



UPDATE ON THE HUMAN RIGHTS SITUATION IN BURMA

January - June 2017



**NETWORK FOR HUMAN RIGHTS
DOCUMENTATION - BURMA**

Cover photo: © Ta'ang Women's Organisation (TWO) (IDP camp in Kutkai Township, Shan State)

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Introduction

ND-Burma's 13 members have spent 2017 carrying out victim needs assessments across Burma. These are being incorporated into a longer report on transitional justice outlining what support victims of rights violations will need in order to begin rebuilding their lives.

As a result, there has been less time to collect data on violations happening during the period January - June 2017 and we will consequently not be releasing a full report.

Instead we are releasing this update analysing the 24 cases recorded by ND-Burma's members over the period.

Methodology

In order to produce ND-Burma's bi-annual reports on the human rights situation, our 13 members document human rights violations in ten of Burma's fourteen states and regions. For this shorter update, two of ND-Burma's members documented rights violations in two states.¹

Fieldworkers from ND-Burma's member organizations interview victims and eyewitness observers, with testimonies corroborated by several sources where possible.

All fieldworkers documenting rights abuses have undergone training provided by ND-Burma with the assistance of a number of international NGOs. This ensures ND-Burma's documentation is systematic, consistent and reliable. It is also conducted with the victim's wellbeing and safety taken into consideration.

Fieldworkers put themselves at great risk to document violations. Security and access issues affect the scope of their work. The Tatmadaw consistently restricts access to conflict areas where violations are most prevalent. Fear of retribution also makes many victims reluctant to speak out. ND-Burma's documentation is therefore only a tiny snapshot of the abuses happening in the country.

ND-Burma's members keep all records of violations in a secure database, which currently holds close to 6,000 records of abuses documented since 2004.

1 The two members who provided documentation for the update are the Tà'ang Women's Organisation (TWO) and the Kachin Women's Association of Thailand (KWAT).

Executive Summary

- ND-Burma recorded 24 human rights violations over the period January - June 2017. 23 of these violations were recorded in Shan State and one in Kachin State.² There were a total of 76 victims.
- The most common human rights violation was torture, with 14 cases recorded. The second was killing, with 6 cases recorded.
- All violations recorded took place in areas where there has been armed conflict over the reporting period.
- 17 out of 24 human rights violations were committed by government security forces, namely the Tatmadaw and police. Three were committed by ethnic armed organizations and four by unknown perpetrators.
- Impunity for human rights violations continues to be the norm. None of the perpetrators in the 24 cases in our update have faced any formal justice mechanisms for their actions. Torture and killing cases sometimes result in victims being offered informal compensation from the Tatmadaw, often relatively meagre.

2 Two violations took place at the end of 2016 but were recorded in 2017.

Overview

ND-Burma's 2016 report on the country's human rights situation found that a re-escalation in armed conflict in a number of ethnic nationality areas was accompanied by a dramatic increase in abuses.³ Shan State saw a particularly large number of violations. The majority of these had been committed by government security forces who faced no repercussions for their actions. Military blockades of conflict areas restricted civilians' freedom of movement and resulted in IDPs not receiving international aid.⁴ Allegations of abuses against Muslims in Rakhine State were causing international outrage. Heavy handed use of Article 66(d) of the Telecommunications Law and Article 17/1 of the Unlawful Association Act was once again driving up the number of political prisoners.⁵

Unfortunately, the patterns of abuse and repression identified in 2016 have continued into 2017. Articles 66(d) and 17/1 have continued to be used to stifle freedom of expression and the first half of 2017 saw a number of high profile journalists arrested under these laws. Military blockades of conflict areas continue, as does the obstruction of international aid. March saw the UN Human Rights Council approve a fact finding mission to investigate allegations of human rights violations in the country, particularly Rakhine State, which the government has so far refused to cooperate with.

As these issues have been widely covered by domestic and foreign media, this update will focus on violations committed in conflict areas, where military blockades often make access for journalists impossible.

Human rights violations in Shan State

23 out of the 24 violations documented over the reporting period were recorded by the Ta'ang Women's Organisation (TWO) and were against ethnic Ta'ang civilians. One violation was documented by the Kachin Women's Association of Thailand (KWAT) and was against ethnic Kachin civilians.

