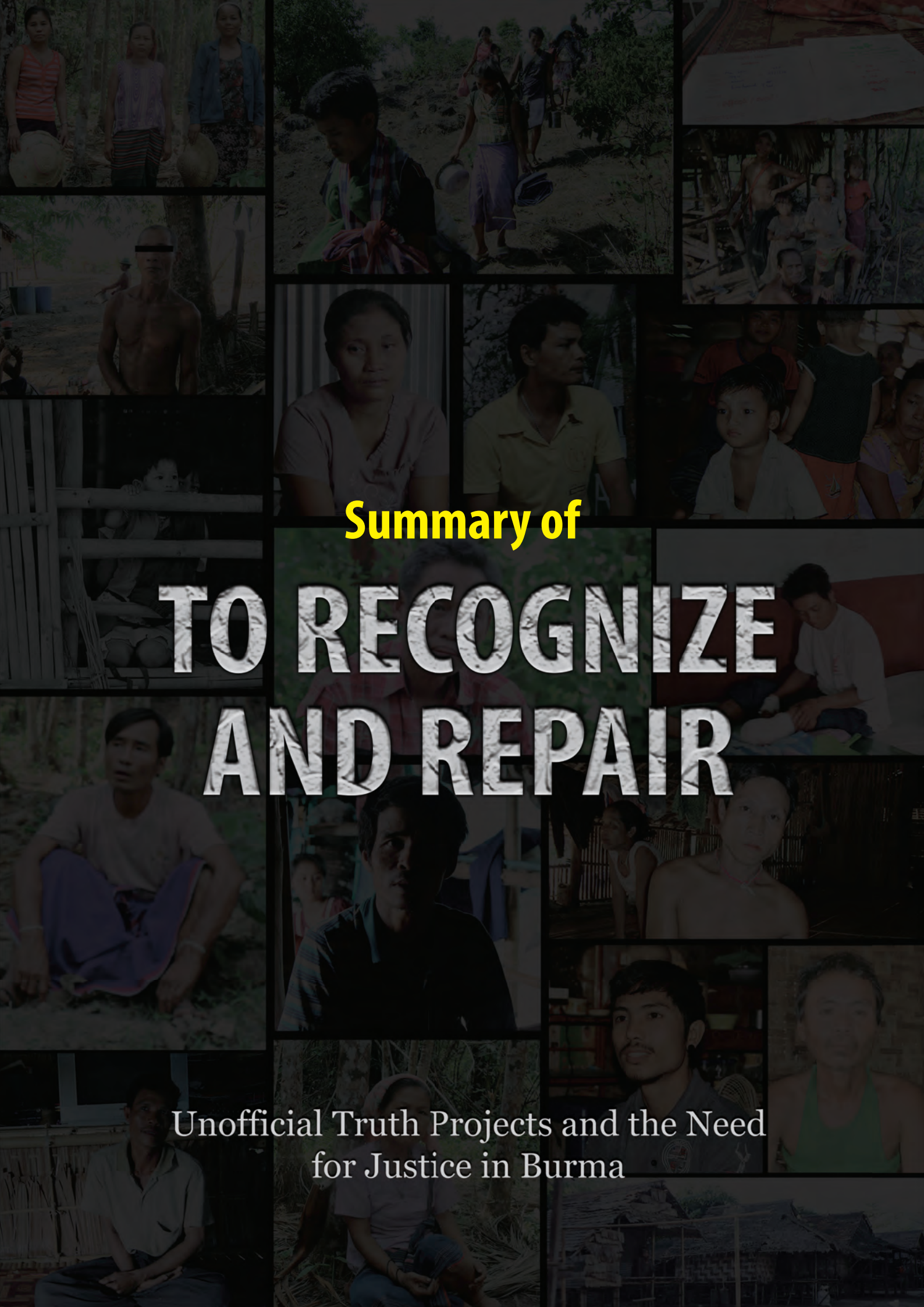




Summary of

# TO RECOGNIZE AND REPAIR

Unofficial Truth Projects and the Need  
for Justice in Burma



# TO RECOGNIZE AND REPAIR

## Unofficial Truth Projects and the Need for Justice in Burma

The need for a truly open and accountable government in Burma is essential to addressing the human rights violations in the country, both in the past and in the present.

The research paper seeks to demonstrate the experiences of people in Burma in three key areas of human rights abuses: Extrajudicial Killings, Torture and Land Confiscations. The paper will utilize research carried out by ND-Burma member organizations, who are skilled and experienced in conducting research and interviews with people living in Burma.

The findings and experiences analyzed within this paper will form the basis for recommendations that reflect the principles of transitional justice and seek to improve the human rights situation and support the push towards national reconciliation and a free democratic future for Burma.



## METHODOLOGY

The documentation of human rights violations is essential to demonstrating the need for victim reparations. Field documentation workers have managed to compile huge amounts of information and personal accounts of torture, land confiscations and extrajudicial killings. It is absolutely essential to ensure these accounts are used to improve the livelihoods of the victims of these violations. The field researchers have been thoroughly trained and are experienced in conducting interviews and documentation. Data is stored via the Martus system and allows for an analysis of secure encrypted information and case files based on the accounts provided by experienced field researchers.

For the purposes of this report names gathered through ND-Burma member research will be changed to preserve the anonymity and personal security of those who have given interviews to ND-Burma researchers. For those cases that have been widely exposed in media and through reports by other organizations, the names of those involved have been included. The Unofficial Truth Project Bulletins (UTP) are outlined in the below case examples and are gathered and recorded by ND-Burma's documentation team.

