International was not able to sufficiently corroborate the circumstances of these deaths through witness testimony.

Northern Alliance forces were fighting with the Myanmar Army in Monekoe during this period, so some or all of these strikes may have been lawful under international humanitarian law, depending on whether there was a military objective in these locations at the time of the airstrikes and whether the Myanmar forces satisfied the principles of distinction and proportionality. The destruction of the church raises particular concerns, as buildings dedicated to religious purposes require special care in avoiding damage; targeting such buildings is a war crime, unless they are a military objective.¹²⁹

Indiscriminate fire also contributes to mass displacement. A 25-year-old father of two children from Kong Ho village in Namtu Township said there had been fighting between the Myanmar Army and TNLA near their village on 5 May 2017. “Before the Tatmadaw went into the village, they used big weapons to shoot in[to] the area,” he told Amnesty International. “We could hear the ‘bombs’ for five minutes, and then we fled.”¹³⁰ He said six people, primarily the elderly, had been left behind in the village when everyone else fled. He worried that if fighting continued into Myanmar's rainy season, it would be harder for people to flee their villages for short periods, a common practice in northern Shan State that helps protect civilians from harm.¹³¹



← ⓘ
Imagery from 7 December 2016 shows many damaged or destroyed structures—pinpointed with orange dots—in Monekoe, Myanmar. A possible crater was also detected in a field north-west of the damaged structures. The damage and crater were not present a month earlier.
Coordinates: 24.0996°, 98.3277°
Image © 2017 DigitalGlobe, Inc.

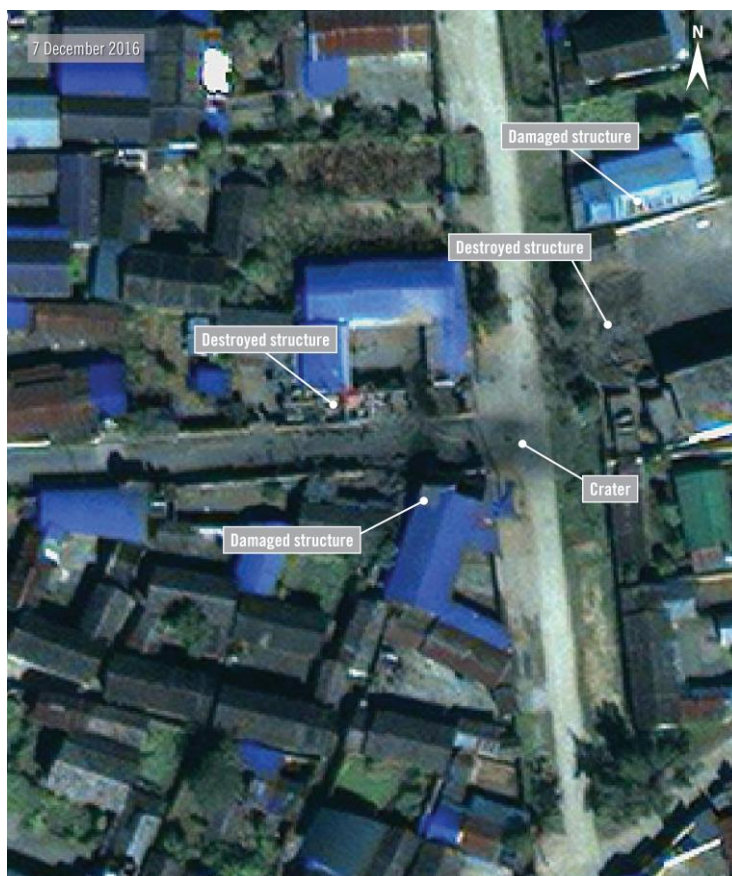
¹²⁷ Most people in Myanmar, including among the majority ethnic Burman population, are Buddhist. Among the ethnic minorities in northern Myanmar, however, the Kachin and Lisu groups are both predominantly Christian. See Minority Rights International, Myanmar/Burma – Kachin, <http://minorityrights.org/minorities/kachin/> (last accessed 5 June 2017).

¹²⁸ Amnesty International interviews, Mai Ja Yang, March 2017; and Lashio, May 2017.

¹²⁹ International Committee of the Red Cross, *Customary IHL: Rule 38. Attacks against Cultural Property*; Rome Statute of the International Criminal Court, art. 8(2)(e)(iv).

¹³⁰ Amnesty International interview, Lashio, 7 May 2017.

¹³¹ Amnesty International interview, Lashio, 7 May 2017.



← ⓘ
 Imagery from 7 December 2016 shows a crater in the centre of Monekoe where many structures are present. Multiple damaged and destroyed structures can be seen in the imagery.
 Coordinates: 24.1007°, 98.3111°
 Image © 2017 DigitalGlobe, Inc.



← ⓘ
 Imagery from 7 December 2016 shows a destroyed church in Monekoe, Myanmar. Multiple craters are visible in fields near the church. One possible crater is visible within the church compound.
 Coordinates: 24.1013°, 98.3206°
 Image © 2017 DigitalGlobe, Inc.

SHELLING NEAR IDP CAMPS IN KACHIN STATE

“The shells, one would land, then five minutes [of silence], then another, then five minutes. It was so many times.”

Dashi Hkawn Nu, a 56-year-old woman living in Zai Awng IDP camp, Kachin State¹³²

In two high-profile incidents in December 2016, the Myanmar Army fired mortar or artillery shells that landed in the immediate vicinity of crowded internally displaced persons (IDPs) camps in KIO-controlled areas of Kachin State. Although no one was killed or injured, the shelling instilled further fear among civilians and caused large-scale displacement from the camps. In both incidents, ethnic armed groups had military positions in the vicinity.

Amnesty International presented the GPS coordinates of the IDP camps and of both sides' military positions in the area to several foreign military experts, including an army and a marine artillery officer. They believed the Myanmar Army's shelling was likely unlawful, given the risk to a large number of civilians and the failure to take measures, including firing from a different line of sight or using spotters, that would have reduced the possibility of an overshoot that might land in the IDP camp.¹³³

MUNG LAI HKYET IDP CAMP

Around 5 a.m. on 18 December 2016, a mortar landed and exploded on a small hill about 50 metres from a kitchen, bathroom, and several houses in Mung Lai Hkyet IDP camp, established in early 2015. *“I couldn't sleep since around 3 in the morning,”* recalled La San Naw, a 51-year-old man with four children and leader in Mung Lai Hkyet camp. *“I heard the sound of the mortar shell being fired. Not long after, it landed here, it exploded. ... When it fired, I heard, ‘DING!’ Then the explosion. It was extremely loud. It made the ground shake and the children cry.”*¹³⁴

The mortar caused shrapnel that damaged several IDP structures, including a kitchen, and killed a pig kept by the camp. Amnesty International delegates who visited the area in March 2017 could still see the damage, which consisted primarily of coin-size holes in several wooden buildings nearest to where the mortar landed. No one was injured, which La San Naw believed was in large part due to the timing of the shelling, early on a Sunday morning. *“Many people were at home in their houses,”* he said, rather than out walking around on the road. *“If it had been another time, people could have been injured.”*¹³⁵

Several other mortars landed in the surrounding forest the same day, near an outpost and training ground for the Arakan Army (AA), located only a kilometre up the road from the closest part of the Mung Lai Hkyet IDP camp. The AA's decision to maintain a military outpost in such close proximity to an IDP camp of around 800 people raises concerns under international humanitarian law. But hitting an IDP camp with an 81 or 120 millimetre mortar almost a kilometre—at minimum, around 700 metres—from any legitimate military target likewise raises concerns about whether the Myanmar Army fired without distinguishing between civilian and military targets and without taking sufficient precautions to minimize civilian harm. The position of the IDP camp would have been well-known to them, according to a number of humanitarian officials and local human rights defenders interviewed by Amnesty International.¹³⁶ This is not the first time the Myanmar Army has fired dangerously close to Mung Lai Hkyet camp.¹³⁷

Due to the mortar, the entire population of Mung Lai Hkyet was displaced for around 20 days, before being able to return. *“When I went there, the IDPs in the camp were all scared, terrified,”* a humanitarian official said. *“They were near the stream, hiding.”*¹³⁸ Most families went to the Woi Chyai IDP camp nearby, sleeping in a primary school and other available buildings there; a few families fled to Myitkyina, the capital of Kachin State, in an area controlled by the Myanmar government.¹³⁹ A 45-year-old woman in the camp, who said the

¹³² Amnesty International interview, Sha It Yang IDP camp, 9 March 2017.

¹³³ Amnesty International phone interviews and electronic correspondence, April 2017.

¹³⁴ Amnesty International interview, Mung Lai Hkyet IDP camp, 8 March 2017.

¹³⁵ Amnesty International interview, Mung Lai Hkyet IDP camp, 8 March 2017.

¹³⁶ Amnesty International interviews, Laiza, March 2017.

¹³⁷ Kachinland News, “Burmese Army Storms Hpaung Hka Kung IDP Camp, Mortar Shells Fell Near Mung Lai Hkyet IDP Camp,” 28 September 2016, <http://www.kachinlandnews.com/?p=26902>.

¹³⁸ Amnesty International interview, Laiza, 8 March 2017.

¹³⁹ Amnesty International interviews, Laiza, March 2017.

situation was “very chaotic” when the mortar exploded, told Amnesty International that the families who left for Myitkyina were worried about continued security concerns of staying in KIO-controlled areas, and in particular of more mortar attacks. *“The rest of us are also afraid, but we have nowhere to go,”* she said.¹⁴⁰

ZAI AWNG IDP CAMP

Nine days later, on 27 December 2016, the Myanmar Army again fired mortars that landed close to an IDP camp in Kachin State—this time around Zai Awng camp, which housed more than 2,500 civilians. Amnesty International interviewed 13 witnesses, as well as local humanitarian officials who assisted those displaced by the shelling. They said the first explosion happened between 6:30 and 7:30 p.m., after it was dark, and the shelling continued for several hours. Dashi Hkawn Nu, a 56-year-old woman with four children, recalled:

*“I was in my shelter. The whole family was there. When the firing stopped, we managed to run. ... The shells, one would land, then five minutes [of silence], then another, then five minutes. It was so many times. Even those [that exploded] far away, we could hear them. We were very scared, we wanted to flee. The ground was shaking. The sound, it was like it was thundering.”*¹⁴¹

Based on interviews with witnesses and other credible information, one shell landed only 200 to 250 metres from camp structures, near the camp’s water source. Somewhere between 5 and 10 other mortar or artillery shells landed a little further away, though still in the camp’s vicinity.