3 ND-Burma report on the human rights situation in Burma, January - December 2016, 7 February 2017, <http://nd-burma.org/nd-burma-2016-report-finds-dramatic-increase-human-rights-violations/>

4 See ND-Burma's briefing: 'Pawns in their game: the military's blocking of aid to IDPs in Kachin and northern Shan State', 22 December 2016, <http://nd-burma.org/pawns-in-their-game-the-militarys-blocking-of-aid-to-idps-in-kachin-and-northern-shan-state/>

5 See ND-Burma's briefing: 'Inconvenient truths: How journalists in Burma continue to be silenced', 18 January 2017, <http://nd-burma.org/inconvenient-truths-how-journalists-in-burma-continue-to-be-silenced/>

Fighting between the Tatmadaw and ethnic armed organizations (EAOs) continues to be accompanied by rights violations against civilians. During the reporting period, approximately 155 armed clashes took place, with the highest conflict areas predominantly in Shan State.⁶ The majority of the abuses ND-Burma recorded were carried out by government security forces, with the rest committed by EAOs.

The Tatmadaw systematically targets ethnic nationality civilians in conflict areas as part of its ‘four cuts’ strategy to deprive EAOs of food, funds, recruits, and information. With the threat of violence always present, the Tatmadaw hopes to intimidate ethnic civilians into denying EAOs any form of support; be it in the form of recruits, a place to sleep for the night, or a bag of rice.

The Tatmadaw’s targeting of ethnic nationality civilians often takes the form of rights abuses such as arbitrary arrest and torture. For example, in a case recorded in Man Ton Township, Shan State (*Case 1*), 17 ethnic Ta’ang men were arrested by Tatmadaw soldiers and taken to a forest, where they were interrogated and tortured through the night. Soldiers accused them of being Ta’ang National Liberation Army (TNLA) fighters and said they would burn down their village if they did not provide them with information.

EAOs also use violence to intimidate ethnic nationality civilians; three of the violations documented were committed by armed groups. In a case recorded in Man Ton Township, Shan State (*Case 2*), a man was arrested by the Restoration Council for Shan State (RCSS/SSA) and accused of being a TNLA soldier. He was tortured and detained for nine months. There have been ongoing clashes between the TNLA and RCSS/SSA since November 2015.

In another case a Ta’ang villager was shot and injured by TNLA soldiers and had his wounds taken care of by nearby Tatmadaw soldiers until he was taken to hospital (*Case 11*).

Ethnic nationality civilians are also subjected to targeted shelling by the Tatmadaw. An Amnesty International Report published in June found that the Tatmadaw often dropped shells in and near civilian areas during bouts of fighting with EAOs, suggesting the bombing was a form of ‘collective punishment.’⁷

In a case widely documented in the media (*Case 8*), a two year old girl was killed by Tatmadaw shelling in Muse Township, Shan State. The Tatmadaw has denied the shelling but gave the parents of the dead

6 Myanmar Peace Monitor <http://mmpeacemonitor.org/research/monitoring-archive>

7 Amnesty International, “All the Civilians Suffer”: Conflict Abuse and Displacement in Northern Myanmar, p.14 <https://www.amnestyusa.org/wp-content/uploads/2017/06/Myanmar-report-FINAL-VERSION.pdf>

girl \$30 as a 'donation'. The case resulted in protests on the streets demanding an end to Tatmadaw offensives in northern Burma.

Other victims are not directly targeted but are injured or killed as a result of the conflict. For example, in a case in Hsipaw Township, Shan State (*Case 12*), one girl was killed and two injured after stepping on a landmine. Locals presume the mine was laid by the RCSS/SSA. In Burma's decades long conflict, such 'collateral damage' is frequent.

Some violations can only be categorised as 'recreational sadism'.⁸ In a case recorded in Namhsan Township, Shan State (*Case 5*), Tatmadaw soldiers tortured a deaf and mute Ta'ang man until he could no longer walk and was unable to open his eyes due to the swelling on his face from the beating. Soldiers then forced the village chief to sign an agreement pledging the victim would not be taken to a clinic for treatment and that nobody would speak about the incident to any outside authority or organisation.