## TRANSITIONAL JUSTICE

Transitional justice is an attempt to address the impact of past human rights violations to create a more peaceful, democratic and inclusive future. This is implemented through measures intended to provide accountability and transparency during transitions, provide redress for victims of past human rights abuses, and promote stable and sustainable peace and democracy. The UN defines transitional justice as "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reparations."<sup>1</sup> The measures used to promote transitional justice generally fall into the categories of criminal prosecutions; truth seeking measures reparations programs and institutional reforms to prevent recurrence.

The paper looks at the cases of Colombia and their land confiscation restitution efforts to account for the drastic displacement of communities in Colombia due to the ongoing armed conflicts; The Truth and Reconciliation Commission in South Africa following the end of apartheid; The Comisión de la Verdad y Reconciliación (Truth and Reconciliation Commission) in Peru to attempt to account for the violence and gross human rights abuses carried out against Peru's people during the internal conflict from 1980 to 2000. The study of ongoing transitional justice efforts around the world is essential to determining how these success and failures can be applied to the Burma context. However it is also important to recognize the stage at which Burma currently stands.

The Government of Burma, despite their supposed transition to a quasi civilian government in 2011, still retains many members of the former military regime, with the abuses of civilians still

<sup>1</sup> *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, Report of the Secretary-General UN Doc. No. S/2004/616 (Aug 23, 2004).

ongoing as the case studies above demonstrate. Many of those in positions of influence and power in the new government were a part of the military junta that so brutally oppressed their people. The current regime has not ended these human rights abuses. The Government of Burma must be the ones who implement the following recommendations and begin to make some degree of recompense for the crimes they have committed against their people.

## RECOMMENDATIONS

### **Constitutional Reforms need to be made by the Government of Burma:**

- A central component of the government's reform process must include constitutional reform that addresses the needs of ethnic minorities, as well as the development of an independent judiciary as a means of safeguarding human rights and tackling the culture of impunity regarding gross human rights abuses and war crimes
- The government must provide accessible and transparent mechanisms for civilians to complain of violations of their rights. Such mechanisms should ensure follow-up procedures and provide adequate protection from retaliation of military personnel for individuals or groups who file complaints, with the case of Brang Shawng a prime example of the way in which the military oppress legitimate attempts to expose human rights abuses<sup>2</sup>
- The government must initiate constitutional and judiciary reform to remove the provisions which protect the army from any criminal investigations
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### **Reduce the military presence in conflict and ethnic areas**

- Decreasing militarization. The government must demilitarize all former conflict areas by reducing troops and removing army camps/bases to signify the commitment of transition to peace
- In the short term, provide secure complaint mechanisms for civilian population who are affected by increasing military presence, providing the aforementioned accountability for these violations
- The government must facilitate the safe, voluntary return of all war effected IDPs to their communities

### **Reparations, rehabilitation and reintegration program to be provided by the Government of Burma:**

- Acknowledge and apologize for the abuses that led to human rights violations and forced displacement, encouraging the building of trust between perpetrators and victims
- To establish a program to ensure reparation, rehabilitation and reintegration of victims of human rights violations caused by both armed conflict, political struggle and the oppression of basic civil liberties

<sup>2</sup> Fortify Rights (2015) 'Myanmar: Overturn Wrongful Conviction of Brang Shawng,' [online] available at: <http://www.fortifyrights.org/publication-20150218.html>.

- Programs that attempt to provide better livelihoods, education, healthcare and that account for any other suffering caused as a result of human rights violations
- For those IDPs who choose to return, ensure that programs account for losses suffered as a result of human rights violations, such as restitution for lost property and income
- To establish an awareness program for communities who have suffered human rights violations and for those who perpetrated them; help to ensure non-recurrence of human rights violations through education and capacity building
- To recognize the suffering of victims and initiate the memorialization process

### **Recommendations to the international community:**

- In efforts to establish a Truth Commission in Burma, international involvement will be invaluable in providing capacity, expertise and mediation, as well as financial support where possible
- The international community should apply sufficient pressure on the Government of Burma to seek truth and reconciliation, through raising this issue in discussion with political and military leaders, and through opportunities the international community has to engage with the Government of Burma
- International community must utilize measures of leverage such as economic sanctions to encourage the Government of Burma to acknowledge crimes of the past and address these violations. This will ensure transitional justice measures become part of the international community mandates when working for change in Burma
- Remaining economic sanctions should only be lifted following a demonstrable improvement in the human rights situations, including acknowledgments of the past human rights violations and demonstrable efforts made to address these
- To urge and encourage government efforts at enacting reparation policies and programs for all victims. These programs must be undertaken in conjunction with civil society and with an open and accountable approach

The views and experiences of people in Burma are documented and expressed through civil society, with the international community acting as a watchdog and facilitator of these programs. Apologies and acknowledgments of these crimes are essential steps, as the opinions of those who participated in the research demonstrate. The genuine will of the Government of Burma to make real lasting change to bringing these crimes to light is important, as they must first acknowledge these violations and accept their responsibility to implement transitional justice measures. To begin to bring a measure of accountability and solace to victims of human rights violations there must be a concerted effort from the ruling government to improving the lives, livelihoods and personal security for the people of Burma.



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