Labang Ja San, a 42-year-old woman with seven children, was in the Zai Awng clinic at the time the mortars started landing, sick with a bad stomach ache that had left her too weak to walk. When the explosions started, *“my husband came and tried to hold me and help me run away. It was around 8 p.m.”* she recalled. *“Kids were crying. [We], the mothers said, ‘Go, go, go, go,’ but the children were crying, they were frozen [with fear].”*¹⁴² Her 7-year-old son was particularly traumatized, crying throughout the night and in subsequent days. She said many children’s trauma was still evident during the Chinese New Year in late January: *“When they heard the fireworks exploding [in China], they cried, because of Zai Awng.”*¹⁴³

Several adults interviewed by Amnesty International likewise described residual trauma. Karen Bawksan, a 49-year-old woman with three children, said it felt like the mortars were going to hit them. She said that, even months later, she continues to shake when she hears a sound like a car backfiring.¹⁴⁴

Since August 2016, the Myanmar Army had engaged in an offensive—involving ground operations, mortar shelling, and airstrikes—to take a series of KIA mountain posts. After months of fighting, the Army took the strategic Gidon post on 17 December 2016.¹⁴⁵ Then, according to the Myanmar government, the Army seized the Lai Hpawng post on 27 December between 3:30 and 5:15 p.m.¹⁴⁶ That left Nga Gyang Bum as the main mountain post in the area still under KIA control; seizing it would in effect cut the KIA in two, making logistics far more difficult between the command in Laiza and its forces to the north.¹⁴⁷

Soon after taking Lai Hpawng, the Myanmar Army thus trained its firepower, including mortars and perhaps howitzer artillery pieces,¹⁴⁸ on the Nga Gyang Bum mountain post. This put the civilians in Zai Awng directly at risk, as the IDP camp was nestled in the valley below Nga Gyang Bum, on the China border.¹⁴⁹

The distance was roughly 1.5 to 2 kilometres from the KIA mountain post to the closest IDP structures below, but an overshoot fired from a certain line of sight risked flying down the mountain to the camp. Given the possibility, the Myanmar Army’s failure to use more discriminate weapons or to take other measures to minimize risks to civilians, such as through warning or better spotting to avoid striking the civilian population, appear to have violated customary international humanitarian law. A humanitarian official in Laiza who documented the incident in detail called it a *“complete disregard of where [the shells] might land,”* which he

¹⁴⁰ Amnesty International interview, Laiza, 8 March 2017.

¹⁴¹ Amnesty International interview, Sha It Yang IDP camp, 9 March 2017.

¹⁴² Amnesty International interview, Sha It Yang IDP camp, 9 March 2017.

¹⁴³ Amnesty International interview, Sha It Yang IDP camp, 9 March 2017.

¹⁴⁴ Amnesty International interview, Sha It Yang IDP camp, 9 March 2017.

¹⁴⁵ Amnesty International interviews, Laiza and Sha It Yang IDP camp, March 2017. See also Thu Thu Aung, “Tatmadaw overruns KIA’s Gidon mountaintop post,” *Myanmar Times*, 19 December 2016.

¹⁴⁶ See The Republic of the Union of Myanmar President Office, “Tatmadaw columns seize point 768 (Lai Hpawng by KIA) and surrounding minor camp,” 27 December 2016, <http://www.president-office.gov.mm/en/?q=issues/national-security/id-7034>. People from Zai Awng camp confirmed this timeline. Amnesty International interviews, Laiza and Sha It Yang IDP camp, March 2017.

¹⁴⁷ Amnesty International interviews, Laiza, March 2017.

¹⁴⁸ Amnesty International received credible information that the Myanmar Army was firing from several locations that likely would only have been within the range of a howitzer artillery piece, rather than a mortar.

¹⁴⁹ In response to questions from Amnesty International, the KIO wrote that Nga Gyang post “has been there since 1968. Zai Awng village was formed in 1990. It turned to Zai Awng IDPs camp in 2012. ... No KIA outposts are stationed near villages, [but] new villages emerge around KIA posts as civilians take refuge around the positions.” KIO, Response to the Investigation of Amnesty International Regarding Human Rights Violations in Kachin and Northern Shan State (hereinafter KIO Response), 6 June 2017, on file with Amnesty International.

said has had lasting effects on IDPs' perception of security: *"IDPs have expressed they don't feel safe anymore. They feel they could be attacked anytime."*¹⁵⁰

The more than 2,500 civilians at Zai Awng, most already displaced from their homes for at least five years, began a several week odyssey. They first stayed by a road for several days, then moved to a location north of Zai Awng, also on the China border. Fighting again intensified in the area, causing many to flee across the border to China, where they were forcibly returned to Myanmar almost immediately (see text box below).

After several more days sleeping along roads and in the forest in Myanmar, most people were taken to a new camp, known as Sha It Yang. At an elevation of more than 2,000 metres, and without proper shelter, people found themselves ill-prepared for the winter snow and freezing nightly temperatures. Many fell sick, some of them seriously enough they had to be transported to clinics in Laiza and moved to other IDP camps. Responding to the dire needs of those displaced from Zai Awng was compromised by the Myanmar government and military's restrictions on humanitarian access, discussed in more detail on page 33.



↑ Sha It Yang IDP camp, which houses more than 2,000 people displaced by the conflict. Most of those at Sha It Yang lived previously at Zai Awng IDP camp, until mortars fired by the Myanmar Army exploded nearby on 27 December 2016. © Amnesty International

FORCED RETURNS FROM CHINA, PUTTING CIVILIANS AT RISK

Since November 2016, much of the heavy fighting in Kachin and northern Shan States has occurred in or near towns and villages along the Myanmar-China border. Under direct threat from the Myanmar Army, civilians have crossed the border into China to seek refuge. In response, the Chinese authorities have in several instances violated their international legal obligations by forcing refugees to return to conflict areas. This fits a pattern that has been going on for years, in which China has allowed refugees to stay in makeshift camps for short periods before eventually pushing them back across the border to Myanmar.¹⁵¹

As the Myanmar Army and Northern Alliance fought in late November 2016, thousands of people fled into China from border villages in the Muse Township of northern Shan State. Amnesty International interviewed 14 of them. They described how, during the first days there, Chinese authorities allowed them to stay in hastily made camps or on church grounds and provided basic assistance.

However, by early to mid-December, the welcome ended for most refugees. A 67-year-old man from Hpai

¹⁵⁰ Amnesty International interview, Laiza, 8 March 2017.

¹⁵¹ See Matthew Smith, "How China Fuels Myanmar's Wars," *New York Times*, 4 March 2015; Human Rights Watch, "China: Refugees Forcibly Returned to Burma," 24 August 2012; IRIN, "Kachin refugees feel Chinese heat," 31 August 2012; Reuters, "China has forced refugees back to Myanmar conflict zone - group," 26 June 2012.

Kawng village told Amnesty International that, after several weeks in China, *“we were forced to go back. The Chinese said to us, ‘There is no more fighting in your village. So you can return back.’ But we don’t feel safe going back, so we’re living on the border [within Myanmar], in Hpai Kawng IDP camp.”*¹⁵²

The forced returns put many people, including those who were particularly vulnerable, at risk. Hkawn Mai, 34, was eight months pregnant when she fled to China from Hpun Gan village with her husband and five children, after fighting began nearby on 20 November. Her husband, Hanggau Seng Naw, told Amnesty International that, in early December, *“the Chinese authorities came and asked us to [apply for] refugee status to stay on the China side. They asked for 1,000 yuan (\$145 USD) to do the refugee status. We don’t have the money. The Chinese said to us that we couldn’t stay there if we didn’t have the money.”*¹⁵³

Hkawn Mai said they briefly went back to their village, but *“the Tatmadaw was making an offensive again. We couldn’t stay in the village. So we went into the jungle.”*¹⁵⁴ In the jungle, her husband helped her give birth in an abandoned farmhouse to their sixth child. They wandered for more than 20 days, surviving on a little rice they found in the farmhouse, before making it to KIO-controlled territory in Kachin State.¹⁵⁵

While those from northern Shan State were allowed a brief period in China, other refugees were forcibly returned immediately. Before dawn on the morning of 11 January 2017, in response to intensified fighting nearby, people who had been recently displaced from Zai Awng and Hkau Shau IDP camps crossed the small stream in Kachin State that demarcates the border with China. Maran Brang, a 66-year-old man who had been in Zai Awng camp, recalled, *“We crossed the stream to the China side around 4 a.m. [Only a couple hours later], the Chinese authorities forced us to leave. I just heard them saying, ‘Go back, go back.’ They threatened to kick [people]. They kicked in the air, and said, ‘Go back!’ So we went back.”*¹⁵⁶

At least six people interviewed by Amnesty International described how Chinese security forces kicked over pots the refugees were using to make tea and rice. They said most of the Chinese forces were wearing dark blue uniforms, but there were also several in camouflage fatigues who, unlike the others, carried firearms openly.¹⁵⁷ Two refugees said they had seen the Chinese forces kick people, in addition to the pots. *“We had to flee without even having a meal,”* said Maji Hka Tawm, 37. *“At that time, the sun had risen and we were making our meals as the children were starving. [The Chinese authorities] said, ‘Go back immediately,’ kicking the rice pots at the same time. They also kicked us.”*¹⁵⁸

Amnesty International interviewed several ethnic Chinese civilians from the Muse-Monekoe axis who have been able to stay indefinitely with relatives in China.¹⁵⁹ But for those without family connections, and who would need to stay in temporary camps, Chinese authorities appear to decide for them when it is “safe” to return, and forcibly remove them if they fail to go on their own.

Such action violates China’s legal obligations as a state party to the 1951 Refugee Convention, which also defines the principle of non-refoulement, a customary international norm that forbids a country to return a refugee “to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion.”¹⁶⁰

¹⁵² Amnesty International interview, Mai Ja Yang, 12 March 2017.

¹⁵³ Amnesty International interview, Je Yang IDP camp, 7 March 2017. This most likely was a shakedown to secure a bribe, rather than a real opportunity for the family to apply for refugee status, something that is exceedingly rare in China. See Liang Pan, “Why China Isn’t Hosting Syrian Refugees,” *Foreign Policy*, 26 February 2016.

¹⁵⁴ Amnesty International interview, Je Yang IDP camp, 7 March 2017.

¹⁵⁵ Amnesty International interview, Je Yang IDP camp, 7 March 2017.

¹⁵⁶ Amnesty International interview, Sha It Yang IDP camp, 9 March 2017.

¹⁵⁷ Amnesty International interviews, Sha It Yang IDP camp, 9 March 2017; and Hpun Lum Yang IDP camp, 10 March 2017.

¹⁵⁸ Amnesty International interview, Hpun Lum Yang IDP camp, 10 March 2017.

¹⁵⁹ Chinese authorities have also allowed Kokang refugees, likewise ethnic Chinese, to stay in camps for a longer period since intense fighting in that part of northern Shan State in March 2017. See Reuters, “Relief camp in China swells as thousands flee conflict in Myanmar,” 13 March 2017.

¹⁶⁰ Convention relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force 22 April 1954, art. 33. See also UNHCR, “Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol,” 26 January 2007.

DENIAL OF FREE MOVEMENT, CLEARANCE OF VILLAGES

“Whenever I meet with a soldier, I have to show this card. The military has warned us that if we don’t have this card, we will be arrested.”