None of the cases documented over the reporting period have resulted in perpetrators facing any formal justice mechanisms. In several cases small amounts of compensation, or 'donations', were given to victims. Such compensation is rarely accompanied by recognition of wrongdoing or apologies.

In one exception recorded in Namhsan Township (*Case 7*), a Tatmadaw soldier violently hit a villager over the head with a bamboo stick in an unprovoked attack. The villager fell into a coma and died shortly after. The guilty soldier apologised to the family and his battalion gave the family the unusually large sum of 1.2 million kyats (\$880). However, to ND-Burma's knowledge, the soldier has not faced any formal justice mechanisms, not within a military nor civilian court.

It is hardly surprising that only a year after the 2015 elections swept the first democratically elected government in over half a century into power, journalist Bertil Lintner wrote: "Disappointments have set in, especially among the country's many ethnic minorities [...] what many are seeing is just more of the same."⁹

8 A phrase used by analyst David Scott Mathieson to describe systematic human rights violations committed by Tatmadaw soldiers.

9 Bertil Lintner, 'One Year on in Myanmar's Suu Kyi's Halo Slipping?', South China Morning Post, 12 November 2016, <http://www.scmp.com/week-asia/politics/article/2045262/one-year-myanmar-suu-kyis-halo-slipping>

Case Studies

Case 1: 17 villagers arbitrarily arrested and tortured by Tatmadaw soldiers

Man Ton Township, Shan State
21 - 22 December 2016

Following armed clashes between the Tatmadaw and the TNLA nearby, Tatmadaw fighter jets dropped bombs on Pan Young village, damaging a farm, the middle school and the roof of a house.

The village chief told locals to flee as soldiers were entering the village. Soldiers arrested three villagers as they were fleeing and another 14 in the village.

The soldiers took the 17 villagers to the woods, tied them up and began to interrogate them. They said that three of the detainees were Ta'ang rebels and that if the villagers did not tell them who they were they would all be killed. They also threatened to burn down their village if they did not give up the information they wanted. They were kicked and beaten with guns, wooden sticks and fists for one day and one night.

Once the villagers were released, the soldiers took three Pan Young villagers to serve as porters and carry their supplies and wounded soldiers to the next village.

Soldiers also looted property worth 1.4 million kyats (\$1,000) while they were in the village.

Case 2: Villager detained by RCSS/SSA for nine months and tortured

Man Ton Township, Shan State
27 May 2016 - 4 February 2017

Early in the morning of 27 May 2016, the RCSS/SSA came and arrested a male villager in Man Ton Township on suspicion of being a TNLA soldier. He was arrested by around 60 soldiers and beaten so badly he "didn't think I would be alive anymore".

Following the beating he was taken to RCSS/SSA headquarters and interrogated. When no evidence was found of him being a TNLA soldier he was no longer beaten but detained for another nine months.

Case 3: Three farmers shot and severely injured by Tatmadaw soldiers

Namhkam Township, Shan State
2 March 2017

On 2 March, three villagers who were farming tea leaves heard gunfire nearby so went and hid until it stopped. On their way home they were accosted by five Tatmadaw soldiers who told them to stop and started questioning them.

Suddenly, one of the soldiers said: “Shoot them!” and they started shooting the villagers, badly injuring all three.

“Armed conflict will happen. We cannot stop it. But it is better if it doesn’t happen near the village. People are frightened. Villagers suffer the most. It is the best if the conflict eventually ends.”



A tea leaf farmer shot by Tatmadaw soldiers in an unprovoked attack.

The soldiers refused to let the villagers go to the hospital until others came to fetch them. A charity group came to help the villagers some hours later and all three were taken to the hospital, with two requiring operations.

The village chief said: “Armed conflict will happen. We cannot stop it. But it is better if it doesn’t happen near the village. People are frightened. Villagers suffer the most. It is best if the conflict eventually ends.”