67-year-old sugar cane farmer from Hpai Kawng village, northern Shan State¹⁶¹

In the region of northern Shan State between Pang Hseng and Monekoe towns, the Myanmar Army has restricted civilians’ movement, not allowing most of those displaced—primarily from minorities including the Kachin, Lisu, and ethnic Chinese—to return and sleep in their homes. The Army also issued a special identification card that civilians must carry with them at all times, at risk of arrest. Anyone without the card, including local aid workers, has often not been allowed to enter the area.

Amnesty International interviewed eight people from villages in that region. They said that, in late November and early December 2016, the Myanmar Army established temporary bases in their villages and forbade civilians from staying at home. The Army later left most of these temporary bases, but continues to operate in the area and to pass through these villages regularly. In March 2017, a 67-year-old sugar cane farmer from Hpai Kawng village said there were still explicit Army threats that kept them from returning home:

“The Tatmadaw told us not to go and stay in our villages, it would not be safe. The military has been telling us all the time, ‘You’re not safe staying in your village.’ I have been trying to negotiate, because I want to go home, but I can’t. ... Now is the time for the harvest of the sugar cane.”¹⁶²

Most civilians from those villages moved to several IDP camps right on the China border. Two men from one of those camps told Amnesty International in May 2017 that a few women and older people had started to return home; soldiers told them they could sleep at home but were not to wander around outside. But, they said men, particularly those from ethnic minorities, still overwhelmingly had to sleep in the camps.¹⁶³ One of those interviewed, a community leader, said he had asked soldiers directly about why the policy existed: *“They told us, ‘This is the order [from above], so you’re not allowed to live in the village, and there are landmines in the forest, so it’s better not to go there or to the farms.’”¹⁶⁴*

In addition, the Myanmar Army issued by early 2017 a special white identification card for residents in the Monekoe area. Amnesty International delegates were shown these cards by five different people. The card details in Burmese their name, national registration card number, father’s name, address, and occupation, and indicated it was issued by No. 992 Tactical Operations Command,¹⁶⁵ which, according to interviews and media reports, is associated with the 99th Light Infantry Division.¹⁶⁶ The card *“doesn’t allow us to stay in the village, but just to work during the day,”* said a 40-year-old farmer staying in Hpai Kawng IDP camp.¹⁶⁷ A man in his 50s from Mang Jak village said likewise, *“If you don’t have this special card, you can’t go anywhere. If you don’t have this, you’re not from Mung Gu [district].”¹⁶⁸*

Without the card in their possession, civilians in the area are at risk of arrest. The 67-year-old sugar cane farmer from Hpai Kawng explained, *“Whenever I meet with a soldier, I have to show this card. The military has warned us that if we don’t have this card we will be arrested and suspected of being with an [ethnic armed group]. ... The village leader then has to come and intervene on your behalf.”¹⁶⁹*

The denial of free movement has placed a burden on many civilians, who are overwhelmingly farmers of sugar cane or tea leaves. While the special identification card allows them some movement during the day, the restrictions have affected them during the critical harvest period.¹⁷⁰

¹⁶¹ Amnesty International interview, Mai Ja Yang, 12 March 2017.

¹⁶² Amnesty International interview, Mai Ja Yang, 12 March 2017.

¹⁶³ Amnesty International interviews, Lashio, 6 May 2017.

¹⁶⁴ Amnesty International interview, Lashio, 6 May 2017.

¹⁶⁵ Identification cards on file with Amnesty International, translated from Burmese.

¹⁶⁶ Amnesty International interviews, Lashio, May 2017. See also “Burma army redeploys troops to Kachin frontline,” kachinnews.com, 26 January 2012, <http://www.kachinnews.com/news/2225-burma-army-redeploys-troops-to-kachin-frontline.html>.

¹⁶⁷ Amnesty International interview, Lashio, 6 May 2017.

¹⁶⁸ Amnesty International interview, Lashio, 7 May 2017. Mung Gu is the Kachin name for the town and district of Monekoe.

¹⁶⁹ Amnesty International interview, Mai Ja Yang, 12 March 2017.

¹⁷⁰ Amnesty International interviews, Lashio, 6 and 7 May 2017; and Mai Ja Yang, 12 March 2017.

Adding further injury, the Myanmar Army forced people to pay for the special identification cards. Several people said it cost 10 Chinese yuan (\$1.45 USD), while others said they paid 1,000 Myanmar kyats (\$0.73 USD).¹⁷¹ While seemingly cheap, it was often a difficult expense for families who had been displaced in haste and unable to take many of their belongings, and now had limited access to livelihoods.¹⁷²

In other conflict-affected areas of northern Myanmar, the Army does not appear to have as deliberate of a policy of clearing villages and restricting movement. However, the effect of their operations, and the fighting with the ethnic armed groups more generally, has often been the same. Massive displacement across the region has left many villages emptied for months or even years, with Kachin State generally seeing longer-term displacement compared to more frequent short-term displacements in northern Shan State.

A Myanmar expert said that the ordered or de facto clearance of villages, and the pressure on local communities more generally, represented a continuation of abusive counterinsurgency tactics that the Myanmar Army has deployed for decades.¹⁷³ The impact these tactics have in terms of depriving people of their livelihoods are compounded by the restrictions on humanitarian access, discussed in detail below, and have dangerous medium- and long-term implications on people's standard of living, including access to adequate food and their physical and mental health.¹⁷⁴



☞ ↑ A special identification card issued by Myanmar authorities in early 2017 to residents of villages between Pang Hseng and Monekoe towns. Anyone caught outside a camp or home without the identification card faced arrest and detention by the Myanmar security forces. © Amnesty International

¹⁷¹ Amnesty International interviews, Lashio, 6 and 7 May 2017; and Mai Ja Yang, 12 March 2017.

¹⁷² Amnesty International interviews, Lashio, 6 and 7 May 2017; and Mai Ja Yang, 12 March 2017.

¹⁷³ Amnesty International interview, location withheld, May 2017.

¹⁷⁴ 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, arts. 11, 12. Myanmar has signed but not ratified the ICESCR.

RESTRICTIONS ON HUMANITARIAN ACCESS

“It’s clear the military is squeezing the population. It’s the politicization of aid.”

A senior humanitarian official, based in Myanmar¹⁷⁵

As a result of the fighting since 2011, more than 98,000 people are displaced to camps and other sites across northern Myanmar, around 87,000 of them in Kachin State alone. Thousands more civilians, particularly in northern Shan State, are regularly displaced for short periods when fighting occurs nearby; many go to monasteries or to stay with relatives in neighbouring villages and try to return home whenever calm is restored. In response to this large-scale displacement that is both protracted and, when fighting escalates, requires an emergency response, Myanmar authorities have restricted humanitarian access, making living conditions even more difficult for the civilian population. *“The second half of 2016 up to now, this is the most difficult time for IDPs since 2011,”* said a humanitarian official in Kachin State.¹⁷⁶

Since May 2016, UN agencies and international humanitarian organizations have been denied access to provide assistance to displaced people in a specific area of northern Shan State around Monekoe as well as in the non-government controlled areas (NGCA) of Kachin State—affecting the more than 40,000 civilians displaced within territory the KIO controls.¹⁷⁷ Although the denial of authorization comes technically from relevant line ministries in the Myanmar government, humanitarian officials overwhelmingly expressed the sense that the Myanmar Army was the real impediment.¹⁷⁸

In both Kachin and northern Shan States, travel authorizations are routinely denied even when international organizations seek access simply to monitor the situation, rather than to deliver goods. Humanitarian officials consistently said the authorizations involved a maddening and ever-changing process that, no matter their persistence, overwhelmingly ends in the same result: denial or no response.¹⁷⁹ *“Every organization and even individuals have a different process for [travel authorization],”* one aid worker said. *“They’ve become harder to get—more cumbersome and it takes more time. We often don’t get a no, we just don’t get a yes.”*¹⁸⁰ In the last month, his organization’s process had changed again, with even more official levels of approval required.

The burden has therefore fallen almost entirely on local humanitarian organizations, who have done incredible work to minimize the impact on civilians. However, they, too, face restrictions and harassment from the Myanmar authorities. Several local humanitarian officials in Myitkyina and Laiza, the main Kachin State towns in government- and non-government controlled areas respectively, said they are often not sure who to get permission from; even when they think they have lined up all authorizations, the military can still cause problems and block the movement of humanitarian assistance through Myanmar to NGCA.¹⁸¹

Due to the problems in transporting goods through Myanmar to NGCA, many local organizations bring goods such as food and medicine through China. This has avoided major shortages, but comes with challenges. First, while China has generally been permissive, humanitarian officials cited several examples in which Chinese police or border authorities had held up the cross-border movement of goods, particularly medicines. Second, when organizations have to transport goods long distances from Myanmar through China and back to NGCA, it increases costs; to avoid this, many organizations started purchasing in China.¹⁸² Third, several health workers in IDP camps said they and others had difficulties reading pill bottles in Chinese, though they had memorized proper dosing over time.¹⁸³

Access restrictions have the greatest impact on shelter, water, and protection monitoring, according to humanitarian aid workers. *“Shelter and water and sanitation are not good enough,”* said one official in Yangon. *“If access was better, those conditions would be better.”*¹⁸⁴ This was felt acutely when thousands of people were displaced by fighting and mortar strikes near Zai Awng (see page 28), which led to the creation of a new camp, Sha It Yang, located at more than 2,000 metres of elevation. When Amnesty International

¹⁷⁵ Amnesty International interview, Yangon, 11 May 2017.

¹⁷⁶ Amnesty International interview, Laiza, 8 March 2017.

¹⁷⁷ Amnesty International interviews, Laiza, Yangon, and Myitkyina, March, May 2017.

¹⁷⁸ Amnesty International interviews, Laiza, Lashio, and Yangon, March and May 2017.

¹⁷⁹ Amnesty International interviews, Laiza and Yangon, March and May 2017; and Skype interviews, 18–19 May 2017.

¹⁸⁰ Amnesty International interview, Yangon, 11 May 2017.

¹⁸¹ Amnesty International interviews, Laiza and Myitkyina, March 2017.

¹⁸² Amnesty International interviews, Laiza and Myitkyina, March 2017.

¹⁸³ Amnesty International interviews, IDP camps in non-government controlled areas, March 2017.

¹⁸⁴ Amnesty International interview, Yangon, 11 May 2017.

delegates visited in March 2017, two months after its creation, people still slept in tarpaulin structures that provided little resistance to the nightly freezing temperatures. Dashi Hkawn Nu, a 56-year-old woman, said:

*“The plastic tarpaulin, when the wind is very heavy, turns over and we get very cold. Even when there is no wind, snow falls. We get wet, and it’s very cold ... The plastic [shelter] cover leaks. ... We don’t have enough blankets, so every night we’re suffering.”*¹⁸⁵

“We are too cold here, so getting sick is happening a lot,” echoed 42-year-old Labang Ja San. She pointed to a fire inside their structure, the smoke from which they inhaled all day. *“Before we sleep, we leave the fire burning, and it goes out by itself.”*¹⁸⁶

Humanitarian officials explained that access restrictions cause four specific problems for responding quickly to displaced peoples’ needs related to shelter, water, and sanitation. First, the restrictions make it harder for any organization to bring certain materials, like timber or bamboo, to NGCA. Second, since international organizations are denied access, the burden falls entirely on a few local organizations; given the demands, they are overstretched. Third, while international organizations can fund and help instruct local organizations on tasks like building water pumps or latrines, they are not able to inspect for quality assurance, as they normally would.¹⁸⁷ This lack of presence also affects protection monitoring. *“It is hard for us to assess the situation, protection by presence is important,”* said an international aid worker. *“It needs to be official.”*¹⁸⁸



↑ Sha It Yang IDP camp, which houses more than 2,000 people displaced by the conflict. © Amnesty International

Fourth, and finally, the restrictions slow down the response approval process. Normally, if international organizations had access, they would do assessments and then either provide assistance themselves or fund local implementing partners. Now, without access, international organizations have to ask local humanitarian organizations to do the initial assessment, which then goes back through potential donors. *“With a lot of layers of communications, you slow down the response, which has a major effect, especially in an emergency situation,”* said a local humanitarian official in Laiza.¹⁸⁹ Several international humanitarian officials agreed that the additional steps impacted how quickly displaced people received needed assistance, and also expressed frustration that they could not see for themselves what people displaced in non-government controlled areas need or are receiving.¹⁹⁰

¹⁸⁵ Amnesty International interview, Sha It Yang IDP camp, 8 March 2017.

¹⁸⁶ Amnesty International interview, Sha It Yang IDP camp, 8 March 2017.

¹⁸⁷ Amnesty International interviews, Laiza, Yangon, and Myitkyina, March, May 2017; and Skype interviews, 18-19 May 2017.

¹⁸⁸ Amnesty International interview, location and date withheld.

¹⁸⁹ Amnesty International interview, Laiza, 7 March 2017.

¹⁹⁰ Amnesty International interviews, Yangon, 11 May 2017; and Skype interviews, 18-19 May 2017.

Civilians displaced throughout northern Myanmar repeatedly complained about reductions in food rations since mid-2016. Humanitarian officials told Amnesty International that while access restrictions have played some role, there are other factors, including that major donors and providers, like the World Food Programme, have decided to be more targeted in their assistance and to switch, in certain places, from direct food assistance to cash transfers.¹⁹¹ For medicines, humanitarian officials said the bigger problem was for civilians still living outside the camps in NGCA. *“What we’ve heard from pharmacies is that they have to pay extra to get medicines through [to KIO-controlled areas],”* one official said.¹⁹² He said one taxi will often leave from Myitkyina and another from Laiza and they meet at the front line, handing over the goods; a trip that used to cost 10,000 kyats (\$7.25 USD) to transport might now cost 35,000 kyats (\$25.41 USD).¹⁹³

In addition to the direct impact on access to food, medicine, shelter, and sanitation, several humanitarian officials and women’s community leaders said some displaced people had been forced to turn to negative coping strategies. They linked the access restrictions and reduction in food aid to an increase in portering for armed groups and to the trafficking of women from NGCA to China for sex work.¹⁹⁴

According to at least ten humanitarian officials operating in Kachin and northern Shan States, the Myanmar government and army explain the restrictions by complaining, without evidence, that food and building materials are being diverted to the KIA and other armed groups.¹⁹⁵ Humanitarian officials stressed they had measures in place to avoid such diversion.¹⁹⁶ Moreover, the Myanmar authorities have blocked humanitarian goods that could not be put to any military purpose. In February 2017, for example, the Myanmar Army turned back around 200 UN-stamped dignity kits—which included sanitary pads, toothpaste, toothbrushes, soap, and underwear—destined for displaced women and girls in KIO-controlled areas.¹⁹⁷

A senior humanitarian official said that the situation was more relaxed under the former Thein Sein government than it is today, under Aung San Suu Kyi’s government. *“It’s clear the military is squeezing the population,”* he said. *“It’s the politicization of aid.”*¹⁹⁸ Many humanitarian officials believe the military is trying to make the situation so miserable for displaced persons in non-government controlled areas that they will be forced to leave for government-controlled areas—depriving ethnic armed groups of their civilian support.¹⁹⁹

Humanitarian access restrictions are not as severe in northern Shan State, where IDPs are almost all in areas controlled by the government. But even there, the government has denied or failed to respond for over a year to travel authorization requests from international staff from most humanitarian organizations seeking to travel outside Lashio, the main city in the region. And the area between Pang Hseng and Monekoe, which was the epicentre of fighting in late 2016, has remained largely inaccessible even to local humanitarian officials and organizations,²⁰⁰ again necessitating assistance to be brought through China, when feasible.²⁰¹

The Myanmar authorities’ repeated access restriction on UN agencies, international humanitarian organizations, and, at times, local humanitarian organizations is in breach of international norms and standards, negatively impacting civilians already vulnerable from displacement.²⁰² By undermining people’s access to food and shelter, and by putting vulnerable people at risk of illness due to conditions that would otherwise be improved, the Myanmar government is also in conflict with its responsibilities as a signatory to the International Covenant on Economic, Social, and Cultural Rights.²⁰³ Finally, given that women and children comprise a disproportionate part of the displaced population and are often particularly affected by the access restrictions, the government’s actions also violate its obligations as a state party to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, since the restrictions undermine women and children’s access to quality healthcare services.²⁰⁴

¹⁹¹ Amnesty International interviews, Laiza and Yangon, March, May 2017.

¹⁹² Amnesty International interview, Laiza, 7 March 2017.

¹⁹³ Amnesty International interview, Laiza, 7 March 2017.

¹⁹⁴ Amnesty International interviews, Laiza and surrounding IDP camps, March 2017; and Skype interview, 19 May 2017.

¹⁹⁵ Amnesty International interviews, Laiza, Yangon, and Myitkyina, March, May 2017.

¹⁹⁶ Amnesty International interviews, Laiza, Yangon, and Myitkyina, March, May 2017.

¹⁹⁷ Amnesty International interviews with humanitarian officials, location and date withheld.

¹⁹⁸ Amnesty International interview, Yangon, 11 May 2017.

¹⁹⁹ Amnesty International interviews, Laiza, March 2017; and Yangon, May 2017.

²⁰⁰ Amnesty International interviews, Lashio and Yangon, May 2017; and Skype interview, 18 May 2017.

²⁰¹ Amnesty International interviews, Mai Ja Yang, March 2017; and Lashio, May 2017.

²⁰² See International Committee of the Red Cross, *Customary IHL: Rule 55. Access for Humanitarian Relief to Civilians in Need*. See also U.N. Security Council Res. 1265, 17 September 1999, para. 7.

²⁰³ ICESCR, arts. 11, 12. Myanmar has not yet ratified the ICESCR.

²⁰⁴ Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, U.N. Doc. A/34/46, entered into force 3 September 1981 (ratified by Myanmar on 22 July 1997), art. 12; 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), art. 24.

3. VIOLATIONS BY ETHNIC ARMED GROUPS

“We want to know what happened to our sons, our husbands. We want to know if they are dead or alive.”

A 65-year-old father of a driver who was one of seven people abducted by the TNLA during a single incident in June 2016²⁰⁵

“RCSS, SSPP, TNLA, KIA—all come for taxation.”

Religious leader in Lashio, northern Shan State²⁰⁶

While the Myanmar Army was principally responsible for the majority of the international human rights and humanitarian law violations documented by Amnesty International, ethnic armed groups throughout Kachin and northern Shan States likewise commit serious abuses against civilians. These are often more difficult to document than violations by the Myanmar Army, as civilians tend to see fighters from their ethnic armed group, or an allied group, as protectors from the Myanmar Army and as leaders of their ethnic minority's effort to achieve greater recognition and rights in the country. This is particularly true in Kachin State, where Kachin civilians often feel great allegiance to the KIO—or are too afraid to assert any other view.

In northern Shan State, Amnesty International documented several dozen abductions over the last 18 months, primarily perpetrated by the TNLA and RCSS as the two groups have fought since November 2015. In addition, throughout northern Myanmar, Amnesty International documented forced and child recruitment and forced taxation. Some civilians tend to couch their description of these issues in the language of “service” or “doing their duty” to support an ethnic armed group. But, in their descriptions, it is clear that becoming a fighter or giving bags of rice is often not voluntary, and at times backed by threats of violence.

ABDUCTIONS AND KILLINGS

In November 2015, fighting broke out in northern Shan State between the RCSS and the TNLA, not long after the RCSS signed the NCA. Sporadic clashes have continued over the past 18 months and are often associated with abductions and likely summary killings by both sides, typically of civilians perceived to support the other group. Although Amnesty International did not document similar crimes by other ethnic armed groups, human rights defenders and community leaders provided credible reports of such abuses.²⁰⁷

²⁰⁵ Amnesty International interview, Lashio, 8 May 2017.

²⁰⁶ Amnesty International interview, Lashio, 8 May 2017.

²⁰⁷ Amnesty International interviews, Myitkyina and Lashio, March and May 2017. See also Hannah Beech, “Battling for Blood Jade,” *Time*, March 2017; Nyein Nyein, “Lisu People Protest KIA Violence,” *The Irrawaddy*, 22 May 2017.

Amnesty International documented 28 cases of abduction in northern Shan State likely by the TNLA, overwhelmingly against Shan civilians. The victims were primarily young men but also included elderly men and, in a few instances, women. People were typically abducted in groups of five to eight people, forcibly removed from a transport vehicle and never seen again; others were taken from home. These TNLA-related incidents occurred between November 2015 and late 2016, though there are credible reports of more recent cases.²⁰⁸ This includes the abduction of around 90 people in March 2017 from two villages in Namtu Township; most were released quickly, though one person was reportedly killed summarily and two were kept for several months before finally being released on 10 May 2017.²⁰⁹

On 5 June 2016, six male passengers boarded a shared taxi driven by Sai Ye Hseng Mong, 30, travelling from Namhkan town to Lashio. The driver's father said he normally received a call from his son upon arrival at around 10 a.m.; having not heard from him by noon, the father called and found his son's phones switched off. He called other taxi drivers who knew his son, and they said the car had not arrived to Lashio.²¹⁰ Kan Khan Htong, a 57-year-old woman whose son Ai Aung was one of the passengers, said she called his phone two days after he went missing and someone picked up, answering in a Palaung language;²¹¹ when she told the man it was her son's number, she said he laughed and hung up.²¹²

Family members tracked the taxi's last known whereabouts to near a village where they said the TNLA was active; they all assumed the TNLA had abducted or killed them. The families had contacted the police, the Myanmar Army, local government officials, local monks, and leaders from the political wings of various ethnic armed organizations, but, Kan Khan Htong told Amnesty International in May 2017, *"We don't know if they are alive or dead up to today."*²¹³ Amnesty International interviewed relatives of each of the seven men who were in the taxi and remain missing; they said they were farmers and labourers, not fighters, and that the families were still reeling from what happened and from the continued uncertainty.²¹⁴

The incident was one of several documented cases in which family members called their relative's phone number after becoming worried, only to have someone else pick it up and reportedly speak in a Palaung language. In one case, the son of a father who had been abducted and remained missing said he had seen his father's motorbike being driven by someone else; he confronted the driver and went together with him to the police, where the driver said he had purchased the motorbike from a TNLA soldier.²¹⁵