Case 4: Villagers arbitrarily arrested and tortured by Tatmadaw soldiers

Namhsan Township, Shan State
6 March, 11 March, 13 May, 14 May 2017

Over the period 6 March - 14 May, Tatmadaw soldiers stationed in Mong Ngaw interrogated and tortured men from Lwe Pan village, accusing them of having connections with the TNLA.

When the village chief was being interrogated, the soldiers asked him whether the other villagers were connected to the TNLA. When he replied that they were ordinary villagers the soldiers said: “Don’t lie, just tell the truth. If you are lying, we will dress you in Ta’ang soldiers’

uniforms and shoot you”.

The soldiers threatened the other villagers being interrogated by saying that they would burn their village and block the roads if they did not admit the truth. Another was repeatedly kicked in the back and head.

All villagers were released the same or the next day.

Case 5: Handicapped villager tortured by Tatmadaw soldiers

Namhsam Township, Shan State
8 February 2017

Tatmadaw soldiers arrested a male villager while he was fetching water. As he was deaf and mute he was unable to respond to any of the soldiers' questions. They tied him up and beat him all over his body until he was unable to walk or open his eyes from the injuries.

After he was released, soldiers forced the village chief to sign a statement saying they would not take the victim for medical treatment or tell any outside organisation or authority about the incident.

Case 6: Mentally handicapped villager tortured by Tatmadaw soldiers

Namhsam Township, Shan State
5 February 2017

Tatmadaw soldiers arrested a male villager while he was fetching wood. Due to his mental handicap he did not respond when soldiers spoke to him, so they arrested him on suspicion of being a TNLA soldier.

The soldiers beat the victim with stocks all over his body until his mother came and explained that he was innocent and did not answer when spoken to as he was mentally handicapped.

Soldiers released him and said they had not known about the victim's handicap. They said they would provide some money for medical treatment but they left the village early next morning without providing any compensation.

Case 7: Villager killed by Tatmadaw soldier

Namhsan Township,
Shan State
23 February 2017

On 23 February a Tatmadaw soldier was speaking to a local woman, who was crying. When a male villager asked her what the matter was, the Tatmadaw soldier asked him: “Are you the village chairman? Why are you asking?”, before hitting him around the head with a bamboo stick.



A villager fell into a coma after a Tatmadaw soldier hit him over the head with a bamboo stick in an unprovoked attack. He died shortly afterwards.

The villager collapsed and was unable to walk or talk after he was hit around the head. Soldiers stationed in the village refused to let the victim go to a hospital and insisted on stitching his wounds themselves. Soon after, the victim lost consciousness and fell into a coma.

When he had not regained consciousness the next day the village chief and victim's wife begged the soldiers to allow him to be taken to hospital. The soldiers gave their permission and gave the wife 500,000 kyats (\$370) to cover medical treatment. The same day the guilty soldier came to the victim's house and apologised to the wife for what he had done, asked for forgiveness, and gave her an extra 70,000 (\$50) kyats for her husband's medical treatment.

On 1 March the victim passed away. Tatmadaw soldiers gave the family a further 700,000 kyats (\$500) following the victim's death.

Case 8: One child killed and two severely injured by Tatmadaw bombs

Muse Township, Shan State
1 October 2016

Tatmadaw shelling in Muse Township, Shan State, killed a 2 year old girl and severely injured two others, aged 3 and 4 years old, on 1st October 2016.

According to villagers, around six shells were dropped on the village without warning on the morning of 1st October. The mother of the 4 year old child said she was preparing breakfast when the first shell hit their neighbour's front yard, destroying the walls of their house.

As the children had been playing in the neighbour's yard, all three were severely injured. One was hit in the stomach and his intestines spilled out. The children were immediately taken to a hospital but the youngest child died on the way. As their driver refused to carry a dead body the parents were forced to walk back to the village holding the body of their daughter.

At the girl's funeral the next day, soldiers from Tatmadaw post number 217 came and gave the parents ¥200 (\$30).

The Tatmadaw has denied firing the bombs. No clashes were taking place between the Kachin Independence Army (KIA) and the Tatmadaw at this time.

Case 9: Three children injured by Tatmadaw shelling

Kyaukme District, Shan State
8 February 2017

On the morning of 8 February, 3 children - two 7 year olds and one 2 year old - were playing outside when a Tatmadaw shell exploded near them. All three children were injured.