On 2 May 2016, eight people were reportedly abducted from another vehicle, this time traveling from around Mong We village to Namhkan. The driver's wife showed Amnesty International a photo that she said had been posted on social media, claiming the TNLA had arrested Shan soldiers; she pointed to her husband and another relative in the photo. She said she eventually learned that two of the eight people in the vehicle had been RCSS fighters, but that her husband had never been a soldier.²¹⁶ *"All of them are still disappeared up to now,"* she said. *"My three-year-old daughter is still asking for her father."*²¹⁷

At times, drivers are forced to transport soldiers from ethnic armed groups, which, even for short periods, puts protected civilians at direct risk of abduction, detention, and summary killing. The news outlet *The Irrawaddy* reported in April 2017 that three civilians were killed by the Myanmar Army in Kyaukme Township. A TNLA officer told the outlet that their forces had asked the three men, all drivers, to transport TNLA troops, and fighting broke out while they were on the road.²¹⁸

In response to emailed questions from Amnesty International, the Foreign Department Office of the PSLF/TNLA wrote on 4 June 2017 that, since clashes began with the RCSS in late 2015, "[w]e detain RCSS militia who help [the RCSS with] food, transportation and information." The Office indicated that detainees are held in a "safe area" and that "after they give [a] commitment to us that they will not help [the] RCSS anymore in the future, we release them and send them back to their home safely."²¹⁹

The response did not answer questions that Amnesty International posed about the 28 documented cases for which abducted persons' whereabouts remain unknown and about whether the TNLA would be willing to provide a list of everyone it is currently detaining. In addition, the response raises several concerns about the

²⁰⁸ Amnesty International interviews, Lashio, March and May 2017.

²⁰⁹ Amnesty International interviews, Lashio, March and May 2017. See also Nang Mya Nadi, "Villagers walk free after 2 months in TNLA captivity," DVB, 12 May 2017.

²¹⁰ Amnesty International interview, Lashio, 8 May 2017.

²¹¹ Palaung is a language spoken by ethnic Palaung (Ta'ang), with variations between different sub-groups.

²¹² Amnesty International interview, Lashio, 8 May 2017.

²¹³ Amnesty International interview, Lashio, 8 May 2017.

²¹⁴ Amnesty International interview, Lashio, 8 May 2017.

²¹⁵ Amnesty International interview, Lashio, 8 May 2017.

²¹⁶ Amnesty International interview, Lashio, 8 May 2017.

²¹⁷ Amnesty International interview, Lashio, 8 May 2017.

²¹⁸ Lawi Weng, "Locals Insist Three Men Killed in Shan State Clash Were Civilians," *The Irrawaddy*, 27 April 2017.

²¹⁹ PSLF/TNLA response letter to Amnesty International, 4 June 2017, on file with Amnesty International.

TNLA's treatment of civilians. Under international humanitarian law, people who are not members of an armed group are civilians; even if they provide support like food, their status as civilians does not change to, as the TNLA argues, members of an armed group-affiliated militia.²²⁰ The TNLA itself often seeks support for meals and transportation from the civilian population, in particular from Palaung civilians.²²¹ By respecting the protected status of civilians from other ethnic groups, it would also help ensure Palaung civilians are treated lawfully by other parties to the conflict.

In addition to the cases involving the TNLA, Amnesty International documented 17 abductions, from two incidents, likely committed by the RCSS. On 18 June 2016, La Lay, 23, and La Tha, 25, both men from the Lisu ethnic minority, were abducted together, according to their 52-year-old father, Yu Ar De.²²² An ethnic Chinese man as well as seven other Lisu civilians, including a child and a woman, were abducted in the same area of Manton Township that day.²²³ Yu Ar De said the brothers left on a motorbike around 9 a.m. to take rice from the village of Pan Kaw to the market in Mai Mong; they never arrived. The father, a community leader, and another villager all implicated the RCSS, which they said began active operations in their area at that time, subsequently forcing them to flee to an IDP camp in Namtu.²²⁴ They said they had approached an RCSS officer, but he denied his group's involvement.²²⁵

In November 2016, following more cases of the TNLA and RCSS abducting and detaining civilians, Shan and Palaung community leaders created a joint conflict resolution committee, a central objective of which was to secure the release of abducted civilians. The committee had uneven success, securing some releases but not others, in some ways exacerbating fissures between the communities.²²⁶ For all of the cases documented by Amnesty International, the victims' fate and whereabouts remain unknown at time of writing.

All of the families of victims interviewed by Amnesty International described the continuing trauma that comes from not knowing whether a loved one is alive or dead. On 27 November 2015, Nai Zein Pune's brother and 29-year-old son were abducted together while going to a neighbouring village in Namhkan Township to purchase water buffalos for their farm. She described, similar to many others:

*"We want them to come back, if they're alive. If they're dead, we want to see the bodies, we have a tradition when someone dies. ... If the TNLA responds and says, your son is alive and has [forcibly] joined the army, even that's okay. But let us give some money to my son, let us know he's okay."*²²⁷

In addition to abductions, Amnesty International documented one incident in which TNLA soldiers summarily killed two Ta'ang brothers. According to two witnesses, ten armed TNLA soldiers came to Lwai Kan village in Manton Township in June or July 2016. They asked the villagers to provide them food and arrested the two brothers at home. The 30-year-old wife of one of the brothers was with him at the time and said the soldiers accused him of being part of the RCSS; she tried to follow as they took him away, but one of the soldiers threatened, *"If you follow us, we will kill you also."*²²⁸

The woman said her husband and brother-in-law had been part of the RCSS, but they had been kicked out at least four months earlier. She recalled, about her husband, *"The Shan and Tatmadaw came and took all the weapons, the military uniform—everything they'd given him. They said the TNLA were growing again, and they didn't trust he wouldn't go to the TNLA."*²²⁹ After the TNLA abducted the two men, the family attempted to collect money to secure their release. Several days later, though, another person who had been taken from the same village was released; he told the family that the two men had been shot and killed,²³⁰ caught between two armed groups that both saw them as traitors. In early 2017, intense fighting forced the woman and her six children, along with the brothers' 80-year-old mother, to flee to an IDP camp in Namtu; a family member recently went back to check on their house, only to find it had been ransacked.²³¹

As parties to an internal armed conflict, ethnic armed groups in northern Myanmar are likewise obligated to respect customary international humanitarian law, including prohibitions against murder of civilians or captured combatants; enforced disappearances; and arbitrary deprivation of liberty.²³² They are also

²²⁰ International Committee of the Red Cross, *Customary IHL: Rule 5. Definition of Civilians*.

²²¹ PSLF/TNLA response letter to Amnesty International, 4 June 2017, on file with Amnesty International.

²²² Amnesty International interview with Yu Ar De, Namtu IDP camp, 9 May 2017.

²²³ Amnesty International interviews with Yu Ar De and with a community leader, Namtu IDP camp, 9 May 2017.

²²⁴ Amnesty International interviews, Namtu IDP camp, 9 May 2017.

²²⁵ Amnesty International interviews, Namtu IDP camp, 9 May 2017.

²²⁶ See Lawi Weng, "Locals Say Armed Groups 'Disappear' Civilians Caught in Northern Shan Conflict," *The Irrawaddy*, 23 February 2017; Lum Min Mang, "Nine villagers still detained by TNLA in Kyaukme," *Myanmar Times*, 22 December 2016.

²²⁷ Amnesty International interview, Lashio, 8 May 2017.

²²⁸ Amnesty International interview, Namtu IDP camp, 9 May 2017.

²²⁹ Amnesty International interview, Namtu IDP camp, 9 May 2017.

²³⁰ Amnesty International interviews, Namtu IDP camp, 9 May 2017.

²³¹ Amnesty International interviews, Namtu IDP camp, 9 May 2017.

²³² International Committee for the Red Cross, *Customary IHL: Rule 89. Violence to Life, Rule 98. Enforced Disappearance, and Rule 99 Deprivation of Liberty*.

required to respect family life which would include, at minimum, an obligation to inform family members about whether their relative is being detained or has been killed.²³³

FORCED AND CHILD RECRUITMENT

“They take them by force. ... If there are young men in houses, they go to the house and grab them.”

A local human rights defender working in Kachin State²³⁴

Throughout Kachin and northern Shan States, civilians and humanitarian officials raised concerns about ethnic armed groups’ practice of forced and child recruitment. Several humanitarian officials said these practices appeared to increase since early 2017, likely due to the escalation in fighting.

The line between forced and voluntary conscription is at times blurred by the sense among some families that it is their duty for a son or daughter, including those who are still children, to “serve” in an ethnic armed group perceived to defend their interests and to protect them from the Myanmar Army.²³⁵ Documenting the extent of forced or child recruitment is further complicated by the fact that many people have relatives serving in an armed group, and therefore are hesitant to inform on abusive practices.

A 39-year-old woman from a village in Kutkai Township in northern Shan State told Amnesty International that ethnic armed groups are recruiting many children and young men from her area. *“Every group—the TNLA, the Shan [groups], the KIA—they are all doing this,”* she said.²³⁶ She knew two children from her village who had been recruited: one by the KIA and another by a Myanmar Army-affiliated militia. *“Because of that situation, many young people from my village are afraid to stay in or near the village,”* she said.²³⁷

Five other civilians in northern Shan State described how children and young men in their village flee when there are rumours that an ethnic armed group is engaging in forced or child recruitment.²³⁸ Recent media reports have likewise linked displacements to concerns about forced recruitment.²³⁹

An international humanitarian official working on northern Myanmar cited the KIA, TNLA, RCSS, and MNDAA among groups for which his organization had documented forced recruitment. He said that for the KIA, for example, families with connections at times send children away to protect them from conscription.²⁴⁰ Several humanitarian officials said girls are likewise recruited.²⁴¹ In northern Shan State, human rights defenders and other civilians told Amnesty International that, since early 2017, the TNLA had undertaken a particularly robust recruitment drive, both forced and voluntary; they suggested it was linked to the ongoing offensive by the Myanmar Army in TNLA areas, as well as recurring clashes between the TNLA and RCSS.²⁴²

In response to Amnesty International’s questions, the Foreign Department Office of the PSLF/TNLA provided their “principles for recruitment,” including that they welcome all volunteers “who willingly want to join our organization and serve for our Ta’ang land” and that “Ta’ang people who have more [sic] two sons (age 18-35) ... must join our organization according to Ta’ang National Service law,” with exceptions if someone is attending university, is disabled, or has a chronic illness.²⁴³ The Foreign Department Office also said that members of other ethnic groups would only be recruited willingly; it indicated that 99 percent of its members are Palaung.²⁴⁴ Conscription of men from Palaung families with multiple sons confirms forced recruitment that community leaders and other civilians reported to Amnesty International. However, communities also

²³³ International Committee for the Red Cross, *Customary IHL: Rule 105. Respect for Family Life, Rule 98. Enforced Disappearance, and Rule 117. Accounting for Missing Persons*.

²³⁴ Amnesty International interview, Myitkyina, 23 March 2017.

²³⁵ Amnesty International interviews, Laiza, Lashio, and Yangon, March and May 2017.

²³⁶ Amnesty International interview, Lashio, 6 May 2017.

²³⁷ Amnesty International interview, Lashio, 6 May 2017.

²³⁸ Amnesty International interview, Lashio, May 2017.

²³⁹ See Nan Lwin Hnin Pwint, “Locals Flee, Fearing Conscription in Southern Shan State,” *The Irrawaddy*, 16 May 2017; Fiona MacGregor & Thu Thu Aung, “More fighting and more abductions: Northern Shan villages robbed of children,” *Myanmar Times*, 5 February 2016.

²⁴⁰ Amnesty International interview, location and date withheld.

²⁴¹ Amnesty International interviews, location and date withheld.

²⁴² Amnesty International interviews with humanitarian officials, community leaders, and local human rights defenders, Lashio, May 2017.

²⁴³ PSLF/TNLA response letter to Amnesty International, 4 June 2017, on file with Amnesty International.

²⁴⁴ PSLF/TNLA response letter to Amnesty International, 4 June 2017, on file with Amnesty International.

described incidents where soldiers forcibly recruited people irrespective of family size.²⁴⁵

The KIO, for its part, wrote to Amnesty International that its policy, in both Kachin and northern Shan States, is that “every single [Kachin] person at the age of 18 ... ha[s] to serve the KIO for [two] years when they are readily available.”²⁴⁶ It also said children under 18 were not to be “employed in the KIO,” and that it had begun collaboration with UNICEF “to investigate the issue of child soldier[s].”²⁴⁷ Finally, it said the “KIA does not force and intimidate the public for conscription,” and that if “small units in remote areas” took such action, “the wrongdoers are prosecuted and the conscripts are released.”²⁴⁸ As with the TNLA, the official conscription policy confirms concerns that civilians raised and shows why some families send away children who approach the age of 18. But it does not explain all of the conscription that communities described.

A representative of an international organization who has worked on the conflicts in northern Myanmar since 2011 said that, with many of the ethnic armed groups, there is a “disconnect between higher-level commanders, who understand the value of committing to no forced or child recruitment, and what happens on the ground, where it’s often, ‘If there’s a warm body, just grab it.’”²⁴⁹ Others disputed this, and thought it was a convenient excuse of commanders who can exercise control when they want or need to.²⁵⁰

In May 2017, a forum of more than 70 civil society organizations in Myanmar, known as the Civil Society Forum on Peace (CSFOP), called for an end to forced conscription, highlighting the especially egregious practices of ethnic armed groups and Army-affiliated militias in Kachin and northern Shan States.²⁵¹

The recruitment of children under 15 years old and their participation in hostilities are both war crimes under customary international humanitarian law.²⁵² Under more recent treaties, including Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, which Myanmar has not ratified, state parties are required to “take all feasible measures to ensure” that children under 18 do not participate directly in hostilities; armed groups, for their part, are forbidden from using children in hostilities.²⁵³ In addition, Myanmar’s NCA requires the Myanmar Army and signatory ethnic armed organizations to protect civilians, including by not engaging in forced conscription or the abduction of children.²⁵⁴ The Myanmar Army’s responsibilities should extend to militias that it supports.

FORCED TAXATION OF VILLAGES, INDIVIDUALS

“For one motorbike, they’ll ask for 2,000 or 3,000 kyats on the way to the market.”

A 38-year-old market seller from a village in Namhkan Township, northern Shan State²⁵⁵

Soldiers from many ethnic armed groups impose “taxes” of rice and money on villages and market sellers, hurting communities and individuals already economically marginalized by the conflict. Amnesty International documented illicit taxation among the KIA, TNLA, RCSS, and SSA-N, the main groups operating in the region of northern Myanmar that was investigated. Although a few of these ethnic armed organizations, most notably the KIO, control territory and provide administrative and social services, including education, healthcare, and a rudimentary judicial system,²⁵⁶ the “taxation” undertaken by soldiers and units in conflict-affected areas is distinct from any sort of official tax authority.

²⁴⁵ Amnesty International interviews, Lashio and Yangon, May 2017.

²⁴⁶ KIO Response, on file with Amnesty International.

²⁴⁷ KIO Response, on file with Amnesty International.

²⁴⁸ KIO Response, on file with Amnesty International.

²⁴⁹ Amnesty International interview, Yangon, 11 May 2017.

²⁵⁰ Amnesty International interviews, Bangkok, 4 May 2017; and Yangon, 11 May 2017.

²⁵¹ Nan Lwin Hnin Pwint, “Civil Society Forum Calls for End to Forced Conscription,” *The Irrawaddy*, 18 May 2017.

²⁵² International Committee of the Red Cross, *Customary IHL: Rule 136. Recruitment of Child Soldiers*, and *Rule 137. Participation of Child Soldiers in Hostilities*. See also Rome Statute, arts. 8(2)(b)(xxvi) and (e)(vii).

²⁵³ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, *entry into force* 12 February 2002, arts. 1, 2, and 4.

²⁵⁴ NCA, chap. 9(n).

²⁵⁵ Amnesty International interview, Lashio, 8 May 2017.

²⁵⁶ See Htet Khaung Linn, “Amid war, Kachin rebels expand education system for IDPs,” *Myanmar Now*, 2 August 2016; Brian McCartan and Kim Jolliffe, *Ethnic Armed Actors and Justice Provision in Myanmar* (Asia Foundation, October 2016), p. 48.

A 30-year-old tea leaf farmer from a village in northern Shan State's Manton Township told Amnesty International that, either two or three times in 2016, TNLA fighters had come to his village to *"collect a tax. They don't ask for money, just rice. Each village has to give one or two big bags. Villagers share in [the burden]."*²⁵⁷ He did not know if they had come back in 2017, as he had been displaced to an IDP camp for most of the year. People from at least six other villages in northern Shan State similarly described having to provide rice, at times along with money, to soldiers from different armed groups.

Several women recounted being "taxed" when selling goods, either at a village store or market. A 35-year-old woman from a village that has switched between TNLA and Myanmar Army control in Namhkan Township, northern Shan State, said that, because she has a small store, TNLA soldiers come and ask for five sacks of rice, as recently as April 2017. *"I only gave them two sacks,"* she said. *"I told them I couldn't give them the five sacks. ... They mostly tax you if you own a shop or a vehicle."*²⁵⁸ A 38-year-old market seller, also from a village in Namhkan Township, said TNLA soldiers often taxed everyone who went to a nearby market. *"For one motorbike, they'll ask for 2,000 or 3,000 kyats (\$1.46-\$2.19 USD) on the way to the market,"* she said.²⁵⁹

In certain instances, the illicit taxation is linked to recruitment: a village, or individual family, has to choose between "offering" people as fighters and paying a "tax." A 52-year-old man from a village several hours by motorbike from Namtu town said KIA soldiers had, before he was displaced in late 2016, asked households with two or three males to provide them one. The village negotiated and instead paid a "tax." He could not remember the exact amount, but said, *"All the households collected and gave to them."*²⁶⁰ A 19-year-old man from a village in Namhkan Township likewise recalled TNLA soldiers coming to his village and asking for five people. *"The village head said it was just a small village, so we would pay a tax instead,"* he said. *"The tax was a big bag of rice and 30,000 kyats (\$21.90 USD) for each"* requested person.²⁶¹

These "taxes" undermine the economic and social rights of people already struggling, particularly as displacement, fighting, and landmines impede them from accessing their farms or other means of income.

Several community leaders and humanitarian officials in northern Myanmar said it was a widespread problem, and that when people or small businesses fail to pay the tax, the ethnic armed groups engage in intimidation or worse.²⁶² Although it was beyond the scope of Amnesty International's research, intimidation and violence appears more severe in areas where the Myanmar Army and ethnic armed groups are fighting for control of taxation and other profits from lucrative industries like jade and timber.²⁶³

The KIO wrote to Amnesty International that it "taxes small and big businesses" in Kachin and northern Shan States, but that KIO personnel are "prohibited from taxing informally ... [and] are prosecuted" if they do.²⁶⁴ The PSLF/TNLA likewise wrote that they only tax major businesses, including through a property tax, "but we don't tax the villages and small businesses." The response also said the TNLA does not "ask for rice or money" in villages, "but when we are in predicament [in] rural areas we just ask [for] help from the villagers for a meal."²⁶⁵ Both responses are in contrast with what civilians, including Kachin and Palaung civilians, consistently described in conflict-affected areas of northern Shan State.

Two Myanmar experts said some of the ethnic armed groups appear to be getting more abusive in relation to forced recruitment and taxation; they linked this deterioration to the perception among the ethnic armed organizations that the peace process is not moving forward and to the Myanmar Army's offensive over the last seven months, which has taken significant territory from the ethnic armed groups.²⁶⁶ Should the current trajectory persist, many of the ethnic armed groups outside the peace process will likely seek to continue to grow, or at least replenish, their ranks and coffers—with civilians bearing much of the burden.

²⁵⁷ Amnesty International interview, Lashio, 8 May 2017.

²⁵⁸ Amnesty International interview, Lashio, 8 May 2017.

²⁵⁹ Amnesty International interview, Lashio, 8 May 2017.

²⁶⁰ Amnesty International interview, Namtu, 9 May 2017.

²⁶¹ Amnesty International interview, Lashio, 8 May 2017.

²⁶² Amnesty International interviews, Myitkyina, Lashio, and Yangon, March and May 2017; and Skype interview, 18 May 2017.

²⁶³ Global Witness has reported that the estimated \$31-billion-a-year jade industry is largely controlled by military elites from the Myanmar Army and cronies linked to them, fuelling conflict as well as rampant corruption that offers little benefit to the communities where the mines exist. Armed groups like the KIA also fill their coffers through taxing jade scavengers and smugglers, and reportedly inflict violence against those who fail to pay. See Global Witness, *Jade: Myanmar's "Big State Secret"*, October 2015; Hannah Beech, "Battling for Blood Jade," *Time*, March 2017; Daniel Pye, "The dark shadow of Myanmar's jade trade," *Financial Times*, 26 September 2016.

²⁶⁴ KIO Response, on file with Amnesty International.

²⁶⁵ PSLF/TNLA response letter to Amnesty International, 4 June 2017, on file with Amnesty International.

²⁶⁶ Amnesty International interviews, Lashio, 8 May 2017; and Yangon, 11 May 2017.

4. LANDMINES AND IMPROVISED EXPLOSIVE DEVICES

“When the landmine exploded, I fell down in the hole they had dug. I looked down, and I had lost my leg.”