According to villagers, TNLA soldiers had been readying to plant mines nearby, which is why the Tatmadaw dropped the shell.

Soldiers gave 20,000 kyats (\$15) to the parents of each child to help with medical treatment.

Case 10: Two villagers killed and 10 injured by Tatmadaw shelling

Namhsan Township
12 January 2017

A Tatmadaw shell hit a villager's home where 50 people were rehearsing for a festival. An 8 year old child and a male villager were killed. The ten injured villagers were all taken to hospital to be operated on.

Case 11: One villager killed and one injured by TNLA soldiers

Man Ton Township, Shan State
10 March 2017

On 10 March, the TNLA entered Kho Mone village and started firing heavy artillery at Tatmadaw soldiers. Villagers, including the two victims, started to flee. One of the victims was shot by TNLA soldiers inside a monastery as he was passing. He told them not to shoot as he was a regular villager, but they shot him again and he was hit on his arm and waist.

“I am very sad that they do this to me even though I am Ta’ang as they are.”



A villager is injured after being shot by TNLA soldiers

The second victim was standing nearby and was also hit by the TNLA's fire from the monastery. He was hit very badly and died from his wounds shortly afterwards.

Tatmadaw soldiers stationed nearby took care of the injured victim's wounds until villagers took him to hospital for treatment.

The victim said: “I am very sad that they do this to me even though I am Ta’ang as they are.”

Case 12: One girl killed and two injured by RCSS/SSA mine

Hsipaw Township, Shan State
21 January 2017

Three teenage girls stepped on a mine in a tea farm and were taken to hospital because of their injuries. One girl died in hospital and the others were treated for their wounds.

It is not clear who planted the mine but the RCSS/SSA operates in this area and locals suspect they planted it.



A teenage girl who was injured after stepping on a landmine.

Case 13: Villager injured by landmine

Kyaukme district, Shan State
18 February 2017

A male villager was cutting bamboo when he stepped on a mine. He was taken to hospital where his leg was partially amputated.

Both the Tatmadaw and the TNLA have had stations in this area so it is impossible to know who planted the mine.



A villager who lost part of his leg after stepping on a landmine.

Conclusion

Shortly after winning the elections, Daw Aung San Suu Kyi made clear that ending the country's civil war would be her government's priority as "we can do nothing without peace in our country."¹⁰ As the majority of human rights violations are consistently recorded in conflict areas, ND-Burma welcomed this move.

However, the government's focus on pushing all EAOs to sign the Nationwide Ceasefire Agreement (NCA) has often led to more violence on the ground, with the Tatmadaw frequently ramping up assaults against non-signatory EAOs in the run up to peace conferences.¹¹ Allegations of rights violations in ethnic areas have been met with silence by Daw Aung San Suu Kyi, damaging the trust ethnic nationality civilians put in her government when they cast their ballots for the NLD in 2015.

As ND-Burma's documentation shows, as long as there is impunity for human rights violations, they will continue. Both the Tatmadaw and EAOs must acknowledge that they have committed grave human rights violations and apologise to victims. Without recognition of the crimes of the past, victims cannot trust they will not happen again. Material reparations such as compensation would enable victims to begin rebuilding their lives and demonstrate the government's commitment to the protection of human rights.

As long as Burma refuses to examine its past, it will not be able to move forward. That is why ND-Burma's 13 member organizations are fighting for transitional justice.

10 South China Morning Post, "We can do nothing without peace": Aung San Suu Kyi vows ceasefire will be top priority, 4 January 2016, <http://www.scmp.com/news/asia/southeast-asia/article/1897945/we-can-do-nothing-without-peace-aung-san-suu-kyi-vows>

11 See ND-Burma's briefing: "Without Justice there can be no Peace", 24 May 2017, <http://nd-burma.org/without-justice-there-can-be-no-peace/>

Breakdown of violations by classification:

Multiple Category	Number of Bulletins
Arbitrary or illegal arrest and detention	2
Confiscation or destruction of property	1
Killing	6
Other sexual violence	1
Torture	14
TOTAL	24

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