25-year-old man who stepped on a landmine-related device in February 2017 in Namtu Township, northern Shan State²⁶⁷

Over the last decade, Myanmar has consistently ranked among the world's worst countries in terms of casualties caused by antipersonnel landmines and landmine-like weapons, such as victim-operated improvised explosive devices (IEDs).²⁶⁸ Compared to other countries in the region, Myanmar also has a particularly high lethality rate for landmine-related incidents.²⁶⁹ Areas of Kachin and northern Shan States are acutely contaminated, as the Myanmar Army and ethnic armed groups have placed landmine-related devices for decades and continue to do so; other unexploded ordnance (UXO) compounds the problem.²⁷⁰ The Myanmar Army is one of the few state forces in the world, along with the North Korean and Syrian militaries, that still actively plants antipersonnel landmines.²⁷¹

According to the Mine Risk Working Group (MRWG) in Myanmar, between January and May 2017, there were 65 reported civilian casualties in Kachin and Shan States from landmines or explosive remnants of war, as a result of 40 different incidents. Children comprised 27 of the 65 total casualties, or just over 40 percent. Twelve people had been killed, including three children.²⁷²

²⁶⁷ Amnesty International interview, Lashio, 7 May 2017. Throughout this section, “landmine-related” will be used to indicate that the weapon in question could have been either a true antipersonnel landmine, which, in the conflict region covered by this report, is typically used only by the Myanmar Army; or a landmine-like weapon, such as a victim-operated improvised explosive device (IED). A victim-operated IED is one that is set to explode when, for example, the victim applies pressure by standing on it or knocks a trip wire. This is in contrast to a command-detonated IED, which the attacker triggers, for example through a radio signal.

²⁶⁸ See Landmine & Cluster Munition Monitor, *Myanmar_Burma: Casualties and Victim Assistance*, 21 November 2016, http://www.the-monitor.org/en-gb/reports/2017/myanmar_burma/casualties-and-victim-assistance.aspx; IRIN, “Why can't Myanmar clear its landmines?”, 7 January 2016 (indicating that Myanmar ranked third in the world in casualties between 1999 and 2014, after Colombia and Afghanistan).

²⁶⁹ Roger Fasth and Pascal Simon, “Mine Action in Myanmar,” *Journal of ERW and Mine Action*, Vol. 19(2), p. 23.

²⁷⁰ See Landmine & Cluster Munition Monitor, *Myanmar_Burma: Mine Action*, 18 November 2016; Roger Fasth and Pascal Simon, “Mine Action in Myanmar,” *Journal of ERW and Mine Action*, Vol. 19(2), pp. 20-25.

²⁷¹ International Campaign to Ban Landmines, *Landmine Monitor 2016*, November 2016, p. 1, <http://www.the-monitor.org/media/2386748/Landmine-Monitor-2016-web.pdf>.

²⁷² Mine Risk Working Group, *Mine Action in Myanmar*, April 2017, on file with Amnesty International. Shan State had 39 landmine-related casualties, which accounted for 57 percent of all such reported casualties in Myanmar since the beginning of 2017; Kachin State followed with 26 total casualties, or 38 percent of the country's total. Kachin State experienced seven landmine-related deaths, compared to five in Shan State; and thirteen casualties involving women or girls, compared to six in Shan State.

Amnesty International documented 14 landmine- or UXO-related civilian casualties in northern Shan State in 2017. These incidents resulted in two deaths as well as serious injuries including loss of limb, most often a leg. Soldiers from both sides are also often killed or wounded when placing, fixing, or clearing landmines.²⁷³

In January 2017, a 41-year-old father of two children went to his tea leaf farm outside a village in Namhsan Township. Around lunchtime, he walked toward his motorbike carrying two pieces of bamboo he wanted to bring home. *"When I tried to get on my motorbike, I stepped on the landmine and it exploded,"* he told Amnesty International. *"The landmine was right near the [dirt] road. When it exploded, the sound was very loud. I just felt heat on my leg. When I looked, I saw it was cut off. My leg felt so light, and I was bleeding a lot. I was very dizzy."*²⁷⁴ He spent 16 days in hospital, where his leg was amputated below the knee. *"I have many difficulties now,"* he said. *"I want to help my family, but I can't. I can't work on our farm."*²⁷⁵

The victim's wife told Amnesty International that while her husband was in the hospital, a Myanmar Army soldier came and argued with her, saying they had not placed the landmine. She said it was well known that the Army was the only force that had placed landmines in the area, and that a community leader had specifically spoken with them about the need to keep the public road landmine free. The victim and his wife said their belief was confirmed when, several months later, that Myanmar Army unit started clearing their mines once the situation calmed in the area; a soldier stepped on one and likewise lost his leg.²⁷⁶

While the Myanmar Army typically places true antipersonnel landmines, many of the ethnic armed groups use IEDs for the same military purpose, as acknowledged by two KIA officers interviewed by Amnesty International.²⁷⁷ The ethnic armed groups often place IEDs around their bases or on roads or paths that the Myanmar Army might use to attack their positions. In late February 2017, a 25-year-old man from a village in Namtu Township was asked by TNLA soldiers to clear some of the grass in an area near their camp. He told Amnesty International, *"I stepped, and when I tried to lift my leg, the landmine exploded. It was like a bomb sound. I didn't see it, because they put the landmine under [the] ground."*²⁷⁸ His foot and ankle were blown off immediately; at the hospital, doctors amputated his right leg just below the knee.

Amnesty International was not able to confirm whether it was the Myanmar Army or an ethnic armed group that laid that specific landmine-like weapon. In its written response to Amnesty International's questions, the PSLF/TNLA wrote that it had not used landmines or landmine-like weapons since 2007, when it signed a deed of commitment to ban the use of such weapons.²⁷⁹

Children are disproportionately affected by landmines and UXO; in 2015, the last year for which *Landmine Monitor* has data, children accounted for a majority of landmine-related civilian casualties in Myanmar for which the victim's age was known.²⁸⁰ UNICEF reported in May 2017 that children are one of every three landmine-related victims in Myanmar.²⁸¹ Amnesty International documented an incident in which a 14-year-old girl activated a trip-wire IED while walking on a dirt road to go pick flowers in northern Shan State; she suffered shrapnel wounds all over the upper half of her body, requiring surgery to remove metal pieces.²⁸²

Likewise, on 8 May 2017, eight novice monks between 10 and 15 years old were injured, many seriously, when playing with UXO at their temple compound, near where the Myanmar Army had previously had a camp in Namtu Township.²⁸³ Based on photographs reviewed by an Amnesty International weapons expert, the UXO was likely old antipersonnel landmines. A community leader told Amnesty International that one of the boys picked up the "bomb" and, believing it to be harmless, tossed it toward a group of his friends; it exploded upon landing.²⁸⁴ Media outlets reported that several weeks earlier, on 19 April 2017, a nine-year-old girl was killed and two others injured by a landmine when they were going to work on their farm, located near a Myanmar Army camp in the Mansi Township of Kachin State.²⁸⁵

²⁷³ Amnesty International interviews with KIO officials; with humanitarian officials; and with representatives of groups involved in mine safety education, Laiza and Lashio, March and May 2017.

²⁷⁴ Amnesty International interview, Lashio, 7 May 2017.

²⁷⁵ Amnesty International interview, Lashio, 7 May 2017.

²⁷⁶ Amnesty International interviews, Lashio, 7 May 2017.

²⁷⁷ Amnesty International interviews, Laiza, 9 and 10 March 2017. In its written response to Amnesty International, the KIO likewise indicated that all of the "landmines" the KIA uses are IEDs, which "are deactivated themselves after every rainy season." It also said that "[a]reas planted with land mines are notified to the public by sign posts." KIO Response, on file with Amnesty International.

²⁷⁸ Amnesty International interview, Lashio, 7 May 2017.

²⁷⁹ PSLF/TNLA response letter to Amnesty International, 4 June 2017, on file with Amnesty International.

²⁸⁰ See Landmine & Cluster Munition Monitor, *Myanmar_Burma: Casualties and Victim Assistance*, 21 November 2016.

²⁸¹ UNICEF, "Hidden dangers," Medium, 23 May 2017, <https://medium.com/photography-and-social-change/hidden-dangers-e696d518b3f>.

²⁸² Amnesty International interview with the victim and her father, specific location in northern Shan State withheld, 9 May 2017.

²⁸³ See Sai Aw, "Bomb blast injures 8 novice monks in Namtu," *Shan Herald*, 8 May 2017.

²⁸⁴ Amnesty International phone interview, Lashio, 10 May 2017.

²⁸⁵ See Burma News International, "Child killed, two girls injured in Kachin landmine blast," 26 April 2017; "Girl killed by Kachin landmine," *Eleven*, 21 April 2017 (citing two other fatalities from landmines in Kachin State).

Myanmar has not ratified either the Mine Ban Treaty²⁸⁶ or the Convention on Certain Conventional Weapons, including Protocol II, which includes specific restrictions on landmines.²⁸⁷ However, many of these treaties' key provisions are considered customary international humanitarian law, including for non-international armed conflicts. Armed forces are required, at minimum, to minimize the inherently indiscriminate effects of landmines and IEDs, to record where such weapons are placed, and to remove them or make them otherwise harmless after fighting has ended.²⁸⁸

The Myanmar Army and some ethnic armed groups have failed to meet these obligations, leading to civilians being killed or seriously injured simply while walking on roads or trying to work on their farms. Although Amnesty International delegates saw signs in KIO-controlled territory that warned of landmine-riddled areas, and heard of similar signs in specific parts of government-controlled territory, landmine-related victims, community leaders, and local humanitarian officials all said that such signs are in only a small percentage of areas where there are landmines or IEDs. Signs placed by the Myanmar Army are also typically only written in Burmese, which many people in the area, particularly from ethnic minorities, cannot read.²⁸⁹



↑ Signs erected by the Kachin Independence Army warn of landmine-related devices in the area. The widespread landmine contamination in Kachin and northern Shan States, combined with poor demarcation and mine safety education, results in many civilians being injured or killed, simply when walking to their farms or along the road. © Amnesty International

Community leaders described how the Myanmar Army and ethnic armed groups promised to clear mines they had planted after an area stabilized or if they were moving to another location. All too often, fighting between different groups causes troops to change locations unplanned, leaving landmines behind. Or, due to poor or nonexistent recordkeeping, soldiers forget where they placed some of their landmines or IEDs.

These violations of customary international humanitarian law are compounded by the massive displacement of civilians across Kachin and northern Shan States; people who have been away from their village for months, or even years, see a lull in fighting and return home. The fighters who laid the landmines or IEDs are often long gone, leaving those who return without reliable information about where landmines are.

²⁸⁶ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention or Mine Ban Treaty), entered into force 1 March 1999.

²⁸⁷ Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, entered into force 2 December 1983.

²⁸⁸ See International Committee of the Red Cross, *Customary IHL Chapter 29: Landmines*.

²⁸⁹ Amnesty International interviews, Kachin State, March 2017.

Several humanitarian officials and medical workers in northern Myanmar said they had seen an increase in landmine-related casualties over the last six months,²⁹⁰ with a particularly large spike in May 2017, split roughly evenly between being caused by true antipersonnel landmines and by IEDs or UXO.²⁹¹ One medical worker said she had seen recent amputees in several villages across northern Shan State.²⁹² Several humanitarian officials linked the increase in casualties to people being displaced, or attempting to return home from displacement, without knowing where there were landmines in a given area.²⁹³

Due to the widespread fear of landmines, many people choose not to go home, which has devastating impacts on livelihoods and food security.²⁹⁴ *"We're afraid of the landmines, that if we go for work, we'll be injured or killed,"* a 61-year-old man from a village in Manton Township told Amnesty International.²⁹⁵ A humanitarian worker in Kachin State likewise said, *"People just don't go back to these conflict-affected areas because of fear, because of landmines."*²⁹⁶

Even if they do stay in or return to their village, people are often afraid to go to their farms in areas surrounding the village, where landmines are particularly common. People throughout Kachin and northern Shan State described how animals, particularly cows and water buffalo, are frequently killed when stepping on landmines in jungle areas near villages, which shows these concerns are merited. The 41-year-old father who stepped on a landmine near his village in Namhsan Township told Amnesty International: *"After I stepped on one, most of the other villagers were afraid to go to their farms. People couldn't work. They just left their tea farms, because they were worried landmines might explode again. Most of us depend on the tea farm [for] money."*²⁹⁷ A woman who said someone from her village in Manton Township lost a foot in March 2017 as a result of stepping on either a landmine or IED likewise said, *"We can't go into the jungle for food, because of the landmines and fighting. We can't grow [anything] there right now."*²⁹⁸

²⁹⁰ Amnesty International interviews, Lashio and Yangon, May 2017.

²⁹¹ Amnesty International Skype interview, location withheld, 18 May 2017.

²⁹² Amnesty International interview, location and date withheld to protect anonymity.

²⁹³ Amnesty International interviews, Lashio and Yangon, May 2017.

²⁹⁴ See International Committee of the Red Cross, "For Myanmar's displaced, landmines stand in the way of returning home," 8 May 2017.

²⁹⁵ Amnesty International interview, Namtu, 9 May 2017.

²⁹⁶ Amnesty International interview, Laiza, 8 March 2017.

²⁹⁷ Amnesty International interview, Lashio, 7 May 2017.

²⁹⁸ Amnesty International interview, Namtu, 9 May 2017.

5. CONCLUSION AND RECOMMENDATIONS

Civilians in Kachin and northern Shan States find themselves under threat from all sides. The Myanmar Army, in its operations against ethnic armed groups, often commits egregious violations against civilians from ethnic minorities. Tea leaf farmers who happen upon an Army checkpoint at the wrong time find themselves subject to arbitrary arrest, torture, extrajudicial execution, and enforced disappearance. Women, men, and children who emerge from hiding after nearby fighting are at risk of being hit by metal fragments from mortar or artillery shells exploding near their home, because the Army fails to distinguish between civilian and military targets and takes insufficient precautions to minimize civilian harm. Further aggravating the situation, the Myanmar Army and government have restricted humanitarian access in a way that punishes tens of thousands of vulnerable civilians simply for being displaced to non-government controlled areas.

While many civilians from ethnic minorities see ethnic armed groups as protectors, they likewise face threats from these groups. Men, women, and children are at risk of forced recruitment. Communities under strain from a lack of access to livelihoods are demanded to hand over sacks of rice or money to support one group after another that passes through the village. At times, civilians are also caught in the middle of fighting between different armed groups and in danger of abduction; months or even years later, families remain devastatingly in the dark about whether their husband or son is alive or dead.

Again and again, displaced civilians expressed only a desire to return to their villages so that they could resume farming and their children's education. Yet, even long after the fighting ends, such returns will be complicated by the widespread placement of landmines and IEDs by many of the parties to the conflicts in Kachin and northern Shan States.

For decades, the Myanmar Army has acted with near-complete impunity. The transition to a nominally civilian government and the promotion of Aung Sang Suu Kyi to State Counsellor brought hope the country might break from this legacy. But the ongoing conflicts in northern Myanmar, which exist within a broader context of increased targeting of ethnic and religious minorities, show how much progress is still needed. For the nationwide peace process to succeed, it will have to be rooted in accountability and in respect for the rights of all civilians, including ethnic minorities.

RECOMMENDATIONS

TO THE MYANMAR GOVERNMENT

- Publicly acknowledge and condemn violations of international human rights and humanitarian law in northern Myanmar. Use all judicial, political, and diplomatic tools to ensure the military ends these violations;
- Provide complete access and cooperation to the independent, international fact-finding mission established by the UN Human Rights Council;
- Ensure investigations into all credible allegations of war crimes and other violations of international humanitarian law, including extrajudicial executions, enforced disappearances, torture and other ill-treatment, forced labour, and indiscriminate or deliberate attacks on civilians. Ensure the prosecution, in fair proceedings before independent civilian courts and without the imposition of

the death penalty, of those responsible, including commanders who order or who fail to prevent or respond to serious crimes committed by soldiers under their command;

- Take all necessary measures to ensure the confidentiality and safety of victims and witnesses who report human rights violations and abuses by state and non-state actors, including measures to protect individuals' families from reprisal. Ensure also that victims and victims' families have access to full and effective reparation for the harm suffered, including compensation, rehabilitation, and guarantees of non-repetition;
- Ratify key international human rights and humanitarian law treaties, including the Mine Ban Treaty; the Convention on Certain Conventional Weapons and all of its Protocols; the Convention against Torture; the Optional Protocol on the involvement of children and armed conflict; and the International Labour Organisation's Abolition of Forced Labour Convention (Convention No. 105);
- Provide immediate, unfettered humanitarian access to all areas of Kachin and northern Shan States, including to areas around Monekoe and to non-government controlled areas, allowing UN and international and national humanitarian organizations to assess and monitor the needs of displaced civilians and to deliver assistance to them;
- Streamline and standardize the process by which humanitarian and development workers obtain authorization to travel to conflict-affected or otherwise restricted areas. Ensure, in particular, that a response is provided systematically within a reasonable period, taking into consideration that many groups are responding to emergency situations;
- Ensure that any returns of internally displaced persons are safe, informed, and voluntary. Increase funding and programming for landmine risk education and to demarcate contaminated areas; and
- Facilitate at the earliest opportunity the establishment of an Office of the United Nations High Commissioner for Human Rights, with a full protection and promotion mandate.

TO THE MYANMAR ARMED FORCES

- Immediately end and suppress crimes under international law and other human rights and humanitarian law violations, including related to operations in conflict and ceasefire areas. Adhere strictly to the provisions of customary international humanitarian law for internal armed conflicts;
- Ensure that soldiers discriminate between civilian and military targets when firing mortar and artillery shells and take sufficient precautions to reduce the risk of civilian harm, such as by having spotters ensure that shells are falling only on intended, lawful military targets;
- Suspend immediately from frontline duties anyone suspected of responsibility for crimes under international law and other serious violations of international human rights law;
- Revoke any order that calls for shooting people who try to flee from the Myanmar Army. Investigate and, if there is sufficient evidence to indicate criminal responsibility, bring any officer who issued such an order to account through a fair trial;
- Immediately provide to families and other concerned parties information concerning the fate and whereabouts of disappeared individuals, including those named in this report, and provide details concerning the basis for their arrest;
- End the use of antipersonnel landmines and IEDs. Support the expansion of mine clearance programmes and, in the meantime, take all necessary measures to warn civilians about areas with landmines or landmine-like devices, including through signs and public announcements in both Burmese and in the language of ethnic minorities in the area;
- End the practice of forced labour of civilians, including forced portering and guiding. Hold accountable any soldier or unit that forcibly conscripts civilians, even for short periods;
- Provide immediate, unfettered humanitarian access to all areas of Kachin and northern Shan States, including to areas around Monekoe and to non-government controlled areas, allowing UN and international and national humanitarian organizations to assess and monitor the needs of displaced civilians and to deliver assistance to them; and
- Cooperate fully with the UN Human Rights Council-mandated independent, international fact-finding mission, including by allowing it unfettered access throughout the country, so that it may investigate human rights violations and abuses by all parties to the conflict.

TO THE ETHNIC ARMED GROUPS IN KACHIN AND NORTHERN SHAN STATES

- End the practice of forced and child recruitment, including short-term use of civilians as porters, drivers, and guides. Cease also the practice of forced taxation;
- Take all feasible measures to avoid basing or moving units through civilian-populated areas;
- End the use of antipersonnel landmines and IEDs. Support the expansion of mine clearance programmes and, in the meantime, take all necessary measures to warn civilians about areas with landmines or landmine-like devices;
- Immediately release all civilians being detained, including those who have been forcibly conscripted and are now taking part in hostilities. Make public the names of anyone, civilian or combatant, who continues to be detained by the armed group; and
- Cooperate fully with the UN Human Rights Council-mandated independent, international fact-finding mission, allowing it access to non-government controlled areas so that it may investigate human rights abuses by all parties to the conflict.

TO THE UN HUMAN RIGHTS COUNCIL

- Ensure that, in line with its mandate, the independent, international fact-finding mission investigates human rights violations and abuses across the country, including related to the ongoing conflicts in Kachin and northern Shan States, and has sufficient resources to do so.

TO THE UN COUNTRY TEAM AND UN AGENCIES IN MYANMAR

- Increase pressure on the Myanmar government, including through public and private calls, for an end to the humanitarian access restrictions, including to non-government controlled areas.

TO INTERNATIONAL PARTNERS, INCLUDING DONOR GOVERNMENTS AND ASEAN MEMBER STATES

- Call publicly on the Myanmar government and military to end immediately all restrictions on humanitarian access, including to non-government controlled areas;
- Call publicly on the Myanmar Army to end immediately all violations of international human rights and humanitarian law and on the Myanmar authorities to ensure accountability for past and ongoing violations;
- Ensure that, for any military-to-military engagement, recipient units and commanders are vetted for past involvement in human rights violations. Prioritize training around international humanitarian law norms, including distinction and proportionality; and
- Consider providing increased support to humanitarian organizations operating in Kachin and northern Shan States, including to address emergency needs in both government and non-government controlled areas; and to expand mine safety education and programming.

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“ALL THE CIVILIANS SUFFER”

CONFLICT, DISPLACEMENT, AND ABUSE IN NORTHERN MYANMAR

Over the last seven months, fighting has intensified between the Myanmar Army and ethnic armed groups in Kachin and northern Shan States, areas with long-running conflicts as ethnic minorities have sought greater autonomy and respect for their rights.

Based on more than 140 interviews during three research missions to northern Myanmar between March and May 2017, the report documents war crimes and other human rights violations by the Myanmar Army, including extrajudicial executions, torture, forced labour, and indiscriminate shelling. Most victims are civilians from ethnic minorities in the region, continuing a legacy of abuse that has rarely led to accountability for the soldiers or commanders responsible. The report also describes serious abuses by ethnic armed groups, including abductions, forced recruitment, and forced taxation.

More than 98,000 civilians are displaced in these areas, a crisis the Myanmar authorities have exacerbated by restricting humanitarian access. While walking to their farms or returning home, civilians across northern Myanmar also risk stepping on landmine-like weapons that the Army and ethnic armed groups continue to lay.

The government of Aung Sang Suu Kyi has prioritized ending the ethnic armed conflicts that have persisted for decades. To do so, accountability and respect for human rights must be at the centre of its agenda.